



*Developing New Rules
in the Old Environment*

———— *Edited by* ————

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and
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Foreword

“Developing New Rules in the Old Environment” is the third and final volume in the series of LGI publications on the state of local government reforms in Central Eastern Europe and the former Soviet Union. This book describes the current situation in the field of public administration reform and decentralization in ten countries of the former Soviet Union: Belarus, Ukraine, Russia; the three Caucasian republics of Armenia, Azerbaijan and Georgia; and the four Central Asian republics of Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan. Each country report provides basic statistical data, a picture of the local government legislative framework, an overview of local functions and finances and information on the relationship between local governments and other public administration bodies.

Unlike the countries analyzed in the first two volumes on Central and Southeast Europe, the process of decentralization in the ten states covered by this book is almost without exception at a very initial stage. Ten years after the collapse of the former Soviet Union, national governments in the ten countries remain hesitant about sharing political and financial decision-making power concerning the delivery and financing of public services with local or regional representatives elected by and accountable only to the local population. This is primarily because of lack of experience with any form of real sub-national democracy and the heritage of the former heavily centralized Soviet system of administration, but it is also due to factors such as fears of separatism, ongoing territorial and ethnic disputes and lack of administrative capacity.

Despite the low level of visible progress, all ten countries of Eastern Europe, Caucasus and Central Asia have proclaimed their interest in the decentralization process. This process, however, is often interpreted as the shift of power from national to local state administration rather than the shift of functions and resources from state administration to elected local or regional government. This interpretation is very much a result of an attempt to define “new rules” that would improve the old administrative system without radical change. It is an attempt to slowly implement public administration reforms recognized to be crucial for more efficient delivery of less costly public services and yet considered to be a potential factor for political instability. This book describes how far this attempt had come by the beginning of 2001, when collection of background information for individual country studies was completed.

Preparation of Russian and English versions of “Developing New Rules in the Old Environment” has been a major challenge for LGI, the country teams who prepared individual country chapters and the country reviewers who commented on the quality of individual studies. This book would have never been published without Mr. Victor Popa and Mr. Igor Munteanu, the editors who managed the report-writing process and prepared the introductory chapter. Completion of this

book would also have been difficult without Ms. Andrea Csanadi, who provided administrative support on behalf of LGI; Mr. Vladimir Izotov, translator and copy editor of the Russian version; and Ms. Sarawan Murray, copy editor of the English version. LGI is grateful for excellent work of all that made this unique publication possible.

Ondrej Simek
Project Manager
OSI Local Government and Public Service Reform Initiative
Budapest, August 2001

Chapter 1

Local Government Reforms
in the Former Soviet Union:
Between Hope and Change

by

Victor Popa

&

Igor Munteanu

Developing New Rules in the Old Environment

Local Government Reforms in the Former Soviet Union: Between Hope and Change

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Local Government Reforms in the Former Soviet Union: Between Hope and Change

Victor Popa & Igor Munteanu

1. Purpose of the Study

This anthology incorporates a rich collection of studies on local governments in the countries of the former Soviet Union (FSU), which together comprise a vast and diverse region in transition. This set of studies succeeds two previous volumes published by the Local Government and Public Service Initiative (LGI) between 1994 and 2001. The first research initiative was launched in 1994, and addressed issues of local government reform in Central and Eastern Europe, and the second publication focused more broadly on Eastern Europe.¹ Nearly all FSU countries have been included in this third volume, with the exception of the Baltic states, which were included in the first volume, the Republic of Moldova, which was included in the second volume, and Turkmenistan.²

The aim of this volume is to provide a detailed overview of the situation of local and regional administrations in the FSU countries in the context of the decentralization that has occurred since 1991, after which point these countries simultaneously began the processes of nation and state-building. It should be noted at the outset, however, that finding clear answers to all questions raised by local government reform in the FSU is an arduous task because of the fluidity of concepts and institutions that have been designed to oversee the implementation of new and modern forms of self-government in the area. Another difficulty is clearly linked to the incomplete structural changes in these countries, or the so-called “burden of transition,” that has been borne by their populations and local officials. In highlighting the critical components of transition in the targeted areas of local public administration, each country chapter has included a detailed review of the existing policies and initiatives aimed at enhancing the vitality of local governments, accelerating decentralization practices and the transfer of responsibility for core public service provision to the local level, as well as increasing legal guarantees for local autonomy.

According to its original terms of reference, this anthology was conceived as a basis for comparative analysis of various forms of power delegation and legal guarantees for the fulfillment of local autonomy and as an evaluation of the degree of financial autonomy of the various regional and local public entities in all FSU states. As such, country studies describe the efforts and aspirations of national governments in their endeavors to adapt national systems of local public administration to existing European models or to create their own “patterns” of public administration (at the regional and local levels).

Apart from the institutional features inherited from the Soviet regime, all FSU countries exhibit a multifarious set of differences. In fact, they diverge in almost all comparative aspects, including: degree of ethno-cultural diversity and national identity, proportion of the titular ethnicity relative to the total population, degree of economic development (as compared with pre-1991 indicators), impact of the dominant religion on national politics, type of political regime, state traditions and specific geo-economic vectors. Ironically, one can argue that what makes these countries similar is that their current institutional disabilities, scarcity of economic resources, undeveloped political cultures and conflicting political and ethnic identities cannot help but magnify their domestic difficulties. It should be emphasized that individual chapters do not provide fundamental answers to all questions raised by the contributors, as our principle task is to analyze developments rather than to make definitive judgements about the evolution in these countries.

The country chapters in this volume are based on a detailed analysis of the legal frameworks and practices in the FSU countries and of relevant academic literature and public reports. As such, the work should be viewed not only as a source of information on local government reform in the FSU, but as a selection of well-documented case-studies from the region in the post-Soviet era. We hope this anthology will contribute to the acknowledgement of the main challenges facing local governments in the FSU countries and offer a cogent and reliable picture of how local government reform in these countries can succeed.

2. Stumbling Blocks on the Road to Decentralization

It is widely believed that decentralization of state power and local autonomy will help dismantle Soviet-era public institutions and support developments towards an effective market economy and a democratic system of governance, based on administrative and financial autonomy, respect for human rights and social and ethnic diversity in decision-making processes.

In spite of the positive achievements that have occurred since 1991, local governments have remained in a nascent state in most FSU countries. As all of the region's states were formerly both highly centralized and militarized, threads of their administrative legacies resist decentralization of state power, and the process is often regarded with skepticism if not distrust. Comparative analysis provides us with startling examples of how democratic and non-democratic elements exist side by side at all levels of government throughout the region. While the lack of available resources is often used as a justification for the failure to decentralize, many politicians still believe that decentralization is not an indispensable part of democracy-building. In most of these countries, central governments remain entrusted with essentially the same powers they held prior to independence. Misconceptions and stereotypes abound in the discourse on decentralization. As a result, regional and local officials often fail to grasp the purpose of this type of reform and the absence of expertise on administrative practices exacerbates the problem.

Moving beyond Soviet administrative practices has been and continues to be a long and difficult task, not least because central administrators often staunchly oppose all attempts to increase the institutional and administrative capacity of local and regional governments. The comparative approach of this anthology is especially helpful in understanding why these governments have returned to some of their pre-Soviet patterns of local self-government. In our view, this return is simultaneously beneficial and detrimental to the reform processes in the FSU. While some obvious benefits result from this determination to exclude remnants of Soviet-era institutions and mentalities, the negative impact of this restoration is closely linked to the fact that these countries never possessed the prerequisites of a modern state. This “restitution of history” has become a common trend in the CIS as systems of local and regional governments are designed.

In European legal doctrine, “administrative decentralization” is commonly understood as a delegation of various administrative competencies from the state authority to the local level to the benefit of public representatives, locally elected by citizens of the respective communities.³ Similarly, decentralization can also be understood as a technique that allows a legal entity to create another legal entity, totally distinct from the original, on the basis of either territorial or functional decentralization.⁴ What seems to be poorly understood throughout the region is the legal nature of this delegation of competencies. Once granted, the transfer of competencies removes all vertical subordination of local governments to central authorities within these policy areas. Only by acknowledging this fundamental principle as a statutory provision in legislation and everyday practice can the administrative decentralization of competencies from the central to the local level be achieved.

Moreover, from country to country one can find diverging interpretations of “decentralization,” “municipality,” “self-rule” and even “public administration.” As such, contributors were encouraged to open their chapters with a discussion of terms and concepts that describe and reflect the substance of local and regional governments in their respective countries.

3. Methodology

Although it is difficult to incorporate such disparate experiences into a single methodological framework, this anthology preserves its coherence by addressing certain fundamental themes and values considered invaluable to successful and autonomous local government. With this in mind, the chapters have been divided into the following sub-chapters:

1. Major general indicators,
2. Legal and constitutional basis,
3. Local politics, decision-making,
4. Functional structure of local government,
5. Public service provision,
6. Local finance, local property,

7. Relationship between the state administration and local governments,
8. Local government employees,
9. Legal guarantees for local autonomy,
10. Next steps in the transition process,
11. References and annexes.

This approach guided the authors in writing the individual country chapters, in the hope that the common features and differences analyzed will allow readers to gain a broad understanding of the dynamics of local government in the FSU area. However, authors were encouraged to adapt this research design to address challenges specific to local public administrations in their respective countries.

4. The Political Context

4.1 Territorial Conflicts and Local Public Administration

The territorial organization of self-governments has taken many forms in the countries of the former USSR. In Russia, the central government has devolved significant authority and resources to the “subjects of the federation” (republics, regions, and autonomous regions) with the aim of easing separatist demands and securing the support of regional executive leaders against some of its internal competitors. Further, some FSU states retained the same territory after the break-up of the USSR, while others experienced considerable territorial losses. For instance, the Georgian state has lost almost one-third of its pre-independence territory. Unsurprisingly, violent territorial conflicts have occurred in a number of FSU countries and challenged the territorial integrity of some of these states (for example, Moldova, Georgia and Azerbaijan). Several disputed territories between Armenia and Azerbaijan still represent a complicated international dilemma that remains unsolved in spite of international efforts. As many as 50,000 people have died and thousands more have been wounded or displaced by the civil war that has raged in Tajikistan, the poorest of the Central Asian states, in the aftermath of the Soviet collapse. This political backdrop cannot be ignored when looking at the state of local public administration in the region.

4.2 Local Democracy

Democratic institutions in the FSU states remain weak and, in some cases, merely replicate the form of analogous local governments in Western and Central European countries. Collectivist behavior, reinforced by the Soviet regime, remains widespread and challenges to authority are discouraged and often restricted. Public participation in the political process at the local level remains limited, and local elections often play a merely decorative role in asserting the influence of the central government. Local referenda are rare, if permitted at all, further hindering the development of democracy at the local level. Where local referenda have in fact been conducted, their impact on local politics has been minimal at best.

4.3 Local Elections

Shortly after 1991, elections were held to replace old local and regional political elites, giving the newly emerging authorities a strong symbolic impetus to convince local communities that things had changed in a significant way. In spite of the often attractive facade, there remains a sharp difference between the formal and the practical aspects of local elections in the FSU countries. Apart from the control exercised by the “public mass media,” central authorities often deliberately create obstacles designed to keep undesirable candidates off the ballot, while providing administrative resources and other advantages for their own candidates. Often, the central administration is deeply interested in substituting appointment for direct election of mayors and other important public administrators. This is particularly the case in major urban areas and capital cities. For example, the mayors of Yerevan, Baku and Tblisi are appointed by the presidents of their respective countries, as are city administrations in Kyrgyzstan. This practice is clearly at odds with the provisions of the European Charter of Local Self-Government concerning the rights of self-government “to exercise its competencies by democratically constituted authorities.”⁵

4.4 Political Parties and Local Governments

The creation of new and democratic local governments began with the expression of the political will of local communities. It is true that, in most FSU countries, political parties were important but not indispensable actors in elections. Using the classification employed by the Georgia chapter authors, political parties in the former USSR can be divided into two main categories:

1. Political parties largely uniting former nomenclatura and/or representatives of specific clans (regional, family, ethnic). These parties have strong political, economic and, when needed, physical leverage to accomplish their goals;
2. Political movements and groups with limited membership. These parties are either active during elections or limit their activities to conducting local disobedience campaigns or protests.

As the experience of Ukraine shows, rural voters are more inclined to vote for non-party candidates whereas, in regional elections, party candidates have a greater chance of winning the confidence of the voters. Armenian election regulations did not allow parties to compete in the last local elections on the assumption that local turnouts should remain a stage for competition of individual programs and personalities, and not a fief of political struggle. The chapter on the Russian Federation draws a similar conclusion, namely that in Russia “the political process at the local level is virtually non-existent and is generally limited to holding local elections and referenda on forming or merging municipalities.” This is because local units of regional and/or federal parties are almost non-existent or have been replaced by various cluster-associations such as unions of veterans, single mothers and disabled persons, which tend to operate almost exclusively in regional capitals and are not represented at the municipal level.

4.5 Citizen Participation in the Process of Local Administration

Most existing forms of direct democracy, including referenda, surveys, hearings and public meetings, are rarely used in practice by local public authorities even when they are clearly allowed by law. The explanation frequently given is limited finances and/or democratic experience, but the existence of a large web of sophisticated regulations and normative acts also impedes the exercise of the free will of the population. The passivity and weak managerial skills of local leaders are also factors that contribute to limited public participation. In most of the selected countries, it is believed that greater participation by citizens in the decision-making process may create accessible and meaningful chances for citizens to influence the policies of the governments that serve them. Unfortunately, the degree of participation in political decision-making is extremely low in almost all FSU states.

4.6 Ethnicity and Local Government

In addition to the challenges of economic and political transition faced throughout the FSU, with the sole exception of Armenia, each of the ex-Soviet states has numerically and politically significant minority populations. For example, ethnic Russians make up approximately thirty-five percent of Kazakhstan's population and twenty percent of Kyrgyzstan's. Almost ten million Russians live in Ukraine today. A large number of Tajiks live in the Samarkand and Bukhara areas of Uzbekistan, perhaps outnumbering Uzbeks there. Almost thirty percent of Uzbeks live in northern Tajikistan and southern Kazakhstan and many Kazaks live in the Tashkent region. With such overlapping and diverse populations, many of them concentrated in cross-border "ethno-cultural pockets," there is considerable potential for the spread of ethnic conflict from one country to another.

4.7 Hardships and Institutional Constraints in Transition

The turning point in establishing new systems of local public administration begins with the exact delimitation of functions and competencies of the respective local governments. Some states have attempted to formulate a strict list of domains where local competencies are recognized as authoritative. For instance, Russian legislation lists at least thirty separate fields that are entirely delegated to local governments. Irrespective of the number of categories, it should be noted that federal law recognizes a specific "local public area of interest," on the basis of which local governments may manage their own affairs to the benefit of local communities. In most FSU states, the basic functions of self-governments are regulated by specific legislative norms, although several important exceptions will be considered in this volume. While several principles of local self-administration have been adopted by these countries, the usual practices do not fully correspond with these principles, relying more on those habits and customs that have been internalized for decades.

5. Models of Local Public Administration Systems

In spite of the almost unanimous ratification of the European Charter on Local Autonomy, several of the charter's core principles have yet to be implemented. As a result, even the conceptual basis established for local governments in the CIS area appears to differ dramatically from country to country, notwithstanding regional differences which further complicate the picture. A comparative analysis will provide readers with an overview of the status of local government reform in the post-Soviet states and will highlight at least three major patterns in the evolution of public administration reform throughout the region. These patterns should not, however, be viewed as rigid constructions but rather as groupings of similar case studies.

1. *Formally Decentralized Local Public Administration*—is characterized by an expressed commitment to administrative decentralization, based on the autonomy of territorial communities that are legally entitled to resolve various issues of local or regional interest. We are aware that, in a strict sense, hardly any FSU state meets the criteria of a “decentralized state.” Formally, however, some of these states more closely resemble this pattern than others.

2. *Mixed Systems of Local Public Administration*—can be seen as a combination of both trends, centralization and decentralization, in which representative authorities and local executive bodies gain a relatively high degree of administrative autonomy from the state and regional bodies, but remain under the patronage of the state. This patronage is enforced through a wide range of “delegated functions or duties” accorded to local government entities (municipalities, villages, raions) for certain state-guaranteed obligations or services or through “delegated officials” appointed by the central government to play a supervisory role within a designated area. Such institutional arrangements can be found in Ukraine, Georgia and Armenia.

3. *Centralized Systems of Local Public Administration*—refers to the undisputed acceptance of the principle of administrative centralization. Its distinctive feature is that local public authorities are mandated to serve the function of provisional “state authorities at the local level.” This, in turn, creates a kind of “hierarchical pyramid of competencies” subordinated to the highest authority in the state. This kind of “vertical subordination” exists in its most rigid form only in Belarus, where specific constitutional provisions have merged local executive organs into a single executive system, subordinated directly to the president. This “instrumentalization” diminishes the role and substance of local executive bodies. A similar pattern is identifiable in the local and regional systems of public administration in Tajikistan, Kyrgyzstan, Uzbekistan and Azerbaijan.

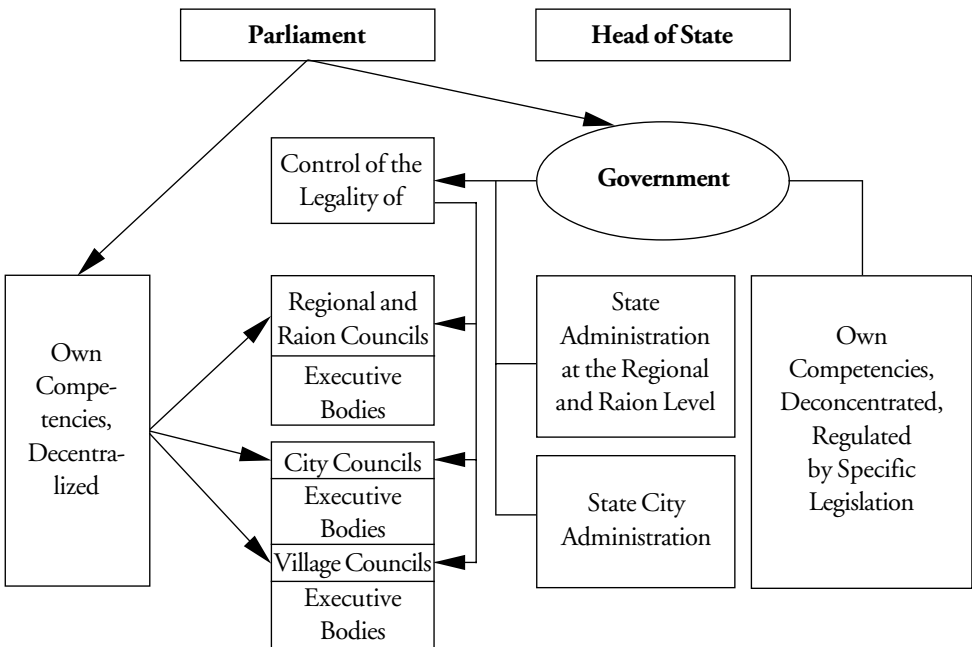
A. *Formally Decentralized Systems of Local Public Administration*

The case of the Russian Federation is particularly illustrative because of the existing legal delimitation of the state administration and self-government authorities. Although the Russian federal system

seems highly complex and unregulated, the Russian state has adopted a number of regulatory acts pertaining to the most important principles of administrative decentralization. Chapter 8 of the Russian constitution regulates the affairs of the local self-government and incorporates principles and legal guarantees that, in theory, ensure the autonomy of local communities in resolving local problems. The constitution provides for the establishment of various organizational models of local public administration and for a certain degree of financial autonomy. Legal rights to manage municipal properties are also granted to local public administrations, and the constitution stipulates that the state will transfer necessary funds in cases where it delegates additional responsibilities to local governments. However, federal law does not specify exactly which organs of local government are entitled to autonomy and therefore their number can be arbitrarily increased or decreased by regional authorities.

This constitutional framework makes emerging local governments extremely volatile and controversial at the regional and country levels. However, in our view, the most important point is that these constitutional principles have been declared as compulsory attributes by the federation and by every federal entity. This means that federal bodies are committed to producing their own laws in accordance with these principles. Of course, in numerous cases, formal principles and norms have been ignored by federal authorities, as well as by regional administrations. Indeed, as the authors of the Russian chapter argue, even the best legislation cannot be properly enforced unless it is internalized at the local, regional and federal levels. A graphical depiction of the decentralized local government model follows below:

Figure 1.1
Formally Decentralized Systems of Local Public Administration

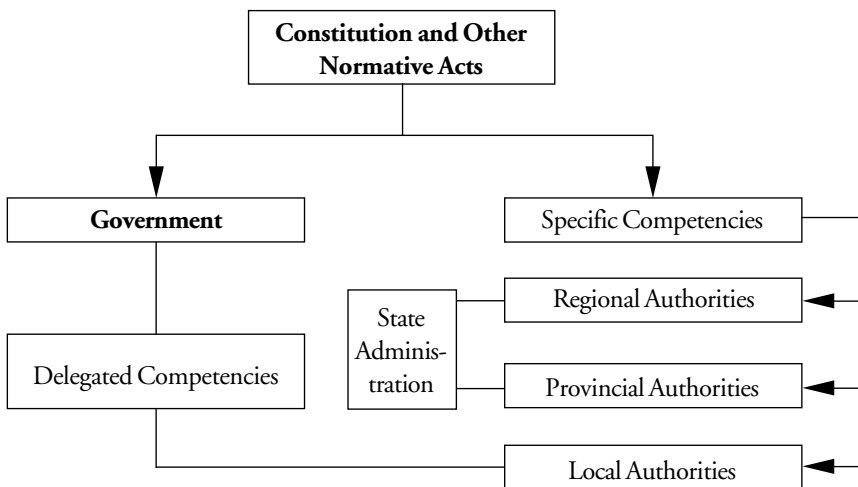


B. Mixed Systems of Local Public Administration

This category describes the present situation in many of the FSU countries. In particular, the Ukrainian system is most characteristic of this model of local public administration. Constitutionally, Ukraine is a unitary state. In June 1996, Ukraine adopted a new constitution which appeared to lay the foundation for decentralization of the public administration. The document granted the right to self-administration not only to collectivities of the first degree (communes, cities and raions in cities), but also to those of the second degree (raions and regions). Each administrative degree was endowed, according to the Law on Local Public Administration (1997), with deliberative authorities, councils elected directly by the population, executive bodies appointed by these councils and financial competencies.

What makes Ukraine so relevant for a discussion of the mixed administrative model is the existence of two interrelated conditions for local public administration: (a) compulsory retrieval from the state budget of those resources spent on the exercise of delegated functions and (b) subordination and control exercised by the state administration over the fulfillment of the delegated responsibilities. As a consequence, there is no actual transfer of competencies, but a “delegated competence” transferred to local representative bodies by state authorities. It is clear that, in as far as the state exercises its control, it is difficult to call this system “self-administration.” This practice precludes the possibility of local initiatives and independence in administrative activities. This kind of delegated competence is popular among numerous FSU countries (including Russia, though it more closely resembles the formally decentralized model discussed above). This second model can be graphically represented in the following form:

Figure 1.2
Mixed Systems of Local Public Administration



C. *Centralized Systems of Local Public Administration*

A number of states, including Belarus, Tajikistan, Uzbekistan and Azerbaijan, form a special group among the FSU countries. Their peculiarity lies in the importance attributed to the role and responsibility of the central administration in managing the public domain, which makes these systems highly dependent on changes in the governments of their countries. In these cases, remnants of the former system of public administration (i.e., the “local soviets of people’s deputies,” or locally elected councilors under the Soviet Union) continue to assert significant influence over local public administration bodies. Centralized decision-making continues to characterize local public administration in these countries.

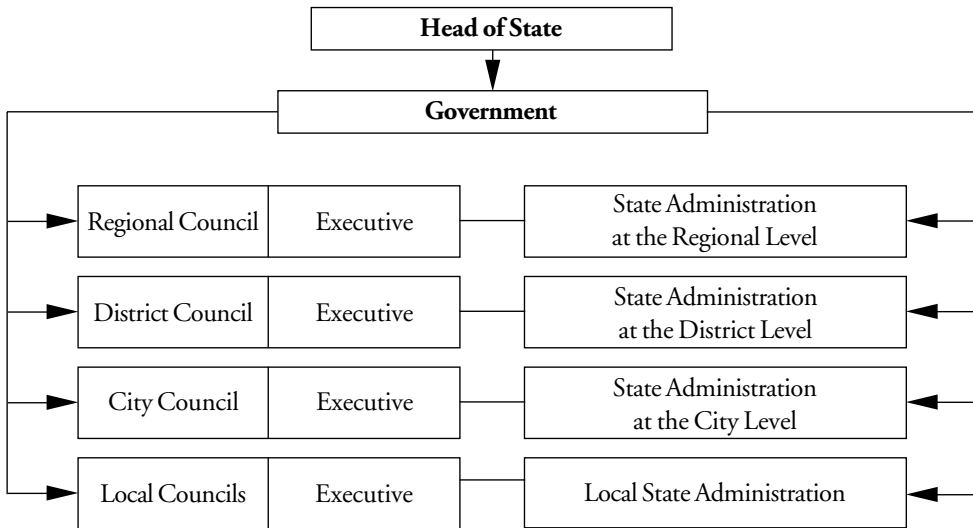
In Belarus, for example, a series of steps were taken, ostensibly to reform the public administration, including the adoption of a Law on Local Self-administration and clauses in a new constitution stipulating that all three levels of territorial administration—villages, cities and raions, regions—are “collectivities with the right to self-administration in all issues established by the law.” However, in recent years, the local government reform agenda has sharply diverged from the initial design and government in Belarus remains highly centralized. Local executives are directly subordinate to the central government and are obligated to act in accordance with the “highest interests of state.” Local representative authorities have been declared “organs of state power” and municipal property is considered part of state property, and can be redistributed or confiscated at any time by the central administration. A constitutional provision allows councils at higher levels of government to nullify decisions made by lower ranking bodies by declaring them illegal. Furthermore, local decisions can be nullified even more easily by central executive bodies or decrees issued by the president.

Kazakhstan’s system of local public administration remains highly centralized, based on the argument by central government officials that all public matters should be controlled by the central state throughout the transition period. Although the constitution recognizes local self-administration as “a particular right of the population to exercise its free will through the aim of elected representative authorities in villages and cities,” little progress has been made towards its achievement. In fact, all executive bodies at the regional, raion and city levels are managed by a single head of administration, appointed by the country’s president. Under these circumstances, regional administrative leaders act as personal appointees of the central government and do not constitute in any real way decentralized regional administrations. As a result, a curious situation has arisen that favors appointed executive bodies over those directly elected by their communities. This situation is clearly at odds with the letter and spirit of the European Charter of Local Self-Government.

A similar situation can be found in Kyrgyzstan, where the centralization agenda took the lead in shaping the current functions and profile of local self-government. Although several provisions of the Kyrgyz constitution (article 7) laid the groundwork for a clear delimitation of functions between the state administration and local self-administration, the politics of the central administration ensured that the state gained the right to create and control all local executive bodies. As a result, the concentration of power in the hands of the state has diminished the credibility of local representative

authorities attempting to fulfill their mandate on behalf of their respective communities. Another peculiar facet of the Kyrgyz system is that chairmen of local councils are also the heads of local public administrations. Thus, the same person who leads the meetings of a local council is responsible for all issues pertaining to the specific competencies delegated by the state. Furthermore, heads of raion-level administrations recommend candidates for local council chairman elections. This model of local self-rule can be graphically represented in the following form:

Figure 1.3
Centralized Systems of Local Public Administration



6. Local Government Capacity in the FSU

6.1 Local Executive Power

Although a practical separation exists between the deliberative and executive competencies of local self-governments in many FSU countries, local executives often experience a kind of double or even triple subordination—i.e., subordination to the jurisdiction of their respective local (municipal, city or communal) councils concerning the execution of council decisions, as well as to the central administration. Sometimes these channels of “functional interplay” are complicated by the fact that central administrations transfer responsibilities without the necessary financial resources to ensure accomplishment of the assigned tasks. Thus, the relationship between local public administrative bodies and central governments is characterized more by subordinate relations than by mutual cooperation.

Additionally, the principle of democratic centralism is among the most popular inheritances from the former Soviet regime and is widely applied in Belarus, Tajikistan, Kazakhstan and a number of other FSU countries. Often, this centralism persists because legislators are afraid or reluctant to delegate exclusive authority on certain issues to local officials. Without question, when local executive bodies are structurally detached from the local councils or subordinated to other hierarchical authorities, local self-government as we understand it does not exist.

6.2 Mayors and their Technical Staffs

In most FSU countries, mayors are elected directly by their local communities or by their respective local councils and are responsible for implementing local council decisions for the benefit of the local public interest. They are responsible to their local councils regardless of how they have been elected (through direct or indirect elections). It should be noted, however, that throughout the FSU, mayors of capital cities are often directly appointed by the president of the state. Within the FSU region, only in Russia, Ukraine and Kyrgyzstan are residents of major cities allowed to directly elect their mayors.

Table 1.1
The Situation of Mayors in the CIS

Country	Election of Mayors	City Mayors that Are Heads of Raions	City Mayors that Are Heads of Districts	Mayors of Country Capitals	Mayors/ Chairmen of Local Councils
Russia	According to the existing regulations and legal acts defined by the federal subjects				
Ukraine	*** *****	*** *****	*** *****	*** *****	*****
Belarus	**** *****	****	****	****	
Armenia	***	***	Municipalities are cities and villages	****	Community council does not have a head
Azerbaijan	* *****	* *****	* *****	****	
Georgia	* ****	* *****	****	****	
Tajikistan	****	****	**** *****	**** *****	

Table 1.1 (continued)
The Situation of Mayors in the CIS

Country	Election of Mayors	City Mayors that Are Heads of Raions	City Mayors that Are Heads of Districts	Mayors of Country Capitals	Mayors/ Chairmen of Local Councils
Kazakhstan	Appointed or elected according to regulations defined by the president. Currently, there is only one elected mayor.				
Uzbekistan	**				
Kyrgyzstan	**** *****	**** *****	****	***1995–98 *1998	

* Elected by the council

** Elected by the council

*** Elected directly by the population

**** Confirmed by the president of the country

***** Chairman of the council

Several CIS states have adopted specific statutes on state civil servants, which often constitute the staff of local mayors. Some of these states have begun to give particular consideration to the management of civil servants, while other states apply the same rules and regulations to civil servants as to other public officials working for the state administration.

Table 1.2
The Statute on Local Government Employees

Country	Legal Regulation on Public Service	Municipal Civil Servants	State Servants
Russia	Federal Law on Foundations of Municipal Service/1998	*	—
Ukraine	Law on Civil Service/1993	—	*
Belarus	Law on the General Principles of the Civil Service/1993	—	*
Armenia	The law has not yet been adopted	—	—
Azerbaijan	Law on Municipal Service	*	—

Table 1.2 (continued)
The Statute on Local Government Employees

Country	Legal Regulation on Public Service	Municipal Civil Servants	State Servants
Georgia	Law on Public Service, 31 October 1997	—	*
Kyrgyzstan ⁶	Law on Civil Service, 1999	—	—
Kazakhstan	The law has not yet been adopted	—	—
Uzbekistan	Law on Local Public Administration	*	*
Tajikistan	Law on Civil Service	—	*

As can be observed from the above table, only Russia and Azerbaijan have special statutes on civil servants employed by local public administration bodies. The government of Kyrgyzstan also has made some effort to distinguish between municipal and state civil servants. It is not entirely certain that this organizational separation is more democratic than managing all civil servants as like employees but it is clear that local civil servants should be accorded the same rights as state civil servants.

6.3 Local Public Finances

The principles of local public administration incorporate the right to possess a certain patrimony, and to take the initiative in all aspects of managing local public affairs, including the right to dispose of their own finances according to the law. The weakness of the practical dimension of local financial autonomy drastically reduces the capacity of the local government, rendering local bodies dependent on the good will of the regional governments and the central administration. Local public finances are among the most controversial issues on the decentralization agenda throughout the CIS. Financial autonomy is continuously obstructed within these states by stipulations in various national laws that allow central government officials to intervene directly into the most basic local government functions. There is an intrinsic link between the degree of decentralization of competencies and the financial autonomy assumed by local governments. The following table offers a closer look at the financial resources allocated to local governments in the FSU states.

Table 1.3
Relative Size of Central and Local Government Expenditures

No	Country	Central Government Expenditures as % of Total GNP in 1994/1999	Central Government Expenditures as % of Consolidated State Budgets in 1994/1999	Regional Government Expenditures as % of Consolidated State Budgets in 1994/1999	Local Government Expenditures as % of Consolidated State Budgets in 1994/1999
1	Russia	32.5/27.5	44.6/48.0	23.8/24.5	31.7/27.5
2	Ukraine	1996=27.5 1999=14.9	1995=60.7 1999=54.6	1995=39.3 1999=45.4	1995=39.3 1999=45.4
3	Belarus	20.0/19.1	50.1/48.0	—	49.9/51.7
4	Armenia	1996=21.9 1999=24.5	1996=95.3 1999=95.3	—	1996=4.7 1999=4.7
5	Azerbaijan	29.4/19.8	81.6/81.7	18.4/30.1	—
6	Georgia	1997=10.1 1999=6.0	1997=76.1 1999=67	1997 =25.6	1999=33.0
7	Kyrgyzstan	11.93/16.45	50.98/85.38	49.02 / 14.62	1997=7.75 1999=7.33
8	Kazakhstan	10.4/17.0	56.0/69.6	44/45.8	30.0/31.0
9	Uzbekistan	17.0/14.7	46.6/45.9	5.4/54.2	0.47/6.7
10	Tajikistan	1996=12.1 1999=11.9	1996=58.4 1999=68.0	1996=22.6 1999=12.1	n/a

Table 1.4 similarly illustrates that local budgets are not self-sustainable and that local governments are highly dependent on state transfers, subventions and other financial injections from regional or state budgets. Of course, transfers from the central to local governments are important, particularly during complex and socially unstable periods of transition. However, the fact that, on average, only ten percent of local government revenues are collected from local taxes and fees in the local budgets is a major issue and concern of the local governments in CIS countries.

Local public budgets in the CIS are generally comprised of local taxes and fees, state subsidies, transfers from the state budget, special transfers and other financial sources specified in national legislation. The percentage of local taxes and fees differs greatly from state to state, however. As Emil Alymkulov argues in his chapter, only two or three of sixteen potential and lawful taxes are currently collected at the local level in Kyrgyzstan. In Russia, local governments are not allowed to collect more than 9.7 percent of their revenues through taxes, although twenty-three types of taxes and local fees existed as of 1998.

Table 1.4
Share of State and Regional Transfers in Local Budgets

No.	Country	% of Local Budgets Not Derived from State or Regional Transfers in 1999	State and Regional Transfers as % of Local Budgets in 1999
1	Russia	25.1	74.9
2	Ukraine	75.8	60.7
3	Belarus	17.1	46.8
4	Armenia	81.3	18.3
5	Azerbaijan	49.6	50.4
6	Georgia	28.8	33.0
7	Kyrgyzstan	49.9	50.1
8	Kazakhstan	46.5	54.6
9	Uzbekistan	68.5	76.6
10	Tajikistan	31.3	23.2

The existing difficulties in the field of public finances are related to the limited capacity of local public authorities in the region to manage financial duties and operate adequate budgets. In effect, these difficulties have become a genuine threat to political reform in the FSU countries. A careful analysis of all these difficulties reveals the following typical features:

- Lack of specific abilities and skills necessary to manage, monitor and evaluate local public finances;
- Lack of technical support necessary for local public authorities to modernize and enhance their ability to communicate with the public;
- Ambiguous and unstable legislation concerning fiscal matters;
- Financial dependency on regional and state budgets;
- Fragmentation of local public authorities, complicating the relationship between the national government and local authorities, which are typically too small to effectively provide all public services necessary at the local level;
- Lack of a system of incentives for local authorities aimed at maximizing local financial autonomy.

6.4 Local Public Property

It is difficult to administer any public domain without a clearly defined patrimony. This point is generally accepted throughout the volume as a key concept for the transformation of local self-governments in the FSU. The real difficulty derives from the fact that almost all public goods and

assets were monopolized by the previous state and party authorities and that, as a first step, it appeared to be necessary to distinguish the competencies of the local governments from the state administration in this field. Public property should be viewed as a growing asset in the transformation of local governments and therefore the management and maintenance of these assets should be viewed as a business that can be profitable and respectable, generating revenues necessary to meet social needs. The patrimonial reorganization of local self-governments can be formally divided into two stages: (a) the clear delimitation of municipal property from state patrimony and (b) the clear delimitation among various subjects of local self-administration: regions, raions, cities and communes. The second stage is much more complicated than the first, as the effective transfer of property under the jurisdiction of local governments requires a coherent implementation strategy.

6.5 Local Public Services

It is widely accepted that the main rationale for the existence of local governments is to enable public authorities to respond to the general interests of local communities. Due to their immediate proximity to people, local governments can in theory serve as the best providers of services at the local level. City halls are typically better informed about the needs of citizens and consumers than central ministries and therefore their public services are generally assumed to be more effective and less expensive for local inhabitants and consumers. The most tangible touchstone of the effectiveness and responsiveness of any municipal government lies in its ability to deliver basic services. One of the most important criteria used by the population to evaluate the effectiveness of actions taken by the local governments is the quality and accessibility of local public services. For all these reasons, the provision of local public services could perhaps help more than anything else to strengthen the autonomy and effectiveness of local governments. Public trust in the democratic process is greater when local public authorities are accorded real power and financial resources, as more possibilities exist at the local level for people to influence the government policies that most affect their daily lives.

The mechanisms used to provide various public services in Russia are an interesting topic for further study, as they are similar to those in place in nearly all FSU states. Health care, for example, is not fully guaranteed by the state, nor has its provision been transferred to local authorities. Nearly all patients pay directly for medical services rather than through taxes for state-run services. In the field of education, local authorities generally lack the necessary funds to ensure proper maintenance of local schools or the purchase of an adequate number of books, teaching or sports facilities. As a result, school boards often wind up deciding what kind of taxes are paid by parents. In some FSU states, central authorities have decided that all social benefits and salaries for teachers and other educational staff members should be paid through local budgets, though this policy raises huge problems in terms of finding the necessary funds at the local level to maintain public schools.

While some of these countries have adopted laws regulating the decentralization of public services, there is little practical understanding of how this should be achieved. While many public services can technically be administered at the local level, in practice, confusion abounds over specific

responsibilities, and reformers are often unclear as to which criteria should be used to distinguish between public services that are of local, regional or national interest. For instance, water supply, organization of public transportation, preschool education and funerary services are strictly in the local interest and it would seem that they should be services provided by the local authorities without interference from the state. With respect to maintenance of public order, the provision of health care, secondary and higher education and telecommunications, these services exceed the local interest and it is therefore reasonable to assume that regional and national authorities should be responsible. It is argued in the Uzbek chapter that because the state guarantees the right to universal free education, all matters pertaining to education are the exclusive responsibility of the state and therefore only state authorities may open, close or reorganize educational institutions. It can be argued, however, that this conclusion should only be drawn for those services that are stipulated through constitutional norms.

6.6 Role Definition, Cooperation and Legal Guarantees for Local Governments

The vulnerability of public self-administration units can only be reduced through a coherent and systematic clarification of the legal relationship between central, regional and local public authorities. In order for local public authorities to be effective, they must be empowered with the right to pursue local initiatives and self-administrative practices. In the FSU states, this kind of local democracy, based on the transfer of state power and property to local governments and the creation of a stable legal framework for their independence, constitutes the cornerstone of a new philosophy of political power. In reality, however, decentralization more often than not exists only on paper throughout the region.

The relationship between public authorities at different levels is highly dependent on the type of local public administration system—centralized, decentralized or mixed. In Ukraine, for example, the relationship between public authorities is developed on the basis of the delegation of competencies. State authorities cannot verify or limit the range of decisions available to local authorities, they can only verify their legality. As such, Ukrainian state authorities can suspend those decisions that are considered illegal and are thereby empowered with jurisdictional competencies.

Other countries have adopted rules whereby the president directly appoints the heads of the local administration, with or without formal consent from the local councils. For instance, the state policies aimed at strengthening the “vertical of power” in Belarus, Kazakhstan, Tajikistan and Kyrgyzstan contribute to the preeminence of the head of state in appointing executive branches, which limits the independence and mandates of elected local representative bodies. An interesting argument made by the authors of the Uzbek chapter is that the persistence of both “written” and “unwritten” rules through which local authorities are subordinated to the state administration means that the implementation of even the most democratic principles can help to increase rather than decrease the feeling of omnipotence among state authorities over local and regional affairs.

6.7 Legal Guarantees for Local Public Administrations

The degree of protection enjoyed by local governments is directly related to the system of local public administration adopted by the respective country. In all cases where local self-government is established on the principles of administrative decentralization, legal guarantees are increasingly respected, while in genuinely centralized governments, the guarantees are largely formal. Legal guarantees for local collectivities to explore their own interests through the respective institutions of local government usually include: (a) guarantees for local government mandates; (b) empowering local collectivities with competencies and responsibilities sufficient for the administration of a given territory; (c) recognition of the principles of local autonomy and decentralization of public services, through constitutional norms and other regulations; (d) protection of the territorial boundaries of local collectivities, which stipulate local acceptance of any territorial modifications; (e) ensuring adequate financial resources to execute the powers granted to local governments; and (g) the right to defend their legitimate interests in court. It should be emphasized that most of these guarantees are addressed in the legislation of the various CIS countries⁷ through constitutional norms or specific legislative acts. Their implementation, however, leaves much to be desired.

7. Conclusions

The search for new systems of self-government originates from the need to craft better solutions to meet the needs of local communities. Across the region, difficulties in the process of administrative decentralization differ in terms of intensity and type. While the initial post-Soviet reforms introduced modest elements of decentralization and democratization, the reforms that these countries have implemented have not eradicated the “bad practices” and residual habits that hamper serious systemic reforms of territorial local public governments. In each of these countries, reform initiatives have been introduced in order to adapt the system of territorial government to a shifting political climate and newly emerging functional needs. Frequently, this strategy has been thwarted by resistance at the very core of the reform process—even among those civil servants and high-ranking officials responsible for implementing decentralizing policies. Apart from lacking the coherence and dynamism necessary to create new and effective institutions to serve the public interest at the national and regional level, central authorities in FSU states have little confidence in the capacity of local governments to serve local public communities, to provide public services or to strengthen local democracy.

In conclusion, it should be stressed that public administration reform, which is both a political and a legal process with considerable social consequences, is not and cannot be viewed as a simple process—a single decision reflecting the benevolence of the state or the inclination of the government to satisfy the requirements of international organizations. In a democratic state, administrative reform is a highly valuable process that should be viewed as both a political and an administrative priority on the reform agenda.

Without question, serious institutional problems may appear even in stable Western democracies. This is evidence that there is no ideal system of public administration that can simply be replicated in other countries. The real challenge for architects of administrative decentralization in the FSU states is to search for the characteristics of successful local governments that best fit with the social, political, cultural and administrative realities of their respective countries.

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Notes

- ¹ Local Governments in the CEE and CIS, 1994: An Anthology of Descriptive Papers.
- ² Turkmenistan is not included in the anthology because the designated authors were unable to cooperate until the very end of the project's timeframe.
- ³ Jean Gicquel, "Droit constitutionnel et institutions politiques," Montchrestien, 1989, p. 76.
- ⁴ Francis Delperee, "Le nouvel etat Belge," Labor, Bruxelles, 1986, p. 133.
- ⁵ Article 3, Paragraph 2, Explanatory Report on European Charter of Local Self-Government.
- ⁶ Currently, there is a draft of the Law on Municipal Service which will soon be adopted by the Kyrgyz Parliament.
- ⁷ Two exceptions are provided by Uzbekistan and Belarus that, seemingly, do not possess appropriate forms of legal guarantees, while their public administration systems are considered to be too centralized.

Chapter 2



Local Government in Belarus

by

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&

Valentin Dritz

Developing New Rules in the Old Environment

Local Government in Belarus

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Local Government in Belarus

Miroslav Kobasa, Alexander Karamyshev & Valentin Dritz

1. Major General Indicators

The Republic of Belarus is a young state, created after the collapse of the Soviet Union. Its declaration of state sovereignty was adopted by the Parliament in 1990, followed by the passage of the Constitution in March 1994. According to the Constitution, Belarus is a sovereign democratic social state in which the rule of law prevails. The Constitution establishes the separation of powers and the institution of the presidency as both head of state and the head of executive power in the country. Between 1995 and 1996, the republic experienced a period of political crisis, manifested in the confrontation between the president and Parliament. In November 1996, President A. Lukashenko initiated a national referendum in support of his policies, as a result of which a new version of the Constitution was adopted, stipulating a bicameral Parliament, the National Assembly of the Republic of Belarus. While the president is no longer the head of executive power under the amended Constitution, he nonetheless retains all of his previous powers in fact, as well as acquiring the right to issue decrees which have the force of law.

Geographically, Belarus is located in the heart of Europe, between Poland and Russia, and is traversed by major East-West transportation routes. This is not, however, reflected in the degree to which the state is included in European coordination and integration processes. The primary goal of national foreign policy is the development of a united state of Belarus and Russia, pursuant to a declaration issued on 25 December 1998. This is considered to be instrumental in resolving economic issues as well as strengthening Belarus's tottering position on the international stage, in light of existing instances of authoritarianism and human rights violations.

Currently, the republic is undergoing a difficult economic situation. The standard of living is low and expected to decline further. Belarus has rejected economic liberalization, instead pursuing a policy of market socialism, based on strong government intervention and the domination of public property in the industrial and agricultural sectors. Private ownership of land is permitted to a limited extent, for individuals only. Commercial organizations wishing to purchase land are dealt with on a case-by-case basis, usually requiring the president's permission.

These economic problems are exacerbated by Belarus's heavy exposure to the effects of Chernobyl, with over twenty percent of its area subjected to radioactive pollution.

Public administration in Belarus is divided into four types of administrative-territorial unit, including the central government; regions and districts; large and medium cities; and villages, townships and small towns. Many local communities lack independent status, elected bodies or a local budget. Even where local elected bodies exist, their independence and real impact in resolving local issues are usually of a token nature, as is the involvement of local residents themselves. The administrative apparatus dominates the political landscape and is created by the central government according to a strict hierarchy. The president directly appoints the heads of regional executive committees and approves the appointment of heads of district executive committees. Local executive bodies are not accountable to either the local representative branch or local citizens.

2. Legal and Constitutional Basis

An appropriate beginning for a discussion of territorial government in Belarus is the passage of the Law on General Principles of Local Self-government and Local Economy in the Soviet Union in April 1990, when Belarus still formed part of the Soviet Union. It should be noted that this law was relatively progressive for its time, containing noticeable influences from the 1985 European Charter on Local Self-government. The law reflected the idea of subsidiarity in the distribution of functions among bodies of different levels, determined principles of financial self-sufficiency, established judicial protection of the rights of self-government and envisaged the creation of real opportunities for citizen participation in government. Significantly, the law did not describe local governments as organs of state authority, but rather as those of the territorial communities themselves.

The Law on Local Self-government and Local Economy in Belarus (hereafter referred to as the Law on Local Self-government) followed in February 1991. It declared the principles of citizen participation, social justice, the protection of the rights and legitimate interests of citizens, the independence of local self-governments within their areas of competence and the division of functions between representative, executive and judicial authorities. Local self-government was defined by the law as the independent resolution of social, economic, political and cultural issues of local importance either directly or through elected government and public bodies, based on legislation, in the interests of the given population and with due consideration of specific local conditions.

However, the actual situation did not correspond with the principles stated above. In Belarus, both the authorities and social institutions were unprepared for developing efficient legislation on local self-government. Neither the social nor the political nature of self-government had yet been internalized by the authorities. Instead, it was decided to make superficial modifications to the previous system, which was inclined toward centralism. Local citizens continued to be viewed simply as “the population,” rather than local communities with autonomous interests who were acknowledged as legal subjects. While the law established forms of direct democracy such as local referenda and citizen assemblies, no appropriate conditions and guarantees for their realization were created. Local governments were still viewed as state bodies, and no judicial procedures were stipulated for the settlement of disputes.

This model, which was perceived as self-government by the authorities in Belarus, was introduced in all political units existing at that time: village, towns, cities, districts and regions. Meanwhile, these units were divided into three tiers, municipal, district and regional. The first tier of local government, or municipal level, includes villages, towns, cities and city districts. The second tier, or district level, includes districts and cities divided into city districts, while the third tier, or regional level, is composed of regions and Minsk, the capital city. The Minsk city government has been assigned the role of coordinator between the councils and executive committees located in its nine city districts. The law also allowed the opportunity for some territorial units to be accorded special status by a specific law; this provision was primarily intended for the capital city.

By 1993, the law had returned to the former terminology with regard to cities. The distinction between cities of district and regional subordination was reapplied, principally because local budgets had to a large extent remained dependent on the redistribution of funds from higher-level budgets.

The law did not delineate specific mandates for governments of different levels, focusing more on rights common to all local governments, in terms of adopting plans and programs for territorial development, adopting local budgets and administering local property or natural resources. Other laws regulating government in various areas have also failed to do so.

The distribution of authorities among the three tiers of local government was clarified to some extent after a government resolution issued on 12 August 1991. This resolution generally defined local property assets, which were then redistributed by regional councils among the different levels of government. For instance, the following assets were assigned to the ownership of regional governments: health care institutions, such as regional clinics, maternity hospitals and TB clinics; cultural facilities, such as regional scientific and cultural centers, regional libraries, historical and cultural monuments, drama theaters and music colleges; and educational facilities, such as regional teacher training institutes and centers for vocational training. In some cases, city and district organizations providing fuel were also designated as regional property. District property was defined as follows: health care institutions, such as district and city clinics and polyclinics; cultural facilities, such as clubs, libraries, local museums, music and art schools for children, parks, pre-school facilities, schools, retail outlets and public catering facilities; and district and city organizations providing public utilities, water and sewage.

With regard to the democratic aspects of government, the law introduced the concept of a “system of local self-governance.” This system included local councils, organizations of community self-government established in neighborhoods, housing blocks and villages as well as forms of direct democracy, such as local referenda and citizen assemblies.

In June 1991, the Law on Referenda in the Republic of Belarus was adopted. Referenda may be held to enable citizens to decide upon important issues of public government or to determine public opinion on a given issue. Referenda may be initiated by five percent of all local citizens or one-third of all local council members, and are held by local council resolution. The Law on Referenda also specifies issues not subject to referendum; these include emergency measures for the protection of

public order, taxes and the appointment or dismissal of council-appointed officials. Currently, the Election Code of 11 February 2000 regulates issues related to local referenda.

The Law on Local Self-government was intended to strengthen the role of the representative bodies, local councils, which it defined as the key element in the system of local self-government. Under socialism, virtually all power had been concentrated in the hands of the executive bodies, which were creatures of the Communist Party rather than the local councils. The new law expanded the list of issues designated to the sole authority of local councils and excluded them from the competence of the local administration. This list included adopting plans and programs for local social and economic development, approving the local budget and reports on its implementation, establishing procedures for property management, setting local taxes and creating an organizational structure for administering the territories. For the first time, the law granted local councils exclusive competence over issues related to utilizing land and other natural assets, creating enterprises and appointing their managers, issuing local bonds and conducting auctions.

Rights and guarantees for local council members in the performance of their duties were addressed by the Law on the Status of Local Council Members, passed on 27 March 1992. Although a special section of the law was dedicated to the implementation of voters' demands, this section was removed in March 1996.

The Law on Local Self-government created certain economic preconditions for the functioning of local self-government. Following the Law on Property, adopted in 1990, this law defined local property assets as the following: local budget funds; housing stock and infrastructure; industrial, construction, transport and other enterprises; health and cultural facilities; and other property. Land and other natural resources were not assigned to the ownership of local governments, but instead remained national public property.

The Law on Local Self-government also introduced the term "local economy," which included local government owned enterprises and other entities addressing the needs of the local population. Relations between local self-governments and non-governmental entities engaged in public service delivery were based on contracts, primarily utilizing incentives such as tax privileges or preferential rights for the use of local natural resources.

In the budgetary sphere, the Law on Local Self-government proclaimed the independence of local bodies in drafting and approving local budgets and in determining areas of expenditure and standards for budgetary allotments. Higher-level bodies were specifically banned from interfering in the process of drafting or approval.

Local budgets were assigned a number of revenue sources, including personal income tax, local taxes and duties, profit tax on local government enterprises and payments from them for the use of natural resources. However, local councils could establish rates only for local taxes and duties and the profit tax for local government enterprises. Rates for all other taxes were established by law.

The most significant local revenues came from the share of national taxes, such as the profit tax or tax on turnover, which were allocated to local budgets according to long-term standards. The percentage of these deductions was to be defined by higher-level councils.

When formulating local budgets, legally established per capita budgetary standards and other social standards had to be considered. In order to meet these standards, it was expected that subsidies would be allocated from the national budget.

The Law on Local Self-government prohibited the withdrawal of any budget surplus, while also stipulating that local governments be compensated by higher-level budgets for any expenditures incurred by acts of the higher-level government. The Law on the Budget System, adopted on 4 June 1993, confirmed the autonomy of local budgets. However, the subsequent Law on the Budget System and State Extra-budgetary Funds, adopted 15 July 1998, notably strengthened centralizing tendencies in regulating budgets.

Certain additional rights were also stipulated for local governments. For instance, local council consent was required for the placement of industrial or other facilities within their territory, the use of local natural resources or changes to territorial boundaries. Local councils are also entitled to demand inspections of facilities and technologies for environmental purposes, to establish standards for environmental safety and to suspend or terminate the operation of enterprises which pollute the environment. The law also stipulated sanctions for the failure to carry out decisions of local self-government bodies or local referenda.

Thus, the 1991 law contained a significant number of progressive articles. Based on these provisions, however, authorities in Belarus did not manage to develop an effective system of local self-government. Instead, many features of the previous centralized system remained intact. Functions were not clearly distributed among levels of government according to the principle of subsidiarity; the law did not specify which level of government was directly responsible for functions such as secondary education, specialized medical service, operation of cultural facilities and local transport. Nor was this issue addressed in specific legislation, which listed mandates and powers in general terms without indicating particular levels of government.

Thus, overlapping areas of competence remained from the previous system, in which higher-level bodies controlled the lower-level ones and took responsibility for the results of their work. Even after the adoption of the Law on Self-government, local bodies did not achieve real independence, since higher-level bodies retained the overwhelmingly important functions of control and resource distribution.

It must be underscored that the conceptual basis of this law was far from the conventional notion of self-government as the autonomous functioning of public legal corporations and citizen associations within a legal framework. Local communities did not gain all of the necessary attributes to become full-fledged legal subjects, such as the right to judicial protection against illegal actions by government bodies. Terms commonly used in many states, such as “community,” “municipality” and “local

inhabitants,” were not specified in the Law on Local Self-government at all. On the contrary, local elected bodies were still defined as organs of state authority. Local property also retained the status of state property and so could be confiscated by an administrative decision and redistributed by higher-level authorities at any time. Many examples of this have in fact occurred.

In March 1994, Parliament adopted the Constitution, which was approved by national referendum in November 1996. The Constitution proclaimed the separation of powers, not only for the highest government bodies but also for local representative and executive bodies. Section 5 on local government and self-governance specifically addresses this issue. However, the Constitution failed to provide a clear description of the new model, defining only some of its features. According to the Constitution, citizens exercise their right to local government and self-government through local councils, executive bodies, organizations of community self-government, local referenda, meetings and other forms of direct participation in public affairs. The section also establishes a four-year term of office for local councils and the list of issues belonging to the exclusive competence of local councils, such as adopting plans and development programs, approving budgets, establishing procedures for managing local property, establishing local taxes and duties and organizing local referenda.

The Constitution stipulates the right of higher-level councils to abolish any decisions of lower-level councils which do not comply with legislation. The head of state also possesses the authority to suspend illegal decisions by local councils. Decisions made by executive authorities which contradict existing legislation may be abolished by the local council, a higher-level executive body or the president. Furthermore, a local council may be dissolved before the end of its term on grounds of their brazen or systematic violation of legislation. Previously, Parliament was accorded the right to decide upon dissolving a local council, but that right has since been granted to its upper house, the Council of the Republic.

In addition to the official draft of Section 5 passed in 1994, independent experts from the Lyva Sapieha Democratic Reform Support Foundation prepared an alternate version and submitted it to Parliament. This draft more clearly defined the nature of self-government as an independent component in the system of public power, making maximum use of the European Charter on Local Self-government. Drawing on the implementation of the 1991 Law on Local Self-government, these experts have also prepared a concept paper on local government reform and a package of draft laws. However, these proposals have yet to be noticed by the governing authorities.

Following the passage of the Constitution, two amended editions of the Law on Local Self-government were adopted, most recently on 10 January 2000. The current version of the law is entitled the Law on Local Government and Self-governance (hereafter referred to as the Law on Local Government). This version contains no significant changes compared to the previous versions and is fully in line with the government’s policies towards the bureaucratization and centralization of local government. Changes primarily concerned the relations between local representative and executive bodies. Executive committees lost their former status as bodies of self-government, instead becoming a component in the system of the executive power and defined as the “local government.” Local government bodies

are required by law to act primarily in the interest of the state when resolving local issues. As mentioned in the Law on the Cabinet of Ministers, the government has the power to control these local government bodies. Thus, the principle of autonomy is no longer extended to executive bodies, which are now commonly referred to as the “presidential vertical.” This term, although not entirely correct from an administrative and legal point of view, reflects the true role of these bodies in the state mechanism.

The system of local government bodies consists of regional, district, city, town and village executive committees and city district administrations. The Law on Local Government stipulates centralized procedures for forming executive committees and appointing their chairmen, and assigns them the more powerful role in governing local territories.

The system of local self-government includes local councils and organizations of community self-government (councils and committees formed by neighborhoods, housing blocks, streets and villages, among others), local referenda, meetings and other forms of direct democracy.

To date, the Law on Local Government has still not resolved the distribution of functions among bodies of different levels. Given the openly interventionist policy of the state at the local level over the last five years, any need for such a separation is moot.

A characteristic example of strengthened centralization is the Law on the Budget System and State Extra-budgetary Funds. As opposed to the previous Law on the Budget System, it draws upon the concepts of “lower-level,” “higher-level” and “consolidated” budgets. For instance, regional councils define the maximum amount of deficit for the consolidated district budgets, which combine district budgets with those of first-tier local governments. The annual Law on the State Budget defines this upper limit for consolidated regional budgets, while district councils define the maximum deficit for local budgets in villages, towns and cities of district subordination.

Within the generally centralized approach, Belarus has developed a specific mechanism for regulating political territorial organization. Already in 1994, Parliament amended the Law on Local Self-government, abolishing self-government at the first tier of local government, in towns, villages and cities of the district subordination. Immediately after its adoption, the Constitutional Court pronounced this measure to be unconstitutional. Presidential Decree No. 434, issued on 20 October 1995, stripped over eighty inhabited localities, mainly district centers, of their right to elect their own local self-governments and have their own budget. Instead, they are governed by the district administration. This is also the case with some regional cities. This measure ran counter to constitutional requirements for elected councils in all administrative-territorial units. In June 1996, the Presidium of the Parliament reviewed the issue of merging councils in the Brest region. It is notable that, out of eleven cases, only three gained approval for the merger from district and city councils.

The Law on the Administrative-territorial Division and Procedures for Resolving Issues of the Administrative-territorial Organization of the Republic of Belarus, adopted 5 May 1998, refers to

“administrative-territorial units” that have local councils, their own budget, et cetera. These include regions, districts, villages, cities and towns. City districts are not distinguished as independent administrative-territorial units, as they do not elect councils or possess a budget; however, the city executive committee establishes a “local administration,” whose competence is defined by the Law on Local Government. “Territorial units” represent a third category, comprised of territories operating under a special regime, such as reserves, national parks and other natural assets, or inhabited localities where subdivisions of the higher-level local government function instead of local councils or local executive and administrative bodies. Cities of regional or district subordination and towns may have the status of either an administrative-territorial or territorial unit.

The Law on Local Government provides general economic and social criteria for the towns and cities of regional or district subordination. A city of regional subordination is defined as an inhabited locality with a population greater than fifty thousand inhabitants which is also an administrative, economic and cultural center with a developed industrial and social infrastructure. A city of district subordination is an inhabited locality with a population of over six thousand inhabitants which has industrial enterprises and a network of social, cultural and service facilities. A town is a settlement with a population of at least two thousand people which has industrial and communal enterprises, social and cultural facilities, retail trading outlets, public catering and public service facilities.

Restrictions have been introduced on the rights of lower-level territorial entities that contradict the constitutional principle of authority vested in the people. Furthermore, the Constitution regulates the territorial organization of the state in a sufficiently strict manner. Cities may have the status of an administrative-territorial unit only; hence, they have the right to an elected council. This also relates to the towns and villages which, according to the Constitution, have the status of an administrative-territorial unit.

In July 2000, a special law was passed to address the status of the capital city, Minsk, which is referred to as the administrative, political, economic and cultural center of the state. City authorities are enjoined to ensure appropriate conditions for activities of the highest state bodies and national and international events. The law establishes a number of guarantees for the city to function as capital, including the allocation of appropriate funds from the national budget and the protection of investments in the capital by the national government. City authorities have been granted the right to establish special procedures for entry, the registration of citizens, traffic and other issues. The head of the city executive committee is a member of the national government. Finally, the city may have its own charter, a right that is not enjoyed by other administrative-territorial units.

Analysis of national legislation and its implementation leads to the unequivocal conclusion that true local self-government in Belarus is absent. Moreover, the ten years that have passed since the adoption of the Law on Local Self-government have been characterized by pronounced anti-reform tendencies.

3. Local Politics, Decision Making

3.1 Public Participation in Decision Making

Under socialism, official ideology placed great emphasis on creating a democratic image of local government as an element of the “socialist self-government of the people.” Even local soviets were described as mass organizations of the working people. In addition, various public bodies were established within the framework of the party’s ideological influence and control. These included women’s councils, councils of war and labor veterans, public commissions attached to the local authorities, comrade courts, voluntary people’s brigades and residential organizations, such as house or street committees. These organizations assisted in maintaining public order, were indirectly involved in the distribution of material comfort, such as housing for the needy, or engaged in other activities, primarily educational.

Citizens were given the right to file suggestions or complaints with various state bodies, mainly at the local level. These government bodies were obliged to review the appeals and respond within one month.

Voter appeals to candidates seeking local council seats provided a channel of communication between the population and local authorities. As a rule, these related to specific issues that required solution, such as constructing schools, maintaining streets and repairing houses. Council sessions approved plans for implementing the appeals and exercised due control. This mechanism was in effect until 1996.

As already noted, the system of the local self-government introduced by the Law on Local Government included several forms of public activity, in addition to government bodies. Citizen participation was promoted by involving existing entities as well as by creating new ones. In practice, Belarus has numerous forms of community self-government, such as committees established in neighborhoods, village committees, street and house committees, elders in the rural localities and even elders in apartment blocks. More details on the types and regional distribution of public organizations of self-government are presented in table 2.1.

The Law on Local Government stipulates procedures for the establishment and activities of community organizations of self-government in city neighborhoods and villages. These bodies are elected by assemblies of residents, which also approve the organizational charters to be registered with the local executive committee. Major provisions to be included in the charters are specified by the Law on the Local Government, primarily relating to their mandates, their territorial jurisdiction and participation by residents in the organization’s activities. The term of office for these community organizations should not exceed that of the local council. Community organizations have the right to submit proposals on all activities by local authorities and participate in the subsequent discussion of those issues.

Table 2.1
Community Organizations of Self-government by Region

	Public Self-government Committees	Village Committees	Street or Housing Block Committees	Elders	Village Councils and Commissions	Others (Village Community Council, Neighborhood Council, Apartment Block Elders)	Total Number of Organizations/Membership
Brest oblast	9	1,276	1,812	1,802	2	18	4,919/ 13,822
Vitebsk oblast	1	1,177	1,101	3,299	6	—	5,584/ 10,784
Gomel oblast	318	922	1,992	164	235	—	3,701/ 15,423
Grodno oblast	417	1,208	963	1,087	250	191	4,116/ 12,893
Minsk oblast	456	1,379	757	1,170	141	662	4,565/ 15,368
Mogiliov oblast	45	1,051	672	187	301	7	2,263/ 8,318
City of Minsk	53	—	1,852	—	—	—	2,603/ n/a
Total	1,299	7,083	9,149	7,709	935	878	27,053/ 79,211

In theory, councils may delegate some of their functions to community organizations, such as the right to lease non-residential premises and the use and repair of local housing stock. However, as demonstrated by experience, local councils and executive committees would never assign these institutions the right to independently resolve any issue on behalf of the local government. In general, these organizations play some role in local government decision-making, for example, through performing a preliminary review of the allotment of land, projected construction, the lease of premises or the allocation of retail kiosks. In some instances, these organizations may assign the location for parking lots, public transport stops and subways. They may also manage social and cultural facilities, sports fields or historical and cultural monuments. The role of community organizations has not been expanded further, due to their own lack of professionally trained staff and shortage of funds as well as conservatism among local government bodies.

The sources of funding for community self-government organizations, as envisaged by the Law on Local Government, mainly consist of voluntary contributions and revenues from events as well as the allocation of budgetary funds. The latter has become their main source of funding. In practice, a limited amount of resources are issued to lower-level government bodies, such as city district administrations in Minsk, and are subsequently allocated for specific events planned by community organizations, in proportion to the size of the population. Legal mechanisms for distributing resources and settling disputes have not yet been developed.

Under the centralized system of government which prevails in Belarus, there are no objective preconditions for the development of public initiative and the actual participation of citizens in local governance.

According to the Law on Local Government, citizen assemblies have the right to decide upon key issues of local importance and submit proposals for review by local government bodies. The Law on National and Local Assemblies, adopted 12 July 2000, addresses this issue in more detail. A citizen assembly may be convened at the initiative of local councils, local executive committees, local administrations, community organizations and citizens. An assembly is duly constituted if it is attended by at least twenty-five percent of all local inhabitants over eighteen years of age or at least two-thirds of their authorized representatives. Representatives from state bodies, enterprises, organizations and agencies may participate, but do not possess voting rights.

Participants in the assembly may discuss issues of national and local importance, make recommendations, establish and dissolve community organizations of self-government, participate in the preliminary discussion and drafting of local government decisions on key issues of state and social life and assess local self-government activities.

According to the Constitution, democracy in Belarus is based on a variety of political institutions, ideologies and opinions. Political parties and other public associations express the political will of citizens and have the right to participate in elections. The legal basis for political party activity was specified in the Law on the Political Parties, passed 5 October 1994. However, political parties and national democratic movements had begun to establish themselves in Belarus very early in 1990 and were widely represented, not only in Parliament, but also in local governments, particularly in the capital and some regional centers. They were active even under the majority voting system, since a significant number of citizens had invested their hopes in these democratic organizations when overturning the rule of the Communist Party. Local councils would often have party factions, usually the Belarus Popular Front, which were actively involved in resolving important local issues. The practice of establishing various member groups within the councils was also widespread. The sheer size of local councils at that period of time contributed greatly to this situation: Minsk council, for instance, had 203 members from 1990 to 1995.

Of the eighteen political parties which were formerly registered in Belarus, the largest are:

- the Communist Party of Belarus;
- the Party of Belarussian Communists;

- the Belarus National Front;
- the United Civil Party;
- the Belarus Social-Democratic Party (Narodna Gromada);
- the Women's Party "Nadezhda" (Hope);
- the Liberal Democratic Party of Belarus.

These parties have offices at the regional and local levels. Today, they all more or less overtly form the opposition to the ruling power.

Currently, political parties have no real impact upon local government activities and do not participate in the political process at the local level. This is due to the low profile role that self-government plays in the modern social, political and economic system as well as the system of public authority in Belarus. Most parties did not participate in most recent elections to the local councils, in April 1999. Therefore, only three percent of elected council members represent specific political parties; these parties are generally either loyal to the central authority or classify themselves as "constructive" opposition. For instance, according to its secretariat, the Party of Belarussian Communists is represented by 142 council members, twelve district council chairmen and party factions operating in twelve councils.

The Law on Public Associations, which took effect in October 1994, regulates the activities of non-governmental organizations (NGOs). According to this law, international, national and local associations may be created in Belarus. However, it must be noted that after the compulsory re-registration of all NGOs in 1999, their number was reduced by half. Approximately 1,000 associations did not apply to the Ministry of Justice for registration. Re-registration was conducted based on the findings of a special commission established by the president and comprised of representatives from various government agencies, including the Security Council and the State Security Committee. Registration was denied to 218 associations. In reality, the course pursued by the authorities was designed to terminate the activity of organizations considered "disloyal."

After assessing the role of NGOs and various interest groups in local politics, it must be acknowledged that it is very limited. Entrepreneurial associations have a somewhat higher profile and engage in activities to protest against specific restrictive practices. These typically take the form of strikes or the temporary closure of retail outlets.

Although some NGOs are involved in the development of self-government and local democracy, they are very few. The most consistent one in this regard is the Lyva Sapieha Foundation, with branches in each of the regions. For several years, the Lyva Sapieha Foundation has organized regular conferences and seminars on issues of local self-government, attended by international experts. The Lyva Sapieha Foundation has also done much to popularize the European Charter on Local Self-government. However, it does not receive any financial support from national or local governments, nor is it offered cooperation. Local governments usually provide financial support, though in insignificant amounts, to organizations for veterans and the disabled.

Mass public events in Belarus are regulated by the Law on Assemblies, Meetings, Street Processions, Demonstrations and Strikes, passed 30 December 1997. Under this law, organizers of a mass event must file an application with the local executive committee fifteen days prior to the event. The application should include the following data: purpose, type, venue, time frame, expected number of participants, details for the organizers and public order measures. The executive committee chairman or his or her deputy reviews the application within ten days, and may change the venue and time. This decision may be appealed in the court. The executive committee is entitled to prohibit or appoint certain venues for the holding of mass events.

Local authorities very rarely utilize the option of public polls, hearings or examinations. In summary, it would be appropriate to conclude that over the last ten years, no tradition of collective political activity oriented towards constructive dialogue between citizens and government has been formed in Belarus. Evidence for this conclusion is provided in table 2.2.

Table 2.2
Degree of Public Trust in Institutions of Government and Society*

Government and Social Institutions	Poll Data					
	06/00**	06/00	04/00	11/99	06/99	10/98
Church	-0.420	+0.289	+0.298	+0.267	+0.267	+0.329
Army	-0.420	+0,238	+0.165	+0.077	+0.085	+0.135
President	-0.784	+0.094	+0.064	+0.076	+0.162	+0.258
Non-government research centers	+0.509	+0.077	+0.190	+0.155	+0.122	+0.098
Government research centers	-0.547	+0.076	-0.003	-0.042	+0.027	***
State-owned media	-0.673	+0.038	+0.072	-0.026	+0.091	+0.159
OSCE Advisory and Monitoring Group in Belarus	+0.370	-0.017	0.000	-0.045	***	***
Independent trade unions	+0.113	-0.074	-0.055	-0.091	-0.181	-0.126
Non-government media	+0.415	-0.083	-0.065	+0.088	-0.159	-0.130
Government trade unions	-0.491	-0.125	-0.077	-0.160	-0.198	-0.143

Table 2.2 (continued)
Degree of Public Trust in Institutions of Government and Society*

Government and Social Institutions	Poll Data					
	06/00**	06/00	04/00	11/99	06/99	10/98
Government	-0.653	-0.145	-0.172	-0.124	-0.044	+0.038
Central Electoral Commission	-0.725	-0.160	-0.092	-0.110	-0.098	***
Entrepreneurial associations	+0.173	-0.164	-0.062	-0.095	-0.254	-0.292
KGB	-0.706	-0.204	-0.173	-0.209	-0.165	***
Parliament (National Assembly)	-0.765	-0.239	-0.207	-0.215	-0.184	-0.077
Parliament (Supreme Council, 13 th convocation)	-0.059	-0.269	-0.189	-0.284	-0.306	-0.165
Courts	-0.804	-0.281	-0.186	-0.205	-0.186	-0.164
Local governments	-0.647	-0.296	-0.310	-0.286	-0.221	-0.131
Police	-0.804	-0.343	-0.302	-0.275	-0.293	-0.229
Political parties	+0.037	-0.361	-0.315	-0.350	-0.409	-0.320

SOURCE: Independent Institute for Socioeconomic and Political Studies

* The degree of trust is measured by the ratio of responses to the number of respondents, where 1 = "trust," -1 = "do not trust" and 0 = "difficult to say." In all cases, approximately 1,500 people were surveyed, with a maximum representation error of less than 0.03.

** The first column features data from a survey of public figures and experts, involving fifty-six people.

*** These institutions were not included in the survey questions.

Local Referenda. The first Law on Referenda in Belarus was passed in 1991. In this law, referenda were conceived as a method of adopting an obligatory decision or consulting public opinion on important issues of local life. Referenda were not deemed to be mandatory for any specific issue. Certain issues were excluded from consideration by referenda; these included emergency measures for protecting public order, taxes, the budget and the appointment of local government officials. The right to conduct referenda was subsequently established in the Constitution. Currently, the Electoral Code regulates referendum procedures, replacing the previous law on referenda. The Electoral Code, however, does not stipulate for a consultative referendum.

Decisions on conducting a referendum fall under the exclusive competence of the local council. The local council may initiate a referendum through a council decision, whereas previously the support of only one-third of local council members was required. An initiative group of at least twenty local members (or as established by law) may initiate a district referendum. The composition of the group and the issue to be considered by referendum are registered with the executive committee, after the court gives its approval. The denial of registration may be appealed in court. Whereas signatures from five percent of the referendum's original supporters were previously required for a court appeal, this requirement has now been increased to ten percent.

Issues of national importance may not be decided by referendum, nor may issues related to the appointment or dismissal of officials within the competence of the local executive committee or its head.

Not one local referendum has been held in Belarus.

3.2 Citizen Legislative Initiatives

The amended Law on Local Government featured a new provision on legislative initiatives by citizens on issues of local importance. However, the law did not stipulate procedures for realizing this form of direct democracy, instead leaving this matter to local councils. Citizens may submit draft decisions to the local council on issues of local importance. These drafts must be reviewed in an open council session with representatives of the population present, and the results of the review are subsequently publicized in the local media.

To date, local councils have not defined procedures for exercising legislative initiatives and no such practices are in place. This situation reflects both conservatism and passivity on the part of local authorities and the lack of capacity among citizens for legislative work. Furthermore, the interventionist approach of the government towards local policies and contradictory legislation also serve as strongly prohibitive factors.

3.3 Other Forms of Public Participation

Other forms of participation in local affairs have also been legally established. For instance, local inhabitants may initiate proceedings to dismiss council members who have failed their trust or discredited their position. A special section of the Electoral Code addresses this issue. Grounds for dismissing council members include the violation of the Constitution or legislation and actions which discredit their dignity and position. To begin the proceedings, an initiative group appeals to the council chairman and requests that a meeting of voters in the particular electoral district be convened to resolve the issue. While citizens may dispute the refusal to convene such a meeting in court, they do not possess the right to convene the meeting independently. Council members are

guaranteed the right to be present and defend themselves at the meeting. In addition, this issue may not be raised more than two times in one year. Other than these, there are no guarantees. To date, no council members have been dismissed in this manner.

It must also be mentioned that the Law on Citizens' Appeals (1996) grants citizens the right to submit proposals to various government bodies. This method of citizen participation is actively in use. In general, however, citizen appeals are more concerned with issues of everyday life, such as the improvement of housing conditions and capital repairs for housing. Topics raised also include the maintenance of parks and recreation facilities, the construction and functioning of mini-markets, et cetera. Since local authorities do not always display an adequate level of understanding for these concerns, citizens often feel that the only way to seek redress is by directly appealing to the president. It should be underscored that the Law on Citizens' Appeals contains practically no procedural provisions. No law on administrative procedures currently exists in Belarus, nor is the adoption of such a law on the agenda.

3.4 Internal Structure of Local Government Decision Making

As mentioned earlier, the system of local government is structured according to the principle of separation of powers between representative and executive bodies. This principle extends to both functional and organizational aspects. Since 1991, however, this principle has undergone a number of transformations. Initially, the law assigned all authorities to the local councils, while designating some as their exclusive right. Executive committees were empowered to independently resolve all other issues within the competence of the local councils, and other bodies created by the councils were prohibited from interfering in their work. Local councils had the authority to abolish the decisions of executive committees if they did not comply with legislation. The only further restraining factor was that executive committees were formed by and politically accountable to local councils.

This system was changed after the adoption of the Constitution, becoming more convoluted. On one hand, the number of powers assigned to the exclusive competence of the councils was greatly reduced. On the other, "all issues of governance" were assigned to the competence of the executive committees. In this context, it was unclear whether executive committees had the authority to adopt local programs and normative acts independently. In practice, this happened frequently, without the formal delegation of rights by the council. Finally, executive committees were created through a centralized process, rather than by the local council.

The law does not currently establish the fundamental principle with regard to the correlation between functions and the distribution of competencies. However, the law has established a technical separation of powers between the local council and the executive committee, together with its chairman. The law prohibits the representative or executive branch of local government from interfering in issues within the competence of the other branch.

Authorities granted to the local council include the following: approving development programs, budgets and local taxes; establishing rules for managing community property; conducting local referenda; resolving territorial issues; issuing local bonds; and some organizational issues. Local council decisions are passed by a majority vote, through secret ballot, open ballot or roll call. A two-thirds majority vote is required for a decision to dissolve the council.

According to law, the council chairman convenes council sessions at his or her initiative or by decision of the presidium, one-third of council members, the head of the executive committee, higher-level councils, the president or ten percent of local residents.

Although common practice dictates that council sessions are conducted openly, the law allows the council to hold a closed session at its discretion. Likewise, the right to hold closed sessions is not restricted by council rules and regulations. Moreover, the right of local residents to attend even open council sessions is limited. They are not guaranteed this right by law, and council rules and regulations usually stipulate that individuals must be invited in order to attend.

The council chairman organizes council activities. This position is distinct from the head of the executive committee, and the two may not be combined. In regional and Minsk councils only, candidates for council chairmen may be nominated by councilors. Other councils must elect a candidate proposed by the chairman of the higher-level council. These procedures were only recently entered into law, in 2000. Council chairmen currently in office were nominated for their positions by council members, according to the previous system.

Unlike many other countries, there is no restriction on council members voting on economic issues that directly or indirectly affect their own interests. Nor are any such provisions included in council rules and regulations.

Council decisions that bear on the rights, freedoms or obligations of citizens enter into force after their official publication.

3.5 System of Local Elections

According to the February 2000 Electoral Code, local council elections are held in single mandate electoral districts, based on universal, equal and direct suffrage through secret ballot. Local council members are elected for a four-year term.

Elections are called by the president no later than four months prior to the date of elections, and held no later than thirty days before the expiration of the current council's term of office. All local council elections are held at the same time. If a local council is dissolved, local elections should be held within one month.

The structure of electoral districts per local council is as follows:

- forty to sixty districts for regional and Minsk councils;
- twenty-five to forty districts for district councils;
- twenty-five to forty districts for local councils in cities of regional subordination;
- fifteen to sixty districts for local councils in cities of district subordination;
- eleven to fifteen districts in town or village councils.

Within the limits specified above, the local council defines the number of electoral districts depending on the size of the population, area and other local conditions. One council member is elected from each electoral district.

Local residents who are citizens of Belarus or Russia over the age of eighteen have the right to elect or be elected to the local council. Elections of council members are free, equal and direct. Although the Constitution establishes that public associations, parties, labor collectives and citizens possess the right to nominate candidates for local council elections, the February 2000 Electoral Code unconstitutionally deprived public associations and citizen assemblies of this right. Just as before, labor collectives of state-owned enterprises, institutions and organizations play the major role in nominating candidates. This method has demonstrably ensured the nomination of candidates who support the official political course.

Elections are recognized as valid with the participation of at least half of all voters. The candidate that collects a simple majority of votes is considered to have won the elections. If there is no clear winner, the two candidates with the highest number of votes participate in a second round of elections, held within two weeks of the first one. These elections are considered to be valid with the participation of at least twenty-five percent of all voters, and the candidate who receives the highest number of votes is declared the winner.

In Belarus, the ability of political parties to participate in elections, including those for local councils, is seriously hindered. In January 1999, the president issued the Decree on Measures to Regulate Activities of Political Parties, Trade Unions and Other Public Associations, which required parties to re-register themselves by 1 July 1999, according to much stricter requirements than the 1994 Law on Political Parties.

Pursuant to the 2000 Electoral Code, only parties registered at least six months prior to elections have the right to nominate candidates. In addition, these political parties must have established a local branch in the given area at least six months before elections are called, also registered with the Ministry of Justice. Table 2.3 reflects the election results.

Table 2.3 does not provide data on the number of members representing political parties. Apparently, these statistics were not collected, as party participation in the councils is of no interest to central authorities.

Table 2.3
Local Election Results for the 23rd Convocation (4–16 April 1999)

	Councils										Total	Total [%]
	Regional and Minsk	Districts	Cities of Regional Subordination	Cities of District Subordination	Townships	Villages						
1. Number of councils	7	117	25	10	80	1,455					1,694	
2. Number of electoral districts	412	4,302	881	193	1,077	17,701					24,566	
3. Elected council members, of which:	371	4,216	766	172	1,031	17,502					24,058	97.7
Members not previously elected	262	2,622	493	113	580	8,548					12,618	52.4
Female members	39	792	190	71	389	7,346					8,827	36.7
Members under thirty years of age	5	116	31	10	38	1,046					1,246	5.2
Non-partisan	334	3,923	681	164	984	17,259					23,345	97.0
Industrial sector employees	92	584	219	51	255	893					2,094	8.7
Managers	83	422	121	11	85	303					1,025	
Agricultural sector employees	57	1,477	13	5	203	8,376					10,131	42.1
Managers	49	1,161	9	4	72	1,953					3,248	

Table 2.3 (continued)
Local Election Results for the 23rd Convocation (4–16 April 1999)

	Councils									
	Regional and Minsk	Districts	Cities of Regional Subordination	Cities of District Subordination	Townships	Villages	Total	Total [%]		
3.	Government officials	78	983	97	18	155	2,749	4,080	16.9	
	Managers	64	761	56	11	79	1,349	2,320		
	Employees in education, academia and culture	38	467	156	37	172	2,998	3,868	16.1	
	Managers	31	332	115	16	76	1,352	1,922		
	Employees in the health, social protection, commercial and service sectors	64	399	143	24	162	1,717	2,509	10.4	
4.	Managers	53	285	101	10	74	561	1,084		
	Unemployed	—	41	10	2	23	392	468	1.9	
	Number of electoral districts where elections were disqualified	28	10	76	7	13	37	171	0.7	
5.	Number of electoral districts where no elections were held	—	6	—	—	—	4	10		

Table 2.3 (continued)
Local Election Results for the 23rd Convocation (4–16 April 1999)

	Councils								Total	Total [%]
	Regional and Minsk	Districts	Cities of Regional Subordination	Cities of District Subordination	Townships	Villages				
6. Number of electoral districts with a maximum of two candidates who failed to collect the required number of votes	12	70	39	14	33	158		326	1.3	
7. Number of electoral districts where elections were declared invalid	1	—	—	—	—	—		1		
8. Number of local councils where over half of the membership was elected	7	117	24	10	79	1,455		1,692	99.9	

SOURCE: Central Electoral Commission

There is no change in the ethnic composition of local governments, since Belarus has no administrative-territorial units based on ethnicity. According to the 1999 census, 81.2 percent of the population are Belarussians. The largest ethnic minorities are Russians, who comprise 11.4 percent of the population; Poles, who account for 3.9 percent; and Ukrainians, who make up 2.4 percent. Geographically speaking, Russians are primarily concentrated in major industrial cities, Poles generally reside in the Grodno region and the western districts of the Minsk and Vitebsk regions, while Ukrainians live in major cities and districts bordering Ukraine. In Belarus, 69.8 percent of the population is urban and 30.2 percent is rural.

According to the Constitution, citizens have the right to preserve their ethnic background and may not be forced to disclose it unless they choose to. Thus, statistical data do not usually provide information on the ethnic affiliation of citizens.

3.6 Local Government Associations

Currently, there is no single association of local governments in Belarus, either at the regional or national level. Neither the Constitution nor the law explicitly provides for such an opportunity. During the first years after the adoption of the Law on Local Self-government, attempts were made to create such associations. However, they faced opposition from the central authorities, who used the legislative omission as a pretext. In 1994, there was an initiative to create an Association of Belarussian Cities, which was then denied registration by the Ministry of Justice. The idea of establishing an association of local authorities is currently being discussed, and there is a small possibility that permission for this association will be granted by presidential decree.

4. Functional Structure of Local Government

4.1 Local Councils

Council Presidium. The law stipulates for the establishment of a presidium within regional and district-level councils. Their mission is to organize and convene sessions, to ensure openness, to inform council members and the general public, to coordinate activity by council commissions and member groups and to organize control over the implementation of council decisions. In first-tier local councils, the chairman performs the functions of the presidium.

Council Commissions. Since it is impossible to discuss all issues of local government in council sessions, permanent and temporary council commissions represent an important instrument of council activity. Through these commissions, council members are engaged in decision making, organizing the execution of council decisions and control over the activity of the executive apparatus. The law

stipulates for the creation of council commissions, but does not provide a specific list of commissions to be established. Those matters are independently resolved by the councils themselves. According to the law, commissions are assigned the following major tasks:

- to conduct a preliminary discussion of issues and make recommendations to the council for subsequent decision making;
- to organize implementation of council decisions;
- to exercise control over the execution of council decisions and decisions by higher-level government bodies.

Commissions are not independent bodies administering specific areas or industries; no executive bodies are subordinated to them. They may not be delegated the right to adopt a final decision by the local council. Commissions are both subordinated and accountable to the local council.

The Law on Local Government does not provide for the opportunity to invite individuals outside the council to join council commissions. Since 2000, local councils have been permitted to hire consultants and experts, who then possess a deliberative vote.

The structure of Baranovichi city council, a district-level government, is presented in figure 2A.1.

4.2 Local Executive Bodies

Executive Committee. Executive committees are established in a centralized manner. The heads of regional and Minsk city executive committees are appointed by the president, while the heads of other administrative-territorial units are appointed by the higher-level executive committee. Presidential approval is required for the appointment of heads of district-level executive committees.

By law, the executive committee is composed of deputy heads, an executive officer, the executive committee secretary *ex officio* and committee members. All executive committee members are appointed and dismissed by the head in coordination with the president or the higher-level executive committee.

The executive committee makes decisions within its competence through a simple majority of votes by committee members. Responsibilities of the executive committee include drafting plans and programs for local economic and social development, local budgets and plans for managing community property.

The executive committee is delegated a wide range of organizational and administrative powers. It organizes the collection and utilization of budgetary funds and makes decisions on issuing local securities and conducting auctions. The executive committee manages local property and financial resources; decides upon the establishment, reorganization or closure of community enterprises, agencies and organizations; and concludes leases and other economic agreements with legal entities or individuals.

In accordance with legally established procedures, the executive committee organizes state control over the entire territory for the protection of air quality, water, forests, subsoil assets, animal and plant life, and may suspend economic activities or construction if environmental or other legislation is violated. The executive committee is also enjoined to take measures to ensure and protect the interests of the territory in court and to higher-level government bodies.

The council may assign the executive committee to resolve issues within the council's competence. As needed, but no less than once a year, the executive committee reports on its activities to the council and reports to citizens at labor collective meetings and residential meetings.

Presidential Decree No. 89, passed 27 February 1995, approved the provisional structure for executive committees in regions, Minsk, cities of regional subordination and districts. A sample structure is provided in figure 2A.2, using the Baranovichi executive committee as a model.

Head of the Executive Committee. Heads of executive committees occupy the key position in the system of local government. Before the appropriate modifications were made to the Law on Local Government, their status was governed by the Regulations on the Heads of the Regional, Minsk, District and City Executive Committees, approved by Presidential Decrees Nos. 476 and 105, issued on 20 January 1995 and 18 March 1996, respectively. Heads of regional and Minsk city executive committees are appointed by the president and approved in local council session. Heads of district and city executive committees are appointed by the head of the regional executive committee, and approved by the president and the local council. If the council fails to approve the proposed candidate, another candidate is nominated instead. If the council fails to approve this candidate as well, the president or regional head makes the final decision. The head of the executive committee is appointed for the same term of office as the council.

Heads of the regional-level or district-level executive committee may be dismissed from office by the president or regional head, respectively, in case of legal violations, systematic failure to perform their duties, outrageous abuse of their position or other grounds prescribed by legislation.

Executive committee heads have a broad range of organizational, managing and controlling powers at their disposal. They are responsible for interactions between the executive committee and local council; define the structure and staff of the executive committee, including its secretariat; oversee the management of enterprises, agencies and organizations subordinated to the executive committee; and appoint or discharge their managers. Executive committee heads appoint government representatives to the managing bodies of joint-stock companies or other communally owned economic entities. In addition, heads also manage loans for budgetary expenditures.

Heads of regional and Minsk city executive committees are accountable to the president and the central government, while the heads of district and city executive committees are accountable to the

head of the regional executive committee. On issues related to council activities, they are accountable to the local council.

Local Administration in City Districts. The president abolished city district councils and their executive bodies by Presidential Decree No. 383 on the Reform of Local Government and Self-government Bodies, issued on 19 September 1995. They were replaced by local administrations, which were government bodies of general competence. The same decree also approved the Provisional Regulation on Local Administration. The city executive committee appoints the head of local administration and his or her deputies. All other officials are directly appointed by the head of the city district administration.

The city district administration ensures the execution of all government-related functions in the appropriate territory according to legislation, council decisions and decisions of executive committee commissions.

In many ways, local government follows a hierarchical structure. Local councils are subject to legal control by the president and Parliament, and may be dissolved by parliamentary decision. Higher-level councils coordinate the activities of lower-level councils, regulate their budgets and abolish any of their decisions which contradict legislation.

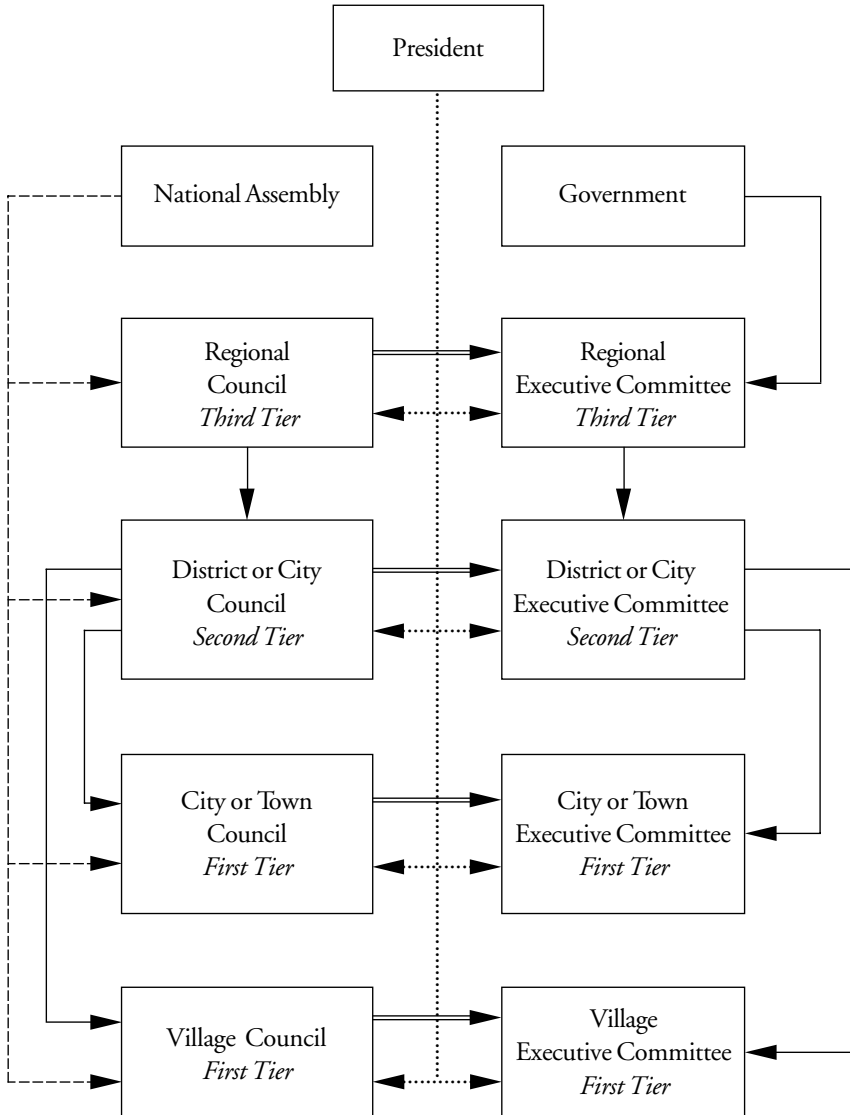
As regards the executive branch, local executive bodies are firmly soldered into the mechanism of state government and are subject to much stronger pressure by the central government and higher levels of local government. Because the central government has the authority to govern local bodies, a solid link has been established between the government and regional executive committees, the nature of which has been shaped by the general emergency regime now prevailing.

In turn, regional bodies may apply different methods of pressure upon lower-level governments. Even though this right is not stipulated in law, little attention is paid to these practices, especially in recent times. Regional committees possess effective leverage through the centralized system of appointing heads of local executive bodies, which ensure their full dependence on higher-level bosses.

Finally, horizontal relations exist between councils and executive committees. The formal approval of local councils is required for the appointment of executive committee heads. Within legally established limits, councils define procedures for managing community property and resolving other issues of local importance for the executive bodies. However, these horizontal links in the structure of local government are insignificant.

Schematically, the functional structure of local government may be represented as follows.

Figure 2.1
Functional Structure of Government in Belarus



4.3 Local Government Functions

The status of local governments as part of public administration manifests itself in the distribution of responsibilities. Since public administration is based on the principle of *ultra vires*, local initiative is restricted. However, some exceptions have been made for regional councils. Apart from their directly established rights, they are permitted to adopt other measures that do not impinge on the independence of other councils.

The Law on Local Government, together with other legislation, regulates the competencies of local authorities, in particular those of the executive bodies. Their powers are regulated by acts of the president, the central government and central agencies and primarily concern the performance of strictly public administration functions, such as registering commercial entities, issuing licenses or carrying out priority national programs (including distribution of food, import substitution and others).

Local governments have a wide range of powers, as follows:

- drafting programs for territorial development, housing, roads, social services and the environment;
- adopting the local budget, local taxes and duties;
- defining the legal regime for local property within legally established limits;
- approving the allocation of enterprises not in local ownership;
- managing and exercising control over the use of land, subsoil assets, forests and other natural resources;
- organizing construction and repairs of housing, public utilities, shops and service facilities;
- providing tax benefits;
- protecting civic rights and freedoms;
- registering acts of civil status;
- calling people or entities to account for administrative infractions.

Local governments in cities, districts and regions are also responsible for supervising local police and fire departments.

In addition to the functions listed above, district-level local governments possess the following responsibilities:

- approving the allocation of mass media and enterprises with foreign capital investment;
- state registration of economic entities and branches of political parties, trade unions and other public associations;
- licensing wholesale trade, with the exception of alcohol and tobacco, pawnshops, casinos and bookmakers;
- allocating or resuming plots of land in areas around cities of district subordination, reserve lands or forests, in coordination with village executive committees; settling land disputes;

- protecting consumer rights;
- ensuring increased volume of industrial and agricultural production, improved quality and competitiveness and the increase in commodity turnover; adopting measures for reducing payment defaults by local economic entities;
- facilitating employment.

Regional governments, particularly regional executive committees, play the dominant role in the system of local government. Although legally speaking, they do not possess administrative control over other local governments, in practice, regional governments issue mandatory instructions and control implementation of all aspects of local government activity at lower levels. In addition, regional governments are assigned the following functions:

- allotting land plots and settling land disputes;
- approving state registration of holding companies, economic associations and others, within the framework of anti-monopoly control;
- ensuring state registration of economic entities and local public associations;
- ensuring balanced local budgets by establishing limits on the permissible level of local deficit;
- submitting proposals to the government on amendments to regional boundaries, on establishing or merging districts and on defining the borders of towns or cities of district subordination;
- regulating pricing within their competence;
- issuing licenses for secondary schools, lyceums and gymnasiums or for wholesale trade in alcohol and tobacco;
- implementing programs and measures designed to overcome the consequences of the Chernobyl accident;
- maintaining regional health facilities, such as clinics, hospitals and dispensaries;
- carrying out state control over the protection of air quality, water, forests, subsoil assets, plant and animal life;
- establishing administrative penalties for the violation of public order, if not otherwise regulated by law.

Regional legislative bodies may also be legally authorized to perform additional government functions.

Local governments have been granted significant rights in the area of environmental protection and control over natural resources. The Law on Local Government stipulates that local council consent is required for the allocation of economic and social facilities, the use of resources on local territory and the resolution of other issues pertaining to economic, social and cultural activities which affect public interests. For instance, the Law on Environmental Protection, passed 26 November 1992, establishes that areas used for waste storage or disposal must be identified by regional councils, with the approval of the lower-level council. According to the Code on Subsoil Assets, local councils decide upon the allocation of land for mining, construction or the utilization of subsoil structures. Similarly, the Water Code establishes that the planned location and construction designs of projects affecting the local water supply must be coordinated with local councils or executive committees.

Local councils also possess the authority to demand or organize additional environmental or other expert assessments of projects and technologies. On 18 June 1993, Belarus adopted the Law on State Expert Environmental Assessment, which defines expert assessment as an essential stage in the process of planning, designing and decision making on national socioeconomic development (article 2). Any project that is subject to expert assessment may not be funded or executed without positive findings.

Local councils may establish exclusive standards of environmental safety in the area, following legally established procedures.

The Law on the Sanitary Epidemiological Well-being of the Population, adopted on 23 November 1993, states that local governments have the right to establish special conditions or regimes for residential or economic activities in order to prevent and eliminate mass disease and contamination. According to this law, local councils may apply economic sanctions for the violation of the environmental safety standards that they have set.

4.4 Control, Audit and Supervision of Local Governments

Internal Control. Local governments directly control and manage a significant number of enterprises and organizations. These include enterprises which provide housing, public utilities, water, sewage, heating and electricity. According to a special law, these services must be provided by enterprises in public ownership, including enterprises in local ownership.

The Law on Local Government has no special provisions on supervising, establishing or electing control bodies, such as an auditing committee or auditor. Instead, these issues are regulated by the general legislative provisions which address the control functions of state bodies. Council commissions ensure control over the implementation of council decisions. Closer operational control over the activities of subordinated organizations is performed by the appropriate sectoral and functional divisions of local government. Furthermore, many central departments have approved guidelines for reviewing and auditing the financial and economic activities of subordinated enterprises. These guidelines also apply to local government enterprises, since they are considered to be subordinate to the ministries. In addition, executive bodies appoint representatives to the managing bodies of joint-stock companies.

State Control. The state primarily controls the legality of local government activities. However, in issues of control over local budgets or state property, the state also considers the appropriateness and efficiency of the use of resources.

A variety of government bodies are charged with exercising control; these include the president, the Council of the Republic, the central government, the state control committee, other central government

bodies, higher-level councils and executive committees, local councils and the office of the prosecutor. Courts may also become involved when reviewing complaints and claims. Any of these bodies, except for the prosecutor's office and courts, may monitor the efficiency and appropriateness of local government decisions at their own initiative. However, these findings have no legal weight unless the council itself decides to revoke the decision or local inhabitants initiate the dissolution of the council. No other entities have the authority to enforce change, unless the decision contradicts legislation. Thus, the government bodies mentioned above generally perform follow-up control and on issues of legality only; that is, they evaluate decisions which are already in effect, quite often ones that have already been implemented.

Preliminary control is ensured through approval by or coordination with higher or lower bodies; this is required when forming the executive committee, appointing heads of departments and divisions or resolving many other issues. Although preliminary control takes legal issues into account, it primarily considers the extent to which the prospective decision meets local needs. For instance, councils must approve the merger of administrative-territorial units and identify suitable locations for waste disposal.

The president, the central government, local councils, executive committees, the prosecutor's office and the courts all exercise general control over compliance with legislation in all areas of activity. Other bodies are engaged in control over specific issues, along sectoral lines. These include the State Control Committee, the Ministry of Finance, the Ministry for State Property Management and other central government bodies. So, for example, the State Control Committee and its regional bodies control not only budget execution and the appropriate and efficient use of national budget funds, but also compliance with legislation on finance and tax relations. In addition, these bodies control the implementation of legislation on the lease and privatization of state property.

Legislation does not determine organizational mechanisms for control over local councils and executive committees, failing to specify which decisions are to be submitted for review, to whom and according to what schedule. Legislation establishes only the general authority of national oversight bodies to request and receive relevant information.

The various oversight bodies have different methods of enforcement at their disposal. The president may abolish an executive committee act or suspend a local council decision, if they violate legislation. Higher-level executive committees also enjoy this right; however, the Cabinet of Ministers and the ministries do not. Local councils have the authority only to abolish executive committee acts if they do not comply with legislation.

The prosecutor may lodge a protest against a council decision or executive committee act. The decision or act is then suspended until its review. While the decision is under review, or if the council dismisses the protest, the prosecutor may appeal to the court and demand that it be declared invalid. For explicit violations of law which may potentially cause significant damage, the prosecutor may issue an order demanding the elimination of the violations. The order is subject to immediate implementation, but may be appealed to the higher-level prosecutor within a period of ten days.

The Ministry of Finance performs integrated audits of the financial departments and divisions of regional and city executive committees at least once every three years. First-tier local government activities are reviewed at least once every two years. This review includes analyses of budget implementation reports, information on transactions between different level budgets and estimated administrative expenditures of local agencies. Special attention is paid to analyzing measures aimed at increasing the efficiency of local enterprises and overcoming losses.

5. Public Service Provision

Local government bodies provide most local public services directly through subordinated enterprises. Only certain services, such as institutions of higher education and medical clinics, are directly controlled by central bodies. Nonetheless, local authorities essentially take direction from higher-level bodies, including the president, the central government and central departments. For instance, the government has issued instructions for an obligatory increase in the volume of services provided by local service enterprises. The Ministry of Economy developed a regulation limiting sales prices and tariffs for public services. Since 1999, these activities must also be licensed by the national Union of Service Enterprises. In addition, the government has recommended that regional executive committees include these organizations in regional property.

The situation is similar for other local services. Almost all of them—health care, housing and public utilities, local transport, social protection, et cetera—are under the control of central departments. Many executive committee divisions or departments are subdivisions of ministries, as well as being subordinated to departments of higher-level executive committees.

First-tier local governments provide a very limited range of services, including pre-school education, primary education, territorial development and a few others. Village councils provide an especially small number of services. Almost all public services are provided at the second tier of local government, in districts and cities. Regional governments control or manage some health, educational and cultural facilities; however, their role in service delivery is generally confined to funding, supervising and controlling the activity of lower-level governments. For instance, regional budgets finance housing and public utility organizations through subsidies for covering losses, funds for student transportation or funds issued for the centralized procurement of coal for heating schools. Regional budget funds are also used for the centralized procurement of ambulances and expensive medical equipment, as well as for expenditures on social welfare and other needs.

Local public service providers function primarily as “unitary” enterprises, which manage property within limits established by the owner, the local government. Their activities largely depend on budgetary subsidies from the national as well as local budgets.

The private sector plays an insignificant role in public service delivery. Belarus has a small number of private pre-schools, while cities possess non-government secondary schools. There are also small

private institutions in health care and a few other fields. All of these operate under the close control of state bodies. For further detail on the distribution of public services, see annex 2.4.

Public service delivery must be conducted with due regard for a law, adopted on 11 November 1999, which defines a minimum level of state-guaranteed social protection to provide for the satisfaction of basic human needs. Requirements are expressed through norms for cash benefits, free and publicly accessible social services and social benefits. The government establishes standards together with national associations of employers and trade unions. There are standards for salaries, pensions, education, health care, culture, housing and public utilities, social support and social services.

Belarus has also adopted the Law on Social Services. These services include the provision of social support; social amenities; medical, psychological, pedagogical and legal services; and financial support. All of these are designed to facilitate the social adaptation of citizens facing difficult life situations. The system of social services is comprised of government bodies, social service centers, hospices, rehabilitation labor workshops and other organizations. Local governments may also contract with private companies to provide social services through issuing tenders.

A common method of control over local government activities targeted at the satisfaction of local needs is competitions. These are organized by regional executive committees to recognize the best work among cultural, health care, housing and communal service institutions of local government. For instance, the activities of local medical institutions, primarily district center hospitals, are evaluated through established indicators. These include payments, food consumption, expenditures per bed per day, expenditures on medicine, sanitary conditions, laundry services, catering, storage of medicines, documentation, patient records for pregnant women, child development histories, records of doctors' calls, records of private doctors' calls, lists of medical procedures, daily work logs of doctors and paramedics, death certificates, patient reception records and cases rejected for hospitalization.

Another example of central influence on the development of services may be found in the housing and public utilities sector. In September 1997, the Ministry of Housing and Public Utilities approved rules for maintenance and territorial development in cities and towns. In compliance with ministry guidelines, city and district executive committees approve lists of streets, squares and driveways to be cleaned by local services on a contractual basis. They also approve urban areas to be cleaned by enterprises, organizations and citizens as well the organizations responsible for sanitary conditions in gardens, parks, subways and construction sites.

Local authorities approve plans for public utilities and territorial development, control their execution, manage subordinated enterprises engaged in providing public utilities and territorial development and take measures to strengthen their material basis. They also ensure the comprehensive development of the public utilities sector within their jurisdiction.

Local governments must ensure the delivery of electricity, water, gas, heating and sewerage for cities and other inhabited localities and supervise the networks or facilities for their provision. Local

executive committees review and comment on plans for the construction of these networks and facilities by the enterprises of higher-level governments. They also control the construction and utilization of water purification facilities. Both representative and executive bodies in cities and districts perform control over the provision of fuel and other public utilities to institutions of education, culture and social welfare, and repair their premises when necessary. Local councils, executive and administrative bodies may hire organizations of different types of ownership or subordination to engage in territorial development activities or the construction of roads.

The production and consumption of services constitutes approximately thirty percent of the aggregated gross product. This area has seen an outflow of labor resources. The state applies a strict pricing policy, and has established a list of services with centrally established prices. These include simple shoe repairs, haircuts, photos for documents and funeral services. Standards of cost-effectiveness have been established for other services, whose prices may be established independently. These include mending clothing, furniture or household equipment; repairing radio and electronic equipment; dry cleaning or laundry; and others.

6. Local Finance, Local Property

6.1 Budget System

The major laws regulating local finance in Belarus are the Law on Local Government, the Law on the Budget System and State Extra-budgetary Funds and the annually adopted Law on the National Budget. These laws define own financial resources of local representative and executive authorities, forms of financial support by higher-level budgets and local government powers and procedures for developing, approving and implementing local budgets and establishing and utilizing extra-budgetary funds.

According to the Law on Local Government, local government finances are composed of budgetary and extra-budgetary funds belonging to local councils or executive committees and their subordinate bodies, as well as funds belonging to community organizations of self-government. To a large extent, these funds determine the capabilities of local governments and their degree of autonomy in resolving the issues assigned to local competence. Extra-budgetary funds are now very limited at the local level; since 1998, all local council extra-budgetary funds have been incorporated into local budgets and have essentially lost their extra-budgetary status.

Under current regulations, each administrative-territorial unit with its own local council possesses its own budget.

The Law on the Budget System establishes a unified budget system, composed of local budgets together with the national budget. This is ensured by a unified legal framework, coordinated

budgetary principles and standardized methods for budgetary classification and reporting. These allow the creation of consolidated budgets within administrative-territorial units. For example, the district budget, together with the local budgets of villages, towns or cities of district subordination located within the district, comprise the consolidated district budget. The regional budget, together with the budgets of its subordinated districts and cities, form the regional consolidated budget. The Minsk city budget is the only exception, since its city districts do not possess separate budgets.

Table 2.4 below illustrates the share of central and local budgets in the consolidated budget.

Table 2.4
Relative Size of Central and Local Expenditures, 1996–1999

	1996	1997	1998	1999
Central government expenditures as a percent of:				
Consolidated budget expenditures	50.4	50.4	47.8	47.0
GDP	23.3	27.3	18.0	17.2
Local budget expenditures as a percent of:				
Consolidated budget expenditures	49.6	49.6	52.2	53.0
Central government expenditures	98.4	97.9	109.3	112.2

The data above show that over half of all consolidated budget funds are currently channeled to local budgets, a proportion which has been increasing in recent years. Local budgets play a key role in financing the two sectors, health and education, which are most in need of budgetary funds. In 1999, funding of these areas accounted for forty-three percent of local budget funds and almost eighty-two percent of local budgetary funds within the consolidated budget.

Secondly, the size of transfers from the central government in the form of subsidies and subventions has significantly increased as a proportion of local budget revenues. In 1999, these allocations amounted to almost one-fifth of local government funds. Subsidies account for the bulk of transfers. Since 1997, subsidies have been allocated from a special fund for financial support for administrative-territorial units. This fund is created within the national budget out of revenues from income tax and VAT, according to standards established annually in the Law on the National Budget. In 1997, for example, this fund amounted to 36.7 percent of these two taxes, compared to 35.7 percent in 1998 and 30.0 percent in 1999.

This fund is then redistributed in the form of subsidies to regional-level budgets, including that of Minsk, based on the need to balance the local budget. The size of regional subsidies is also determined in the Law on the National Budget. In 1999, they were established in the following proportions: 15.6 percent for Brest oblast, 17.3 percent for Vitebsk oblast, 16.2 percent for Gomel oblast, 17.3 percent for Grodno oblast, 9.9 percent for Minsk oblast, 17.0 percent for Mogilev oblast and 6.7 percent for the city of Minsk.

Subsidies allocated to regional budgets are subsequently distributed among the lower-level budgets. Since the central budget assumes responsibility for budget deficits of all levels, subsidies designed to balance revenues and expenditures are now used at every level of local government. Quite often, these transfers amount to fifty percent of local finances or more.

In addition to subsidies, targeted subventions for administrative-territorial units were introduced in 1998. Subventions were allocated from the central budget to the regional-level budgets for maintaining housing and public utilities assets transferred to local councils and subsidizing housing construction. In 1999, these also included subventions for the constructing communal assets.

6.2 Revenues

Legislation indicates only general provisions for the sources of local budget revenues, which are very diverse. The law also establishes that councils set local taxes and duties and possess certain powers in regulating rates for other payments.

However, it is not the variety of local revenue sources so much as the breadth of powers assigned to local bodies that is important. This may be seen by glancing at the structure of local budget revenues classified by source, as shown in table 2.5.

As demonstrated in the table below, own local revenues for local representative and executive authorities amount to around one-third of local budget revenues, even though the share of local taxes and duties is relatively small. Own local revenues have been notably decreasing in district budgets, and are very low in town and village budgets.

More significant is the role of national tax revenues in local budgets. The major part of local revenues are accounted for by national taxes which are assigned to local budgets based on annually established standards, such as income tax, VAT and excise duty on alcohol. The practice of assigning national taxes to local budgets on a long-term basis was extended in 1997 to include certain excise duties, the tax on real estate and payments for land or use of natural resources. Except for excise duties, local councils are allowed to raise or lower tax rates or establish tax privileges.

Table 2.5
Local Budget Revenues, 1997–1999 [percent]

	1997	1998	1999
Total revenues	100.0	100.0	100.0
1. Own local revenues	31.4	30.7	34.5
Local taxes and duties	5.4	4.5	11.1
National taxes assigned to local budgets on a permanent basis	22.5	22.0	21.8
Current non-tax revenues	0.9	1.4	0.7
Revenues from privatization of community property	0.9	0.7	0.3
2. Nationally regulated taxes transferred to local budgets based on annually established standards, on a long-term basis	47.9	47.8	45.8
Transferred to local budgets based on annually established standards	34.3	32.5	33.7
a) VAT	21.5	18.8	18.2
b) Income tax	9.4	8.7	7.5
Transferred to local budgets on a long-term basis	13.6	15.3	9.3
3. Subsidies and subventions from the central budget	20.7	21.5	19.7

6.3 Expenditures

Local councils, within their competence, independently define areas of local budget expenditures on social and economic development. Restrictions apply only to earmarked funds transferred from higher-level budgets. Executive committees are permitted to invest idle funds into economic activities, securities or other investment projects. Local budgets may also designate specific amounts for the repayment of loans, debts and interest. The local council may establish the size of any reserve or earmarked budgetary funds within local budgets.

National legislation also provides a legal framework for inter-budgetary issues that arise in connection with local budget expenditures. Specifically, if a higher-level body makes a decision that causes an increase in expenditures for a lower-level government, it must also set aside appropriate compensation for the lower-level budget. If, when allocating taxes, local councils fail to comply with standards established by national legislation and higher-level council decisions, these funds will be immediately transferred to the appropriate budgets.

The following table highlights the distribution of local budget expenditures by specific area:

Table 2.6
Local Budget Expenditures, 1997–1999 [percent]

	1997	1998	1999
Total expenditures	100.0	100.0	100.0
1. Current expenditures	29.9	32.0	35.9
Expenditures for the executive committee and local council	3.3	3.2	3.0
Law enforcement	2.0	1.9	1.6
Economic development and support	6.4	7.4	6.6
Development of the market infrastructure	0.1	0.1	0.1
Education, health, sports and culture	61.9	59.7	55.2
a) education	31.7	31.2	29.1
b) health	25.4	32.0	20.4
c) sport	0.9	1.0	1.0
d) culture	3.0	2.3	2.8
Other current expenditures	3.0	2.3	8.9
2. Capital expenditures	8.2	8.3	8.9
Capital expenditures for the construction of objects transferred from the national budget	—	—	2.5

6.4 Budget Process

Technically, each local council independently formulates the local budget based on own revenues, national tax revenues assigned on a long-term basis and subsidies or subventions from higher-level budgets. However, even though local budget indicators are established by local governments, they must be congruent with the forecast local budget revenues and expenditures for the coming budgetary year. These estimates are provided to regional-level governments by the Ministry of Finance, and to lower-level governments by higher-level ones.

Drafting local budgets falls under the exclusive competence of the executive committee. The final budget is established after the higher-level council approves standards for allocating national taxes and revenues to the local budget.

After being drafted and reviewed by the executive committee, the local budget is submitted for approval to the local council. The decision of the local council establishes the following:

- revenues and expenditures, according to national budgetary classifications;
- standards for allocating national taxes to lower-level budgets and the level of cash flow;
- subsidies to lower-level budgets.

When formulating local budgets, an important role is played by the average compulsory rate (coefficient) which is estimated as a national per capita budgetary social standard within the non-production social sphere (budgetary, non-industrial). This indicator is approved in the Law on the National Budget and calculated annually based on the following factors: funds spent in each region for the social non-industrial sphere per resident, the rate of increase for such expenditures by regional budgets and the projected increase in GDP for the next year. In order to take into account the differences in the development of the social non-industrial network and the volume of services it renders to the population, additional coefficients were introduced in 1999 to differentiate the average national budgetary social standard by regions.

Thus, the 1999 Budget Law of Belarus determined BYR 17,880,000 as the national per capita budgetary social standard within the non-production social sphere. In addition, the following correction coefficients were established: 0.965 for Brest, 0.971 for Vitebsk, 0.997 for Gomel, 1.025 for Grodno, 0.981 for Minsk and 1.061 for Mogilev.

The budget is implemented by the local executive committee. Large cities may partially delegate this authority to their city districts, with respect to funding budgetary institutions within the city district, based on approved estimated expenditures and according to established procedures.

6.5 Local Taxes

Local taxes and fees were legally regulated in 1993. The list included eleven items: fees for the license to trade, advertising tax, fees for pets, fees for the sale of beer, tax on the sale of alcohol and tobacco, fee for the right to use local symbols, fees for filming movies or TV shows, fees for allocating trading sites, tax on construction in resort areas, resort fees, fees for maintaining pre-school facilities and fees for urban and suburban public transport.

The maximum amount for local taxes and fees should not exceed five percent of income remaining to taxpayers.

In 1997, new procedures were introduced for local taxes and duties, which were grouped into six categories:

- user fees, such as fees for the use of parking lots, for the right to trade, for the right to use local symbols, for issuing housing orders, for the right to hold auctions, for owning a pet, et cetera;

- sales taxes, such as taxes on the sale of beer, alcohol and tobacco products;
- fees related to construction and territorial development;
- service fees, such as fees for hotels, restaurants and racecourses;
- fees for advertising on billboards, cars and other vehicles;
- targeted fees, such as the fee for maintaining the municipal police, the fee for upgrading or maintaining public transport and others.

The law also stipulated that targeted fees and fees for construction and territorial development should be used solely for their designated purpose. In addition, it established that local councils may autonomously determine the taxation base, tax rates, methods for calculating taxes or fees and the schedule for their payment.

In 1998, the right to introduce specific local taxes and fees, as well as the categories of taxes and fees, was granted exclusively to regional and district-level councils. These councils may also revise the procedures for collecting payment of each specific type of local tax or fee. Nevertheless, the area in which local councils may apply these fees at their own discretion has somewhat narrowed.

The major difference introduced in 1998 was that the limits for tax rates to be established by the local councils were lowered. For instance, in the aggregate of all fees, sales tax on economic entities should not exceed five percent of proceeds and targeted fees should not exceed five percent of net income.

In 1999, local taxes and fees were elaborated further. Consequently, the list of user fees now includes the fee for crossing the national borders via border checkpoints. Casinos were eliminated from the list of service fees, while the list of targeted fees was expanded to include charges for upgrading and maintaining inter-city buses, trams and trolleys; for maintaining pre-school facilities; and for the commercial procurement of wild herbs or mushrooms, technical or medical phytogetic raw material for processing and sales.

Whereas the 1998 Law on the National Budget established only that local councils possess the opportunity to introduce local taxes and charges, the 1999 Law on the National Budget made their introduction mandatory for regional and district-level councils.

At first glance, this may be interpreted as evidence of the increasing importance of local taxes and fees in the structure of local budget revenues. In practice, this is not the case. Rather, this is the result of strengthened fiscal pressure in a situation of progressing economic crisis.

6.6 Local Economy, Local Property

Economic or commercial entities operating on local territory may assume a diverse range of economic and legal forms. The organizational and legal definition of economic associations includes the

following: limited or unlimited liability companies, joint-stock companies, enterprises or associations of enterprises, manufacturing cooperatives and individual entrepreneurs. With the adoption of the new Civil Code in 1999, limited partnerships and full partnerships will be added to the list. Within this classification there are subcategories such as affiliated and dependent companies and unitary enterprises with the right of economic control and operational management. These entities may be either state or privately owned.

In terms of their socioeconomic impact, economic entities may be divided into those that are primarily geared toward local needs and those that are focused on the external market. Local authorities are motivated, directly or indirectly, to develop all types of entrepreneurial activity, as they provide both employment opportunities and budget revenue and thus assist in the resolution of social issues assigned to local competence. Nevertheless, the Law on Local Government mentions only the first category of economic entity, that is, entities of various types of ownership which satisfy local demand. As conceived in the law, "local economy" refers to a particular economic unity, whose development must be assisted through long-term programs and local legislation. In doing so, local governments should take into account the Law on the Prevention of Monopolistic Activities and the Development of Competition, passed in 2000. This law establishes criteria for determining the dominance of a given economic entity in the goods market and prohibits any agreement with local bodies which is aimed at limiting competition.

One method of supporting small businesses oriented towards the domestic market is the creation of "business incubators." Emerging businesses are provided with administrative and production premises on favorable terms for a certain period of time. These incubators are not yet very numerous; for instance, Gomel oblast has only two, one in the city of Gomel and one in Mozyr.

Currently, it is practically impossible to solve issues related to the development of local economy. Moreover, if they are to comply with the instructions issued from the top, local governments must undertake strict measures against entrepreneurial institutions.

In 1996, the president issued a decree which determined local government responsibility for regulating pricing in their territories. Regional and Minsk city executive committees set a price range for socially important goods, jobs and services for local consumption at their discretion. These may include price ranges for mass-produced bread, milk and baby food; goods, jobs and services for companies with a local monopoly; heating; public transport; markups for public catering; solid fuel for inhabitants; and communal services such as water supply, sewerage, heating and hot water.

Pursuant to the decrees and decisions of the Commission on Coordinated Pricing, local executive committees artificially curb price growth and control production companies to ensure the continued manufacturing of socially significant goods, such as food, clothes and shoes. These committees approve maximum levels of profitability, retail markups and tariffs on socially important goods and public services.

In accordance with the Presidential Decree on Urgent Measures to Protect the Consumer Market, oblast executive committees and the Minsk city executive committee are enjoined to perform the following tasks:

- to establish the maximum norms for sales of goods;
- to restrain or suspend activities by companies that violate legislation on the sale of goods;
- to undertake measures for the immediate sale of perishable goods which are confiscated due to the violation of procedures for pickup and delivery.

In fact, control over retail and wholesale trade has been tightened. Local governments also have the authority to license these activities.

In March 1999, the president issued Decree No. 11 on the Regulation of State Registration and Liquidation of Economic Subjects, requiring most companies to re-register by 1 July 2001. New, higher and, for many, unaffordable amounts of statutory funds were established. Given this approach, the number of active commercial companies will notably decrease. Already, as a result of the national re-registration of companies conducted in 1993 and again between 1996 and 1997, several thousand companies have ceased to exist.

The legal regulations and functioning of local property in Belarus is beset by several problems. No special law regulating this type of property has been adopted. Instead, both the Law on Ownership, adopted in 1990, and the Civil Code, adopted in 1998, are based on the concept of “multi-level state property,” whereby national and local property are both subdivisions of state property. By this definition, local property is the object of close attention by central government bodies, and subject to administrative redistribution. At the same time, the Civil Code extends general legislation on private property rights to include local governments. According to the Civil Code, administrative-territorial units participate in civil and legal relations on an equal footing as other participants, that is, physical or legal entities. They are accountable for their obligations as property owners, except for property which is established as exclusively local state property. The state is not accountable for these obligations on the part of administrative-territorial units. In turn, administrative-territorial units are not accountable for the obligations of any legal entities which they or the state have created.

Local property consists of the local government treasury and includes local budget funds and other local assets that are not assigned to local government enterprises. Local property also includes the assets of local government enterprises.

Belarus passed the Law on Assets in the Exclusive Ownership of the State to define objects which may not be bequeathed, destatized or privatized unless the law permits otherwise. They may, however, be leased in accordance with legislation, without the possibility of buy-out by the lessee. These objects include natural resources, such as agricultural lands and other categories of land restricted from private ownership; mineral resources; waters; forests; specially protected natural territories or monuments; air space; public engineering infrastructure for electricity, heating, gas, water supply,

sewerage, public lighting and the territorial development of cities and towns; property of local councils and executive bodies on balance sheets; local budgets, extra-budgetary and targeted budgetary funds. Any deals which result in the alienation of the property of enterprises, institutions or organizations specified in the law are possible only if this property has been excluded from the list of property of these enterprises in accordance with legislation.

Local councils establish procedures to form and approve the list of enterprises, institutions and organizations to be held exclusively in local government ownership. Local property is viewed first and foremost as a source of local budget revenues and second as a means for satisfying the needs of local inhabitants. The list of local property is clear evidence of this: it is defined to include "... industrial, construction and agricultural enterprises, trade companies, ... and other assets needed for the functioning and development of the respective territories." Thus, the law does not establish the provision of public services on a non-commercial, non-profitable basis as the main objective of local property.

The transfer of state property into regional ownership primarily took place in 1991 on a non-repayable basis, through a government resolution. After this, regional governments distributed local property among the remaining tiers, retaining most industrial enterprises, *sovkhozes* and agricultural and food-processing companies, such as dairies and meatpacking factories.

Local governments apply different methods of control over the activities of local enterprises or organizations, most importantly over the administration of local assets. Local regulatory acts generally require consent by the executive committee or by a specialized property administration organization for dealings which involve the alienation of local assets. In addition, "state representatives" are appointed to the managing bodies of economic organizations in a manner analogous to the managing bodies for national assets. They also exercise control over the enterprise's activities, retaining the best part.

7. Relationship between the State Administration and Local Governments

The model of public administration created in Belarus has particular characteristics. In fact, if not in name, the president enjoys supreme administrative power. In November 1996, a new edition of the Constitution was approved through a national referendum initiated by the president. According to this version, the president is not formally the head of executive power. That prerogative belongs to the government, namely, the Cabinet of Ministers. Nevertheless, as head of state, the president has not only preserved but also expanded his powers—legislative, organizational, staffing and control—over the functioning of executive bodies. These powers extend to issues of territorial management. The president has broad rights in regulating the administrative-territorial structure of the state and enjoys the authority to establish or dissolve oblasts and raions, to determine or change their borders, to create or dissolve city districts and to combine administrative-territorial units into a single administrative center.

The president makes unilateral decisions on allotting land for non-agricultural purposes from the most arable lands, resorts, national reserves or forested areas with special status. According to his own decree, the president makes the final decision on the sale of land to any legal entity, including foreign ones. The president possesses the right to adopt acts with the force of law in the form of decrees, including instructions and “temporary” decrees which are issued due to “special” need. According to the Constitution, if a presidential decree or instruction contradicts legislation, the relevant law prevails only if it had originally granted the president the right to adopt the particular act. For all other issues not specifically addressed by legislation, presidential decrees must be complied with. In no case, however, should presidential acts contradict the Constitution. In reality, the situation is quite different: in 1995, for instance, the Constitutional Court declared eleven presidential decrees to be invalid, including several acts aimed at the restriction of local self-government.

The Cabinet of Ministers supervises the activities of local executive bodies in virtually every area, either directly or through central government bodies, such as ministries. The government organizes control over compliance with the Constitution, laws, presidential acts, government resolutions and decisions of the prime minister. The government cooperates most closely with regional executive bodies, sending them the bulk of instructions or compulsory recommendations due to the dominant role played by the regional tier in the system of local public administration.

Central government interference in local government activity is especially felt in administrative issues which have social or political priority for the state due to their critical nature. Examples of these include the prevention of a decline in industrial or agricultural production, salary payments or housing construction. Only direct instructions from the central government are applied in these areas. It is also common practice for the government to issue, not demands, but recommendations that local governments undertake a given measure in an analogous manner to central government activities. For example, these might refer to the management of local property. In practice, these recommendations are interpreted as compulsory instructions. Such a course is both easier and safer under conditions when public administration overall operates under such an extreme regime.

According to the Law on the Cabinet of Ministers, the Cabinet is also authorized to provide local governments with qualified specialists and establish a system for their training. The central government should support local bodies in organizing their management, in particular by developing a draft local government structure. With respect to the relationship between the Cabinet of Ministers and local councils, the central government is legally obliged to determine, in cooperation with local governments, procedures for the participation of local councils in implementing national programs.

In January 2000, the president approved a directive on the “style and methods” of government administration, which sharply criticized Cabinet activities. In terms of territorial issues, the directive cited the lack of a system for coordination between sectoral bodies and territorial-administrative divisions. This document thus set the task to improve planning and forecasting, to differentiate functions more flexibly between central and regional bodies and others. All of this underscores the serious problems that exist in public administration in Belarus and confirms their institutional nature, which is shaped by the content of political and social-economic leadership.

There is no single government institution in Belarus primarily responsible for coordination and control of local government activities. Instead, these tasks are addressed by different bodies. Local councils are more or less controlled by the National Assembly. Its lower house, the House of Representatives, has a standing Commission on State Construction and Local Self-government. The upper house, the Council of the Republic, is composed of representatives from the territories, and has a Commission on Regional Policy. The Council of the Republic has the authority to cancel local council decisions if they contradict legislation, as well as the authority to dissolve local councils.

The presidential administration exercises ideological supervision over local governments, with the principal aim of ensuring local support for presidential policies. The administration maintains the “staff policy” of the president at the central and local levels and runs the respective “staff registries.” A group of chief inspectors for regions and the city of Minsk operate within the presidential administration to carry out presidential policies and control their implementation.

In addition, a council composed of heads of local executive bodies acts as a standing advisory body in the president’s office. This body includes the head of state, his chief of staff, the prime minister and chairmen of regional and Minsk city executive committees. Every year the president includes chairmen of raion and city executive committees (two from each oblast and the city of Minsk) in the council. The council is responsible for developing proposals to coordinate the activities of local executive bodies on issues of social security; for maintaining a balanced approach to regional interests; and for considering regional interests during the preparation of important social and economic decisions.

Within the central government, a special state secretariat has been created to address territorial issues. It is responsible for coordinating between the Cabinet of Ministers and local executive bodies; for preparing proposals to improve public administration at the territorial level; and for the ongoing implementation of local economic and social development.

The central system of public administration in Belarus also includes ministries, state committees and committees within these bodies. These have significant influence over the activities of local governments, since many local government divisions are simultaneously subordinated to the central ministries and incorporated with them into a “single” system. This applies to local directorates or departments of labor and employment, social security, health care, housing and communal services, the interior and many others.

8. Local Government Employees

Local government employees enjoy the status of public servants, as regulated by legal norms. Generally speaking, public service in Belarus refers to the activities of all public servants working in state bodies, enterprises, institutions and organizations. In the narrower sense, public service is the fulfillment of

duties by certain categories of government officials. Their status is regulated by the Law on Public Service, adopted in 1993. All employees in executive bodies, except support and technical staff, are covered by this law. The law indirectly includes local council members, since their duties are registered as those of public administration employees.

Local executive committees, rather than local councils, determine local government staff. Their salaries are set by a uniform system of wages, which is established by the government, the Ministry of Finance and the Ministry of Labor.

Local government employees are responsible for the following tasks: implementing government policy; maintaining the efficient functioning of government bodies; ensuring the rights and freedoms of citizens and legal entities; and protecting their interests.

The law also determines the general principles of public service: that rights and legal interests of citizens have priority over state interests; that public servants may not be summarily removed from office, in order to preserve continuity and stability within the state; that the decisions of the highest bodies and officials, adopted within their competence, are binding; equal opportunity for employment in public service; and political loyalty.

Openings in public service, including those at the local level, are filled on a competitive basis. In 1994, the Ministry of Labor approved provisions for the hiring process. Vacancies may be announced either to the employees of a given government body only or to the public at large. In the former case, the head of the government body makes the final decision on hiring a given candidate at his or her discretion. In the latter case, a special commission, which may include independent experts, is established to organize the hiring process. The head of the government body decides whether to organize interviews or exams; legislation does not regulate these issues. It should be emphasized that the system of hiring public servants can only be called “competitive” in name. In general, it is characterized by a low influx of young professionals at all levels of public administration, due to very low salaries.

Government employees are guaranteed job tenure; when hired by local executive or administrative bodies, they sign an employment contract for a period of fifteen years. When offered the job, the successful applicant must submit an income declaration for the preceding year and the appropriate portion of the current year. The refusal to submit a declaration or the intentional submission of incomplete, incorrect or distorted information may be viewed as grounds for withdrawing the offer.

According to the legislation, public servants must observe the following principles:

- to comply with laws and other legal regulations;
- to fulfill orders and instructions from their managers, issued within their competence;
- to adhere to the regulations of the given government body;
- to review applications from citizens, enterprises, institutions and organizations in a timely and objective manner;
- to maintain state secrets and other information protected by law, even after retirement;

- to maintain the confidentiality of all information obtained through their official position on citizens' private lives and not to demand such information except in legally specified cases;
- to maintain the qualifications needed to efficiently fulfill their duties;
- to adhere to ethical norms and to refuse to carry out orders which contradict legislation.

Every position in public service falls into a specific grade, which is determined according to the employee's qualifications and record of service. There are twelve grades of public service, with grade twelve being the lowest. Chairmen of regional or Minsk city executive committees hold an additional grade, conferred on them by the president when they are approved in office by their corresponding council.

An individual may be promoted through the various grades in consecutive order, depending on his or her position, qualifications, record of government service and previous grade. Higher-grade positions have precedence over lower-grade positions. Grades are conferred through resolutions issued by special commissions set up within the government bodies.

Legislation stipulates for the regular assessment of all public servants. Ordinary employees are assessed once every five years, while heads of local governments are assessed once every two and a half years. Special assessment commissions are created for this purpose. Heads of regional executive committees are assessed by a commission established within the presidential administration, while heads of district and city executive committees are assessed by commissions established by regional executive committees.

Training qualified managers in the system of public administration is considered to be a political priority. Educational institutions receive orders from the state to train specialists. The Academy of Public Administration in the Office of the President is the highest educational institution providing advanced training for top local government officials, offering a course in Public Administration and Municipal Government. Chairmen of local councils and heads of executive committees are trained at the Academy, as well as promising specialists included in the personnel reserve. Top managers should improve their skills at least once a year. At the end of the training course, they must pass examinations and receive a certificate.

The NGO sector is not widely involved by the government in training programs for local government employees. Few public employees participate in conferences and workshops organized by NGOs, such as the Lyva Sapieha Foundation. Members of local councils, on the other hand, participate in these events much more actively.

Professionalism among staff is an acute problem in local governments, which lack a supply of trained young specialists. Turnover among staff in the Minsk city executive committee, for example, is over thirty percent.

9. Legal Guarantees for Local Autonomy

The Constitution contains a number of principles and norms intended to guarantee the development and strengthening of democracy. These include freedom of speech, freedom of information and the right to free assembly. Citizens are also guaranteed the right to participate in the administration of state affairs. However, the Constitution does not possess provisions to clearly determine either the political and legal nature of local government or its place in the system of public administration. Nor does the Constitution establish the status of local communities as legal subjects or even discuss the autonomy of local governments over issues within their competence. Furthermore, there is no constitutionally established right to judicial protection for self-governments if state bodies pass illegal acts. Local governments are not even granted the recourse of initiating legal proceedings in the Constitutional Court.

It should also be noted that even those provisions that are constitutionally established are not always complied with. Some examples of this are the elimination of self-governments in many administrative-territorial units, and the transformation of cities and other settlements into the classification of “territorial units,” which deprives them of elected authorities.

The budgetary autonomy of local authorities is also limited, since higher bodies must play a role in balancing the budget, by establishing the upper limits of the budget deficit or absorbing any budget surplus.

Disputes between different tiers of administration may only be reviewed through channels of administrative subordination—council or executive committee, government or president. However, as mentioned before, there is no law on administrative procedures in Belarus. In addition, the system of administrative courts is nonexistent. Instead, administrative disputes between citizens and government bodies are reviewed in the general courts.

It has recently been planned to introduce the institution of ombudsman in Belarus. The Constitution establishes the right of citizens to challenge any illegal actions by local governments that violate their rights. Issues that citizens can bring to court might concern the activities of electoral commissions, the refusal of an executive committee to register an initiative group for organizing a referendum or the refusal to allow the organization of public action.

Legislation also provides for criminal or administrative penalties if officials create obstacles to the realization of the political rights of citizens. This covers a broad range of activities. According to the Criminal Code, the creation of obstacles to the free realization of a citizen’s right to participate in a referendum is punishable by a fine, by no more than five years of imprisonment or by no more than two years of correctional service. Methods of violating these rights include violence, deception, threats, bribery, forgery, distortion, voting fraud or the violation of confidentiality by an official, a member of an initiative group or a referendum commission.

The Administrative Code of Belarus establishes a fine for citizens as well as officials for any violation of the legislation on referenda. Furthermore, during the preparation and holding of a referendum, officials can be administratively fined for the illegal refusal to review citizen applications, for violating the term of a review without proper grounds; for making illegal decisions; or for failing to fulfill prior decisions on citizen applications. No further sanctions are envisaged by legislation for other violations of the rights of territorial communities and local governments.

10. Next Steps in the Transition Process

The need for drastic change in the system of local government in Belarus is increasingly evident. This is widely recognized both by scientists and by practical specialists, many of whom believe it essential to improve the economic, legal and organizational basis of territorial governance. These experts propose that an entirely new law on local self-government be adopted, one which corresponds to the principles of the European Charter of Territorial Self-government. They argue that too much time has been lost and that fragmentary changes or modifications of the existing system will not bring about the desired effect.

As for the central government's stance on this issue, it should be noted that it is currently developing a state concept for the reform of local government and self-government.

In September 2000, a Congress of Local Councils was held, including councils at all levels of government. This was a political event rather than an institution envisaged by either the Constitution or legislation. Congress decisions do not carry any legal weight. Nevertheless, this forum was able to express a common position held by members of all levels. The necessity of reforms was urgently raised at the Congress, which supported the development of a concept for reform and a draft code on local government and self-government. However, the Congress did not determine any specific issues that would provide the foundation for the concept or the new law. In very general terms, it was agreed that it was necessary to redistribute authorities and, most importantly, financial resources in favor of lower-level governments. The resolution issued by the Congress contained general recommendations for local councils and executive bodies to cooperate better with self-government bodies, to improve preparation for council sessions, to heighten activity of their members in districts, et cetera.

After the Congress met, the president began preparation of a draft decree on the reform of local government in Belarus. In principle, the decree should reflect the main principles of the reform concept. It is not yet clear what direction will be chosen. A special central government body is to be created in order to coordinate the reform process. From an organizational point of view, key issues to be included in the presidential decree are the right of local governments to set up national and regional associations and the principles governing cooperation between government bodies and these associations during the preparation of local government related decisions.

In addition, it is hoped that certain measures will be undertaken to increase the financial capabilities of self-governments in order to somewhat strengthen the role of local councils. Of course, this alone is not enough. All of these issues require the radical reform of the political, economic and organizational aspects of territorial government. The existing multi-tiered and dysfunctional model must be replaced, preferably by a two-tiered territorial government composed of districts and regions. To do so, it has been proposed that current first-tier administrative-territorial units be enlarged, creating roughly 400–450 units at the new first tier of government. Instead of the existing six regions, eighteen to twenty oblasts would be established, based on large and medium cities. Alternative structures would also be acceptable, provided that they followed the same conceptual principles. It is evident that the central government is not yet ready to take such steps towards administrative-territorial reform, from the ideological, economic or pragmatic perspective.

It is also unlikely the distribution of responsibilities between local representative and executive authorities will change in the immediate future. In all probability, council members might have slightly more opportunity to influence the creation of executive offices. Executive bodies will probably not be incorporated into the system of local self-government, but will instead retain their status as central government agencies. In summary, the current functional and organizational isolation of the two systems of government appears likely to be preserved.

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Annex 2.1

Major General Indicators

Area	20,759,000 hectares/207,600 square kilometers
Inhabited area	1,830,000 hectares
Urban areas	253,000 hectares
Rural areas	1,577,000 hectares
Population (1 January 1999)	10,264,400
Pensioners (end of 1999)	2,630,000
Senior citizens	1,970,000
School-age children (1999)	1,521,800/14.7 percent of the population
Population density	49 people per square kilometer
Major ethnic divisions (according to the 1999 census)	
Belarus	81.2 percent
Russians	11.4 percent
Poles	3.9 percent
Ukrainians	2.4 percent
Jews	0.3 percent
Others	0.8 percent
Per capita GDP (1999)	BYR 28,336,000
National budget (1999):	47.2 percent of the consolidated budget
Public debt (1 January 2000)	
Internal	BYR 342.9 billion/5 percent of GDP
Foreign	USD 898 million
Unemployment (1999)	2 percent of the economically active population
Inflation	51.2 percent

Annex 2.2

Population, Settlements and Administrative Units

Table 2A.1
Settlements by Population Size Categories in Belarus (1 January 1999)

Population Size Category	Number of Settlements	Percentage of Settlements	Number of Inhabitants	Percentage of Inhabitants
0–1,000	24,227	99.154	3,129.9	30.5
1,000–2,000	24	0.098	33.1	0.3
2,000–5,000	43	0.176	134.1	1.3
5,000–10,000	51	0.208	398.6	3.9
10,000–50,000	65	0.266	1,134.9	11.1
50,000–100,000	10	0.041	733.5	7.2
100,000–1,000,000	13	0.053	2,971.4	28.9
1,000,000+	1	0.004	1,728.9	16.8
Total	24,434	100.0	10,264.4	100.0

Table 2A.2
Municipalities by Population Size Categories in Belarus

Population Size Category	Number of Municipalities	Percentage of Municipalities	Number of Inhabitants
0–1,000	1,460	86.1	3037,700
1,000–2,000	24	1.4	34,500
2,000–5,000	39	2.3	124,300
5,000–10,000	14	0.8	90,700
10,000–50,000	107	6.4	3,251,700
50,000–100,000	31	1.8	2,127,200
100,000–1,000,000	14	0.8	3,107,400
1,000,000 +	7	0.4	10,264,400
Total	1,696	100.0	—

Average population per local government 11,900 people
 Number of municipal governments 1,696

Table 2A.3
Administrative-territorial Structure in Belarus

Local and Regional Governments	Average Number of Inhabitants per Unit	Average Number of Settlements per Unit
First tier	200	16
Second tier	58,200	170
Third tier	1,466.3	3,491

Territorial autonomies with special status none

Figure 2A.1
Structure of the Baranovich City Council

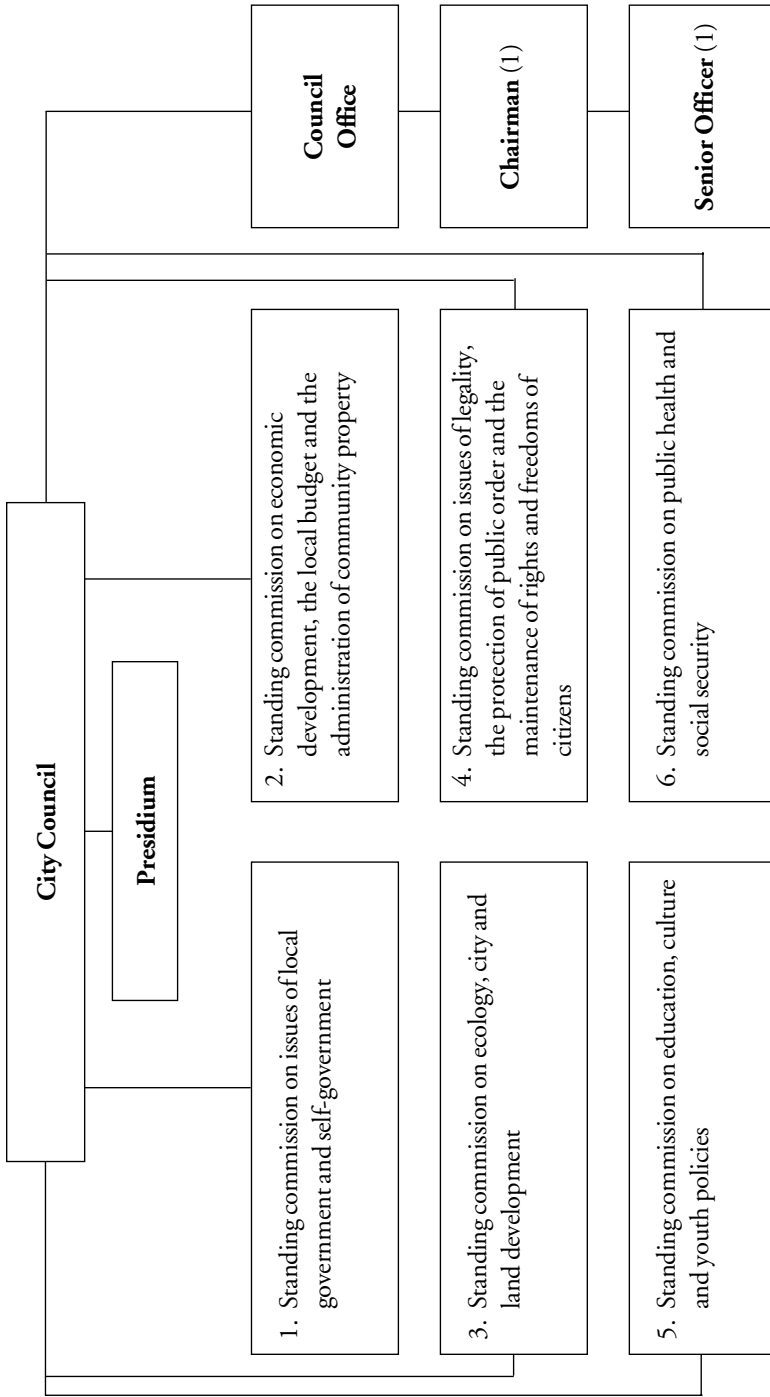


Figure 2A.2
Structure of the Baranovich City Executive Committee

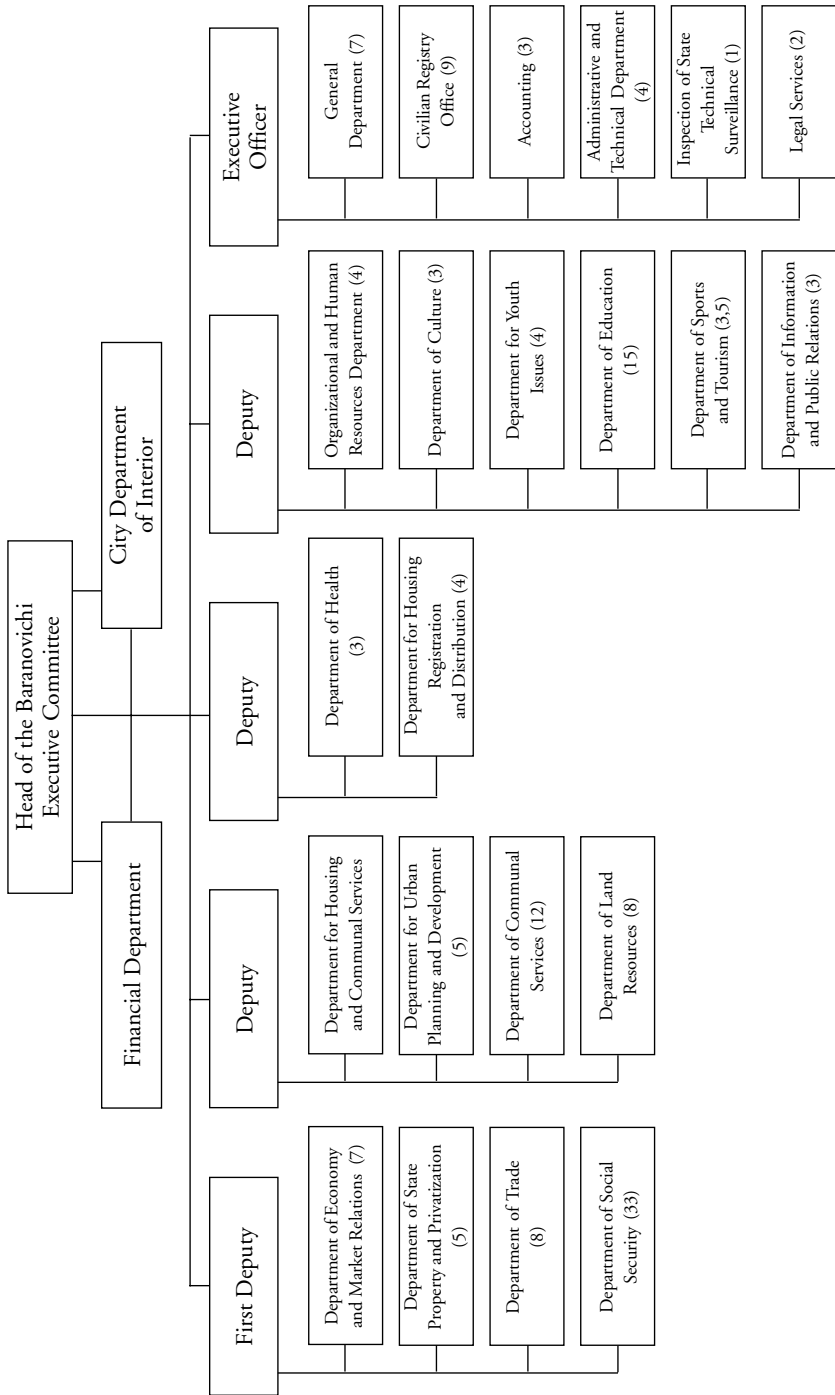
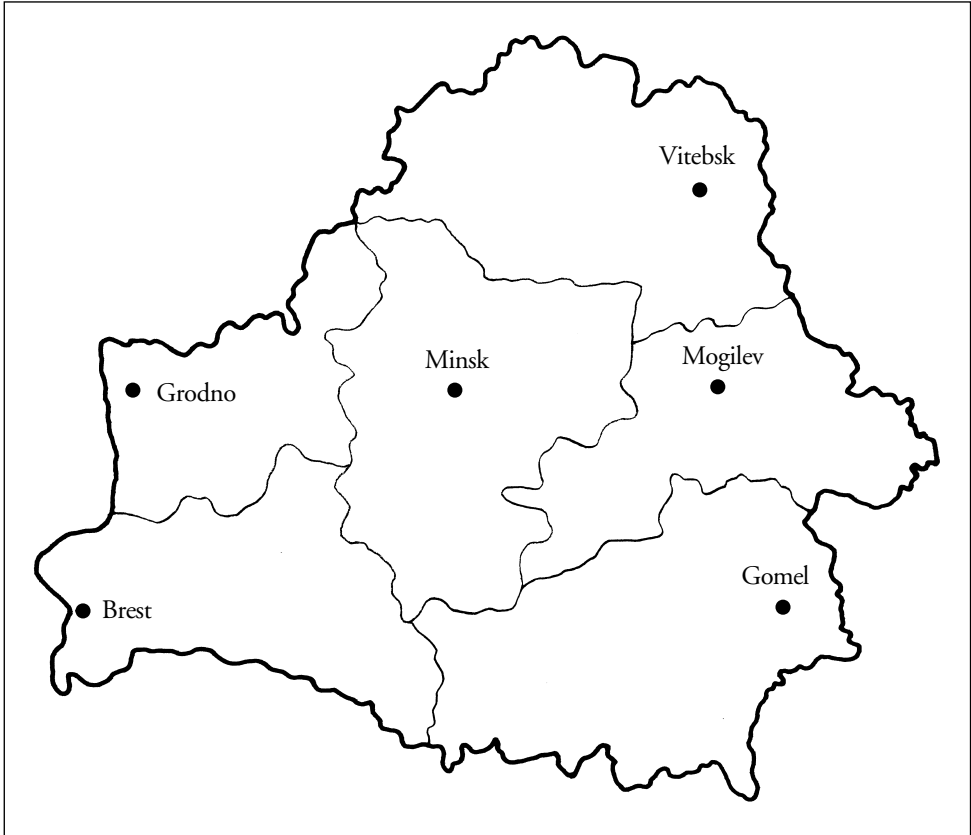


Figure 2A.3
Administrative Map of Belarus



Annex 2.3

Major Laws on Public Administration and Local Government

- Constitution of Belarus (27 November 1996)
- Law on Local Government and Self-governance (10 January 2000)
- Law on National and Local Assemblies (12 July 2000)
- Electoral Code of Belarus (11 February 2000)
- Law on Administrative-territorial Division and Procedures for Resolving Issues of Administrative-territorial Organization (5 May 1998)
- Law on the Status of Local Council Members (27 March 1992)
- Law on the Status of the Capital City, Minsk (12 July 2000)
- Law on the Budget System and State Extra-budgetary Funds (15 July 1998)
- Civil Code (7 December 1998)
- Law on Assets in the Exclusive Ownership of the State (5 May 1998).

Annex 2.4

Responsibilities of Administrative Tiers

Table 2A.4
Specific Functions of Government Tiers in Belarus

Functions (Maintenance, Development, Personnel Hiring, Financing from Other Sources)	All Governments	Regional or City Governments	Central Administration	Other Forms
I. EDUCATION				
1. Pre-school	X	X		X
2. Primary	X	X		
3. Secondary		X		X
4. Technical		X		
5. Other			X	X
II. SOCIAL SECURITY				
1. Nurseries	X	X		X
2. Kindergartens	X			X
3. Old and disabled people's homes				
4. Individual services to old and disabled people		X		X
5. Special services (for homeless, families in crisis, etc.)		X		X
6. Social housing		X		
7. Other				
III. HEALTH CARE				
1. First aid		X		
2. Health protection		X		
3. Hospitals		X		
4. Public health		X		
5. Other				X

Table 2A.4 (continued)
Specific Functions of Government Tiers in Belarus

Functions (Maintenance, Development, Personnel Hiring, Financing from Other Sources)	All Governments	Regional or City Governments	Central Administration	Other Forms
IV. CULTURE, LEISURE, SPORTS				
1. Theaters		X	X	X
2. Museums		X	X	X
3. Libraries		X	X	
4. Parks		X		
5. Sports, leisure		X		
6. Maintenance of culture facilities		X	X	
7. Other				
V. ECONOMIC SERVICES				
1. Water supply		X		
2. Sewerage		X		
3. Electricity		X		
4. Gas		X		
5. Heating		X		
6. Other				
VI. ENVIRONMENT, PUBLIC SANITATION				
1. Waste collection	X	X		X
2. Waste disposal		X		
3. Street cleaning	X	X		
4. Cemeteries	X	X		
5. Environment protection	X	X	X	
6. Other				
VII. TRANSPORT				
1. Roads	X	X	X	
2. Street lighting		X		
3. Public transport		X		X
4. Other				

Table 2A.4 (continued)
Specific Functions of Government Tiers in Belarus

Functions (Maintenance, Development, Personnel Hiring, Financing from Other Sources)	All Governments	Regional or City Governments	Central Administration	Other Forms
VIII. URBAN DEVELOPMENT				
1. Town planning		X		
2. Regional/spatial planning		X	X	
3. Local economic development		X	X	
4. Tourism		X		X
5. Other				
IX. GENERAL ADMINISTRATION				
1. Authoritative functions (licenses, allowances)		X	X	X
2. Other public administration issues (registration of voters, etc.)	X	X	X	
3. Local militia		X	X	
4. Fire brigades		X	X	
5. Civil defense		X	X	
6. Consumer rights protection		X	X	X

Chapter 3



Local Government
in Ukraine

by
Yury Navruzov

Developing New Rules in the Old Environment

Local Government in Ukraine

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Local Government in Ukraine

*Yury Navruzov*¹

1. Major General Indicators

Ukraine is a unitary state and a multinational country, home to representatives of over eighty ethnic groups and nationalities. The majority of the population is composed of the two largest ethnic groups, Ukrainians, who account for seventy-three percent of the population, and Russians, who account for twenty-two percent. Over two-thirds of Ukrainian citizens reside in cities and towns. Over half of the population is not of economically active age: there are approximately eleven million school-children and fourteen million pensioners. Further data on the population of Ukraine may be found in annex 3.1.

Per capita GDP only slightly exceeds USD 1,000, while the official unemployment rate is over eleven percent. According to some estimates, the “hidden” unemployment rate equals the official one. During the economic reforms, Ukraine experienced a period of hyperinflation. This has since been stabilized by monetary methods; in 1998, the inflation rate stood at twenty percent. Annex 3.1 provides indices of social and economic development in Ukraine in more detail.

The average number of inhabitants per administrative-territorial unit is a little over four thousand. Overall, there are thirty thousand independent settlements and over ten thousand local governments in Ukraine. It is expected that the number of local governments will be significantly reduced in the course of administrative reform. Further information on the administrative-territorial structure of Ukraine may be found in annex 3.2.

2. Legal and Constitutional Basis

2.1 Brief History of Local Government Reform

The Ukrainian state has deep historic roots, although the system of government and public administration has undergone much change in the twentieth century. In terms of the system of public administration, the most significant changes occurred in the 1990s. Because these changes reflected the struggle between reforming and conservative political forces, the evolution of the system of power and legal environment in Ukraine is characterized by controversy, inconsistency and complexity.

The reforms began with the election of the new *Verkhovna Rada* (Parliament) of the Ukrainian Soviet Socialist Republic and members of local councils in March 1990. These changes came about amidst the general transformation of the Soviet Union as a result of the Law on General Principles of Local Self-government and Local Economy in the Soviet Union (1990).

At the end of 1990, the new Verkhovna Rada passed the Law of the Ukrainian SSR on Local Self-government and Local Soviets of People's Deputies in the Ukrainian SSR. This marked the rebirth of democratic self-government in Ukraine. The historical significance of this law is that it laid the foundation for the increased political role of local councils and declared their financial autonomy. The law also outlined the sub-national tiers of power in Ukraine by *oblast*, *raion* and local (city, city district, town and village) soviets of people's deputies and their executive bodies. According to the Constitution of the Ukrainian SSR (1978), these local self-government bodies were responsible for public administration within the territories under their jurisdiction.

The Declaration on the State Sovereignty of Ukraine, adopted in July 1990, proclaimed the principle of the separation of power—legislative, executive and judicial. However, implementation of this principle began only after the election of the president in December 1991. The new model of state administration was enacted by the Law on Representatives of the President of Ukraine and the Law on Local Councils and Local and Regional Self-government in the beginning of 1992. This model established the “presidential vertical,” or the system of state administration. The executive bodies of oblast and raion councils were consequently made subordinate to the Cabinet of Ministers and headed by the appointed representatives of the president. Thus, true local self-government was retained only in individual settlements and in local councils at the regional level (in oblasts and raions).

This model remained in place until the pre-term presidential and parliamentary elections held in 1994. When the new balance of political forces came into power, they strengthened the role of local councils as the basis of public administration, eliminated the “presidential vertical” and restored the previous model of self-government. Nevertheless, the debate over a balanced model of territorial administration continued, and the need to adopt a new Constitution became apparent. The process was a long one, and eventually required a legally unique document: the “Constitutional Agreement,” signed in June 1995 by the president and Verkhovna Rada and valid for the period of one year. This agreement established a shared vision of the legislative and executive powers in a future model of public administration and declared the intention to draft and adopt a new Constitution by June 1996.

The Constitutional Agreement was a political compromise between the advocates of a strong vertical of executive power and the supporters of an efficient local self-government system. The executive vertical was restored and local state administrations were established at the oblast and raion levels. Their functions were twofold: first, to fulfill orders of the central government and second, to implement decisions of the oblast or raion council. In contrast to the previous model, the administration head was to be elected by inhabitants of the oblast or raion and subsequently appointed by presidential decree. At the first tier of local government, in individual settlements, the council chairman was

elected by the local population, instead of by council members as before. This system of public administration operated until the adoption of the new Constitution.

2.2 Constitutional Basis

The Constitution of Ukraine was adopted by the Verkhovna Rada on 28 June 1996. It established the separation of powers (article 6); the role of the president as head of state (article 102); the role of the Verkhovna Rada as the sole legislative body (article 75); the Cabinet of Ministers of Ukraine as the highest body in the system of executive power (article 113); and the Supreme Court of Ukraine as the highest judicial body (article 125).

Ukraine is declared to be unitary state (article 2), governed in the form of a republic (article 3). The system of administrative-territorial division consists of the Autonomous Republic of Crimea (ARC), oblasts, raions, cities, city districts, townships and villages (article 133). The ARC is an integral part of Ukraine; its Constitution is adopted by the ARC Verkhovna Rada and is approved by the Verkhovna Rada of Ukraine (article 135). The Constitutional Court of Ukraine is declared to be the only body of constitutional jurisdiction in the country (article 147).

Justice in Ukraine is administered exclusively by courts, whose jurisdiction covers all legal relationships in the country (article 124). Offices of the Public Prosecutor oversee the balance of interests in legal relationships (article 121).

2.3 Local Public Administration and Local Self-government

Article 118 of the Constitution establishes that “executive power in oblasts, raions and the cities of Kiev and Sevastopol is carried out by local state administrations.” Heads of local administrations oversee local administration activity and are appointed and dismissed from office by the president upon the recommendation of the Cabinet of Ministers. Article 118 also declares that “local state administrations are accountable in their activities to the higher executive bodies.” Their functions are stipulated in article 119 as follows:

- to ensure adherence to the Constitution and the laws of Ukraine, as well as the fulfillment of central government decisions and presidential decrees;
- to maintain law and order and ensure the observance of the rights and freedoms of citizens;
- to ensure the implementation of national and regional programs for social, economic and cultural development, environmental protection and others;
- to draft and implement oblast and raion budgets;
- to provide implementation reports on local budgets and programs;
- to coordinate with local self-governments;
- to ensure the execution of other authorities assigned by the central government or delegated by the corresponding councils.

Local state administrations cooperate with the oblast and raion councils within their territory. Their particular interaction determines the mechanism for distribution of competencies between the public executive bodies and local self-governments.

The political vocabulary was enriched by the distinction between “delegated authorities” and “own authorities.” The Constitution lists two types of delegated authorities. The first includes executive authorities of local self-governments of the regional level that are delegated by legislation to local state administrations. Article 118 stipulates that “local state administrations are accountable to and controllable by the local councils with regard to authorities delegated to them by the corresponding raion or oblast councils.”

The second type includes authorities delegated by the central government to local self-governments. Article 143 of the Constitution stipulates the observance of the two conditions: first, that the state must compensate for resources spent by local self-governments to fulfill these functions and second, that local self-governments are accountable to the central government for performance of these authorities. As currently envisaged by law, the system of delegated authorities means that the parties involved lack any degree of flexibility. Moreover, local self-governments are not free in their performance of delegated authorities; it is simply impossible in practice.

In addition, local self-governments have own authorities as determined by the law. Thus, all local self-government powers in Ukraine can be subdivided into delegated authorities and own authorities.

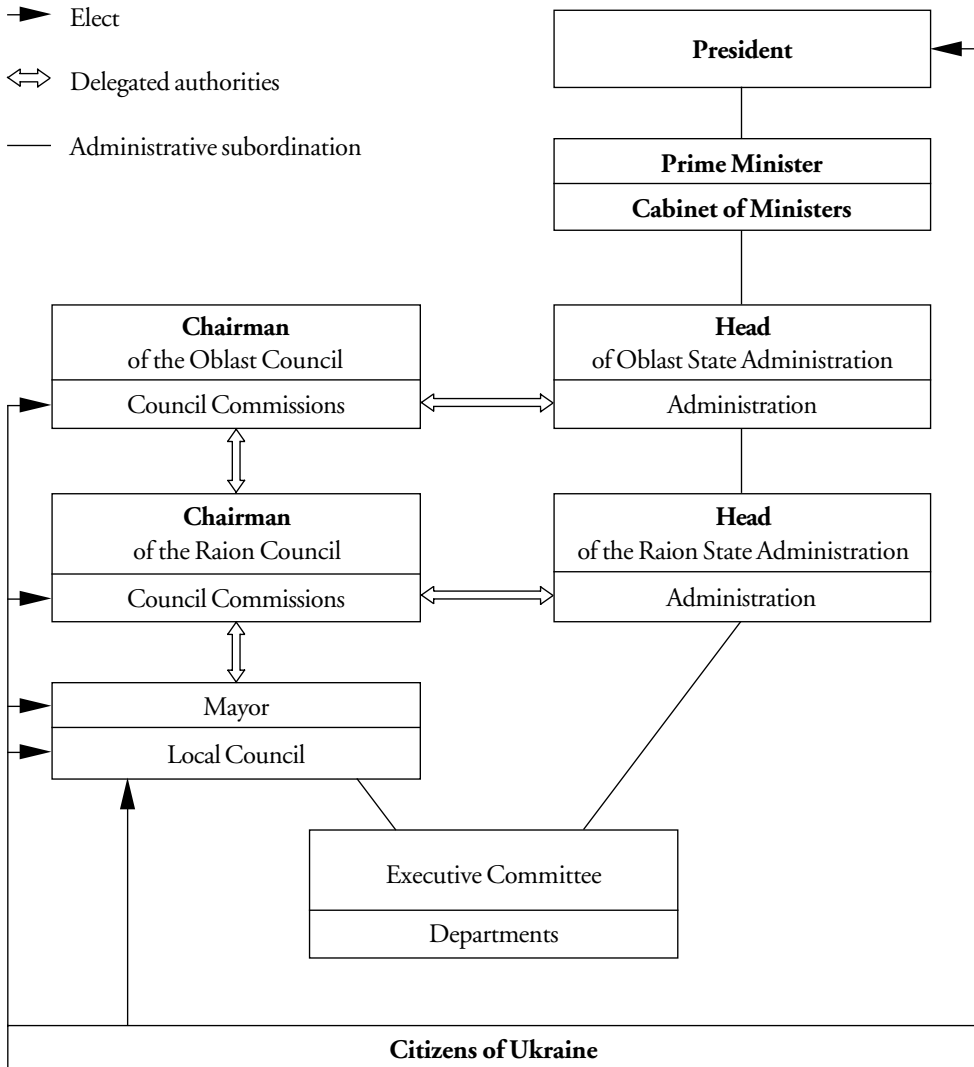
A simplified structure of executive power in Ukraine is given in figure 3.1. As shown there, the model of public administration established by the Constitution envisages two types of power at the oblast and raion levels: bodies of local self-government, or local councils, which are responsible for political and strategic decision-making, and executive power, or local state administrations, which implement these decisions.

2.4 System of Local Self-government

For the first time in recent history, the system of local self-government in Ukraine is recognized and guaranteed by the Constitution (article 7). The Constitution stipulates only the basic features of the system of self-government, and establishes that further principles of local self-government will be determined exclusively by the laws of Ukraine (article 92, item 15).

Within the administrative-territorial structure of Ukraine, local self-government bodies may be found at the municipal and regional levels. The municipal level refers to local self-governments in individual administrative units, such as cities, city districts, townships and villages. Local self-government in these units consists of local councils, which form the representative branch of local authority, and executive committees, which compose the executive branch.

Figure 3.1
Structure of Executive Power in Ukraine



The regional level is defined as oblasts and raions; local self-government at this level consists of oblast and raion councils, which represent the common interests of territorial *gromadas* (communities of citizens) such as villages, townships and cities. Oblast and raion councils delegate their executive authorities to their corresponding local public administrations.

Article 142 of the Constitution establishes that the “material and financial basis of local self-governments includes all assets and real estate, local budget revenues, other funds, land and natural resources owned by territorial communities.” The state assists in the creation of local budget revenues, supports local self-governments financially and compensates for expenditures on delegated authorities. Local self-governments are self-sufficient and independent from the state within their authorities, although they are accountable to executive bodies for the exercise of delegated authorities (article 143).

The Law on Local Self-government, adopted in 1997, further elaborates the concept of local self-government. (Hereafter, all references to specific articles of a law in this chapter refer to the Law on Local Self-government unless otherwise specified.) The territorial gromada is established as the primary unit of local self-government and defined as the community of inhabitants of a given village, township or city which constitutes an independent administrative-territorial unit. Article 1 also establishes the local council as the representative body of local self-government, with the authority “to represent the interests of communities and make decisions on their behalf.” Figure 3.2 illustrates a model structure of a first-tier local government.

Article 2 presents the concept of local self-government as the “state-guaranteed right and real capability of territorial communities to solve issues of local importance independently, or through local self-government bodies and officials, within the framework of the Constitution and laws of Ukraine.” Thus, communities may exercise their right to self-governance through forms of direct democracy as well as the establishment of local self-governments.

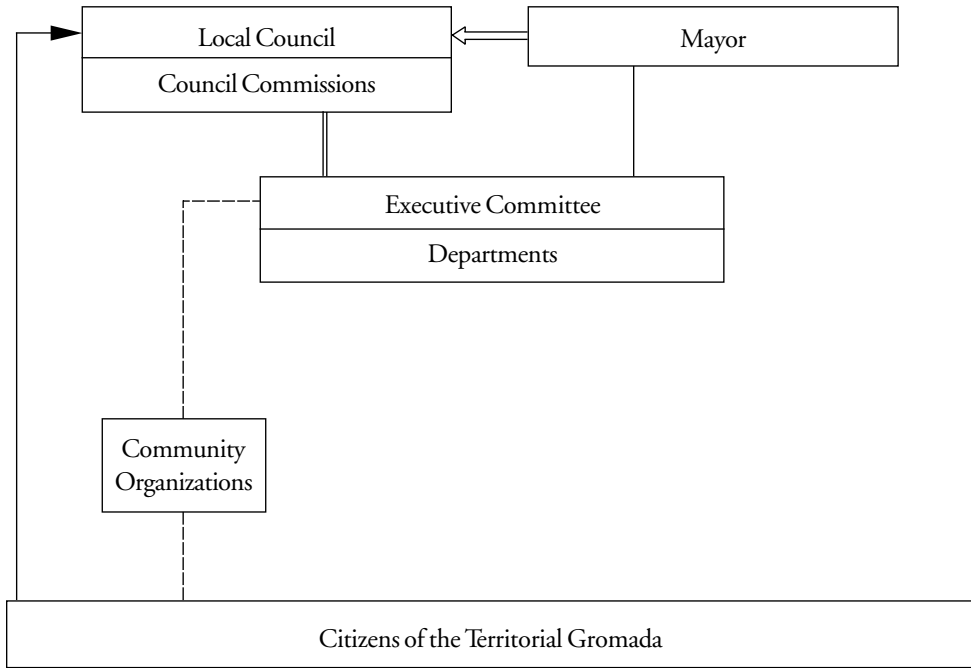
As seen in figure 3.2, the mayor and local council members are directly elected by local inhabitants. The elected mayor subsequently establishes the structure and staff of the executive body in coordination with the local council. The chairman is responsible for chairing council sessions as well as administering executive activities, but does not possess any other mandate.

According to article 5 of the Law on Local Self-government, the system of local self-government includes the following components:

- the territorial gromada;
- local councils at the municipal level;
- mayors of municipal governments;
- the executive branch of the local council;
- community organizations;
- raion and oblast councils.

The structure of local self-government at the regional level is shown in figure 3.3. The major difference between municipal and regional governments is that council chairmen are elected indirectly in the latter. According to legislation on local elections, all inhabitants of an oblast or raion elect their local council members, who then elect a council chairman from among their number at the opening session of the council. This chairman acts as speaker of the council. The council then establishes an executive office under the chairman to coordinate council commissions. The structure of the executive office and its senior staff are coordinated and approved by local council members.

Figure 3.2
Structure of a Municipal Self-government



➔ Elect

— Administer

--- Create

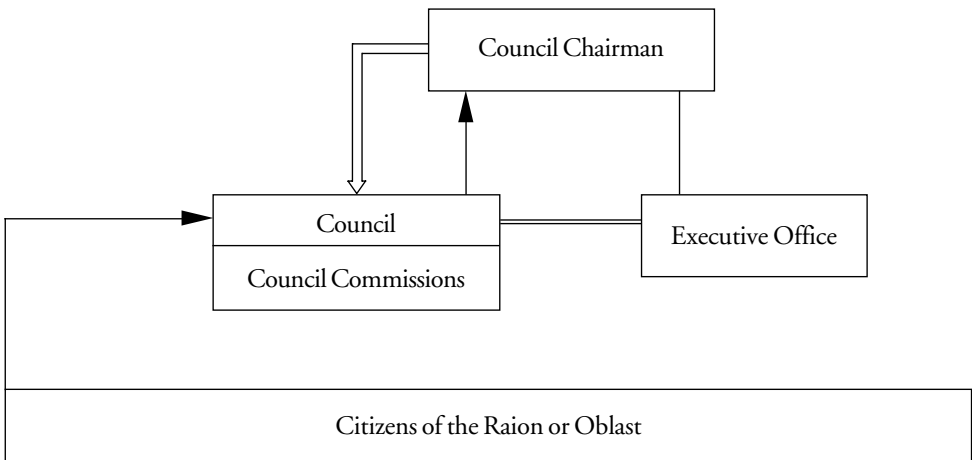
⇒ Chair

== Establish staff and structure

This system of local self-government, as established by the law, is the exclusive model of political leadership at the first tier of government. The only exceptions to this are villages with fewer than five hundred inhabitants, large cities containing city districts and cities with special status. Legislation provides small villages with the option to vest executive functions in the village head rather than set up executive committees. The specific features of local self-government in cities containing city districts and cities with special status are discussed below.

Most Ukrainian settlements follow a uniform, legally established model of local self-government. According to the Law on Local Self-government, local councils possess the right to make decisions on behalf of their communities (article 10), and may form executive bodies such as committees, divisions and departments to implement their decisions (article 11). These executive bodies are accountable to the local council, which may exercise control over their activities. The representative and executive branches of local government act according to the doctrine of separation of powers. The mayor is elected by the community as the highest public official in the local community (article 12), acts as speaker of the council and administers the activities of both the local council and its executive bodies, as stipulated in the Constitution and the Law on Local Self-government. Council secretaries also play an important role in the political life of settlements.

Figure 3.3
Structure of Local Self-government at the Raion or Oblast Level



- ➔ Elect
- Administer
- ⇒ Chair
- == Coordinate

In cities which are subdivided into city districts, there are two levels of local self-government, the city and district levels. The structure of the city self-government follows the model illustrated in figure 3.2. The major difference in the district self-governments is that they lack a directly elected head; instead, the council elects a chairman from among their number to manage activities of the council and its executive body. Several cities in Ukraine have recently adopted changes in the structure of city district administration, generally related to the centralization of government on city territory as

well as the elimination of city district councils and their executive bodies. These innovations and prospects for their development are described in more detail in section 10.

In the cities with special status, Kiev and Sevastopol, the system of local self-government coexists with the system of state administration. For example, the local self-government in Kiev, the capital of Ukraine, essentially possesses all of the elements found in cities with city districts. The inhabitants of Kiev elect a mayor, who then manages the Kiev City Council and its executive body. At the city district level, district councils elect a chairman from their number to act as head. The city state administration and city district state administrations represent public executive power; their functions are managed by the mayor and district council chairmen, respectively. The mayor appoints and dismisses his or her first deputy and other deputies in coordination with the president and the Cabinet of Ministers, respectively. These appointments are ratified by presidential decree. In addition to own and delegated authorities, Kiev administration bodies are responsible for the city's functions as capital. The Kiev budget is entered in a separate line of the State Budget of Ukraine and has special requirements for drafting and execution.

Finally, community organizations deserve mention as a component of local self-government. According to article 14 of the Law on Local Self-government, these organizations may be set up by citizen initiative or local council decision and may be assigned own authorities, funds and property. Community organizations play a significant role in the solution of issues of local importance, such as control over the quality of public services, consumer services and the observance of environmental requirements and regulations. Since these organizations are established at the initiative of local inhabitants, they can be classified as a form of direct self-governance.

3. Local Politics, Decision Making

3.1 Forms of Direct Democracy

The Constitution guarantees broad democratic rights to Ukrainian citizens. Article 36 of the Constitution grants citizens the right to associate freely to form political parties and public organizations, while article 38 stipulates their right to participate in the administration of public affairs, to take part in national and local referenda, to elect and to be elected to bodies of public administration and local self-government. People of Ukraine exercise their power directly and indirectly through public administration and local self-governments. These provisions are elaborated in the following laws:

- Law on Local Self-government (1997);
- Law on Elections of Local Councils and Village, Township and City Mayors (1998);
- Law on National and Local Referenda (1992).

The Law on Local Self-government specifies several methods of direct democracy, such as local referenda, general assemblies, local initiatives and public hearings.

Article 7 of the Law on Local Self-government defines local referenda as a “form of solving issues of local importance by a territorial community through direct democracy.” Local referenda may be called to address issues of great importance for a community, such as dismissing the mayor before the end of his or her term. Decisions made by local referendum are binding on the relevant territory.

General assemblies may be convened to solve issues of lesser impact, but which nonetheless require that local inhabitants be consulted (article 8). Procedures for general assemblies are defined by statute of the given community. Decisions made at a general assembly of citizens or their representatives are regarded as recommendations and are taken into account during the local government decision-making process. For instance, general assemblies may review draft resolutions to be submitted to the local council for consideration.

Members of the community have the right to initiate a local council review of any issue related to local self-government functions; this form of citizen participation is called a “local initiative” (article 9). The community charter or relevant council decision determines procedures for submitting local initiatives for council review. Local initiatives must be reviewed by the council in an open session and the findings are published, as stipulated by the community charter or council decision. A typical local initiative might be the review of the cost structure of public services or methods for their regulation.

Meetings of council members and municipal officers with community representatives are organized in the form of public hearings (article 13). Public hearings should be held at least once a year; their procedures are determined by community charter. Any proposals that result from public hearings must be reviewed by local self-government bodies. The most popular topics for public hearings in recent times have been issues of budget drafting and execution.² Decisions on holding public hearings are made by the local council. Since there are no clearly defined legal regulations for public hearings, councils solve any procedural issues independently. Their only requirement concerns criteria for representation.

Other traditional and well-established forms of direct democracy include local elections, the right to be elected to local councils and the organization of meetings and demonstrations. Less traditional are mechanisms of informal communication with the citizenry and the organization of joint sports or cultural events of local importance. Opportunities to involve inhabitants in the management of public affairs will be discussed in detail in Section 9. In conclusion, it should be noted that the current level of public participation among Ukrainian citizens is rather low. The only exception is during elections, which have seen active involvement.

3.2 Internal Structure of Local Government Decision Making

Under the conditions of centralized government that predominated in the USSR, real authority to influence the social process was vested in local executive bodies. This paradigm remained in the early stages of Ukrainian independence. With the adoption of the Constitution and the Law on Local Self-government, however, representative authorities were legally granted precedence over executive

bodies. Clearly, such cardinal changes in the power structure cannot happen overnight. This will be a long road, and any progress will reflect the currently dominating political will and the balance of political forces in society. It is premature to speak about the completion of this process, which is now ongoing in Ukraine. Consequently, this section will review the general structure of political leadership at the first tier of local government and the rather fluid decision making pattern before remarking on the actual state of affairs.

Local council members are elected for a four-year term on the basis of universal, equal and direct suffrage through secret ballot (article 45). Council members may exercise their powers through council sessions or standing commissions, which are council bodies formed by members to study, discuss and draft decisions on certain issues or to exercise control functions (article 47, item 1). Commission activities are headed by the commission chairman. Commissions have rather broad authorities, including the right to study the activities of government bodies, committees and departments under their control and the right to request and receive necessary information from these bodies and other enterprises and organizations (article 47, item 7). Local councils may also establish temporary commissions (article 48).

Council sessions are convened when necessary, at least four times annually. Article 46 of the Law on Local Self-government determines the main procedures for council session activities. Article 26 lists over fifty responsibilities exclusively assigned to the competence of local councils, which may be grouped into the following categories:

- to adopt the council agenda, to approve the structure of the executive branch and to appoint and dismiss its staff;
- to approve development programs, local budgets and budget execution reports, to establish and amend local taxes and fees and to organize loans;
- to manage and dispose of community property, to oversee the privatization of property, to regulate the use of land and other natural resources and to approve regulations for territorial improvement and urban development;
- to establish the municipal militia and other units or services of community and environmental control.

The executive branch of the local council consists of an executive committee and separate directorates, departments and services. The executive committee includes the mayor, the deputy mayor, the executive secretary, heads of directorates, departments, services and other individuals (article 51). The executive committee is responsible for the preliminary review of draft development programs, local budgets and other issues to be submitted to the council. It is also responsible for coordinating the activities of directorates, departments and services (article 52). According to article 53 of the Law on Local Self-government, executive committees operate primarily through sessions. Heads of directorates, departments and services are appointed and dismissed by decision of the mayor.

Directorates, departments and services implement decisions, provide public services and maintain local community interests. Ukrainian legislation regulates their functions by sector. Section 5 discusses

this issue in greater detail; it suffices to mention here that this sectoral approach impedes the clear delineation of authorities between local councils, executive bodies of local self-government and bodies of public administration for most functions.

The model of political governance described above predetermines the mechanisms of decision-making. According to current Ukrainian legislation, local councils have the right to make decisions in the interests of local communities. Through the interactions of its standing commissions with various directorates, departments and services, local councils determine prospects, analyze alternatives and make political decisions on community development. Executive bodies are enjoined by law to implement these decisions.

The mayor's responsibilities are twofold, as chairman of the council and manager of the executive body. The mayor's functions as chairman include executing the approved session agenda and signing council resolutions. Managerial functions include issuing instructions to coordinate the activities of directorates, departments and services. Special commissions and committees, standing or temporary, may be established to coordinate individual issues; these commissions include representatives from all interested parties.

The structure outlined above would indicate sufficient freedom for local self-government bodies to exercise own authorities. In reality, as will be illustrated in section 5, the bulk of local self-government activity is focused on implementing delegated authorities. If the degree of freedom depends on the length of one's leash, the leash in this instance refers to the financial resources left at the council's disposal. Currently, over ninety percent of local budget expenditures are allocated to compulsory, socially protected expenditures. At the same time, local taxes and fees do not exceed ten percent of local budget revenues, so all socially protected expenditures must completely depend on transfers from the national budget. Under such conditions, the executive bodies make decisions *de facto*, while the role of council is merely to establish these decisions *de jure*. In practice, therefore, local council leadership in determining community development strategies is limited due to the lack of financial and economic independence. Officially speaking, however, decisions such as approval of the budget are passed by a majority vote at a council session.

3.3 System of Local Elections

In the course of reforms, Ukraine has transformed from a one-party system to political pluralism. Officially, fifty-two parties and public associations took part in the elections of January 1998.³ By August 2000, their number exceeded one hundred. Despite their growth in numbers, only a handful of parties represent a real political power in society.

At the beginning of the transition period, elections were based on the majority system. The most recent elections to the Verkhovna Rada in March 1998 were organized according to a mixed majority and proportional system. Thirty parties and electoral coalitions registered at the Central Election

Committee (CEC) to contend for 225 seats in Parliament. According to the Law on Elections of People's Deputies (1997), representatives of parties which won an electoral margin of over four percent were eligible for parliamentary seats. According to CEC data, the 225 mandates were distributed among the leaders of eight parties and coalitions as shown in table 3.1.

Table 3.1
Political Parties in the Verkhovna Rada of Ukraine⁴

Political Party	Number of Mandates
The Communist Party	84
The People's Rukh ("Movement")	32
Coalition of the Socialist Party and the Agrarian Party "For Truth, for the People, for Ukraine"	29
The Green Party	19
The People's Democratic Party	17
The All-Ukrainian Association "Gromada" ("Community")	16
The Progressive Social Party	14
Social-Democratic Party	14

The remaining 225 seats in Parliament were distributed through single-mandate majority districts. These elections were distinguished by the discrepancy between the results produced by the two systems of voting, majority and proportional: most seats in the majority districts were won by independent candidates.⁵

Procedures for local council elections are established by the Law on Elections of Local Councils and Village, Township and City Mayors (1998). According to this law, local council elections are based on a majority system, with candidates nominated by enterprise collectives. Local election committees register candidates and monitor the election campaign process. Candidates are elected if they receive over half of the total vote. If none of the candidates obtains a majority of votes, then the election committee sets another election between the top two candidates. Due to this system of elections, parties influence local councils indirectly rather than directly.

As a rule, the political platform of a candidate is not a decisive factor for success, although party influence may be of great assistance during the campaign. This is primarily true of candidates which are supported by the most influential political parties, listed in table 3.1 above. Political advertising and direct campaigning are the most efficient mechanisms of party influence on local elections. In this case, a candidate supported by a given party has the opportunity to utilize the party network and its additional financial resources. Nevertheless, most candidates technically run as independents,

despite their party membership. Our research shows that the number of independent candidates for local councils increases from the oblast to the rural levels. For instance, in the 1998 elections in Dnepropetrovsk oblast, seventy-five percent of candidates ran as independents for the oblast council, eighty percent of candidates ran as independents for the Dnepropetrovsk city council and ninety-five percent ran as independents for township and village councils.

Party influence on the local elections also differs among regions. Parties of communist orientation tend to prevail in the eastern oblasts, while social democratic parties are more influential in western Ukraine.

Despite the weak influence of parties on the election process, they have significant impact on local council operations since, after elections, council members unite into factions based on party membership. Due to the instability of the political structure in Ukraine, members often move from one party coalition to another.

The size of local councils depends on the population of the administrative-territorial unit (as outlined below in table 3.2), but cannot exceed two hundred members.

Table 3.2
Size of Local Councils According to Population Size

Population	Number of Local Council Members
0–3,000	15–25
3,000–5,000	20–30
5,000–20,000	25–35
20,000–50,000	30–45
50,000–100,000	35–50
100,000–250,000	40–60
250,000–500,000	50–75
500,000–1,000,000	60–90
1,000,000+	25–120

3.4 Local Government Associations

The Constitution and the Law on Local Self-government stipulate the right of local self-governments to form voluntary associations. The only stated restriction is that they may not transfer local self-government authorities to these associations. Communities have the right to pool financial and economic resources for their joint use, for improving the variety and quality of community services and for implementing mutually beneficial projects.

Currently there are over twenty local government associations in Ukraine, based on territorial, functional and industrial interests. The Association of Ukrainian Cities is the most influential organization, uniting local self-governments from over 250 cities. Its activities include the following:

- establishing the legal basis for local self-government;
- providing information to improve city government functioning;
- supporting programs for municipal development;
- promoting the interests of municipal servants;
- fostering international cooperation.

The Association of Ukrainian Cities plays an active role in forming the system of governance in Ukraine. For example, the association developed and adopted the Charter of Ukrainian Cities as well as producing drafts of several important laws, including the Law on Local Self-government, the Law on Local Public Administration, the Law on Community Property and others. In recent years, the Association of Ukrainian Cities has held six national hearings on the most urgent issues of municipal reform. Due to the activity of association members, Ukraine was represented at the European Association of Local and Regional Governments.

4. Functional Structure of Local Government

The structure of local self-government consists of three components: the council, its executive committee and the mayor. Following is a review of their functions.

The local council, acting within its assigned authority, adopts legal acts in the form of council decisions, which are binding for all enterprises and organizations located within the given territory (article 59). Council decisions are adopted at plenary sessions and take effect upon their official publication or as determined in the decision. State control over local council decisions should not entail the interference of central government bodies in council activities within their authority (article 20). The mayor may suspend a council decision in the first five days after its adoption and send it for a second review by the local council (article 59).

The executive committee, acting within its assigned authority, makes decisions in order to implement local council decisions. If the mayor disagrees with an executive committee decision, he or she may suspend the decision and submit it for review by the council. Committee decisions adopted within its authority may be canceled by the local council (article 59). The executive committee consists of departments, services and directorates.

The mayor issues instructions within his or her competence and signs decisions passed by the council or by the executive committee.

Local inhabitants are informed of decisions passed by their local self-government. The community has the right to exercise control over the decisions of the council, executive committee and mayor

through different forms of community participation in the decision making process. Courts exercise control over the compliance of local self-government decisions with the Constitution and laws of Ukraine. Financial activities of local self-governments are controlled by fiscal organizations, such as the State Treasury and the Control and Auditing Department. There is no administrative control as such over local council activities by higher-level councils. However, because local executive bodies are dually subordinated to local councils and to the state administration, they fall under the administrative control of the relevant divisions of local state administration.

Most local self-government decisions are related to public service provision, necessitating cooperation between local self-governments and local enterprises. Enterprises in community ownership are subordinated to local self-governments, accountable to and controllable by them (article 17). Relationships with enterprises that are not in community ownership are formed on a contractual basis or regulated through taxation (article 18).

5. Public Service Provision

As mentioned above, local self-government functions are divided into own authorities, performed on behalf of community inhabitants, and delegated authorities, exercised on behalf of the state. As seen in table 3A.8, most public services are distributed among different levels of government in accordance with the principle of deconcentration. The Law on Local Self-government specifies the authorities of local authorities by sphere of activity. Table 3.3 below lists all functions of local self-government, grouped by sphere and subdivided into own and delegated responsibilities.

Table 3.3
Local Government Responsibilities in Public Service Delivery

Own Authorities	Delegated Authorities
MANAGEMENT OF COMMUNITY PROPERTY	
Managing and disposing of community property	Consultation regarding the nomination of managers of state-owned enterprises
Establishing procedures and exercising control over the use of revenues	
HOUSING, TRANSPORT, COMMUNICATIONS AND COMMUNAL FACILITIES	
Managing and maintaining local facilities	Supporting the improvement of housing and communal facilities, transport and communications
Registering inhabitants in need of housing	Control over the operation of local facilities
Registering housing construction cooperatives	Protecting consumer rights

Table 3.3 (continued)
Local Government Responsibilities in Public Service Delivery

Own Authorities	Delegated Authorities
Supplying facilities with heating, gas, electricity and water	Registering housing stock, providing social housing and exercising control over housing registration
Waste collection and utilization, municipal improvement	Registering non-residential property and other real estate objects
Organizing markets	
Establishing working schedules for the given services and a community transportation schedule	
SETTLEMENT CONSTRUCTION AND PLANNING	
Organizing construction, renovation and repair of community property objects	Overseeing maintenance of the land cadastre, construction and architectural control
Allocating land for urban planning and development, drafting and approving general urban development plans	Preserving historical, cultural and architectural monuments
Issuing construction licenses	
EDUCATION, HEALTH CARE, CULTURE, SPORTS AND TOURISM	
Managing related local facilities	Ensuring that education and medical services are available and free
Establishing conditions for raising children, facilitating secondary and vocational education	Developing all kinds of services related to education, health care, culture, sports and tourism
Providing free transportation for schoolchildren	Providing medicine to special categories of citizens
Creating conditions for creative activities, developing handicraft and home industries	Registering children for pre-school and primary school, organizing work with youths and orphans, ensuring state maintenance for special categories of children
Organizing medical services and catering in organizations of the social and cultural sphere	Resolving issues concerning the specific rights of special categories of the population (pensioners, youths, the disabled and students) to use certain facilities
Ensuring conditions for sports in residential areas	

Table 3.3 (continued)
Local Government Responsibilities in Public Service Delivery

Own Authorities	Delegated Authorities
REGULATION OF LAND RELATIONS AND ENVIRONMENTAL PROTECTION	
Determining rates for the land tax and fees for the use of natural resources	Control over compliance with land and environmental legislation
Approving environmental programs	Registering land ownership, organizing the land cadastre and resolving land disputes
Organizing natural reserves and sanctuaries	Taking measures to eliminate the consequences of catastrophes and natural disasters
	Coordinating land development projects
	Allocating territory for waste disposal
SOCIAL SECURITY	
Establishing additional guarantees	Approving employment and social security programs, organizing public works
Providing assistance to certain categories of inhabitants	Improving the life and financial conditions of special categories of the population and providing benefits
Organizing hostels, specific medical services, catering and ritual services for certain categories of inhabitants	Assistance to victims of natural disasters
	Control over the provision of social security to workers and employees, registering collective agreements
	Employment assistance for inhabitants in need of social protection
LAW ENFORCEMENT, MAINTENANCE OF PUBLIC ORDER AND PROTECTION OF RIGHTS AND FREEDOMS	
Establishing a municipal militia	Reviewing citizens' appeals
Rendering assistance to law enforcement bodies, courts and lawyers	Maintaining public order in times of natural disaster
	Deciding on the organization of public meetings and demonstrations
	Reviewing issues on administrative violations
	Registering acts of civil status, businesses and public organizations (NGOs)

As shown in table 3.3, local self-government powers are often vaguely formulated and are not structured in accordance with the established breakdown of functions. Consequently, it becomes difficult to clearly distribute responsibilities between local self-governments of different levels in terms of public service provision. Financial and material resources are correspondingly distributed in an equally indeterminate manner. Only a small proportion of services has one explicitly defined provider; generally these are services in the spheres of communal services or education. Annex 3.4 presents the distribution of public services in more detail.

Current legislation grants broad rights to local self-governments in determining the method of service delivery. They may pool the material and financial resources of different communities in order to set up additional services and organs (article 60). They may also delegate the provision of some services to the private sector in the interests of improving quality and more efficiently utilizing community resources. Additionally, they may choose to provide these services jointly with the private sector.

The existing methods of service delivery may be classified as follows:

- traditional (budgetary organizations or municipal services);
- alternative (contracting to private companies, concessions or consumer associations);
- joint ventures (cooperating with local governments or partnerships with the commercial sector).

Activities such as waste collection, territorial development, maintenance of housing stock, transportation and communication provide examples of cooperation between local governments and between the private and public sectors. Mechanisms of cooperation depend on the specific service. For example, a local government may sign a contract with a private company for the provision of waste disposal services, in which it specifies the quality and cost of services. These services are paid for by inhabitants; a special local organization collects payments and transfers them to the private company. In the case of transportation, local authorities issue licenses to private companies to provide services. The license specifies all necessary conditions and privileges. The private company then retains the prerogative to determine service costs and collect fees.

The concept for administrative reform determines two main areas of service provision: state services provided by public administration bodies and municipal services provided by local self-governments. Within these two areas, functions are further subdivided.

6. Local Finance, Local Property

6.1 Local Budgets

The system of local budgets differs for the municipal and regional levels of local government. At the municipal level, local self-governments independently draft, approve and implement local budgets (article 61). The independence of local budgets is guaranteed by own and allocated state revenues

and local governments possess the right to independently determine the areas of budget expenditures. The state supports local self-governments, provides some financial resources to local budgets to cover basic social needs and exercises control over the legality, appropriateness and efficiency of their use (article 62).

Local budgets consist of revenues and expenditures. Local budget revenues are divided into funds for the exercise of own authorities and funds for implementing delegated authorities. In addition, local budget revenues may be classified as funds for current expenditures (administrative budget) and development funds (capital budget) (article 63).

Local budget expenditures are allocated to maintain the needs of territorial communities and are structured similarly to local revenues. Expenditures may be classified as current expenditures for administration or capital expenditures for development. Administrative expenditures are allocated to organizations funded by the budget, whereas capital expenditures go towards the financing of local social and economic development programs, investments and their long-term maintenance. Local budget expenditures are also classified according to funds spent for the exercise of own authorities, and funds spent for the implementation of delegated authorities (article 64).⁶

At the regional level, local self-government budgets are not fully independent. Although raion and oblast councils approve local budgets, they are drafted and executed by raion and oblast state administrations. According to the Law on Local Self-government, these budgets are formed from two sources:

- state budget funds intended for redistribution among territorial communities within the raion or oblast;
- funds that are transferred to the regional budget through contracts with municipal budgets, which are intended for the implementation of joint social, economic and cultural programs or other projects (article 61).⁷

Table 3.4 below demonstrates the importance of revenues and expenditures of local budgets of all levels in the consolidated budget.

Table 3.4
Local Revenues and Expenditures [percentage of GDP]⁸

	1995	1996	1997	1998
Consolidated revenues	37.9	37.1	38.3	35.9
Local revenues (regional and municipal levels)	18.0	14.9	15.5	14.4
Consolidated expenditures	44.9	39.9	44.9	38.0
Local expenditures	17.9	14.9	15.4	14.5

The state is required by law to compensate local self-government expenditures for the exercise of delegated state authorities (article 67). Local self-governments are granted the right to participate in financial relationships, to take out loans, to issue local loans and to establish communal banks (article 70). They are also permitted to create extra-budgetary funds (article 68).⁹

6.2 Revenues

Local budget revenues are divided into tax and non-tax revenues. The first category includes local taxes and fees, as well as the share of national taxes allocated to the local budget. The second category includes all types of transfers from the national and subnational budgets.

The composition of taxes allocated from the national budget is established for oblasts, the ARC and the cities of Kiev and Sevastopol (in total, twenty-seven territorial units). Between 1995 and 1999, this rate was established on an annual basis. The aim of these allocations is to ensure financial equalization and achieve uniformity in revenue sources for different oblasts. The following national taxes and fees are allocated to administrative-territorial units of the subnational level:

- personal income tax;
- enterprise profit tax;
- excise tax on local goods;
- land fee;
- trade patent fee;
- tax on motor vehicles;
- tax on home industries;
- proceeds from privatization of state-owned and community property;
- stamp duty;
- fines for environmental pollution;
- fees for the maintenance and development of roads.

Only some of these taxes are entirely transferred to subnational budgets; in most cases, local budgets receive a fixed percentage. For instance, local budgets received eighty percent of the proceeds from privatization in 1998 and ninety percent in 1999. The Law on National Budget establishes these percentages annually for three major taxes and fees. These rates may vary between one hundred percent and ten percent. For example, national taxes transferred to Dnepropetrovsk oblast in 1999 were allocated at the following rates: one hundred percent of personal income tax, thirty percent of enterprise profit tax and fifty percent of excise tax on local goods. Deductions from taxes and fees dominate in the structure of local budget revenues, amounting up to eighty-five percent.

The structure of subnational local budget revenues is presented in the table 3.5.

In addition to deductions from national taxes and fees, local budgets also possess local taxes and fees. The Law on Local Taxes and Fees currently regulates this issue. The list of local taxes and fees was

established by the Cabinet of Ministers in 1993 and is supplemented by the Law on Taxation System. They include the following:

- hotel fees;
- parking fees;
- market fees;
- duty on the issue of housing billets;
- fee for pet owners;
- resort fee;
- race course fees;
- duties on horse race prizes;
- duties on bookmaker's activities;
- advertising tax;
- fee for the use of local symbols;
- fee for shooting videos or films;
- fee for organizing local auctions and lotteries;
- communal tax;
- auto transport tax for border crossings;
- fees for licensing trade outlets;
- tax on the sale of imported goods.

Table 3.5
Structure of Subnational Local Budget Revenues [percent]¹⁰

	1995	1996	1997	1998
National taxes distributed among territories, including:	87	88	79	83
Regulated taxes	77	74	65	68
Fixed (allocated) taxes	10	14	14	15
Local taxes and dues	1	2	2	3
State budget transfers	12	10	17	14
Total	100	100	100	100

The law requires local self-governments to utilize all listed local taxes and fees. In reality, only some of these taxes are economically justified, given the existing tax rates; these revenues generally do not cover the costs of their collection. The most important local taxes and fees are the communal tax, market fee, parking fee and hotel fee. These taxes represent an extremely small part of the local budget structure, accounting for just five percent. Only in a few settlements do local taxes and fees exceed ten percent of local revenues.

Market fees and the communal tax are the most stable sources of own revenues, comprising some eighty percent of all local taxes and fees. Since tax rates are centrally determined, local self-governments only have influence in assessing local taxes.

The category of own financial resources is key in the system of local finance. These are resources over which local self-governments have a degree of control and which they can independently plan and spend. This category includes local taxes and fees, as well as deductions from national taxes distributed to local governments at established rates. As shown in table 3.5 above, own resources account for less than twenty percent of total local budget revenues. This number roughly reflects the degree of independence that local self-governments possess in planning, drafting and using their financial resources. In other words, the degree to which budget funds are centralized—that is, the degree of state influence on the financial and budgetary activities of local self-governments—is over eighty percent.

Table 3.6 below presents the structure of revenues of local budgets, excluding transfers such as grants or subventions from the state budget.

Table 3.6
Structure of Local Budget Revenues Excluding State Transfers [percent]¹¹

	1992	1995
Enterprise profit tax	26.3	41.0
VAT	35.6	34.8
Personal income tax	25.6	9.9
Excise tax	5.4	1.2
Local taxes and fees	—	1.5
Other tax revenues	0.5	0.6
Fees, including land fees and proceeds from privatization	2.9	7.2
Other revenues	3.7	3.8
Total	100.0	100.0

3.3 Expenditures

According to current Ukrainian budget classifications, local budget expenditures are divided into the following items:

- public administration, including expenditures on local self-government and maintaining bodies of fiscal control and of the treasury;
- national defense, including the financing of local civil defense units;

- maintenance of public order and protection of rights, including the financing of local departments of the interior and the state road police;
- education;
- health care, including the provision of services to special categories of citizens;
- social security and social services;
- housing and communal services, including donations and capital repairs;
- culture and arts;
- mass media;
- physical culture and sports;
- construction, including tax credits;
- implementation of land reform;
- transport, maintenance of roads and communications;
- environmental protection activities;
- others, including the contingency fund.

Table 3.7

Structure of Local Budget Expenditures by Type of Local Government, 1997 [percent]¹²

	Oblasts	Cities of Oblast Sub-ordination	Raions	Cities of Raion Sub-ordination	Townships	Villages
1. Social and cultural expenditures	38.1	55.1	65.0	66.8	75.6	80.1
• Education	12.1	28.1	31.9	58.8	64.9	62.4
• Health care	23.4	25.2	30.1	6.0	7.9	11.8
• Culture	2.6	1.8	3.0	2.0	2.8	5.9
2. Social security	26.6	29.5	28.0	10.2	4.2	1.3
3. Housing and communal services	4.7	6.5	1.8	14.8	9.3	1.0
4. Administration	0.2	2.5	0.4	4.4	7.2	16.0
5. Assignments to the state budget	16.7	0	0	0	0	0
6. Budget loans	2.3	0.1	1.0	0	0	0.1
7. Other	5.5	3.7	2.8	2.3	2.1	1.0
Total	100.0	100.0	100.0	100.0	100.0	100.0
State share in the funding of local self-government expenditures	34.0	37.0	21.0	2.0	2.0	4.0

The size of expenditures in a given category reflects the current distribution of service provision responsibilities between the levels of government. Table 3.7 presents the distribution of local budget expenditures by level of government, according to area of service.

As shown in table 3.7, local budget expenditures have a pronounced social orientation. Over fifty percent of oblast budget expenditures and over seventy-five percent of city budget expenditures are related to the provision of services in the spheres of education, health care and social security. At the lower levels of government, the share of social expenditures in the structure of local budgets is increasing. In total, over ninety percent of local budget funds at the municipal level are spent to provide public services to territorial communities.

Expenditures on social security and health protection are mainly funded from oblast and raion budgets, as well as those of cities of oblast subordination. In contrast, expenditures on education are higher for municipal self-governments. Table 3.8 below presents the structure of local budget expenditures from 1995 to 1998. Since existing budget classifications do not specify expenditures on the capital budget, they are not reflected in the statistical data.

Table 3.8
Structure of Local Budget Expenditures [percent]¹³

	1995	1996	1997	1998
1. Social and cultural expenditures	51	52	53	50
• Education	23	24	26	25
• Health protection	25	24	24	23
• Culture	3	3	3	2
2. Social security	28	27	26	18
3. Housing and communal services	8	7	5	8
4. Administration	3	4	2	3
5. Assignments to the state budget	2	3	6	3
6. Other	7	5	7	18
Total	100	100	100	100

6.4 Budget Process

The Law on the Budget System defines the budget process as the drafting, review, approval and execution of budgets of all levels. The law also stipulates procedures for fiscal and budgetary control.

The Cabinet of Ministers informs executive bodies in oblasts, the ARC and the cities of Kiev and Sevastopol of the draft figures for allocations, rates for deductions from state taxes, grants and

subventions. On the basis of these forecast indicators, the above-mentioned local administrations prepare draft budgets for the coming year and submit them to the local council for review by 10 December. The local council must then review and approve the local budget before 30 December.¹⁴

Control over local budget implementation is vested in the local councils. However, local executive committees, local state administrations and the Ministry of Finance of Ukraine together perform control over income and the use of financial resources allocated from the state budget. In recent times, the State Treasury has been vested with the authority to control cash flow in budgets of all levels.

The government of Ukraine, in particular the Ministry of Finance, has been implementing an active policy to significantly limit the use of non-monetary settlements in the budget and between budgets of different levels. Consistent efforts in this area have resulted in a noticeable decrease of barter transactions in the financial sector and have created an environment for legally prohibiting all forms of non-monetary settlements.

6.5 Local Property

Currently, there is no separate law which regulates local property rights, although several draft laws are under review by the Verkhovna Rada. The general framework for community property is determined in the Constitution and the Law on Local Self-government. Article 41 of the Constitution guarantees the right of citizens to use objects of community property, while article 60 of the Law on Local Self-government establishes that the community is the possessor of ownership rights over local property.

Local self-governments have the right to own, manage and dispose of community property on behalf of their respective community. They exercise this right through local council decisions, such as programs for the privatization of local property. The specially created community property fund is responsible for the immediate implementation of privatization programs. Methods of privatization include the issue of shares, usually for large objects, or sale by auction or tender, usually for small and medium-sized objects.

Local property includes movable and immovable property; local budget revenues; land and natural resources; communal enterprises, services and organizations; and housing and communal objects. Communities may acquire property through transfer from state ownership and or through purchase by the community. Objects of local property may be united on a contractual basis in order to implement joint projects. Raion and oblast councils administer objects in the joint ownership of different communities.

Most local property consists of objects transferred from the state, in a process that was implemented both slowly and controversially from about 1991 to 1995. At that time, it was possible to transfer large state-owned social, cultural and communal objects, such as hospitals, into the ownership of oblast and raion councils. It is now necessary to clarify the status of such objects.

Legislation allows local self-governments to utilize community property in order to provide municipal services and create conditions for community development. Local self-governments may accordingly sell or lease these objects; create new communal enterprises and services based on these objects; or grant concessions. Forms of cooperation between local authorities and private companies for the common use of community property have recently been increasing. Legislation requires that all transactions involving community property should not be to the detriment of local self-government finances.

The process of establishing community property remains incomplete, leaving many issues related to the administration of these objects unresolved.

7. Relationship between the State Administration and Local Self-governments

Relations between the state administration and local self-governments are based on the accepted distribution of authorities to provide own and delegated public services.

Local self-governments execute own authorities autonomously and independently. The state administration has the authority to control the legality of local self-government decisions and the suitable use of financial resources, but does not otherwise have the power to control the appropriateness of local self-government decisions made within their competence. If local council decisions violate legislation, presidential decrees or government resolutions, then they may be cancelled by the state administration. Unfortunately, this control is exercised not through the system of administrative courts (still under construction in Ukraine), but directly by state officials. For example, State Treasury officials can prohibit the transfer of funds from local budgets if they discover violations of procedures or mechanisms established by the government.

The state exercises control over the performance of delegated authorities by local self-governments and allocates funds for their implementation. Executive committees operate under a kind of dual subordination with respect to their delegated authorities. Since delegated authorities often outnumber own authorities, the principle of dual subordination prevails in the relations between local self-governments and the state administration.

In addition, local self-governments at the regional level delegate most of their executive functions to local state administrations. Raion and oblast councils control the implementation of these functions, but they are performed by local state administrations.

Thus, the principle of dual subordination permeates the relationship between local self-governments and the state administration. Most divisions of local executive committees are controlled by and accountable to both the local council and the respective division of local state administration.

Let us turn to the example of education in a city of oblast subordination. The city department of education, a structural division of the city executive committee, is responsible for educational services. In the oblast, however, this is the responsibility of the education department of the oblast state administration. Like all services, educational services are divided into own and delegated authorities. The city department of education is subordinated to the mayor in fulfilling decisions of the city council, and subordinated to the chairman of the oblast department for implementation of delegated authorities.

Thus, relationships between the local self-governments and central government bodies are based on administrative subordination rather than cooperation. Local self-governments are not independent even when executing own authorities, since their financial resources are controlled by the central government.

8. Local Government Employees

The Law on Public Service (1993) regulates the legal status of public servants, their conditions of service, conditions for terminating their service and their material and social benefits. Article 1 defines public servants as persons who hold certain positions in state organs, who fulfill organizational, administrative, consultative and deliberative functions and who receive salaries from state funds.

Article 4 of the Law on Public Service stipulates that all citizens of Ukraine have equal opportunities for entering public service. In order to implement state policy on public service, the Chief Department of Public Service was created under the Cabinet of Ministers of Ukraine. Service commences with the administration of the Oath of Public Service of Ukraine (article 17).

Public service positions are divided into seven grades, with the first being the highest and the seventh being the lowest, according to article 25 of the Law on Public Service. Each grade is subdivided into three ranks, with a total of fifteen ranks (article 26). Service is terminated either through dismissal or retirement (articles 30 and 31). Public servants are restricted from committing actions prohibited by the Law on Corruption, political affiliation and participating in strikes. The Chief Department of Public Service is the highest administrative and supervisory body of public service.

Currently, there is no law that specifically regulates municipal service. The Law on Local Self-government defines a local self-government official as a person who holds a position in the local self-government, who fulfills organizational, administrative, consulting or deliberative functions and who receives a salary from local budget funds. Local self-government employees, including mayors, have equivalent status to the corresponding grades and ranks of public service.

Public servants, including municipal employees, are appointed on a competitive basis subsequent to the public announcement of the opening. A special commission reviews the applications, conducts interviews and recommends a candidate to the hiring manager. The manager then issues an order affirming the appointment of the public employee. The new employee must take the Oath of Public Service within a month of being appointed.

There currently exists a uniform system for the training and continuing education of public and municipal employees. The main source of public and municipal service professionals is the Ukrainian Academy of Public Administration, under the Office of the President. Academy graduates receive a Master of Public Administration degree and are given preference for any openings in public service.

All public employees should undergo refresher courses with special curricula at least once every five years. For this purpose, every oblast has regional centers for the advanced training of public servants. Groups are sent for training courses by decision of the government head in coordination with the manager of a regional training center. On completion of the course, students receive a certificate of advanced training.

The level of training and qualification directly influences the career of public servants. As a rule, employees with an MPA diploma and a certificate of advanced training are preferred for promotion. Party affiliation may also indirectly influence the career of an employee. Promotions are made after employee assessments, which are regulated by law and required at least once every five years. Assessment results confirm whether an employee meets the requirements for his or her position. If employees pass, they may be promoted or listed in the top management reserve; if not, they may be dismissed from office.

In addition to government and self-government employees, there is a special category of citizens who receive salaries from the state budget. They are classified as state employees, and include doctors, teachers, workers in culture and arts and socially protected categories of the population. Their status is determined in special laws and regulatory documents. Table 3A.7 demonstrates the increase in the number of public servants in Ukraine between 1994 and 1999.

9. Legal Guarantees for Local Autonomy

The right of local self-governments to independently execute their responsibilities is guaranteed by the Constitution and laws of Ukraine. The Law on Local Self-government specifically stipulates the right of local self-governments and their officials to appeal violations of these rights in court. Acts of local self-government bodies and officials adopted within their competence are binding for all local government bodies, enterprises and organizations located within the territory of the local government (article 73 of the Law on Local Self-government).

Local self-government bodies and officials are responsible for their activities to their communities. If local self-governments should violate the Constitution or the laws of Ukraine, the community has the right to dissolve the local government before the end of its term (article 75). The local council may be terminated by a local referendum, initiated by the mayor upon the request of at least ten percent of all local inhabitants. The mayor may be dismissed in case of personal resignation, the termination of his or her citizenship, a court ruling declaring his or her incompetence, a court conviction or death (article 79). Based on these grounds, the mayor may be dismissed from office by local referendum or by a two-thirds vote of local council members. The Verkhovna Rada decides upon special elections of the local council or the mayor.

It is planned to develop a system of administrative courts designed to protect the rights and freedoms of citizens on issues related to executive power and local self-government. This system of administrative courts is expected to consist of the Supreme Administrative Court, local administrative courts and appellate courts.

10. Next Steps in the Transition Process

No government body has been established to address issues of developing local self-governments and local public administration. The need to create such a body, whether in the form of a separate ministry, department or commission, has been actively discussed. Its advocates point to the necessity to increase coordination of efforts and control over public administration reforms. Their opponents, on the other hand, fear that this will only reduce the already tenuous autonomy of local and regional governments.

This issue has been partially resolved by the Presidential Decree on the Establishment of the Coordination Commission on Administrative Reform in Ukraine, adopted in 1997. The main outcome of commission's activities was the adoption of the Administrative Reform Concept, which determines prospects for the further development of the system of executive power.

According to this concept, administrative reform is to be implemented in three stages. The objective of the first stage is to develop and adopt concepts and programs for reform (1998–1999). The second stage focuses on creating the organizational and legislative basis to reform key components of the public administration system (1999–2001). In the third stage, existing structures will be reformed and new organizational structures will be created (2001–2004).

The major direction of reform will be to harmonize the distribution of public service responsibilities between local public administrations and local self-governments, to redistribute financial and material resources accordingly and to implement administrative-territorial reform. These three directions are discussed in further detail below.¹⁵

10.1 Distribution of Authorities

Reform of the distribution of responsibilities for public service delivery will be based on the principles of decentralization and subsidiarity. Major goals of reform in local public administrations will include:

- increased efficiency in the execution of state policy at the territorial level;
- improved quality of state-provided services and the realization of the rights and freedoms of citizens;
- the harmonization of state and local interests, taking into account specific features of territorial development;
- support for establishing and developing local self-governments based on the clear differentiation of their functions.

Oblast state administrations will increase the efficiency of control and supervisory functions while reducing the number of executive functions. At the same time, they are to reinforce the administrative and executive functions of raion state administrations. Heads of oblast administrations and their first deputies will be accorded the status of political officials rather than government employees. Their responsibilities will primarily be to implement state policy in the given region, with due consideration of its specific features.

The powers of local self-governments will be extended in order to provide the necessary range and quality of municipal services. They will receive real independence, autonomy and responsibility in the conduct of their activities. The number of own local authorities will increase, with a corresponding reduction in the number of delegated authorities.

In addition, the system of public service will be reformed. Three types of government positions will be established: political, patronage and administrative. Only officials holding patronage and administrative positions will be considered public servants. For every position, the responsibilities and terms of reference will be clearly determined. Major goals of public service reform include strengthening ethical norms, improving the administrative culture within government bodies and increasing public confidence in government employees. In addition, steps will be taken to improve the system for recruiting, training, motivating and promoting government employees. Municipal service will also be established as an integral component of public service.

In order to implement these reforms, the legal environment must be improved through amending existing legislation and adopting new laws.

10.2 Redistribution of Resources¹⁶

Establishing an autonomous system of local self-government system is impossible without the reform of inter-budgetary relations. The new system will be based on a unified budget, incorporating certain elements of budgetary federalism, and will require the following reforms:

- delineating revenues and expenditures of different level budgets;
- delineating central and local taxes, as well as the taxation authorities of different levels of government;
- allocating a portion of central taxes to territorial communities.

Realizing the proposed changes will require new tools for the establishment of inter-budgetary relations. Instead of the existing financial equalization mechanisms, which are based on regulated revenues and norms for deductions, it is now planned to utilize the categories of own and transferred revenues, which will be fixed for an extended period of time. These mechanisms will increase the level of self-sufficiency up to eighty or ninety-five percent. Subsidies from the state budget are to become the main instrument for financial equalization, and will directly fund delegated authorities. Subventions will acquire the character of investments in territorial development. All other financial relationships between different tiers of government will take the form of budget loans. This set of tools for inter-budgetary relations will lead to a more just redistribution of state budget funds as well as a more transparent and predictable system. Significant efforts will be made to prevent non-monetary settlements between budgets of all levels.

Own and transferred revenues as well as transfers will be calculated according to an algorithm that takes into account minimum social standards for the public services provided by the different governments. Implementation of these reforms clearly requires amendments to existing legislation and the adoption of new laws.¹⁷

10.3 Administrative-territorial Reform¹⁸

The administrative-territorial structure of Ukraine will be reformed in order to create conditions for improving the efficiency of public administration and local self-governments.

In order to increase the efficiency of public administration, it is necessary to develop and implement a state regional policy, possibly by selecting five to seven pilot regions which possess sufficient economic and production potential. According to this concept, the number of oblasts and raions will be reduced. Local state administrations will be the conduits of state regional policy and will attempt to combine it with the interests of the regions. Issues of regional policy are currently under intense debate; although several concepts have been drafted, the final model has not yet been adopted.

In another move to increase the efficiency of local government, the number of municipalities will be reduced. This should be accomplished through the voluntary merging of municipalities. This process, termed “municipal reform,” will improve the financial, economic, organizational and human resource capabilities of local self-governments to provide quality services. A concept for its implementation has already been developed, although the Verkhovna Rada must pass the necessary resolutions to expedite the process of municipal reform.

Another major direction of municipal reform is improving the model of self-government within settlements. Recently, several Ukrainian cities, such as Lvov, Zaporozhje and Mariupol, have introduced significant innovations into their systems of city administration. These cities, which are divided into districts, have decided to establish city district administrations in place of city district councils and executive committees. These administrations have been authorized to execute decisions of the city council and the city executive committee as well as manage community property located in the city districts. Heads of these administrations were appointed by the city mayor.

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Belenchuk P. D., V. V. Kravchenko and N. V. Podmogilny. *Local Self-government in Ukraine: Municipal Law.* Kiev: Attica, 2000. (In Ukrainian)

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Ukrainian Legislation on Local Self-government: A Collection of Normative Acts. Kharkov: Odyssey, 1999. (In Russian)

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Self-government Aspects (the chronicles of Community Partnership, a Ukrainian-American program)

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Glossary of Terms

- Cabinet of Ministers* — The highest body in the Ukrainian system of executive power
- Local self-government* — The right and real capability of a territorial community, guaranteed by the state, to resolve issues of local importance within the framework of the Constitution and laws of Ukraine, either independently or through local self-government bodies and officials
- Mayor* — The highest official in communities such as villages, townships or cities
- Raion and oblast councils* — Local self-government bodies that represent the common interests of territorial communities in raions and oblasts
- Representative local self-government body* — A council consisting of elected members, with the right to represent the interests of a territorial community and make decisions on its behalf in accordance with the law
- Territorial gromada* — A community of inhabitants united by permanent residence within the same administrative-territorial unit.
- Verkhovna Rada* — The Parliament, or legislative body of Ukraine

Annex 3.1

Major General Indicators

Area	603,700 square kilometers
Population (as of 1 January 1999)	50,100,000
Population density	83 people per square kilometer

Table 3A.1

Population in Ukraine by Place of Residence and Gender, 1989–1999¹⁹

	1989	1991	1996	1997	1998	1999
Place of Residence [millions]	51.7	51.9	51.3	50.9	50.5	50.1
Urban	34.6	35.1	34.8	34.5	34.3	34.0
Rural	17.1	16.8	16.5	16.4	16.2	16.1
Place of Residence [percent of total population]						
Urban	67	68	68	68	68	68
Rural	33	32	32	32	32	32
Gender [millions]						
Male	23.9	24.1	23.9	23.7	23.5	23.3
Female	27.8	27.8	27.4	27.2	27.0	26.8
Gender [percent of total population]						
Male	46	46	47	47	47	47
Female	54	54	53	53	53	53

Population (1998)	
Pensioners	14,500,000
School-age children	840,000

Table 3A.2
Population in Ukraine by Age and Place of Residence, 1998²⁰

	[thousands]			[%]		
	Total	Urban	Rural	Total	Urban	Rural
AGE						
0–1	437.6	271.8	165.8	0.9	0.8	1.0
1–4	2,004.3	1,257.3	747.0	4.0	3.7	4.6
5–9	3,312.4	2,206.9	1,105.5	6.6	6.5	6.8
10–14	3,888.5	2,629.2	1,259.3	7.7	7.7	7.7
15–19	3,640.1	2,575.9	1,064.2	7.2	7.6	6.5
20–24	3,628.1	2,568.6	1,059.5	7.2	7.6	6.5
25–29	3,429.9	2,451.4	978.5	6.8	7.2	6.0
30–34	3,420.5	2,413.6	1,006.9	6.8	7.1	6.2
35–39	3,949.8	2,867.6	1,082.2	7.9	8.4	6.7
40–44	3,681.5	2,717.5	964.0	7.3	8.0	6.0
45–49	3,516.9	2,605.5	911.4	7.0	7.7	5.6
50–54	2,250.3	1,583.4	666.9	4.5	4.7	4.1
55–59	3,288.7	2,158.6	1,130.1	6.6	6.3	7.0
60–64	2,760.3	1,723.5	1,036.8	5.5	5.1	6.4
65–69	2,574.4	1,497.0	1,077.4	5.1	4.4	6.6
70+	4,461.9	2,453.4	2,008.5	8.9	7.2	12.3
Total	50,245.2	33,981.2	16,264.0	100.0	100.0	100.0
AGE CATEGORY						
Below economically active age	10,384.2	6,872.3	3,511.9	20.7	20.2	21.6
Economically active age	28,208.1	20,222.5	7,985.6	56.1	59.5	49.1
Above economically active age	11,652.9	6,886.4	4,766.5	23.2	20.3	29.3
Total	50,245.2	33,981.2	16,264.0	100.0	100.0	100.0

Table 3A.3
Major Social and Economic Indicators²¹

	1996	1997	1998
GDP in real prices [UAH millions]	81,519	93,365	103,869
Per capita GDP [UAH]	1,595	1,842	2,065
Consolidated state budget [UAH millions]	30,218.7	28,112.0	28,441.1
Expenditures [UAH millions]	34,182.8	34,312.7	30,506.4
Deficit [UAH millions]	3,964.1	6,200.7	2,065.3
Investments in the basic capital, compared to 1996 prices [UAH billions]	12.6	11.5	12.0

Per capita GDP (1998)	USD 1,087
Consolidated state budget (1998)	UAH 28,441.1 million
Revenues as a proportion of GDP (1998)	27.8 percent
Expenditures as a proportion of GDP (1998)	30.0 percent

Table 3A.4
State and State-guaranteed Foreign Debt [millions USD]²²

1995	1996	1997	31 August 1998
8,217	8,839	9,555	10,243

Unemployment rate (1998)	11.3 percent
Inflation rate (1998)	20.0 percent

Table 3A.5
Consumer Price Index²³

	1992	1993	1994	1995	1996	1997	1998
	Times					[%]	
Consumer price index	21.0	102.6	5.0	2.8	1.4	110.1	120.0
Food items	17.9	121.8	4.7	2.5	1.2	114.1	122.1
Non-food items	21.1	112.0	4.7	2.2	1.2	102.9	124.1
Paid services	35.9	92.1	8.8	5.8	2.1	107.9	113.0
Price index of capital investments	27.6	37.8	10.2	5.7	1.7	108.3	105.4

Annex 3.2

Population, Settlements and Administrative Units²⁴

Table 3A.6
Number of Administrative-territorial Units by Region

	Raions	Cities		City Districts	Townships	Rural Settlements
		Total	Cities of Central and Oblast Subordination			
Autonomous Republic of Crimea	14	16	11	3	56	957
City of Kiev	—	1	1	14	1	—
City of Sevastopol	—	2	1	4	1	29
Vinnitsa oblast	27	17	4	3	30	1,467
Volyn oblast	16	11	4	—	22	1,053
Dnepropetrovsk obl.	22	20	13	18	48	1,441
Donetsk oblast	18	51	28	21	134	1,122
Zhytomir oblast	23	9	4	2	45	1,631
Zakarpattje oblast	13	10	3	—	2–	579
Zaporozhje oblast	20	14	5	7	23	921
Ivano-Frankovsk obl.	14	15	5	—	24	765
Kiev oblast	25	25	11	—	30	1,221
Kirovograd oblast	21	12	4	2	26	1,024
Lugansk oblast	18	37	14	4	109	792
Lvov oblast	20	43	7	5	34	1,854
Nikolayev oblast	19	9	5	4	17	908
Odessa oblast	26	19	7	8	33	1,139
Poltava oblast	25	15	5	5	21	1,854
Rovno oblast	16	10	4	—	17	1,004
Sumy oblast	18	15	7	2	20	1,500

Table 3A.6 (continued)
Number of Administrative-territorial Units by Region

	Raions	Cities		City Districts	Townships	Rural Settlements
		Total	Cities of Central and Oblast Subordination			
Ternopol oblast	17	16	1	—	19	1,017
Kharkov oblast	27	17	7	9	60	1,694
Kherson oblast	18	9	3	3	30	660
Khmelnitsky oblast	20	13	5	—	24	1,417
Cherkassy oblast	20	16	6	2	15	826
Chernovtsy oblast	11	11	1	3	8	398
Chernigov oblast	22	15	3	2	30	1,502
Total	490	448	169	121	897	28,775

Average municipal population (1999) 4,433

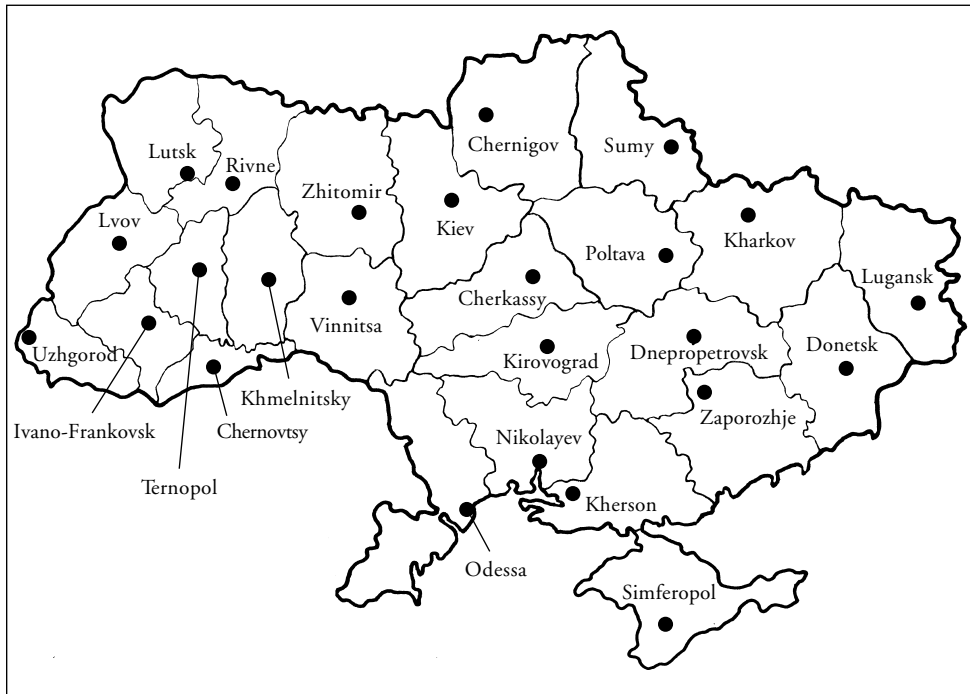
Table 3A.7
Number of Government Employees Paid from the State Budget, 1994–1999²⁵

	1994	1995	1996	1997	1998	1 January 1999
Public administration bodies, total	147,154	180,556	178,040	251,751	237,027	250,008
Legislative bodies	992	1,295	1,201	1,291	3,500	3,861
Presidential administration	375	590	590	590	1,513	1,513
Public executive bodies, total	145,787	178,671	176,249	249,870	232,014	244,634
Cabinet of Ministers	693	790	790	826	1,040	1,047
Staff of ministries, other central executive bodies and their territorial offices	56,493	75,502	66,419	66,266	61,670	70,496

Table 3A.7 (continued)
Number of Government Employees Paid from the State Budget, 1994–1999

	1994	1995	1996	1997	1998	1 January 1999
Local public administrations	—	—	—	69,811	65,511	64,043
Financial and fiscal bodies	88,590	102,368	109,009	112,924	103,735	108,990
Other organizations	11	11	31	43	58	58

Figure 3A.1
Administrative Map of Ukraine



Annex 3.3

Major Laws on Public Administration and Local Government

- Constitution of Ukraine (adopted 28 June 1996, at the Fifth Session of the Verkhovna Rada of Ukraine)
- Constitution of the Autonomous Republic of Crimea (adopted 21 October 1998, at the Second Session of the ARC Verkhovna Rada)
- Law on Local Self-government (1997)
- Law on Elections of Local Councils and Village, Township and City Mayors (1998)
- Law on National and Local Referenda (1992)
- Law on the Capital of Ukraine (1999)
- Law on Local Public Administration (1999)
- Law on the Budget System (1995)
- Law on the National Budget (adopted annually)
- Law on the Taxation System (1997)
- Law on Property (1991)
- Law on Public Service (1993)
- Presidential Decree on Measures to Implement the Concept of Administrative Reform in Ukraine (1998)

Annex 3.4

Responsibilities of Administrative Tiers

Table 3A.8
Specific Functions of Government Tiers in Ukraine

Functions	Cities, Townships, Villages	Oblast or Raion Governments	Central or Local Administrations
I. EDUCATION			
1. Pre-school	X		
2. Primary	X		
3. Secondary	X	X	
4. Technical	X	X	
5. Higher		X	X
II. SOCIAL WELFARE			
1. Nurseries	X		
2. Kindergartens	X		
3. Old people's homes	X	X	
4. Individual services for elderly and disabled people	X		
5. Special services (for homeless, families in crisis, etc.)	X	X	
6. State housing	X	X	
7. Unemployed	X	X	X
III. HEALTH SERVICES			
1. Primary health care	X		
2. Health protection	X	X	X
3. Hospitals	X	X	
4. Public health	X	X	X
5. Drug users		X	X

Table 3A.8(continued)
Specific Functions of Government Tiers in Ukraine

Functions	Cities, Townships, Villages	Oblast or Raion Governments	Central or Local Administrations
IV. CULTURE, LEISURE, SPORTS			
1. Theaters	X	X	X
2. Museums	X	X	X
3. Libraries	X	X	X
4. Parks	X		
5. Sports, leisure	X	X	X
6. Culture houses	X	X	
7. Protection of cultural heritage	X	X	X
V. ECONOMIC SERVICES			
1. Water supply	X		
2. Sewerage	X	X	
3. Electricity	X	X	X
4. Gas	X	X	X
5. Central heating	X	X	
6. Telecommunications	X	X	X
VI. ENVIRONMENT, PUBLIC SANITATION			
1. Waste collection	X		
2. Waste disposal	X		
3. Street cleaning	X		
4. Cemeteries	X		
5. Environment protection	X	X	X
6. Protection from natural/ man-made disasters		X	X
VII. TRAFFIC, TRANSPORT			
1. Roads	X	X	X
2. Street lighting	X		
3. Public transport	X		
4. Railroads			X

Table 3A.8(continued)
Specific Functions of Government Tiers in Ukraine

Functions	Cities, Townships, Villages	Oblast or Raion Governments	Central or Local Administrations
VIII. URBAN DEVELOPMENT			
1. Town planning	X	X	
2. Regional/spatial planning		X	X
3. Local economic development	X		
4. Tourism	X	X	X
5. Land surveying	X	X	
IX. GENERAL ADMINISTRATION			
1. Authoritative functions (licenses, etc.)	X	X	X
2. Other state administrative matters (electoral lists, etc.)	X	X	X
3. Municipal police		X	X
4. Fire brigades	X	X	X
5. Civil defense		X	X
6. Consumer rights protection	X	X	X

Notes

- ¹ Head of the Department of Public Administration and Local Self-government, Ukrainian Academy of Public Administration, Dnepropetrovsk branch; telephone/fax (380-56)744-3498; e-mail: navruzov@renaissance.dp.ua.
- ² The first public hearings in Ukraine on approving the local budget were held in Komsomolsk, Poltava oblast, in 1999. As of the end of 2000, this type of activity was steadily growing among urban populations.
- ³ N. Tomenko, *ABC of Ukrainian Politics* (Kiev: Smoloskyp, 1998), 71–73.
- ⁴ *Parliament of Ukraine: 1998 Elections* (Kiev: Parliamentary Publishing House, 1998), 30–31.
- ⁵ More detailed information about the elections results can be found in N. Tomenko, “Summing up the Parliamentary Elections in Ukraine,” *Politicheskaya Mysl* 2 (1998), 107–119.
- ⁶ In practice, the budget structure includes sections for expenditures and revenues. Only some local budgets specify administrative and development budgets. Currently, the drafting of budgets for own and delegated authorities is not practiced.
- ⁷ To date, this legal norm has not been applied. Instead, budget revenues are formed at the subnational level through fixed and regulated taxes, a mechanism is determined by the Law on the Budget System (1995).
- ⁸ *Annual Statistical Report of Ukraine, 1999* (Kiev: Ukrainian Encyclopedia, 2000).
- ⁹ Since 1999, all local governments funds kept in extra-budgetary accounts should be reflected in the local budgets.
- ¹⁰ *Annual Statistical Report of Ukraine, 1999* (Kiev: Ukrainian Encyclopedia, 2000).
- ¹¹ *Inter-budgetary Funding in Ukraine: A Reform Program*, Conference Proceedings (World Bank, 1999).
- ¹² *Inter-budgetary Funding in Ukraine: A Reform Program*, Conference Proceedings (World Bank, 1999).
- ¹³ *Inter-budgetary Funding in Ukraine: A Reform Program*, Conference Proceedings (World Bank, 1999).
- ¹⁴ In practice, these legally established terms are often not observed. It should be mentioned that creation of a political majority in the Verkhovna Rada has produced better compliance with the terms of approval for the state budget. This also has positive effects for the local budget process.
- ¹⁵ *Administrative Reform Concept in Ukraine* (Kiev: 1998), 24–42.

- ¹⁶ Kravchenko, V. I., *Local Finance in Ukraine* (Kiev: Znaniye, 1999), 247–282.
- ¹⁷ It should be noted that since mid-2000 up to the time of writing (mid-2001), Ukraine has significantly changed the system for redistributing budget funds among tiers of government. For instance, a Draft Budget Code was adopted, a method for calculating subsidies was developed and is coming into use and the Tax Code is being reformed. These and other measures help increase the self-sufficiency of local budgets.
- ¹⁸ *Administrative Reform Concept in Ukraine* (Kiev: 1998), 38–42.
- ¹⁹ *Annual Statistical Report of Ukraine, 1999* (Kiev: Ukrainian Encyclopedia, 2000).
- ²⁰ *Annual Statistical Report of Ukraine, 1999* (Kiev: Ukrainian Encyclopedia, 2000).
- ²¹ *Annual Statistical Report of Ukraine, 1999* (Kiev: Ukrainian Encyclopedia, 2000).
- ²² “Restoration of Growth on the Basis of Justice: Memorandum on the Economic Development of Ukraine” in *Economies in Countries of the World* (World Bank, 1999), 182.
- ²³ *Annual Statistical Report of Ukraine, 1999* (Kiev: Ukrainian Encyclopedia, 2000).
- ²⁴ Data as of 1 January 1999. “Main Social and Economic Indicators for Cities, Members of the Association of Ukrainian Cities,” *Ukrainian City* (1999), 3.
- ²⁵ *Economic Reforms Today*, 29 (2000), 50.

Chapter 4

Local Government in the Russian Federation

by

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Developing New Rules in the Old Environment

Local Government in the Russian Federation

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Local Government in the Russian Federation

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1. Overview of Local Government Reform

1.1 The Russian Federation

The Russian Federation consists of eighty-nine member regions called subjects of the Federation. For purposes of statistical reporting, these regions are grouped into twelve economic zones. However, these zones are likely to be replaced by the seven federal districts recently formed for purposes of political and administrative oversight. Economic and demographic disparities across regions are vast, as shown in table 4A.1.

Subjects of the Russian Federation include twenty-one republics, six *krais*, forty-nine *oblasts*, two federal cities, one autonomous oblast and ten autonomous districts. Despite the diversity of categories, all subjects of the Federation have equal status pursuant to the Constitution of the Russian Federation (1993). However, the Federative Treaty, an integral part of the Constitution, allows for bilateral agreements between the central government and member regions which grant regions special rights and obligations. As of October 2000, fifty-one regions had concluded forty-seven such agreements with the federal government, with the majority of the regions being republics. It should be noted that the classification of regions as republic, krai or oblast is derived from historical reasons and does not generally provide any indication of status.

The federal government, recognizing the risks in continuing to develop asymmetric federalism, eventually revoked most privileges previously granted to individual regions. To signal a return to a policy of uniform federalism, the State Duma of the Russian Federation passed a law in 2000 mandating that all regions bring their legislation into conformity with the Constitution and with federal legislation.¹ Nonetheless, complete uniformity will be difficult to attain in a country as large and diverse as Russia.

1.2 Ethnic Composition of the Russian Federation

The majority of the national population is Russian. With few exceptions, Russians also make up the majority population within most republics and other ethnic autonomies (see table 4A.2). After Russians, the most numerous ethnic groups are the Tatars, who comprise 3.7 percent of the population, and the Ukrainians and Chuvash, who comprise 1.17 percent. No other ethnicity in Russia exceeds one percent of the total population.²

1.3 Regional Structure

Regions are divided into cities and rural areas (*raions*). This territorial division was largely inherited from the former Soviet Union, though several jurisdictions had existed previously. Raions are divided into smaller units such as sub-raion towns, townships, villages and rural districts. Sub-raion towns may be composed of townships and rural districts. Rural districts themselves may include several small rural settlements. The territorial structure of Russian Federation subjects is therefore generally composed of three or four levels (see figure 4A.1).

Prior to local government reform, the hierarchy of territories reflected the hierarchy of administrative subordination. With the transition to a more decentralized structure, settlements of all sizes were granted the right to establish local governments and register as municipalities with equal status to one another. Reform thus meant the transition from a three-tier hierarchy of jurisdictions within the regional state administration to a two-tier system made up of the regional government and local governments, with no administrative subordination between the two. Making this transition has proven to be difficult. The system of municipalities was superimposed over the previous structure, which often resulted in peculiar organizational forms in which village-level municipalities are subordinated to raion-level municipalities.

Since the breakdown of regional territories into municipalities has not yet been finalized, federal agencies with territorial branches have been slow to revise their internal organization according to the new municipal division. Both the Ministry of Taxes and Levies and the State Committee for Statistics (*Goskomstat*) continue to use the raion breakdown in their reports, whereby raions and cities are the smallest units of territorial division.³ Data on municipalities are therefore unavailable unless municipal boundaries coincide with former raion and city boundaries. The total number of officially registered municipalities can be obtained from the federal Registration Chamber, but all other data on territorial, demographic and economic characteristics are available from the Goskomstat only in the old territorial breakdown.

Table 4A.3 summarizes the data on varieties of territorial units and municipalities in the Russian Federation. For data on urban and rural settlements, see table 4A.4.

1.4 Territories with Special Status

Two regions, the federal cities of Moscow and Saint Petersburg, enjoy special rights with respect to local self-government. Both city governments are entitled to determine the property, budgetary expenditures and revenue sources of local governments within their jurisdiction. Saint Petersburg has jurisdiction over one hundred local governments, which enjoy very little autonomy; Moscow has none.

In addition, about forty territories are classified as restricted access territories (“*zakrytye administrativno-territorialnye obrazovaniya*,” or ZATOs) and fall under the jurisdiction of the federal government (the Ministry of Defense and the Ministry of Nuclear Energy). By federal law, ZATOs can be urban or rural settlements whose territorial boundaries may overlap regional or raion boundaries. The boundaries and administrative subordination of ZATOs are determined by the federal government, as are the rights and responsibilities of regional governments with respect to the ZATOs located in their territory. ZATOs are financially independent from the regional governments, as they receive intergovernmental transfers directly from the federal government. ZATO residents can also form local governments. Generally speaking, regional laws apply across the entire territory of the region, including ZATOs, with the exception of fiscal laws; in fiscal matters ZATOs are federal territories.

Until recently, ZATOs were allowed to retain all taxes collected in their territories, including the regional and federal tax shares. Starting from 2000, all ZATOs but two are mandated to remit federal taxes, as well as levies accruing to earmarked budgetary and extra-budgetary funds of the federal or regional government, to the respective government or fund in accordance with the federal and regional legislation. Any financing gaps between the expenditure needs and revenues of ZATOs are covered directly from the federal budget. At present, the Russian government is debating whether to drastically reduce the number of ZATOs and cancel their preferential tax treatment. Should these plans be carried out, most ZATOs will lose their special status and become ordinary municipalities.

1.5 Brief History of Local Government Reform⁴

1.5.1 *The Soviet Period*

The first step towards democratizing local government was taken at the end of the 1980s, while Russia was still a member of the Soviet Union. In an experimental move, some raions were allowed to field more candidates than were vacant offices in the 1987 elections to local soviets. Altogether 26,000 candidates competed for 4,700 councilor seats in the pilot raions, which made up about five percent of total raions.

In all other respects, local governments remained part of the same centralized administrative hierarchy, which was completely subordinated to the party apparatus. The pertinent features of local governments in the early years of transition were that:

- No distinction was made between the local and the state levels of government;
- Local government jurisdictions exactly replicated existing administrative-territorial divisions;
- Local governments were subordinated to state and party authorities.

The next landmark event was the amendment of the Constitution of the Soviet Union and the Law on Elections of USSR People's Deputies in 1988. The most important amendments in terms of local government were those which established the right of voters to nominate candidates, guaranteed the right of local soviets to exercise control over local state agencies and limited the term of the officials appointed by local soviets.

The first law to use the term "local self-government" was the Law on General Principles of Local Self-government and Local Economy in the USSR (9 April 1990), which opened the door for sweeping changes to the local government role in developing a civil society. Most importantly, this law established:

- guarantees that local authorities are autonomous, independent and elected by popular vote;
- the scope of competencies of local soviets;
- the transfer of communal property to local soviets;
- revenue sources of local soviets, including fixed shares of federal tax revenues and a list of own taxes, levies and duties to be introduced at the discretion of the local soviet.

The stipulation that local authorities be elected by popular vote applied only to representative bodies. The basic unit of local self-government established by this law coincided with lowest administrative tier that existed at the time, which was a rural district, a township, a sub-raion town or a city district.

The first law on local self-government to come into force after independence was passed on 6 July 1991, while Russia was still part of the Soviet Union. The progressive feature of this law was the requirement that not only representative bodies but also heads of local administrations be democratically elected. This law also decreed the dissolution of the executive committees, or lowest-level tiers in the hierarchy of state power.

1.5.2 The Post-Soviet Period

In the early years of independence, the legal framework for local self-governance in Russia evolved primarily through amending the Law on Local Self-government in the Russian Federation (1991). The harmonization of this law with other legislative acts, particularly the Law on the Tax System in the Russian Federation (27 December 1991) eventually diluted the effect of the law, limiting the autonomy of local authorities over local revenues.

The dissolution of the Supreme Council of the Russian Federation and the passage of the new Constitution in 1993 marked the beginning of a revolutionary phase in the development of local self-government in Russia. The "municipal revolution" originated in the center, fueled by a desire to

counterbalance the growing political opposition of the regional elite. New departments of federal agencies were specifically commissioned to provide support to the lowest tier of the state hierarchy, the autonomous local governments. These local governments and their leaders, independent from regional administration, represented invaluable allies to Russian reformers charged with implementing the often unpopular policies of the federal government.

The Constitution was followed by a number of other laws, also initiated at the central level, to establish procedures for the formation and operation of local governments. All of these laws were directed at strengthening the autonomy of the lowest tier of public administration. After establishing a federal relationship between the central and regional levels of government, the central government curtailed regional rights over local governments by establishing a similar, though weaker, federal relationship between the center and the regions at the sub-national level.

The majority of regions benefited from the federalization of their relations with the center, but were reluctant to relinquish power over sub-regional territories. They preferred paternalistic relations with the local governments to decentralization; rather than employ their newly assigned methods of control, legislative initiative and law enforcement, they opted to reinstate the vertical axis of executive power.

One of the first actions taken by President Vladimir Putin following his inauguration on 31 December 1999 was to dismiss one of the key advocates of local self-governance in the federal administration from his position as head of the Department of Local Governments in the Office of the President. The Department itself was dissolved soon afterwards.

By strengthening the vertical axis of power, the policies pursued under President Putin from the start of his term echoed the governors' preference for centralization. The Office of the President became the source of legislative initiatives and administrative decisions that led to reinforcement of administrative methods of control in the Russian Federation at all levels of power.

2. Legal and Constitutional Basis

2.1 Constitutional Basis of Local Government

The Constitution lists local self-governance among the fundamental institutions of the constitutional order, along with state power, a federal system of government, republican rule and other provisions of chapter 1 of the Constitution.

In addition, this chapter lists local government bodies among the institutions through which the people exercise their will, together with direct democracy and democracy exercised via bodies of state power. This chapter also provides for municipal ownership of land.

Article 12 unequivocally determines that “local self-government bodies do not form part of the system of state power.” The Constitution instituted a legal regulatory framework in place of the previous administrative subordination of local authorities to regional ones.

Chapter 8 of the Constitution is entirely devoted to local self-governance. The four articles of this chapter provide the following guarantees:

- Local communities possess autonomy in addressing issues of local importance;
- Local self-government may follow a diversity of organizational models;
- Regional authorities must take into account the preferences of local communities when determining the boundaries of local government jurisdictions;
- Local governments possess financial autonomy (albeit limited), with discretion over the management of municipal property and the implementation of local budgets;
- Adequate funding is guaranteed for the performance of additional state functions delegated to the local government by the decision of federal or regional state authorities;
- Local governments will be reimbursed for the costs of implementing federal mandates.

According to the Constitution, the establishment of general principles of local government organization is the joint responsibility of the federal center and the regions. To fulfill this responsibility, federal authorities have passed a number of laws on local government organization. These include:

- Law on General Principles of Local Self-government (28 August 1995);
- Law on the Constitutional Right to Local Government Elections (26 November 1996);
- Law on Electoral Rights and Referenda (19 September 1997);
- Law on Local Government Finance (25 September 1997);

A more detailed list of legislation on local government is presented in annex 4.3.

2.2 Legal Basis of Local Government

The fundamental principles of local self-government in Russia are set forth in the federal Law on Local Self-government in the Russian Federation. This law is distinct from its Soviet predecessors in that it determines the general principles of local self-governance, rather than a system of local government bodies.

The law defines the municipality, the primary unit of local government, as any populated territory (city, town, township or any combination of these on a contiguous territory) which is self-governed and possesses municipal property, a budget and an elected local government body. In conformity with the Constitution, the law allows self-governments to be established at a variety of territorial levels from raions to towns or villages, irrespective of population size.

This law also grants uniform legal status to all local governments, thereby establishing one of the distinctive features of the Russian model of local self-governance. All local governments—raions, towns and townships in rural districts—enjoy the same institutional and administrative rights,

without subordination of one municipality to another. Accordingly, the entire territory of the Russian Federation should be divided into local government jurisdictions without overlapping. This model of municipal equality distinguishes Russia both from the previous Soviet system and from the majority of former Soviet Union countries who chose to build the institution of local self-government upon the foundations laid in the pre-reform period.

Finally, the law details the scope of regional authority with respect to local self-governance and lists the responsibilities of local governments. Many of the responsibilities are stated as the obligation to maintain infrastructure facilities that were transferred to municipal ownership, rather than the obligation to perform local functions. Unlike many countries with strong institutions of local government, local governments in Russia are responsible for the delivery of public services such as education and health care. However, the law allows local governments to limit service delivery according to the capacity of its inherited social infrastructure facilities. Therefore, the assignment of expenditure responsibilities between the regional and local governments depends on the delineation of property between the two levels of government.

2.3 Legal Basis of Local Elections

A major objective of federal policy on local self-government was to encourage the regions themselves to hold municipal elections and adopt the necessary laws to develop systems of local government.

In late 1996, the federal Law on the Constitutional Right to Local Government Elections (henceforth referred to as the Law on Local Elections) was passed to prevent a surge of regional resistance to the establishment of local self-governments. The provisions of the law essentially constituted federal intervention in affairs of those regions that failed to comply with the federal legislation. Where regional administrations did nothing to organize local elections, the right to convene elections was assigned to the courts. Rules governing the conduct of local elections were outlined in a separate annex to the law.

In the fall of 1997, the federal Law on Electoral Rights and Referenda was passed to guarantee the right of citizens to hold local elections on the basis of the Law on Local Elections even in the absence of regional laws.

2.4 Legal Basis of Local Finance

In their efforts to develop local self-governance, federal authorities attempted to ensure the financial autonomy of local budgets. Revenue sources for local budgets were determined in 1991 by the federal Law on Taxes. However, revenue from the local taxes and fees enumerated in this law rarely covered more than twenty percent of local expenditure needs, even including the usually insignificant share of federal taxes permanently assigned to local governments. The regional government had to cover the resulting financing gap with intergovernmental transfers.

Local governments were heavily dependent on regional administrations due to the regional authority to regulate local revenues. The Law on Local Government Finance in the Russian Federation sought to ensure stable revenues for local budgets by restricting the latitude of regional administrations in disposing of their revenue sources. The law was passed in September 1997 only after the president overcame the veto of the Upper Chamber of the Russian Parliament, which is composed of governors and the heads of regional representative bodies.

The Law on Local Government Finance is an important milestone in the establishment of a full-fledged institution of local finance. In its provisions, the law establishes the following:

- principles for the municipal budget process;
- maximum levels of municipal debt;
- limits on the ability of local authorities to undertake financial risks, such as speculating in stock markets or contributing local budget funds to bank capital;
- the right of municipalities to set up their own treasuries and tax administrations;
- a fixed proportion of federal taxes to be shared with local governments, applied on average within a region;
- requirements that intergovernmental transfers from regional to municipal budgets be calculated according to a formula, and that allocation of equalization transfers and proportions of shared tax revenue be determined according to a standard methodology.
- prohibition of the reduction of transfers to municipalities if own municipal tax revenues are greater than predicted.

Due to the vast disparity in revenues across regions and across municipalities, the Law on Local Government Finance has unfortunately failed to ensure financial autonomy for most local governments.

In drafting the law, federal advocates of local self-government were primarily seeking to ensure the financial sovereignty of their protégés, large cities whose mayors wield political clout. They proposed a draft law requiring that every local budget be assigned the same fixed rate of shared federal taxes. But since the tax base is distributed unevenly across municipalities, assigning uniform shares to all municipalities would only have perpetuated the existing inequality, leaving regional governments to carry out fiscal equalization at their own discretion and from their own sources.

Eventually, the adopted version of the law established fixed rates of shared taxes to be averaged over all municipalities within a region. Accordingly, regions may establish different rates for different municipalities, potentially allowing richer municipalities to retain no federal taxes whatsoever, while allowing poorer localities to retain one hundred percent of the regional share of federal taxes. Hence, budget revenues are equalized among municipalities through re-directing financial revenues from rich to poor municipalities, while transfers from the regional budget are used for narrowing the remaining disparity.

Furthermore, the Law on Local Government Finance does not establish standards for regions to distribute funds received from the federal government for equalization purposes. Nevertheless,

these grants are substantial; in subsidized regions those resources may exceed by far the total tax collections in that jurisdiction.

2.5 Recent Amendments to the Law on Local Self-government

The federal Law on Municipal Service completed the legislative framework of local self-government, as conceived by the Yeltsin administration. However, at the very start of the Putin administration in 2000, the Law on Local Self-government was significantly amended. The core of the amendments was a reversion to vertically imposed administrative control over the public sector.

Article 49 of the amended Law on Local Self-government establishes that the Russian president or regional governor is entitled to dissolve the local council, discharge the mayor, convene new elections and appoint an interim mayor in cases where the court finds that local government decisions violate the Constitution, federal or regional legislation and the mayor or local government do not remedy the decision in question.

Prior to these amendments, the law had provided for dissolution of the local government body and dismissal of the mayor, but the previous procedure was more complicated and necessitated additional court proceedings. Unfortunately, the new authorities have opted to strengthen administrative levers rather than improve enforcement of court rulings.

2.6 Regional Legislation on Local Government

According to the principal of joint jurisdiction set forth in the Constitution, regional-local relations are established by regional laws within the framework of existing federal legislation. The Law on Local Self-government lists issues to be regulated by regional laws, including the following:

- procedures for determining the territorial boundaries of municipalities;
- procedures for holding municipal elections;
- procedures for the registration of municipal charters;
- procedures for the transfer of property to municipalities;
- regulation of the fiscal relations between the region and its municipalities and the equalization of the fiscal capacity of municipalities;
- delegation of certain state powers to local government bodies and the transfer of the financial resources necessary to support their execution;
- municipal services and other issues.

The development of regional legislation on local self-government has been in progress since 1996 and is far from complete. In reforming local self-government, different regions have displayed varying attitudes towards relinquishing administrative control. These can be broken down into the following three responses.⁵

- *Constructive Response*

This category includes those regions which recognize the advantages of developing independent public administration at the local level and have unconditionally complied with the implementation of local self-government according to constitutional principles. In most of those regions, municipal elections had been held prior to adoption of the Law on Local Self-government. Their legislators have been very active in developing laws on municipal issues, in many cases preceding federal legislation. This group of regions includes Leningrad, Tyumen, Vologda, Astrakhan, Irkutsk, Voronezh, Nizhni Novgorod, Saratov, Pskov and Kaluga oblasts and Khanti-Mansi autonomous okrug.

- *Obstructive Response*

This category includes regions where self-government is either nonexistent or confined to the level of small townships and deprived of any legal basis. Issues assigned to local self-governments by federal legislation are instead handled by territorial branches of regional state administrations in cities and raions. In some cases, mayors may be elected in cities and raions, but are subject to removal from office by the regional government, which also retains the authority to annul their decisions. Legislation on municipal issues in these areas is either in its infancy or in conflict with federal legislation. In some regions, local government bodies do not exist, nor have they been even provided for in regional legislation.

Until recently, this group of regions included the Republic of Bashkortostan, the Republic of Tatarstan, the Udmurt Republic, the Republic of Komi, the Ingush Republic, the Karachai-Circassian Republic, the Republic of Kalmykia, the Republic of Sakha, the Republic of Khakassia, the Republic of Tyva, Kursk oblast, Novosibirsk oblast and the Jewish autonomous oblast. Most of the regions in this group are ethnic autonomies. Their leaders avoid publicly refusing to comply with the Constitution, instead emphasizing the need to maintain control over territories or arguing that the population lacks managerial personnel and is generally unprepared for new forms of government organization.

- *Undecided Response*

This group consists of regions which view local self-government as an inescapable evil. Although they refrain from committing any outright violations of federal legislation, they employ numerous delaying tactics to slow the process down. Local government bodies were not formed in these jurisdictions until 1997. Relevant legislation is in its inception and is heavily borrowed from other regions rather than a product of local effort. This is a fairly large group of regions, which have increasingly tended to join one or the other of the categories.

Since the attitudes of regional authorities vary so widely, the quality of regional legislation on local self-government leaves much to be desired and often contain norms that run counter to the Constitution and federal legislation.

2.7 Violations of the Constitution and Federal Legislation in Regional Laws

The development of local self-government in Russia has been marked by frequent and grave conflicts between regions and municipalities. The primary reasons for these conflicts are:

- the unwillingness of regional leaders to share instruments of power such as property, taxes and other financial resources as well as decision-making authority in the areas of business and economics;
- lack of regional administrative experience and governing skills required under the newly decentralized conditions;
- conflicts between the interests of rich and poor municipalities;
- traditional subordination of lower-level to higher-level governments.

Regions resort to methods both legal and illegal in order to resolve these conflicts to their advantage. The most frequent violations contained in regional legislation on local self-government are as follows:

1. Restrictions on electoral rights. These include:
 - the introduction of voter and candidate qualifications for residence, age and property, in contradiction to federal legislation;
 - the authority of the regional government to discharge heads of local self-government.
2. Restrictions on local self-government autonomy in matters outside regional competence. These may include:
 - establishing an exhaustive list of municipalities that may be set up in the region;
 - regulating the structure and operation of bodies of local self-government;
 - setting restrictions on the disposal of municipal property;
 - limiting local options in formulating and executing local budgets.
3. Delegation of local government powers to regional state administrations.
4. Delegation of state administration responsibilities to local government bodies without the requisite financial support.
5. Removal of entire territories from the scope of legislation on local self-government, for instance establishing “regional districts,” as in Saratov oblast.
6. Changing the territorial boundaries of local self-governments without regard for public opinion.
7. Making one municipal entity subordinate to another, primarily in financial matters.

These violations can be encountered in the legislation of the vast majority of regions in one form or another. In all fairness, it should be noted that many violations of federal legislation which occur in the course of developing the regulatory and legislative framework of local self-government may be attributed to the novelty of this issue in Russia, the centralist political mentality fostered during the Soviet era and the lack of skilled experts in public law and public finance. Inconsistencies within the federal legislation itself also contribute to this problem. Not infrequently, articles in one federal law may contradict other laws on local self-government, or even, as in the Law on Local Self-government, another article within the same law.

2.8 Protection of the Constitutional Right to Local Self-government

During the Yeltsin regime, the right to local self-government was frequently defended in the Russian Supreme Court and Constitutional Court. This typically occurred when the claims of local authorities received high-level attention and were utilized as a precedent to prevent the recurrence of similar situations in the future. In the vast majority of cases, however, small municipalities found it extremely difficult to assert their rights in the face of omnipotent regional bosses, who often had control over even the branches of federal agencies in their region.

The following cases demonstrate different resolutions of these conflicts between local and regional authorities at the federal level. In 1994, the governor of Yaroslavl oblast dismissed mayors in some cities and raions, replacing them with appointees. At the initiative of the regional branch of Democratic Russia, a liberal political movement, a protest was registered in court. The Yaroslavl regional court found the claim to be valid and the governor's actions to be unlawful. Regional authorities lodged an appeal with the Russian Supreme Court, but the Supreme Court upheld the original ruling.

The Udmurt law, adopted in April 1996, allowed local self-government to be replaced by the state administration and bodies of state power to be appointed at the city, raion and sub-raion level. President Yeltsin and several State Duma members questioned the unconstitutional organization of sub-national bodies stipulated by this law, and it was eventually challenged in the Constitutional Court.

The decision of the Constitutional Court in January 1997 contained two provisions of profound importance for the development of local self-government:

1. Local government powers cannot be assigned to regional state administrations;
2. Regional state administrations shall be set up according to same general organizational principles as other bodies of state power in the Russian Federation; that is, they shall be elected by the citizenry of a particular jurisdiction.

On 15 January 1998, after considering other infringements by regions on the principle of local administration, the Constitutional Court ruled that a body of public power should be of either state or municipal nature, depending on the scope of issues falling under its competence. The Constitutional Court thus reaffirmed that government bodies which create the local budget, introduce local taxes and establish procedures for managing municipal property shall be recognized as bodies of local self-government, regardless of their name. As such, they are separate from bodies of state power and are formed through elections by local residents.

2.9 Territorial Structure, Levels of Self-government

Before the launch of local government reform, Russia possessed a rigid administrative hierarchy in which smaller territorial units were subordinate to the larger territorial units in which they were located. Depending on area, population size and density and administrative and territorial status,

sub-regional units made up the following hierarchy: regions—raions and cities subordinated to regions—cities subordinated to raions—townships and rural districts. The recently created municipalities were formed at different tiers of the former administrative and territorial hierarchy, depending on the region. In some regions, they were established at the level of former cities and raions, in others at the level of rural districts and in others a combination of the two. In some regions, former raions were transformed into territorial branches of the regional administration, making up a second tier of the regional state administration (region—raions and cities). In other regions, raions became municipalities, often with a two-tier structure themselves (cities and raions—townships and rural districts). It is possible to distinguish the following three basic types of local public administration (see figure 4A.3):

- *Type I.*
A one-tier regional state administration together with one-tier local government administrations.

In this model, local government bodies are generally made up of large cities and raions and enjoy full fiscal rights stipulated by federal legislation. Regional authorities determine regional-local fiscal relations through deciding upon transfers and local shares of tax revenues. In a number of regions, municipalities consist of sub-raion cities and rural districts, in which case the regional authorities must deal with hundreds of sub-raion municipalities.

- *Type II.*
A two-tier regional state administration together with one-tier local government administrations where local governments are deprived of important rights.

This structure is similar to the previous one with the exception that municipalities formed at the sub-raion level are deprived of some powers established by federal legislation, particularly budgetary rights. The authority to set local taxes is vested in territorial branches of the regional administration, which do not have elected bodies. Municipal budgets are incorporated in the regional budget in the form of expenditure plans.

- *Type III.*
One-tier structure regional state administration together with a two-tier local government structure in which some local governments are subordinate to others, in violation of federal legislation.

The first tier of local governments is comprised of big cities and raions; the second level of sub-raion cities and other populated areas within cities or raions. Both first and second-tier governments are elected by local residents. First-tier local governments engage in direct financial relations with the regional authorities. In contrast, financial relations between second-tier local governments and regional authorities are indirect, mediated by the first-tier local governments. First-tier local governments are responsible, among other things, for the distribution of regional grants to second-tier governments and for dividing the local shared revenue from regional or federal taxes. In this model, first-tier local governments essentially perform the function of the regional state authorities.

If the second-tier municipalities cover the entire territory in the jurisdiction of the first-tier municipality, the latter is usually made responsible for maintaining social infrastructure facilities that service the entire area. In these cases, local taxes are usually established by the second-tier municipalities. Sometimes, however, smaller municipalities delegate their taxation authority to the raion-level municipality, in which case the raion typically sets uniform tax rates for all municipalities located within its boundaries.

In cases where the boundaries of the first and second-tier municipalities do not coincide exactly, the first-tier municipality is responsible for performing all local government functions outside the jurisdiction of the second-tier municipality. Local taxes in this case are established by local self-governments of both levels. This model was dubbed the “*matrioshka-doll*” system.

The above-mentioned types of municipal organization can be combined within regions. For example, Tyumen oblast has 295 municipalities; of these, four are large cities, two are raions, and the rest are small townships. In Vladimir oblast, eighteen municipalities at the raion level have a “*matrioshka-doll*” structure, while the remaining seven municipalities follow the one-tier model. The second-tier municipalities in the Vladimir oblast are individual areas that have opted for local autonomy. However, regional authorities are unwilling to recognize them as full-fledged participants in intergovernmental fiscal relations and deal with them through the first-tier bodies of local self-government.

At present, there are about 29,500 local administrations in Russia, of which 12,261 are officially registered as municipal entities.⁶ Of these, only 11,691 have elected representative authorities,⁷ only 1,209 municipalities are endowed with municipal property and only 4,500 have fully independent budgets.⁸

3. Local Politics, Decision Making

3.1 Local Politics

With the exception of central regional cities, where local and regional politics are closely interwoven, the political process at the local level is virtually nonexistent, generally limited to the organization of local elections and referenda on forming or merging municipalities. Regional and federal parties are not usually represented at the municipal level, nor are most non-governmental organizations (unions of veterans, single mothers, families with many children, the disabled and others all operate almost exclusively in regional capitals). Debate over local policy issues occurs between the local administration and the regional authorities, rather than between the local administration and political parties or local interest groups. The reason for this state of affairs is clear: financially, local governments in Russia are strongly dependent on the governments of higher levels and therefore seek to please the regional bosses rather than voters. Due to the lack of local financial autonomy, a local government which does not fulfill its election promises to the local constituency may always assign the blame to the failure of the regional administration to provide adequate funding. The strength or weakness of local policy makers is thus determined almost exclusively by their ability to negotiate with the region.

Regional grants are traditionally allocated to localities to maintain existing social infrastructure facilities inherited from the old system, such as schools or kindergartens. Therefore, local leaders refuse to close down vacant or underused facilities, even in dire financial circumstances, since any reduction in the number of social facilities on the local government's balance sheet deprives them of leverage to increase regional grants in negotiations with regional authorities. Preservation of existing facilities at any cost becomes the single most important policy objective of local governments regardless of their actual usefulness to local constituency. This topic becomes central during election campaigns. Between elections, local officials are accountable to the regional authorities rather than to voters.

The financial dependence of local governments on higher authorities greatly contributes to widespread public indifference to local politics. This lack of interest is also rooted in habits established during the era of party rule, with its absence of public participation in political life and lack of interest groups formed by citizen initiative rather than directives from above.

One major problem stemming from low voter interest is that it is almost impossible to dismiss mayors that do not live up to voter expectations. This is most serious in regions with municipalities at the village level, where the lack of expertise in public administration is most strongly felt, for instance in Tuyment and Astrakhan oblasts. In Astrakhan oblast, the level of unemployment in many small villages is nearly one hundred percent and local tax collections are nil. In order to ensure the right of all settlements to create local governments, the salaries of local officials are paid from the oblast budget. Unemployed villagers therefore have very strong incentive to establish a local government, as it means the creation of jobs in the local administration. Afterwards, villagers often become dissatisfied with their mayors but find it easier to express their dissatisfaction through written complaints to the regional authority than through holding new elections. Until recently, regional authorities were not entitled to dismiss mayors elected by popular vote. Cases of early dismissals of mayors by voters themselves are few, another indication that the evolution of civil society and local self-governance in Russia is still in its early stages.

3.2 System of Local Elections

The legal basis of the local election process is established by the federal Law on Guarantees of Electoral Rights and Referenda (1997) and the Law on Local Elections (1996).

Starting from 1994, local elections were held at different times in different regions. The date of the first election was usually set by the regional government, with subsequent elections scheduled in accordance with municipal charters.

Terms of office for local councils differ by region and municipality, usually as established by regional legislation. The mandate for local councils is typically four years, but in some regions it may be two years for selected municipalities (Republic of Mordovia, Primorski krai, Vladimir, Irkutsk, Kamchatka, Pskov and Tver oblasts, and Koryak autonomous okrug). In the Republic of Tatarstan, Stavropol krai and Tver oblast, the mandate for some local councils is five years.⁹

In most territories, elections to local representative bodies were held under a majority electoral system with one-mandate electoral districts. In twenty-eight regions, multi-mandate electoral districts were set up, while Krasnoyarsk krai and Sverdlovsk oblast used a mixture of the two systems, where some representatives were elected according to a proportional voting system based on electoral slates.

Most candidates run for office as independents. Although there are no legal constraints on the participation of political parties in local elections, they play a role only in local elections of regional capital cities. The most active of these parties are the local branches of the Communist Party (CPRF) and the Liberal-Democratic Party of Russia (LDPR).¹⁰ Nevertheless, in some regions, including Voronezh, Rostov and Saratov oblasts, political parties do have a strong presence at the local level. In Saratov oblast, for instance, the political scene at all levels is dominated by the administrative party of Governor Ayatskov, which has absorbed the regional branches of such nationwide parties as “Our Home is Russia,” the Russian National Congress and the Democratic Choice of Russia. The only other party that won seats in the 1996 local elections in Saratov oblast was the CPRF (three seats in Saratov City Duma). In Rostov oblast, one out of fifty-five municipalities is headed by a member of LDPR, three by members of CPRF. The mayor of Rostov City was supported by Yabloko during the elections, though he himself is not a member of Yabloko.

The main criteria for voters in electing mayors and local council members are personal characteristics, such as the occupation of the candidate or past experience in government administration. Among candidates running for a seat in the representative branch of government, there are many teachers, medical doctors and directors of enterprises.

3.3 Public Participation in Decision Making

Referenda and citizen assemblies are stipulated in article 4 of the Law on Local Self-government as forms by which citizens can directly express their will. The municipal charter establishes procedures for holding local referenda or assemblies in accordance with regional legislation. According to article 22(5), “a decision made by local referendum does not require approval by bodies of state power, state officials or local self-government bodies. If a regulatory act must be issued in order for such a decision to be implemented, the relevant local government body shall pass the required act.” Procedures for holding referenda are also addressed in the Law on Guarantees of Electoral Rights and Referenda.

In addition, article 25 of the Law on Local Self-government grants citizens the right to legislative initiative on issues of local importance: “Bills on issues of local importance submitted by the citizenry to local government bodies are subject to mandatory consideration at open sessions attended by representatives of the public, and the results of such consideration shall be made public.”

Despite their statutory right to participate in decision making, however, citizens very rarely display legislative zeal. Legislative attempts often encounter administrative difficulties as well. For instance, alternative municipal charters were drafted in at least eleven out of forty-one municipalities in Saratov oblast, but none of these drafts was presented in an open session or put to the vote.

3.4 Ethnic Issues, Multicultural Government

At present, there are two federal laws that regulate the rights of ethnic groups in the Russian Federation, the Law on Ethnic and Cultural Autonomy and the Law on Guarantees of Indigenous Minorities' Rights. Both laws are of a general, declaratory nature, so many subjects of the Federation¹¹ adopt their own legislative acts on ethnic issues.

There are two forms of ethnic self-governance in Russia: extra-territorial (ethnic cultural associations) and territorial (local ethnic autonomies).¹² Ethnic cultural associations (ECA) are public associations of citizens who regard themselves as part of a certain ethnic community, based on the principles of self-organization and self-government. Some subjects of the Federation (Republic of Bashkortostan, Republic of Tatarstan and Republic of Komi) have passed their own laws on ECAs. ECA activities focus on educational, ethnic and cultural issues, for instance teaching national languages, organizing centers of national culture and handicrafts and publishing newspapers in national languages.

Local ethnic autonomies are organized where small indigenous groups (mostly peoples of the North, Siberia and Far East) live in compact communities. Local ethnic autonomies, usually small villages or sub-raion rural districts, are not given municipal status but are instead designated as "units of territorial public self-government." However, ethnic municipalities also exist in many regions, such as Evenk raion in the Republic of Buryat, Kalevala raion and Vepsskaya Volost in the Republic of Karelia and ethnic *uluses* in the Republic of Yakutia. The status of an ethnic self-government is conferred on a village or a raion by regional legislation.

Ethnic territorial autonomies may be granted certain privileges by regional law, such as a lower tax burden or admittance to regional universities and colleges without examination requirements. The Primorski krai government has created reservations, called "life-support territories," for sparsely populated ethnic groups.

Recent years have seen the rebirth of Cossack traditions. Cossack communities operate both as ethnic cultural associations and as territorial self-governments. In Rostov oblast, for example, Cossack groups act within the framework of a territorial self-government. In other regions, the Cossack movement has taken the form of an extra-territorial association called the Cossack Battalions.

The case of Chelyabinsk oblast illustrates the lengths to which regional administrations are willing to go in order to keep the increasingly powerful ethnic movements under control. In the summer of 2000, the administration of Chelyabinsk oblast attempted to dismiss the head of the regional Cossack Battalion, Ataman Loshankov, and appoint its own candidate. To this end, the oblast administration convened a conference of local Cossack *atamans*, even though the right to convene such conferences belongs exclusively to battalion atamans, pursuant to the Charter of Cossack Associations. Not surprisingly, the atamans who attended the conference were loyal to the oblast administration, and voted to dismiss Loshankov. Ataman Loshankov did not acknowledge his dismissal as legal and appealed against the oblast decision in court. However, the federal law on the Cossack movement has been tabled in the State Duma for five years, and without it, the courts are unable

to deliver any conclusive rulings. In the meantime, the oblast administration launched another move to win full control over the Cossack movement in the region by decreeing that all local Cossack atamans must pass an attestation procedure on pain of dismissal, and that the attestation committee shall be appointed by the oblast government. At the time of writing, the outcome of this situation was unknown, but the political fight between Loshakov's supporters and the oblast administration was in full swing.

3.5 Local Government Associations

According to article 10 of the Law on Local Self-government, "municipal entities shall have the right to establish societies in the form of associations or unions in order to coordinate activities and more efficiently exercise their rights and interests. These shall be subject to registration in accordance with the procedure established for non-profit organizations. Associations and unions of municipal entities cannot be assigned local self-government powers."

Until 1998 there were three pan-Russian organizations operating in Russia: the Union of Russian Cities, the Union of Small Russian Cities and the Russian Union of Local Authorities. Various associations have also been set up on a territorial basis (the Ural Cities association) or on a regional basis (Association of Municipalities in Orenburg oblast).

In 1998, a Congress of Municipalities of the Russian Federation was founded by thirty-nine unions and associations and has become the largest and most influential association of local governments in Russia today. The Congress participates in formulating draft federal budgets, federal laws, federal programs and other regulatory and legislative instruments on issues of local self-government. In addition, the Congress takes part in sessions of the European Union Chamber of Local Governments.

4. Functional Structure of Local Government

The following definition of the constitutional term "local self-government body" is provided in the glossary of the Law on Local Self-government: "Local self-government bodies refer to elected and other bodies empowered to solve issues of local importance which do not constitute part of state administration."

This definition is based on the provisions of the Constitution which state that:

- 1) Local self-government shall be exercised by citizens through their direct will and through elective and other bodies of local self-government;
- 2) Bodies of local self-government shall have autonomy in managing the municipal property, in formulating, approving and executing their local budget, in establishing local taxes and fees, and in deciding on other issues of local importance;
- 3) Bodies of local self-government are not incorporated into the system of bodies of state power.

Hence, bodies of local self-government can be elected or appointed. According to the Law on Local Self-government, an elected representative body, usually a local council, is mandatory for a settlement to be recognized as a municipal entity or self-governing territory, although citizen assemblies are also permitted to exercise the powers of representative bodies.

A municipal charter may provide for a position of mayor, an elected official to direct the execution of local self-governance in the municipality. There is no federal law on appointed bodies of local self-government or on the internal organization of executive bodies of local self-government.

The Constitution charges the Federation and its subjects jointly to establish the general principles of state administration and local government organization. Though somewhat vague, this wording is usually interpreted to mean that the regional and federal state authorities follow one structure of administration, with regional government bodies reproducing the major features of federal government bodies. The structure of local governments, on the other hand, is determined entirely at the discretion of the population, according to article 131 of the Constitution. Thus, both federal and regional legislation establish only general principles of organization for local self-government, while actual structures may vary among municipalities.

4.1 Local Councils

According to the Law on Local Self-government, the name of the representative local government body is established in accordance with the laws of a respective region, subject to ethnic, historical and local traditions. Common names include City (Raion) Duma, Council of Representatives and Council of Deputies. (In this text all representative local government bodies will henceforth be referred to as local councils). A local council consists of representatives elected on the basis of universal, equal and direct suffrage in compliance with federal and regional legislation.

The following responsibilities fall under the exclusive jurisdiction of local councils:

- to adopt local laws;
- to approve the local budget and report on its execution;
- to adopt plans and programs of local development and approve reports on their implementation;
- to establish local taxes and fees;
- to establish procedures for the management and disposal of local property;
- to monitor activities of local governments and officials.

4.2 Mayors

In addition to other elected local government officials, the municipal charter may stipulate an official to head the executive branch of local government. Titles vary, but the position is most frequently referred to as “mayor” or “head of local administration” (henceforth “mayor” will refer to all heads of

local government administrations). Mayors may either be elected by citizens or chosen by the local council from among its members. If elected directly by the citizens, the mayor may be entitled under the municipal charter to be a member of the local council and preside over its meetings. Both the scope of mayoral responsibilities and the term of office are established by municipal charter. The mayor is directly accountable to citizens and may also report to the local council if prescribed by the charter.

4.3 Different Structures of Local Government

The Law on Local Self-government provides for the following models of local self-government:

- A local council and an elected mayor who is not a member of the local council;
- A local council and a mayor who is a member of the local council;
- A local council, the chairman of which is the mayor;
- A local council, an elected mayor who is not a member of the local council and a municipal manager hired by the mayor with the consent of the local council;
- A local council and a municipal manager hired by the council on a contractual basis;
- A citizen assembly and elected elders;
- A local council with committees to oversee individual areas of executive activity and no mayor.

The Law on Local Self-government delegates to regions the right to establish the legal framework for local administrations, including their powers, procedures for establishment, terms of office, organization of activities, names of bodies, officials and elected persons of local self-government. Although the structure of local governments may vary from region to region, in practice the distribution of power tends to be similar. Most regions follow the “strong mayor/weak council” model, which can take many forms. A classic version is when the elected mayor also chairs the local council. Another variant is when the mayor is elected by the local council from its members. The “weak mayor/strong council” is a less common pattern, encountered mainly in rural areas. The combination of citizen assemblies and elected elders is encountered only in rural settlements with a small population, generally at the sub-municipal level. The hiring of managers on a contractual basis occurs rarely and is the exception rather than the rule.

Quite frequently mayors are to all intents and purposes appointed by regional governors. Mayors in Saratov oblast, for instance, are elected by the local council but nominated by the governor. Not once have council members voted against candidates proposed by the governor. If the candidate is not a council member at the time of elections, he or she is appointed to act as the head of local government until council elections are held.

As of 1 September 2000, over 12,261 municipalities¹³ were registered in Russia, of which only 11,691 have elected representative bodies. In over 7,000 municipalities, the mayors were elected directly by the citizenry by secret ballot. In more than 3,600 of these municipalities, the mayor both manages the local administration and presides over council sessions as a member of the local council. In 4,519 municipalities, elected officials were chosen from among local council members, including nominees

proposed by the regional government administration.¹⁴ In eighty-nine municipalities throughout five regions, the head of the local government is hired by the council on a contractual basis.¹⁵

4.4 Local Administration

By the definition accepted in Russia, a body of local self-government is an agency exercising powers within the territory of a city, urban or rural settlement or raion. The term “local administration,” though not found in official documents, is quite common in practice and refers to appointed executive bodies of local self-government, usually formed by the council or mayor to address issues of local importance.

Federal legislation offers no guidelines on how to delineate representative and executive powers at the local level, so regions address this problem in different ways, usually leaving it to the discretion of the municipality. Typically, the local administration is headed by a mayor. However, in some cases the executive branch does not exist and executive functions are performed through local council committees and a municipal manager. Cases when the only body of local self-government is a *starosta* (elder) elected by a gathering of the people are only common in small rural settlements.¹⁶

The internal structure of local administrations is left by federal legislation to the discretion of the local government. However, the functions of local administration departments (units, committees, et cetera) are largely determined according to a list of local functions assigned by the federal legislation to the competence of local self-governments. Since these local functions are primarily determined by the availability of objects of local infrastructure in the municipality, such as schools or medical clinics, the list of local administration departments essentially replicates the list of municipal property, but can also include departments that are responsible for non-mandatory functions that a municipality has assumed at its own initiative.

The term “issues of local importance” as used in the Constitution is further specified in a list of thirty items in article 6(2) of the Law on Local Self-government. The article states that “issues of local importance shall mean issues of securing vital activities of the population of a municipality defined as such by the charter of a municipality in accordance with the Constitution of the Russian Federation, this federal law and laws of subjects of the Russian Federation.” Issues of local importance, as established in the federal legislation, can be divided into four groups:

1. Provision of essential services such as health care, education, social and consumer services, water and energy resources supply, et cetera;
2. Ensuring appropriate living conditions through the maintenance of public order, information services, improvement of land and public transport.
3. Developing legislation to protect the rights of local citizens. This includes the development of norms equally binding for all natural and legal persons, bodies of government and public organizations within the municipality, including the regulation of the social and economic development of the municipality, the establishment of procedures for the use of natural resources, et cetera.
4. Adopting legislation to ensure proper use of municipal property.

According to federal legislation, local councils have exclusive jurisdiction over the legislation of universally binding rules and norms (items three and four in the above list). The competence of local administrations may include items one and two, as well as managing and disposing of municipal property and preparing draft budgets and resolutions for consideration by the local government.

Typically, a large municipality will have the following departments:

- a budget or financial department, responsible for formulating a draft budget and submitting it to the representative branch for consideration;
- a legal department, responsible for internal control of all documents prepared by the local administration, such as draft resolutions;
- a department for municipal property management;
- an economic department in charge of economic forecasting;
- a department of capital investments, responsible for drafting economic development programs and control over their execution.

Some municipal governments contain the following departments:

- a department of municipal contracts in charge of tenders;
- a public relations department.

In addition to these departments, many local administrations also have line departments responsible for particular functions, such as a department of education, a department of public transport, et cetera. Analysis of local budgets has shown that, without exception, the largest expenditures are in the fields of education, health care, maintenance of housing and utilities and welfare. Hence, the most frequently encountered departments in local administrations are often line departments.

Because federal legislation defines “issues of local government importance” in terms of facilities rather than services, the functions of a particular local government is largely dependent on its territorial status. Most municipalities at the sub-raion level do not possess health care facilities and consequently do not include health care among their local government responsibilities or provide funding from the local budget.

This uneven distribution of local government functions is not so pronounced in regions with municipalities at the city or raion level, since raions typically contain health care institutions in central cities as part of the traditionally existing infrastructure. Nor is there generally a disparity in the field of education, even among sub-raion municipalities, since educational institutions normally service smaller segments of the population and are more evenly distributed across the territory than health care institutions. However, specialized schools providing services to residents of several municipalities may give rise to uneven distribution of functions.

One of the major local government functions, especially in terms of the cost involved, is the execution of federal mandates. Federal mandates are federal laws that establish specific social guarantees for certain population groups in the form of benefits and subsidies. Execution of federal mandates is

delegated by federal legislation to the regional level, which transfers it to municipalities without the requisite funding, even if funds have been distributed to the region for that purpose. The most significant federal mandates are child benefits, to be paid monthly to needy families with dependent children, and subsidies for disabled persons and war veterans.

It should be noted that the Law on Local Self-government classifies the provision of social support to local residents among issues of local significance. However, in the case of child benefits and other federal mandates, local governments do not have discretion over the intended beneficiaries or the amount of the subsidy, both of which are established by federal legislation. Although over one hundred federal mandates are imposed upon local governments, the biggest costs for sub-national governments are associated with the mandates to the three above-mentioned categories. Responsibility for these expenditures may be variously assigned; some regions recognize these federal mandates as a regional responsibility, while others delegate them to the local level. As long as the problem of unfunded federal mandates remains unresolved by the federal government, lawsuits from the population continue to accumulate.

If a municipality has a “matrioshka-doll” structure or possesses sub-municipal local governments within its territory, the local administration may have departments within its organizational structure responsible for dealings with second-tier local governments.

In recent years, it has become increasingly common to contract municipal service provision out to private sector enterprises and local administrations have accordingly set up departments of municipal contracts. Some municipalities may also establish departments of public works to address employment maintenance or job creation problems.

In cases where the cost of certain municipal services must be covered by the population in full or in part, municipalities must establish prices and tariffs. Thus, city and raion administrations will often have pricing and tariffs departments to prepare proposals for council approval. The prices most frequently regulated by local governments are rent for housing, water and sewerage tariffs, heating fees and public transport fares.

4.5 Local Administration in the City of Petrozavodsk: A Case Study

One example of local administration organization is presented in the chart below, which shows the structure of local government in the City of Petrozavodsk, the capital of the Republic of Karelia. Local government in Petrozavodsk follows the “strong mayor/weak council” model. The mayor is the head of local government and has the city administration and four deputy mayors subordinate to him.

The city administration carries out general administrative functions (general office functions, information and analysis, internal audit) and oversees the operation of the local police, civil defense and military draft boards. Neither civil defense nor the military draft is recognized as a local government

function under current federal legislation. In practice, however, the federal Ministry of Defense delegates these functions to local governments, which must then provide funding from their own budgets. Regional and local police departments are also traditionally agencies of the federal Ministry of Interior and are not directly subordinated to local governments. In 1998, however, the Republic of Karelia was a pilot region in a national experiment which subordinated local police forces to local governments, and since then policing has been a local responsibility in Petrozavodsk.

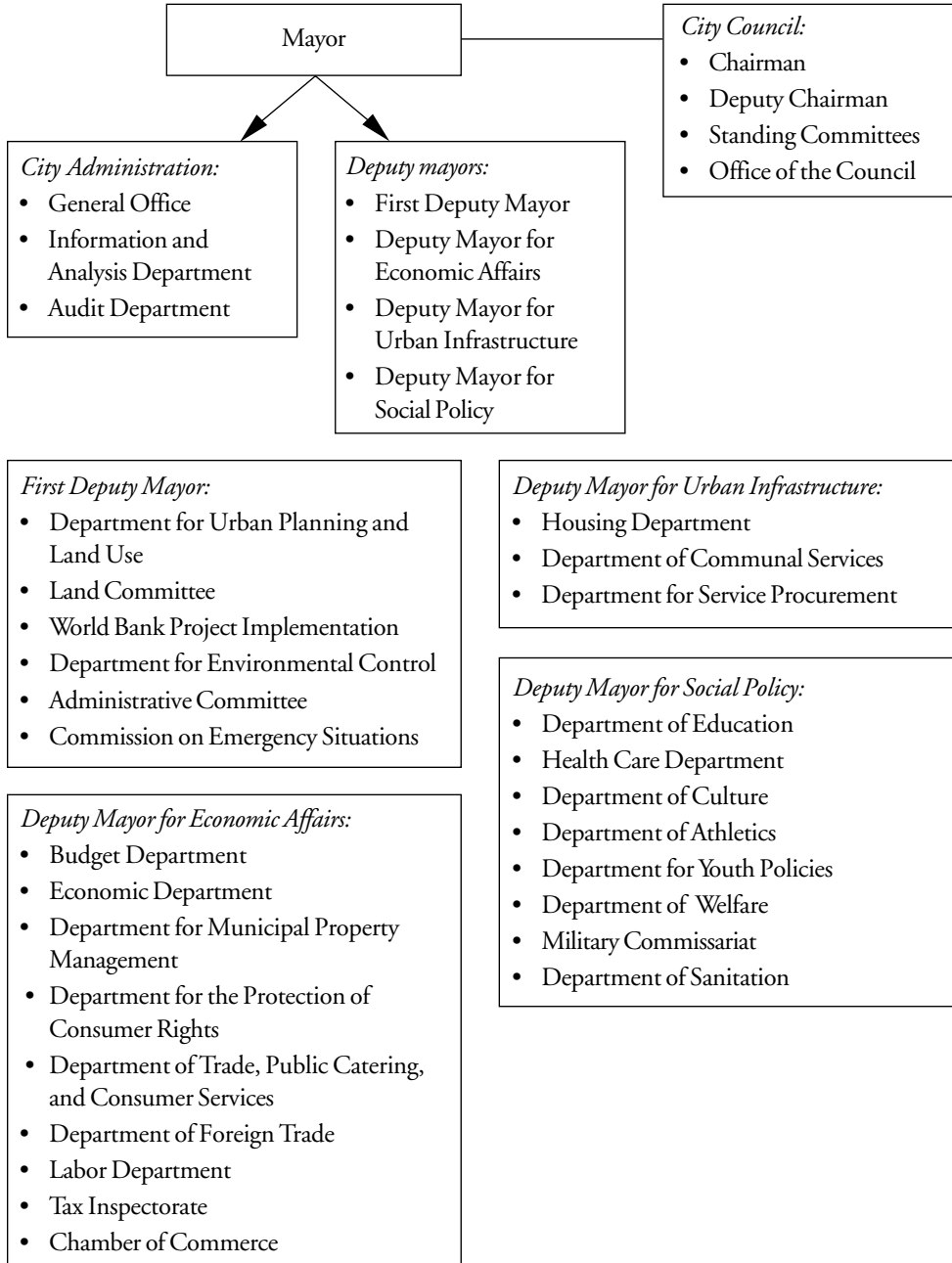
Each deputy mayor is responsible for a separate group of functions. The deputy mayor for economic affairs is responsible for the operation of the budget department, the economic department, the department for municipal property and the department for protection of consumer rights. In addition, he is responsible for the trade, public catering and consumer services department, the foreign trade department, the labor department, the tax inspectorate and the chamber of commerce. The line department for trade, public catering and consumer services is an unusual feature in municipal government, since these are services normally provided by the private sector. Nevertheless, under current federal legislation, local governments are responsible for ensuring that local residents have access to these services through either the public or private sector. The presence of a foreign trade department testifies to the fact that the city has contacts with foreign investors. Due to the economic and legal framework in Russia, foreign investors must seek to establish contacts with local administrations in order to secure all the necessary permits and tax breaks. City administrations do not commonly possess tax inspectorates, usually agencies of the federal Ministry of Taxes and Levies. Although local tax inspectorates are not divisions of regional or local government, they may work closely with cities and raions and depend on local governments for housing, office space and communal services. The Law on Local Government Finance allows local governments to set up local tax offices for the purpose of collecting local taxes but local governments seldom exercise that right, preferring to rely on federal tax agencies. The City of Petrozavodsk is a rare example of a municipality with its own tax revenue unit.

The deputy mayor for urban infrastructure supervises the municipal housing department, the service procurement department and the department for communal services (water, central heating, electric power, gas, public transport and parks). Some activities related to municipal housing have been privatized, such as housing maintenance or servicing of television aerials, and are now contracted out to private companies, hence the necessity for a service procurement department.

The deputy mayor for social policy oversees departments and committees for education, health care, culture, athletics, welfare and sanitation, all of which are assigned to local governments by federal legislation. This deputy mayor is also in charge of the Military Commissariat, which is another example of the unlawful delegation of federal functions to local governments.

The first deputy mayor oversees the departments of urban planning and environmental control. The City of Petrozavodsk is currently participating in a World Bank project of divestment and municipalization of housing previously owned by state enterprises, and the first deputy mayor is also responsible for coordinating local efforts to this end.

Figure 4.1
Local Government Structure in Petrozavodsk, Republic of Karelia



4.6 Organization of Local Administrations by Sector

Although each municipality may determine its structure of local administration, in practice the prevailing model of administrative organization both at the regional and local levels follows the sectoral, or line department, model inherited from the Soviet era. The salient feature of this model is that budget appropriations are remitted to the accounts of the line departments. Each line department has its own share of the budget and is normally free to choose suppliers and determine the terms of the contract. In a system where budgets are allowed to operate under a deficit, heads of line departments are assured that the actual overall revenues will not cover all expenses that were approved for the current year. They therefore conclude contracts for the maximum amount of work in order to pressure the administration to finance the already signed contracts. Whether funding is provided depends on the negotiating skills of the department heads. In the case of a strong negotiator, the contracts will be financed at the expense of other departments and programs. Otherwise the contracts remain and deferred payments accumulate. Before funds may be spent on current budget expenditure needs, they must first go to repay overdue liabilities carried over from the previous year, by which time the current expenditure needs exceed the remaining funds by far.

The sectoral model of administration is cost-driven and inefficient, creating disincentives for line departments to reduce expenditures and improve management.

One method of preventing line departments from spending appropriated funds without approval is transition to a system of centralized procurement. In the case of centralized procurement, each line department submits a detailed request for funding to the procurement office of the local administration, which screens them for adequacy, needs, et cetera. Once all the requests are pooled into a consolidated plan, similar items are grouped together and procured through tenders. Many local governments have realized considerable savings through centralized procurement. The City of Omsk, for instance, was able to save from ten to thirty percent of previous-year expenditures on certain items. Consequently, the new system is gaining popularity among local governments, although the transition is often hampered by opposition from the line departments.

5. Public Service Provision

Local governments are responsible for the following, according to current federal legislation:

- maintaining municipal housing;
- establishing and maintaining municipal educational institutions;
- establishing and maintaining municipal health care and sanitation institutions;¹⁸
- establishing and maintaining municipal law enforcement authorities;
- regulating planning and development;
- organizing, maintaining and developing municipal services such as electricity, gas, sewerage, heating and water supply;

- organizing subsidized fuel deliveries to households and municipal institutions;
- constructing and maintaining local roads;
- improving land and municipal parks;
- waste disposal;
- funeral services and cemeteries;
- establishing and maintaining municipal archives;
- public transport and communications;
- fostering the provision of trade, catering and consumer services;
- effectively managing cultural institutions;
- conserving historical and cultural monuments in municipal ownership;
- organizing and maintaining the municipal information service;
- effectively managing municipal mass media;
- effectively managing athletic institutions;
- welfare services and promotion of employment;
- protecting the environment;
- organizing the municipal fire department and promoting fire safety.

As shown above, municipalities are charged with the responsibility to finance and deliver a fairly wide range of public services. However, this list of functions is not mandatory for each and every municipality, since the basket of public services offered by local governments in Russia traditionally depends on the availability of the relevant social infrastructure facilities. Likewise, the delineation of service provision responsibilities between federal, regional and local authorities depends on the distribution of property in social infrastructure facilities among the three levels of government (see table 4A.8).

At present, 11,209 of the 12,261 municipalities registered in Russia own municipal property.¹⁹ Among these:

- 8,608 own municipal schools and kindergartens;
- 7,694 own municipal health care institutions;
- 7,859 own municipal housing and non-residential buildings;
- 4,714 own municipal enterprises.

The remaining 1,052 municipalities do not own municipal property and thus should not have been registered as municipalities under current federal legislation.

Since social infrastructure facilities are scattered unevenly across jurisdictions, different municipalities deliver different sets of services. For instance, general and specialized hospitals are usually located in regional and raion centers. Although these hospitals provide services to residents of neighboring municipalities, they are funded by the city where they are located. Cities are usually willing to fund these facilities, since the size of regional grants is directly dependent on the number of public institutions supported from the local budget. However, because the grant is based on number of facilities rather than services provided, the grant is remitted as a general purpose grant with no strings

attached, meaning that the local government is not obliged to spend fixed amounts on medications or other supplies. In practice, local governments never allocate a sufficient sum for these purposes, since that would amount to wasting local funds on cross-subsidizing residents of other municipalities. In some cases where the failure of local governments to support inter-municipal service provision becomes too visible, regional governments assume responsibility for the facility in question.

Table 4A.6 gives an overview on the degree of decentralization in public service provision throughout Russia. In general, the share of local budgets in consolidated regional-local expenditures on health care is noticeably higher than average in regions where there is significant fragmentation of local jurisdictions. Because the bulk of health care expenditures are on the maintenance and operation of hospitals, which are unevenly distributed among the many municipalities, regional governments must often assume funding responsibility. This disparity is not so great in the case of schools and cultural institutions, which are more evenly spread across localities.

5.1 Methods of Local Service Delivery

Public services may be either provided by municipal institutions and communal enterprises or contracted out to private companies. Most communal enterprises have been privatized and now officially belong to the private sector. Remaining municipal property essentially consists of institutions that provide free or heavily subsidized services, such as schools, kindergartens, hospitals and outpatient clinics, municipal housing stock, libraries and public conference halls. All of these institutions create expenditures, not revenue. Privatized communal enterprises such as public transport companies, customer services and public utilities also continue to depend on local government support, despite charging user fees. Quite often local government subsidies are their main source of income. For instance, public transport companies typically cover only thirty to forty percent of their costs through fares, while the balance is covered by the local government. Communal enterprises that remain wholly publicly owned usually operate separately from the local administration, on a contractual basis. Neither the revenues nor the costs of such separate municipal enterprises are shown in the local government budget. Revenues raised by municipal enterprises are considered to belong to the enterprise rather than the local government, and the same applies to expenditures. The local government budget only shows any subsidies allocated to municipal enterprises to cover their financing gap. Municipal enterprises are rarely net revenue earners; if they are and have for some reason failed to hide their revenues in extra-budgetary funds, their net revenues are shown under “revenue from the use of state and municipal property” in the municipal budget.

Services of municipal schools are not entirely provided free of charge, as gifts to teachers and “voluntary donations” by parents for school repairs and equipment purchases have become common practice. Directors of prestigious schools have also been known to solicit bribes for admitting students. Teachers’ salaries, although regulated by federal law, are normally paid from local budgets, and teachers’ strikes due to non-payment of wages have become a frequent occurrence.

The situation in the field of health care is no better. Lack of funds limits the range of medicines purchased by municipal hospitals and most medications, X-ray film, blood supplies and expensive imports must be paid for by patients. It has become usual for hospitals to create commercial departments to earn money for hospital maintenance. And even though this extra money is earned using hospital facilities and equipment, municipal authorities have no share in the profit and exercise no control over the targeted use of these funds. Desperately short of funds, local administrations leave hospitals to their own devices.

One of the components of the housing and utilities reform included municipalization of enterprise housing followed by the privatization of municipal housing to tenants. However, rents remain low, even in the privatized housing stock, and do not generate sufficient funds to pay for maintenance. Local budgets therefore continue to bear the heavy burden of subsidizing both municipal and privatized housing.

At present, the federal government is carrying out reform of the housing and communal utilities sector to gradually increase the share of housing costs covered by households and reduce the amount covered by local governments. Ultimately, the goal is to have households cover all costs related to maintenance and repairs of housing, engineering service lines and utility systems.

Thus, by subsidizing prices and tariffs for housing and utility services, local governments are implementing federal legislation which on the one hand mandates that they organize fuel provision to households and maintain municipal housing, power, gas, heat and water supply systems and sewerage, while on the other hand it stipulates that the cost of those services shall not exceed a specified, though gradually increasing, share of household income.

From time to time, user fees for public utility services such as gas, water, power and heat supply are increased. According to the Russian Government Decree on Improvement of Payment Systems for Housing and Utilities, local governments approve rates and tariffs for all housing and public utility services except for electricity and gas tariffs, which are established by regional heat and power commissions. Although prices for electricity and gas are regulated, local governments must also subsidize those public goods by covering the difference between regional and local tariffs from their budgets. Since household incomes are low, the common practice is to establish lower tariffs for residents and higher ones for businesses, thus subsidizing residents to the detriment of producers. This policy obviously weakens the competitive strength of local products and in the long run undermines the revenue base of local budgets. Moreover, since local governments themselves are consumers of gas and electricity, they have accumulated extensive debts to gas and power suppliers, resulting in increasingly frequent gas and power cuts, sometimes to the point of disconnecting entire cities and townships, as in Primorski krai.

Local authorities could have realized significant savings had they refused to subsidize housing and public utility services and instead provided targeted subsidies to users. However, targeted subsidies to users (rather than subsidies to producers) have not been widely practiced in Russia so far, giving

rise to absurd situations. For example, the housing and utility subsidy provided to tenants in municipal housing stock is currently calculated according to area. Hence, the greatest housing and utility subsidies are paid to tenants of the largest apartments, while less affluent families occupying smaller apartments receive much smaller ones. Residents of rural areas where there is almost no municipal housing and a much lower level of income receive no subsidies at all for housing maintenance and repairs. They receive only fuel (coal, wood and *mazut*) at subsidized prices, that is, assistance in kind calculated according to the number of eligible beneficiaries (old age, veterans, et cetera) rather than the area that requires heating.

The militia is historically a federal agency with local branches funded through the Federal Ministry of the Interior, although municipalities are free to set up their own municipal law enforcement authorities. In 1998, an experiment was conducted in a number of pilot municipalities to test a proposal to delegate local police to local governments. The experiment, which involved ten regions (all municipalities in the oblasts of Novgorod and Saratov and the Republic of Karelia and selected municipalities in other participating regions, primarily large cities) was quite successful. The cities of Volgograd, Omsk and Perm have accumulated noteworthy experience in creating municipal police forces. Although this experiment was not extended to other regions, due to opposition from the Ministry of Interior, some of the pilot regions still continue to maintain public order through local authorities. In Tyumen oblast, for example, funds to support local police officers were transferred to local budgets, and local administrations now enter into contracts with regional police headquarters on the protection of public order in their jurisdictions.

In a new form of service delivery, not yet common, several municipalities may jointly support a facility that provides services across municipal borders. Gatchina raion in Leningrad oblast, for example, established contracts with neighboring municipalities to co-finance a specialized medical center servicing the entire area.

In general, the quality of services is controlled either by administrative oversight, in the case of municipal enterprise services, or as specified by the contract, in the case of a private enterprise. Traditionally, consumer complaints have played an important role in monitoring the quality of public services.

Municipal contracts provide an extremely attractive option for private companies. In view of non-payments due to the economic crisis, enterprises view municipal contracts as an ultimately profitable business despite the delays in payment (see section 5.6). Although municipal contracts bring no tax benefits to the private company involved, the option to pay taxes in kind is a major benefit. Both suppliers of municipal enterprises and institutions as well as enterprises that have contracts with the local administration may enter into in-kind offset arrangements. The advantage of this arrangement for enterprises is that their products are valued at fixed prices which often exceed the market value by far. Local authorities view the arrangement as a means of collecting at least some form of tax from taxpayers as well as an opportunity to overstate expenditures in hopes of obtaining a greater regional transfer in the following year.

5.2 Local Government Involvement in Profit Enterprises

The Law on Local Self-government gives local self-governments the right to establish for-profit enterprises, agencies and organizations, and deal with issues of reorganizing and liquidating such enterprises. More and more local governments in Russia are setting up municipal companies purely for profit reasons. Local governments are usually nominal owners, often with only a permit for operation serving as their contribution to the stock, but occasionally they may establish companies entirely at their own initiative. For example, the administration of Pryamitsino Township in Kursk oblast started a mushroom growing and handicraft business. Income from this venture, in addition to funds raised from the citizenry, was dedicated to building a local gas supply pipeline and housing repairs.

In the mid-1990s, many municipalities established municipal banks.²⁰ But with their small levels of capital and inadequate management, these banks were not able to survive the increase of mandatory reserves required by the Central Bank after the August 1998 financial crisis in Russia.

Local administrations have also shown a tendency to contribute municipal property (land or buildings) to the authorized capital of profit enterprises. The Office of the Public Prosecutor blocks these attempts on grounds of incompatibility with federal legislation. After protest by the public prosecutor, the Duma of Togliatti City repealed a resolution whereby local administration officials were allowed to include municipal property in contributions to the authorized capitals of new companies of various ownership and legal forms. Where other local governments have made similar attempts, criminal proceedings were instituted against mayors for exceeding their authority and illegally participating in entrepreneurial activities.

Although it is not illegal for Russian municipalities to engage in commercial activities directly or through municipal enterprises, existing limitations make it difficult without violating the law. In addition, revenues from such activities are a liability for local governments, as their inclusion in the budget may lead to a reduction of financial transfers from above. In order to hide commercial revenues, municipalities generally set up various extra-budgetary funds not reflected in budget execution reports. Hence there is no reliable information about the true range of commercial activity among local governments. Revenues stated under the category “revenue from the use of state and municipal property” do not normally exceed one to five percent of total local revenues.

5.3 Distribution of Power between Local and Regional Governments

The unclear division of powers between regions and municipalities has become a pressing issue in Russia. It is not infrequent for regional administrations to intervene in the activities of local governments and trespass on their lawful jurisdiction by arbitrarily limiting their scope of competencies, by depriving them of powers and financing or by delegating regional state functions without the requisite financial support.

Maintenance of municipal educational institutions at the sub-raion level is considered to be a local function; however, general administration of education is traditionally assigned to the raion level, where educational authorities provide methodological guidance in keeping with federal Ministry of Education guidelines. Formally, these authorities are subdivisions or territorial branches of the regional administration in raions, but in practice this is an example of dual subordination to the regional government and the federal Ministry of Education. The same is true of municipal health care institutions, except that funding of hospitals is more often assigned to the raion or regional level by the regional legislation.

Only rarely do regional and local administrations enter into contracts to determine the exact responsibilities of each party for the delivery of services that fall under joint jurisdiction. Under such a contract a municipality would assume responsibility to provide the premises for a branch of the federal Ministry of Welfare, while the region would ensure timely payments of benefits to eligible groups and wages to the employees of the local welfare office.

Most regional experiments in voluntary or compulsory delegation of local powers to the regional level derive from the desire to restore the vertical hierarchy of government administration where the raion center and raion would have the same department of education, department of social security, financial service and tax service. The fact that this runs contrary to federal legislation on local government does not hinder regional authorities.

5.4 Municipal Property

Municipal property is recognized as a form of property by the Constitution, which establishes that local governments operate and manage municipal property on behalf of the owners, that is, the local residents. Property rights in general are governed by the Civil Code of the Russian Federation (1994, 1995). Municipal property rights are further addressed by the Law on Local Self-government, as public property is one of the financial foundations of local self-governance.

Article 29 of the Law on Local Self-government contains an open list of the types of assets that can be held in municipal ownership. These include local budget and extra-budgetary funds; local government assets; municipal lands and natural resources on municipal property; municipal enterprises and organizations; municipal banks and other credit and loan institutions; municipal residential and non-residential building stock; municipal institutions of education, health care, culture or sports; and other movable or immovable property. There are no restrictions imposed on the types of property that may be owned by municipalities.

Article 215(3) of the Civil Code states that municipal property can be assigned to municipal enterprises or institutions or operated directly by the local government. Article 124(2) of the Civil Code states that municipalities shall be governed by the same regulations that apply to other legal entities, unless the law or the special nature of local government require otherwise. In fact, in their capacity as

economic agents, local governments have special features that distinguish them from other legal entities. First, the owners of municipal property are local residents, therefore local governments should not engage in activities that put the municipality at risk of insolvency. Secondly, since local governments establish the rules that apply to all local businesses, they have to potential to create conditions giving a competitive advantage to municipal enterprises. Hence, legislation imposes certain limitations on uses of municipal property by local governments and on the possibility to foreclose on municipal property.

Because of the special significance of land and other natural resources, foreclosure on this type of municipal property is permitted only in cases explicitly stipulated by law. Also, the Civil Code distinguishes between municipal property managed directly by local governments and municipal property assigned to legal entities founded by local governments. Local governments may establish two types of legal entities. One type is municipal enterprises created to generate profit, not necessarily to provide public services. These are separate institutions operating under the supervision of the local government, which oversees the targeted use of funds and has a share in the profits. The other category includes municipal institutions, spending organizations that provide public services on a free-of-charge or heavily subsidized basis. If a local government defaults on its obligations, it can be held liable only with the property that was not previously assigned to any other legal entity, whether municipal enterprise or municipal institution. If a municipal enterprise founded by the local government defaults on its obligations, then the local government cannot be held liable and *vice versa*. If a municipal institution defaults on its obligations, it can be held liable only with its financial assets. If these assets do not suffice to meet the obligation, the subsidiary liability is passed on to the local government.

Municipal institutions are often permitted to engage in profit making activities. In contrast to municipal enterprises, they are not required to share any profit earned with the local government. Property purchased by this profit becomes their own and is accounted for on a separate balance sheet of the institution in question.

To limit the engagement of local governments in private sector risks, Article 66 of the Civil Code prohibits local governments from participating in joint-stock companies and partnerships. However, the same article allows municipal enterprises or institutions to do so, provided that they have permission from the local government and that the law does not provide otherwise. Local governments are thus permitted to engage in corporate profit-making activities through intermediaries that they have established.

In order to possess property, a locality must officially registered as a municipality. After registration, the municipality has the right to create or acquire property in any way permitted by law, like any other owner. With the ongoing transition from the single system of state property to the coexistence of diverse forms of property, most municipal property was acquired through transfers of federal or regional property into municipal ownership. Article 5 of the Law on Local Self-government stipulates that transfers of federal property to municipalities are regulated by federal laws, while transfers of regional property to municipalities are regulated by regional laws. However, transfer of property to

municipalities began prior to adoption of the Law on Local Self-government. Earlier transfers came under a different set of regulations, the most important of which were:

- Resolution of the Supreme Soviet of the Russian Federation on Delineation of State Property in the Russian Federation between Federal Property, Property of a Subject of the Federation, Including Krai, Oblasts, Autonomous Oblast, Autonomous Okrug, the Cities of Moscow and Saint Petersburg, and Municipal Property, 1991.
- Order of the President of the Russian Federation on Approving the Statute on Determining the Composition of Federal, State and Municipal Property Item by Item and the Procedure for Property Right Registration, 1992.
- Resolution of the Government of the Russian Federation on Procedures for Transferring Cultural and Communal Facilities Held in Federal Ownership to the Property of the Subjects of Russian Federation and Municipalities, 1995.

When these regulations were passed, local governments existed as multi-tier hierarchies. Property rights were transferred to raion administrations as the first and highest level of local government, placing sub-raion cities, townships and rural districts at a disadvantage. Since local government reform established equal status for all municipalities, many of these earlier property transfers need to be revised in line with the new distribution of spending responsibilities. Stavropol krai provides one example of the problems that arise when the transfer of property does not correspond to new municipal boundaries. During the bulk of property transfers in the early 1990s, the property in Stavropol krai was transferred to raions. Later, local governments were organized at the sub-raion level, but most property remained in the ownership of former raions, now territorial branches of regional administration. Most poor municipalities that lack revenues to support facilities have agreed to assume property rights in order to receive regional funding. However, a few of the richer municipalities have refused to accept schools and hospitals, since they do not receive support from the krai budget due to their wealth.

6. Local Finance

The principal law governing financial systems at the local level is the 1997 Law on Local Government Finance. The development of local self-government in the Russian Federation was not supported by the transfer of genuine fiscal autonomy to the local level. Although local governments form their own budgets, their autonomy over revenues is very limited. Yet in the majority of regions, a sizeable portion of consolidated budget expenditures has to be paid by municipalities. In 1999, the municipal share amounted to twenty-eight percent of the national consolidated budget and fifty-three percent of the sub-national budget (see table 4A.7). As local tax and non-tax revenues can cover only a small portion of local spending needs, the resulting financing gap is covered by the regional governments through grants and shared revenues from federal and regional taxes (see table 4A.8). In 1999, about twenty-four percent of local budget expenditures were financed with grants (transfers, subsidies, subventions and mutual settlements) from higher-level budgets (see table 4A.8); when combined with shared taxes, they accounted for roughly sixty-nine percent of local budgets (see table 4A.9).

As the local proportion of shared taxes vary from year to year, local governments cannot predict the amount of revenue that will be available to them, and in effect bear no responsibility for forming and executing their budgets, or for the quality and quantity of services provided to the public.

6.1 Expenditures

6.1.1 Structure of Expenditures

The largest areas of expenditure in local budgets are housing and utilities, education and health care (see table 4A.10). The size of expenditures on housing and utilities is due to housing rents and utility charges, which are heavily subsidized by local governments. Since these subsidies apply only to municipal housing, they comprise a major share of expenditures only in large cities with substantial housing stock. In rural areas, the majority of houses are privately owned, so housing and utilities represent a much smaller share in total local spending.

In rural municipalities, the largest expenditures, accounting for more than half of all budget resources, are in the field of education. Since hospitals are for the most part located in large cities, rural municipalities spend less on health care, mainly providing paramedic and obstetric services.

6.1.2 Expenditure Norms

In contrast to legislation in other countries, Russian legislation, particularly the Budget Code, refers to federal expenditure norms to be observed by all levels of government when formulating budgets. But the system of norms has not yet been developed, let alone approved. Although the Russian Ministry of Economy and sector ministries have not given up attempts to develop such a system, it will be difficult at best to develop a uniform system of expenditure norms for a country as vast as Russia. Only a few expenditure norms have been established at the federal level so far. With few exceptions, these have not been mandatory spending standards, but rather guidelines used by higher levels of government to allocate equalization transfers to localities.

At present, the only effective norm established at the federal level is the Russian Government Decree on the Uniform Schedule of Wages for Workers of Budgetary Institutions. Workers of budgetary institutions are employees of all institutions funded from the budget at any level, including the local level, except for the administrative staff of governments.

6.1.3 Federal Mandates

Local autonomy over expenditures is narrowly constrained by federal mandates that entitle various population groups to benefits and subsidies. These entitlements are prescribed in over 150 federal legislative acts, forty-five of which were passed before 1992. Local authorities are mandated to pay

thirty-seven types of subsidies from local budgets, with eligible groups comprising a large proportion, if not the entirety, of the local population.

Responsibility for most of those entitlements and subsidies was assigned to local governments by federal legislation from the outset. The funds required for these federal mandates are estimated to outrun all revenues of most municipalities, including transfers. For instance, according to the estimates made by the officials of Kirovsky raion in Leningrad oblast, the funds needed to finance the mandates would more than exhaust all available municipal budget revenues. Total reported budget revenues in 1997 were sixteen percent less than the total estimated cost of federal mandates.

The Law on Local Government Finance provides that “local self-government bodies shall be entitled to execute any decisions of the state administration that result in increased expenditures or lost revenues for the local budgets within resources provided in compensation.” However, in the overwhelming majority of cases, local authorities fail to establish the inadequacy of funds provided “in compensation,” since this can be proven only where funds are transferred for particular purposes. In practice, the funds required for compensation are merely “taken into account” when establishing the local proportion of shared tax revenue or in determining total transfer amounts. Meanwhile, local authorities face lawsuits for non-payment of entitlements, often losing their case in court.

Examples of federal mandates include:

- subsidies relating to payment for housing, utilities, electricity and fuel;
- subsidies for fuel purchases by disabled persons;
- wages for teachers, doctors and certain other categories of budget employees;
- monthly cash compensation to teachers for the cost of book purchases;
- provision of free medicine to certain population groups;
- payment of monthly child benefits;
- payment of benefits to persons with custody of children;
- free meals in schools and hospitals;
- free milk products for children under two years of age;
- free prostheses for disabled persons;
- funeral subsidies;
- subsidies for telecommunication, municipal transport and certain other services for World War II veterans, old-age pensioners, families of World War II victims, victims of the Chernobyl disaster, families with many children, heroes of the Soviet Union and of the socialist labor movement, blood donors, military servicemen, police officers, customs officers, prosecutor’s office workers, court officers, tax police officers and traffic police officers.

6.2 Revenues

The standard classification of government revenues and expenditures currently in effect lists the following categories of local government revenues:

- local taxes and fees;
- permanently assigned taxes and fees;
- shared tax revenues (at rates decided annually);
- non-tax revenues;
- grants from higher-level budgets:
 - transfers,
 - subsidies,
 - subventions,
 - mutual settlements.

6.2.1 Local Taxes and Fees

Prior to 1998, local governments were entitled to levy twenty-three local taxes (see table 4A.11). However, a regional sales tax was introduced in 1998, replacing sixteen of the local taxes. Local governments were instead assigned sixty percent of sales tax collections, which often fail to compensate for the loss of revenue from the repealed taxes. Revenues from local levies in 1999 amounted to thirteen percent of all revenues for municipalities.

Even prior to the introduction of the regional sales tax, local taxes failed to ensure fiscal autonomy for municipalities, since the rates of taxation were virtually legislated by the federal government. Furthermore, the list of local taxes was exhaustive, barring municipalities from introducing new taxes at their own discretion. Local governments could exercise some autonomy in determining the tax base and rates for a very limited number of taxes, such as the tax on the construction of manufacturing facilities in health resort areas and fees for the right to engage in trade, parking, racecourse participation, the right to shoot movies and TV films, street cleaning and setting up gambling establishments.

The fee for street cleaning, levied on gross sales of enterprises, has become a significant source of own budget revenue for a number of municipalities. In some cases, revenues from this tax amounted to twenty-five percent of all tax collections, clearly more than was spent on street cleaning. In 2001, the Russian government is planning to repeal all turnover taxes, including this one, and compensate for the resulting revenue losses by assigning five percent of collections from the enterprise profits tax to municipalities.

Article 15 of the Russian Federation Tax Code, which determines the list of local taxes and fees, has not gone into effect. However the list, which contains only five local taxes, is indicative of the intentions of federal legislators towards local taxes. Local taxes specified in the article are:

- land tax;
- personal property tax;
- inheritance and gift tax;
- advertisement tax;
- local license fees.

This article also stipulates that once a region institutes the immovable property tax, local governments in its jurisdiction will cease to levy the land tax and personal property tax.

6.2.2 Non-tax Revenues

The main sources of local non-tax revenues are:

- revenues from use of municipal property and activities;
- revenues from sales of municipal land and intangible assets.

These revenues are an independent source of local budget revenues. Starting from 1999, the budget classification treats part of the revenues from sales of public property as a source of deficit financing, since these are non-recurring revenue sources.

In addition to the local tax and non-tax revenues mentioned above, the Law on Local Government Finance allows local governments to collect “self-imposed charges” or voluntary lump-sum contributions from citizens in accordance with the municipal charter. Due to the system of budget reporting, it is difficult to estimate the significance of these contributions in total revenues. If any municipalities collect these contributions, they are most likely used as a revenue source for forming extra-budgetary funds rather than as a source of budget revenues.

6.2.3 Federal and Regional Tax Revenues Permanently Assigned to Local Budgets

According to the Law on the Tax System, the following federal tax revenues are assigned to localities on a permanent basis (the percentage of the tax granted to local governments is given in parentheses):

- royalty for use of subsoil resources (local government share fixed according to type of resource);
- stamp duty (one hundred percent);
- state fee (one hundred percent);
- inheritance and gift tax (one hundred percent);
- income tax on individuals engaged in entrepreneurial activities (one hundred percent).

Regional tax revenues assigned to localities under this law include:

- enterprise property tax (fifty percent);
- sales tax (sixty percent).

Assigned tax revenues in 1999 amounted to 13.7 percent of all revenues for municipalities.

6.2.4 Shared Tax Revenues

Shared taxes are a principal tool of intergovernmental fiscal regulation at the regional level and account for the largest amount of revenues distributed from regional budgets to localities. Local revenues from shared taxes are general purpose grants extended from a higher-level budget, similar

to subsidies or equalization transfers. Regional governments determine both the applicable taxes and the proportion of tax to be shared between the region and municipalities.

Regions may choose to divide their share of the following federal taxes with localities:

- value added tax;²¹
- personal income tax;
- enterprise profit tax;
- excises assigned on share by federal authorities to subjects of the Russian Federation.

They may also share the following regional taxes:

- enterprise property tax (within the fifty percent share assigned to the regional level);
- forest tax;
- payments for water;
- education tax;
- sales tax (within the forty percent share assigned to the regional level).

Under the Law on Local Government Finance, the region may distribute its shared federal taxes differently among its municipalities, but the total share of localities in a particular federal tax should not fall below an established minimum which varies by type of tax:

- fifty percent of the personal income tax;
- five percent of the enterprise profits tax;²²
- ten percent of VAT;
- five percent of excises on alcoholic beverages;
- ten percent of excises on other goods.

However, the minimum requirements above do not assist municipalities in estimating their next year revenues from tax sharing, since regions may allocate these percentages differently among municipalities at their discretion.

The Law on Local Government Finance requires that the local proportion of shared taxes be determined by formula and that shared taxes and equalization transfers be allocated to municipalities using a standard methodology. These requirements imply that both regional/local tax sharing and equalization transfers to localities from the regional government are general purpose regional grants, but transferred to localities through different channels. In practice, however, these requirements are not enforced, and regional authorities make no attempt to allocate those funds using a single equalization methodology.

6.2.5 Special and General Purpose Grants

Grants to localities from the federal and regional budgets include equalization transfers (subsidies), subventions and mutual settlements.

Equalization transfers are distributed to localities for the sole purpose of equalizing fiscal capacity, meaning that local governments are free to spend these revenues at their own discretion. Regional governments determine the size of the transfers and sources of revenue for the equalization fund within the regional budget.

Under the Law on Local Government Finance, equalization transfers should be allocated across municipalities using a fixed formula with parameters including population size, the proportion of various age groups (such as school-age children and pensioners) in the municipal population, per capita fiscal capacity before equalization and other local features. However, in the majority of regions, distribution of equalization transfers is negotiated rather than formula-driven.

Subventions are distributed to municipalities from the federal or regional budget for specific purposes. These are subject to repayment in case of failure to use them for their intended purpose within the established time limit. Federal legislation does not specify purposes for regional subventions to localities or procedures for distributing subventions among localities.

Regions rarely use subventions as a means of transferring financial resources to municipalities as the inadequacy of transferred funds would be immediately apparent. Instead, they excuse themselves by claiming that the execution of federal and regional mandates was taken into account in determining the size of equalization transfers distributed to local budgets. In cases where they are utilized, subventions from regional budgets are provided primarily for the execution of federal mandates,²³ and occasionally for the execution of regional mandates.²⁴

Mutual settlements are another variety of special purpose grant, transferred to municipalities by regional governments in order to reimburse them for cost increases or revenue losses caused by regional government decisions made during the budget year, after local budgets were approved. Grants provided to local budgets under this category include funds to cover costs of housing maintenance, utilities and other facilities transferred to municipalities. Municipalities may also receive additional earmarked assistance under this category, not provided for in the budget, to finance other expenditures or write off debts on budget loans. There is no prescribed method of allocating those additional financial resources across municipalities.

6.3 Methods of Grant Allocation

The method of allocating intergovernmental transfers to municipalities varies across regions. Most regions estimate local expenditure needs and revenue capacity and allocate transfers to cover the resulting financing gap. The region and individual local governments then negotiate the actual figures, with the local government claiming higher expenditure needs and lower anticipated revenue than the regional estimates. In this process, both parties usually refer to historic tax collections and expenditures or estimates derived from previous years' data.

This approach clearly discourages local tax efforts and prudent use of local resources. Moreover, it creates incentives for local authorities to hide revenues in extra-budgetary funds rather than report them, and negotiate in-kind offsets with potential taxpayers to boost spending. Soft budget constraints permit local authorities to retain inefficient public facilities, overstuffed budget organizations and inefficient technologies for public service provision.

Another problem concerns the use of regional expenditure norms for the estimation of local expenditure needs by the regions for allocating equalization transfers. Several regions, including Leningrad, Sverdlovsk and Moscow oblasts, have established these norms in regional legislation. The norms generally represent maintenance standards for service-providing institutions rather than standards for providing public services to consumers. For instance, instead of financing norms per student, there are expenditure norms per school that are applied regardless of whether a particular school is at all needed. In addition, since expenditure norms are demand driven, they disregard the actual affordability of norm-driven expenditures. Consequently, the expenditure needs based on norms often exceed the available resources, and regions must eventually reduce expenditures after they have been calculated by a lengthy and labor-intensive process. The failure to comply with norms that were fixed as laws also creates social tensions.

Some regions have attempted to develop formal methodologies to assess local expenditure needs and revenue potential on the basis of certain objective criteria rather than the data on previous years' actual expenditures and revenue collections. In contrast to the federal government, which first turned to transparent formulas for allocation of transfers in 1994 and has since made impressive progress, most regional governments do not realize the need to formalize intergovernmental fiscal relations or else lack the expertise required to develop an appropriate methodology.

In June 2000, the federal Ministry of Finance approved a document entitled "Provisional Methodological Recommendations for Russian Federation Subjects on the Regulation of Intergovernmental Fiscal Relations" (hereafter referred to as the "Recommendations") and circulated it to the financial departments of regional governments. The Recommendations were developed by the Ministry of Finance in cooperation with independent experts²⁵ and were based on the best practices of Russian regions in formalizing intergovernmental fiscal relations, for example, Leningrad oblast and Vladimir oblast; international practices; and the requirement for formalized allocation of grants set forth in the Law on Local Government Finance.

The Recommendations advise regional administrations to use the following guidelines for allocating grants:

1. Formula-based equalization of per capita fiscal capacity should be employed rather than the principle of balancing own revenues and "needs" of local governments.
2. Revenue capacity should be estimated based on the taxable resources of a municipality rather than past revenue collections.
3. When measuring per capita fiscal capacity, objective differences in demand for public services and their costs should be considered. These include the demographics of a population, the

- cost of living, the duration of the heating season, population density, et cetera. Expenditure needs should no longer be estimated based on the existing social infrastructure.
4. The total sum of shared taxes and equalization transfers intended for municipalities should be estimated during a single process.

These principles allow regions great flexibility in selecting formalized distribution methods. Using a formalized methodology to allocate grants will ensure predictability of transfer amounts, save time spent in negotiating local budget targets and create incentives for local governments to raise additional revenues and use budget resources more prudently.

It should be emphasized that, under the current federal legislation, regional governments are free to choose the method of intergovernmental fiscal relations within their boundaries; the federal government may only advise. Nevertheless, many regions have shown interest in the new methods and are already planning to utilize formula-driven allocations in 2001.

6.4 Budget Process

In municipalities, the local administration, or executive branch, is responsible for formulating the annual budget and submitting it to the local council, or legislative branch, for approval. Any second-tier municipalities have no own revenue sources and formulate expenditure requests to be submitted to the higher-level government for approval. The approved expenditures are then financed from the budget of the higher municipality.

During the year, local councils normally review the budget several times and adopt amendments to the budget law. Usually, there is no formal calendar for such budget reviews.

As local budget revenues are strongly dependent on shared taxes and transfers from the regional budget, local budgets can be approved only after the approval of the regional budget. Since the regional budgets are often approved after long delay, local budgets are adopted late as well, at the end of the first or even the second quarter of the next budget year.

6.5 Budget Execution

There is no universal method of control over budget execution in Russia. While local authorities are capable of influencing levels of tax collections in their jurisdictions to a limited extent, they do not possess formal levers. Local tax collection is left to federal authorities (tax inspectorates in cities and raions), who are primarily concerned with collecting federal taxes.²⁶ Failure to execute the revenue side of the budget leads to incomplete execution of the expenditure side. This is conducive to manipulations with expenditures whereby some expenditure items are executed in full and others not at all. The untargeted use of budgetary and extra-budgetary funds also occurs frequently. Failure to execute the budget incurs no legal consequences whatsoever.

The flexible nature of fiscal relations between regional and local governments is another example of soft budgetary constraints. Even in regions where the budget law prescribes the use of a formalized procedure for allocating grants, actual appropriations often differ from the formula-based amounts, or the formula is only applied to selected municipalities. Furthermore, budget items such as budget loans or mutual settlements allow regional governments to distribute additional financial resources at their own discretion and make it possible for municipalities to receive additional financial assistance depending on the negotiating skills of their mayors. This creates incentives to overspend by accumulating deferred payments, a policy which increases the possibility of additional financial assistance from regional budgets.

Pursuant to the provisions of the Budget Code, a single all-encompassing treasury system of budget execution shall be established starting from the year 2000.²⁷ It is hoped that a transition to the treasury system will automatically solve many of the problems originating from soft budgetary constraints, but the creation of such a system is an expensive project and likely to take several years.

7. Relationship between the State Administration and Local Governments

As noted earlier, the Constitution assigns the general principles of local self-government organization to the joint competence of the Russian Federation and its subjects. Federal legislation thus establishes a basic framework for municipal organization, and determines issues that fall within local government competence. However, in most cases local competence is confined to service delivery. Standards of service provision fall under the competence of the federal government, while control over local compliance is delegated to the regions.

The Constitution assigns the responsibility of regulating many important issues of developing municipal institutions to regional authorities. Most of these issues are related to establishing a legal framework for the development of local self-government within regional boundaries, such as adopting the law on local self-government, approving local territorial boundaries, establishing the framework for municipal elections, registering charters, transferring property, et cetera. Regional authorities have no formal right to interfere with the operation of local governments, with the exception of fiscal matters.

7.1 Regional Infringements on Local Governments' Rights

Regional infringements upon the basic rights of local self-governance commonly take the following forms:

- establishing municipal boundaries without prior consent;
- adopting the Model Charter of a Municipality as regional law;
- stipulating that the mayor be elected only from among candidates nominated by the regional governor;

- requiring that appointed heads of municipal line departments be approved by the regional governor or the head of the respective regional department.

In most subjects of the Federation, local self-governance was developed in conformity with the preferences of regional authorities. Consequently, municipalities and their boundaries were established according to the will of regional authorities. Any local attempts to establish new municipalities without approval of regional authorities are nipped in the bud.

7.2 Intergovernmental Relationships in Public Service Provision

According to federal legislation, local government authorities are free to decide on methods of service delivery for public services that fall within their competence. Municipalities may determine personnel policy with respect to municipal employees and employees of local budgetary institutions. The only exceptions are heads of local line departments, who must usually be approved by officials of the relevant regional department.

Salaries for municipal employees are established by local administrations within the limits imposed by the regional law on municipal service. Salaries for employees of budgetary organizations are set in accordance with the federal Uniform Schedule of Wages for Workers of Budgetary Institutions.

The sole exception is financial bodies of local self-government. Before the end of 1998, financial bodies of all levels of government were to be part of a single vertical system of the federal Ministry of Finance, with all salaries paid out of the federal budget. The Law on Local Government Finance empowered municipal entities to pay their financial staff out of local budgets. Some wealthy municipalities did so out of the desire for autonomy. However, even after the vertical Ministry of Finance system was abolished, the majority of municipal financial bodies remain on the payroll of regional authorities, thus perpetuating their heavy dependence on regional authorities. Formally speaking, however, their dependence is voluntary, since their choice was driven by the desire to save their own budget resources (if a municipality relinquishes funds for its financial bodies from the regional budget, it is not formally entitled to compensation).

Local governments are also dependent on regional authorities for the monitoring of local compliance with federal standards in providing basic public services such as education, health care and welfare. Local compliance is controlled by the relevant line department in the regional administration.

Standards in the field of education include:

- curricula;
- number of hours per subject;
- number of students per class;
- teaching load (in hours);
- sanitary standards for classrooms;

- teachers' salaries;
- accounting and reporting requirements.

Standards in the field of health care include

- a set of basic medical services;
- quality of medical services;
- medications;
- conditions of medical institutions;
- qualifications for medical personnel;
- salaries of medical personnel;
- accounting and reporting requirements.

Regional grants to localities earmarked for particular spending purposes also enable regional authorities to exercise control over local spending. Earmarked grants are usually appropriated for the execution of state powers delegated to localities, target programs or capital construction projects. Frequently they are extended for paying wages, particularly teachers' and doctors' salaries, if local authorities refuse to pay, claiming that the local function of maintaining institutions refers only to premises and equipment, not salaries.

7.3 Fiscal Relations between Regional and Local Authorities

As noted earlier, local governments are heavily dependent on regional authorities for the transfer of intergovernmental funds. A survey of local budgets conducted in 1999²⁸ revealed that only two municipalities covered their expenditures exclusively from local and permanently assigned revenues without additional financial assistance from the regional government. These were Kirishi raion and the city of Svetogorsk in Leningrad oblast, neither of which are among the richest municipalities in Russia. The fact that there are almost no self-sufficient municipalities in Russia is the result of insufficient local and assigned revenues, as well as the fact that regional governments derive advantages in exercising firm financial control over localities. In order to increase their share of tax collections, local governments apply informal pressure on taxpayers, resulting in larger regional tax collections.

7.4 Local Governments and Branches of Regional and Federal Authorities

Since functional responsibilities are divided between regional and local authorities according to ownership of social infrastructure facilities, it is quite common for a territorial branch of the regional administration to be responsible for projects or facilities in a particular municipality. If there are no conflicts between regional and local authorities on the ownership of social infrastructure facilities, bodies of local self-government and territorial branches of state power operate in parallel and autonomously.

Territorial branches of regional state administration are found at the raion level only when local self-government is established at the sub-raion level. In such cases, the regional center may delegate responsibility for relations with local governments to the territorial branch.

In other cases, regional and federal authorities delegate the responsibility for partial maintenance of state agencies to local governments. Those agencies typically include registry offices and military registration and enlistment offices. Officially, both kinds of institutions are a federal responsibility, but local governments are inevitably involved by sitting in conscription commissions, arranging seeing-off ceremonies for draftees, wedding ceremonies, et cetera. Employees of those agencies are usually on the payroll of a higher-level budget, while other operating costs are covered from local budgets. Often, localities have to cover a number of additional expenses, for example the transportation of draftees to the place of service. It is also common for agency employees to be provided with housing from the municipal housing stock.

In theory, delegation of these responsibilities must be accompanied by the transfer of necessary funding to local governments. In most cases, however, the regional government does not earmark funding to support these services, instead claiming to have taken additional expenditure needs into account when allocating transfers. Local governments argue that these funds are inadequate and that they are in effect co-financing the above-mentioned agencies.

Similar situations occur in the relations between local governments and territorial agencies of other federal ministries, such as the State Committee for Statistics, the Ministry for Taxes and Duties, the Ministry of the Interior, courts and the Office of Public Prosecutor. In addition to the above-mentioned methods of co-financing federal functions from local budgets and extra-budgetary funds, officials of these federal agencies depend on local authorities for housing, fringe benefits, vehicles, office equipment, et cetera. This creates a system of dual subordination which nevertheless has many advantages for the local governments: the presence of these agencies allows them to encourage efforts to increase collections from local taxes and fees; to increase local shares of federal and regional taxes to the detriment of higher-level budgets; to collect additional statistical information; and to influence decisions made by bodies of the interior, rulings of courts and public prosecution offices.

7.5 Control, Audit and Supervision of Local Governments

7.5.1 Regional Supervision

The Constitution introduced a fundamentally new type of intergovernmental relations, as regulatory interactions replaced direct administrative subordination. However, many regional officials often manifested fierce resistance to the idea of local self-governance and did not abandon the administrative approach in their relations with lower-level governments. These authorities were unable or unwilling to make use of new control mechanisms which emphasized legislative activity and enforcement of laws through the courts. In Yakutia, for instance, there are no elected officials or local government bodies. In the Republic of Tatarstan, local self-government is set up only in rural areas, not in cities. This resistance to the new model explains why governors embrace a “return to the vertical hierarchy of power;” most of these governors support the recently amended Law on Local Self-government, which establishes broader rights to dissolve local councils and dismiss mayors if local legislation is found to be inconsistent with the Constitution, federal legislation or legislation of subjects of the Federation.

Since the amended law went into effect shortly before the time of writing, it would be premature to discuss its effect on local self-governance in Russia. The recent removal of the mayor of Ufa City in July 2000 by the Bashkir President cannot be treated as a typical example of the new law in practice. As in Tatarstan, local self-government in Bashkortostan mainly operates at the sub-raion and village level; cities and raions are governed by state authorities that are appointed and dismissed by the government of the Republic.

Otherwise, provisions of the Law on Local Self-government still apply whereby local self-government bodies are independent and accountable only to the law and their constituency. The amended law also entitles the federal government and regions to delegate certain federal or regional powers to local governments and monitor their execution, provided that they also transfer the necessary material and financial resources. Ryazan oblast in 1996 passed a regional law that delegated the function of civil status registration to local governments. Among its provisions, this law established conditions for regional oversight over the execution of this function by local authorities. This case is rather exceptional, however; in the vast majority of regions, delegation of regional functions to local governments exists *de facto*, not *de jure*, and issues of administrative liability for undue performance of delegated functions remain unresolved.

Although the Law on Local Self-government declared extensive local autonomy, both financial and administrative, the legislative trend in recent years has been to clamp down on local autonomy, particularly in the financial sphere. With the adoption of the new Tax Code, the local tax base has been drastically reduced. At present more than seventy percent of local budget revenues come from federal and regional shared taxes and local governments are utterly dependent, financially and administratively, on regional authorities.

7.5.2 Financial Audit

Independent financial audit of local authorities has not yet gained ground in Russia. Regional and local financial bodies ceased to be departments of the federal Ministry of Finance in 1998, and are now subordinated to the regional or local government. However, as part of the Russian state administration, regional administrations must follow directives from the federal center, including the Ministry of Finance. Federal approval of regional budgets is not required, but regions must submit reports on the execution of consolidated (regional plus local) budgets to the Ministry of Finance. Both the adoption and execution of local budgets are considered by federal legislation to be matters of local significance; municipalities need only report to their residents. Therefore, although regions require local budget data for their consolidated budget reports to the Ministry of Finance, they technically have no right to request the local government to file budget execution reports.

Nevertheless, local governments have continued to file local budget execution reports with regional financial authorities. In addition to local budget execution reports, regions also require that local governments submit their draft budgets for the new fiscal year in order to allocate equalization grants. The federal Budget Code establishes the regions' right to request this information, but also states

that any local government not wishing to compete for regional grants is not required to report budget information to regional authorities. However, local governments seldom refuse to do so. One of the few exceptions is Rostov oblast, where a number of municipalities refused to report their detailed budgets. When pressured by the regional administration, they submitted only aggregated totals, arguing that, according to the principle of autonomy, they are not required to report this information and that the federal Ministry of Finance has no legal right to request such information from the regions.

The Russian Budget Code stipulates the right of local councils to exercise financial control during discussion, approval and execution of local budgets. It also grants local councils the right to create auditing commissions to perform “external” audits of local budgets. Local governments do establish auditing units, but it would be an exaggeration to call them external. Occasionally, local governments initiate external audits, hiring independent auditing firms with a view to making their territories more attractive to foreign investors. Such cases are few and far between, and typically occur in regional centers (Novgorod, Tver, Nizhni Novgorod, Samara and Saint Petersburg).

Under the Budget Code, regional authorities are entitled to monitor local spending only where local governments are grant recipients, a right that only applies to funds received from the regional budget. However, regional authorities rarely exercise any control over local spending even on such a limited scale.

7.5.3 Legal Control

The Office of the Public Prosecutor in Russia is a single federal system of state administration, whose territorial branches monitor the compliance of regional and local regulatory and legislative acts with federal legislation. If the Office of the Public Prosecutor discovers infractions of federal legislation, it will lodge a protest with the relevant government and specify measures to be taken and deadlines for action. Should the government fail to enact the prescribed measures, the Prosecutor’s Office will initiate court proceedings.

Presently, the Public Prosecutor’s Office plays a fairly active role in ensuring compliance of local government acts with federal legislation. The violations discovered are often a product of imperfect federal and regional legislation that does not clearly delineate functions between federal authorities, regional authorities, raion branches of regional administrations and local governments. Many infringements have to do with financial matters, such as the distribution of proceeds from the privatization of municipal property or the funding of federal mandates, especially child benefits. Litigation initiated by the Tver City Duma over funding of child benefits reached the Supreme Court of Russia. In the end, the court affirmed a regional court decision stating that the benefits shall be financed from the regional budget through earmarked transfers. However, the Supreme Court ruling failed to become a precedent to be used in similar cases, as case law is virtually nonexistent in Russia. Courts are also equally ready to pronounce judgements against local governments. For instance, the Tver City Duma has had to revoke its decision to cancel entitlements to free public transport for employees of certain federal agencies, a decision originally made due to inadequate funding from the federal budget.

In 1998, prosecutors found cases of municipalities in Pskov oblast introducing local taxes and fees not provided for in federal legislation, thus violating the Law on Local Self-government. It was also discovered that various organizations and profit enterprises in a number of municipalities were exempt from payment of taxes and fees to local budgets for no lawful reason. Mayors of twelve municipalities issued regulations and orders to ban or restrict export of food products from their municipalities. In Pskov oblast, raion and city prosecutors are regular participants in sessions of local councils and meetings with mayors, and therefore can promptly make comments and proposals on draft legal acts and issues under consideration.

Among the gravest infringements found by the Office of the Public Prosecutor thus far are efforts by certain regions to abolish local self-government within their jurisdictions. In the spring of 2000, the government of Kursk oblast attempted to abolish all 511 municipalities and introduce state government in their stead on the basis of “voluntary waivers” of self-government by the citizenry. For localities that chose to retain local self-government, the procedure for mayoral elections was to be amended so that the mayor was elected exclusively by the local council from members nominated by the governor. Regional legislators revoked the decision upon appeal by the regional prosecutor, preventing the necessity for court action.

8. Local Government Employees

8.1 Municipal Service

According to article 4 of the Law on Local Self-government, the regulation of municipal service falls under the competence of the state administration. Article 3 establishes that citizens of the Russian Federation have equal opportunity to municipal employment.

Before the adoption of the Law on Foundations of Municipal Service in the Russian Federation (hereafter referred to as the Law on Municipal Service) employees of municipal government organizations fell under the scope of the federal Law on Foundations of the State Service in the Russian Federation, despite the fact that local government is outside the system of state administration.

The adoption of the Law on Municipal Service in early 1998 meant that employment in the local government brought the same high level of benefits and social insurance as employment in the state government (the law only applies to hired and appointed municipal employees). However, as there is no single register of positions for municipal employees, it may be difficult to compare positions in municipal and state administration if an employee moves from municipal to state service.

Municipal employees fall into the following categories:

- elected officials;
- full-time employees;

- part-time employees;
- appointed officials;
- staff of local governments;
- staff of local budgetary institutions.

8.1.1 Elected Officials

The term “elected official” primarily refers to the mayor and local council members. Although the law provides for the existence of other elected officials, in practice they are rarely encountered, if at all. Elected local officials are not currently required to meet any professional qualifications. (According to the Constitution only a federal law can establish restrictions on citizens’ rights, and federal laws do not currently address this issue). Nor is there any restriction on a person simultaneously holding several elective offices. The only restriction imposed by federal legislation on elected local officials is that they cannot simultaneously perform the functions of hired or appointed municipal employees. Some regions (Rostov and Ryazan) have introduced a ban on combining an elective local office with membership in the regional legislative assembly, although no such federal restriction exists.

Under the same law, local government officials are subject to early termination by regional authorities if a court finds a breach of law or of the provisions of municipal charter. In practice, elected local officials are rarely removed from their posts due to a court ruling. When a mayor is removed, it is usually a mayor who had effectively been appointed by the regional governor in the first place. No correlation has been established between the reelection of mayors or local council members and their administrative performance, as the majority of municipalities have not yet held new elections.

Members of local councils can be either full-time employees on the government payroll or part-time officials who do not receive compensation for their position and continue to perform their previous jobs. Full-time officials are commonly prohibited from holding another income-generating office. Elected officials are generally accorded immunity from legal prosecution by regional legislation.

Additional social guarantees for elected local government officials may be established in regional legislation.

8.1.2 Appointed Officials

The Law on Local Self-government provides the following definition: “municipal service shall be understood to mean full-time professional employment in local government bodies for exercise of their powers.” Hence, municipal service applies only to employment in local self-government bodies, as opposed to other public institutions. It is a full-time job paid for from the budget, though not necessarily the local budget.

The Law on Municipal Service also states that legal regulation of municipal service shall be prescribed in the municipal charter as required by federal and regional laws. These regulations include qualification requirements, municipal employee status, terms and conditions of municipal service and administration of municipal service. Regional laws usually establish limitations on the level of wages for municipal employees. Since the majority of municipalities are subsidized from the regional budget, the regional government wishes to prevent municipal employees from earning more than their regional counterparts.

8.1.3 Local Government Staff

The status of all staff working under contracts is addressed by the federal Labor Code and similar regulations. Personnel departments of local administrations or councils are responsible for hiring their employees, whose professional requirements are established according to the municipal charter. Individuals not working in local administrations but providing technical support to local self-government activities are not considered to be municipal employees.

In order to ensure equal opportunity for municipal employment, vacant municipal positions must be publicly announced according to procedures stipulated in the municipal charter.

8.1.4 Staff of Budgetary Institutions

Under Russian legislation, individuals employed by budgetary institutions do not fall into the category of municipal employees. Terms of their remuneration, social guarantees, et cetera are established in the Law on the Uniform Schedule of Wages for Workers of Budget Organizations. Hence, salaries paid to budgetary institution employees by local governments cannot be below the federal statutory level. However, local governments are entitled to pay fringe benefits to budgetary institution employees in addition to their regular salaries. The federal schedule of rates sets basic rates and allowances for employees if a budgetary organization is located in the Far North or equivalent territory. Local authorities are entitled to pay local allowances to employees of municipal budgetary institutions (primarily schools, outpatient clinics and hospitals) in addition to their wages, but rarely exercise their right due to lack of financial resources.

8.2 Problems of Political Affiliation

The Law on Municipal Service stipulates that municipal service employees may not have a political party affiliation. According to the law, municipal employees may not use their official position in the interests of any political party, nor may they set up political party groups within local government bodies. To date, party struggle at the local level has not posed a major problem, since most elections are not held by a party system and municipal election by party is not even provided for in legislation. Thus it is rare that elected officials, let alone administration employees, represent a political party.

8.3 Personnel Training

The new role of local governments in Russia necessitates qualified personnel, modern information technologies, new methods of work and workflow organization.

Training and re-training of local government employees may take place in both traditional state-owned educational establishments and new training institutions such as colleges and long-distance training and consulting centers. Municipalities, regions and the federal government are all contributing to the creation of a pool of information to assist local policy-makers. The outcome of their efforts includes periodicals for local governments, publishing houses that specialize in literature for local governments and dissemination of software and information systems.

Nevertheless, these elements do not yet form an integrated system of professional training, information and methodological support for local governments. State establishments of higher education for training personnel in local self-government are available only in forty-two out of eighty-nine regions, with no professional training of municipal personnel occurring in the other regions.

The following figures describe the current state of professional qualification and training among municipal service employees. A total of 386,300 people were employed in Russian local self-government bodies in 2000, of which 177,600 were appointed or elected officials.

Of the elected officials (five percent of total officials):

- 64.2 percent had received higher education,
- 33.6 percent had received a secondary school education,
- 2.2 percent had not finished secondary school.

Of the appointed officials (94.5 percent of the total officials):

- 51.7 percent had received higher education,
- 46.0 percent had received a secondary school education,
- 2.2 percent had not finished secondary school.

Of the total number of municipal officials with higher education, only 1.5 percent had been trained in public administration.

9. Next Steps in the Transition Process

The Putin administration, elected in March 2000, proposed the following amendments to the Law on Local Self-government to the State Duma:

1. Enhanced responsibility of the representative and executive branches of local self-government and mayors for violations of the Constitution, federal legislation and regional legislation;

2. Transfer of regulatory authority over local self-government organization to the federal level, not only in frontier territories and ZATOs, but also in federal cities, capitals, regional administrative centers and cities with a population over fifty thousand;
3. Elimination of raions from the category of municipal entities.

The second and third amendments, though rejected by the State Duma, explicitly indicate the attitude of the new presidential administration towards local self-government. The rationale offered for these amendments was the need to enhance local government accountability for violation of the Russian Constitution and the desire to bring local governments closer to the citizenry. However, pursuant to the approved amendment, the accountability of local governments will be enhanced not through strengthening and improvement of the judicial system, but through strengthening administrative responsibility of local heads to the regional administration.

Had the status of federal territories been conferred on regional administrative centers and cities with a population of over fifty thousand, these cities would have been removed from the jurisdiction of regional authorities. Consolidated regional budgets would thus have lost the largest and richest municipalities to the serious detriment of regional finance, depriving regions of funds for equalizing the fiscal capacity of municipalities in their jurisdictions.

The compulsory transfer of local self-government to the sub-raion level would have essentially led to elimination of local self-government, since the lack of own revenue makes small cities and rural districts fully dependent on raion and regional authorities. Hence, the proposed amendment infringed upon the constitutional right of citizens to local self-governance. Moreover, it conflicts with article 131 of the Constitution, which establishes that the territorial boundaries of local government shall be determined in consultation with the public.

To all outward appearances, the consolidation of vertical power will be a popular policy under President Putin, while the development of local self-government and formation of a civil society in Russia will be at risk.

At the same time, the Development Strategy of the Russian Federation up to 2010 formulated by the Putin government, also known as the Gref Program, contains a number of optimistic provisions for the development of local self-government. Among its provisions, the Strategy advocates:

- maximum development of local self-government, including the gradual transfer of some state powers;
- decentralization of public administration functions and appropriate delineation of budgetary sources and responsibilities;
- federal protection of the rights and interests of local self-government and greater federal guarantees of local autonomy in addressing local issues;
- decentralization of the Russian budgetary system to ensure greater fiscal autonomy;
- financing of federal mandates from the federal budget;
- adhering to the principle of “to each budget their own taxes” rather than utilizing shared tax revenues;

- the final reform of mechanisms for allocating transfers, including the conversion to a formula-driven system.

It is hard to predict which of the two tendencies—centralization or decentralization—will eventually prevail. Despite growing public awareness, the higher demands on governments by the citizenry and the diminished degree of awe for official status in recent years, the beginnings of civil society in Russia are still too weak to be effective. Whether the institution of local self-government will survive is fully dependent on the political course taken by federal authorities.

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Annex 4.1

Major General Indicators

Size of territory	17,075.4 thousand square kilometers
Population density	8.6 people per square kilometer
Population	145,559.2 thousand
Number of students in general education schools	20,879.4 thousand
Major ethnic divisions (1994)	
Russians	83.0 percent
Tatars	3.8 percent
Ukrainians	2.4 percent
Other (ethnic groups comprising less than two percent of the population)	11.0 percent
Per capita GDP	31,227,800 RUR
Inflation rate (consumer prices)	36.5 percent
Unemployment rate	12.6 percent

SOURCES: *Goskomstat. Russia: Statistical Yearbook, 2000; Social and Economic Situation in Russia, Volume 12, 1999; Russian Economic Trends, September 2000.*

Table 4A.1
Main Social and Economic Indicators of Russian Regions

Region	Area [thousand sq. km]	Population in 2000 [thousands]	Population Density in 2000	Number of Senior Pensioners in 1998 [thousands]	Number of Students in General Education Schools in 1998/1999 [thousands]	Unemploy- ment in 1998 [% of active population]	Per Capita Gross Regional Product* in 1998 [RUR thousand]	Consumer Price Index 12/1998 [as a % of 12/1997]
Russian Federation	17,075.4	145,559	8.5	38,410	21,429	13.3	16,353	184.4
NORTH								
Republic of Karelia	172.4	765	4.4	213	120	16.6	14,607	180.1
Republic of Komi	415.9	1,137	2.7	272	184	17.8	24,545	170.2
Arkhangelsk oblast	410.7	1,414	3.4	388	217	14.9	14,641	171.8
Nenets AO	176.7	45	0.3	10	8	11.3	36,212	160.9
Vologda oblast	145.7	1,319	9.1	365	197	12.7	18,052	163.5
Murmansk oblast	144.9	1,001	6.9	233	156	21.0	23,646	179.3
NORTH WEST								
City of St.-Petersburg	1.4	4,661	3,329.3	1,252	553	11.3	18,947	178.0
Leningrad oblast	84.5	1,666	19.7	462	228	15.0	12,591	166.2
Novgorod oblast	55.3	727	13.1	220	103	15.4	12,757	172.2
Pskov oblast	55.3	801	14.5	247	110	16.1	7,981	168.7

Table 4A.1 (continued)
Main Social and Economic Indicators of Russian Regions

Region	Area [thousand sq. km]	Population in 2000 [thousands]	Population Density in 2000	Number of Senior Pensioners in 1998 [thousands]	Number of Students in General Education Schools in 1998/1999 [thousands]	Unemploy- ment in 1998 [% of active population]	Per Capita Gross Regional Product* in 1998 [RUR thousand]	Consumer Price Index 12/1998 [as a % of 12/1997]
CENTER								
Bryansk oblast	34.9	1,438	41.2	447	209	15.7	8,137	175.4
Vladimir oblast	29.0	1,604	55.3	470	216	12.0	9,831	172.3
Ivanovo oblast	21.8	1,219	55.9	364	160	18.8	7,292	176.3
Kaluga oblast	29.9	1,079	36.1	281	149	10.2	9,996	173.7
Kostroma oblast	60.1	781	13.0	227	112	11.2	11,172	172.4
City of Moscow	1.1	8,537	7,912.0	2,315	1,056	4.8	42,009	209.6
Moscow oblast	45.9	6,464	140.8	1,798	838	9.9	15,348	182.5
Oryol oblast	24.7	897	36.3	271	120	13.2	11,316	167.9
Ryazan oblast	39.6	1,285	32.4	417	168	7.1	10,899	179.4
Smolensk oblast	49.8	1,128	22.7	329	158	16.4	10,615	176.7
Tver oblast	84.1	1,595	19.0	482	211	11.3	10,908	171.2
Tula oblast	25.7	1,740	67.7	606	217	11.6	10,718	169.4
Yaroslavl oblast	36.4	1,412	38.8	422	186	11.1	15,623	172.6

Table 4A.1 (continued)
Main Social and Economic Indicators of Russian Regions

Region	Area [thousand sq. km]	Population in 2000 [thousands]	Population Density in 2000	Number of Senior Pensioners in 1998 [thousands]	Number of Students in General Education Schools in 1998/1999 [thousands]	Unemploy- ment in 1998 [% of active population]	Per Capita Gross Regional Product* in 1998 [RUR thousand]	Consumer Price Index 12/1998 [as a % of 12/1997]
VOLGA-VYATKA								
Republic of Mari El	23.2	759	32.7	190	130	13.1	8,619	179.6
Republic of Mordovia	26.2	929	35.5	266	138	14.5	9,908	174.2
Chuvash Republic	18.3	1,359	74.3	342	226	13.9	8,917	167.9
Kirov oblast	120.8	1,590	13.2	441	239	13.1	10,532	162.9
Nizhny Novgorod oblast	76.9	3,663	47.6	1,063	475	9.1	14,295	199.7
CENTRAL BLACK EARTH								
Belgorod oblast	27.1	1,495	55.2	439	221	11.3	13,178	167.6
Voronezh oblast	52.4	2,455	46.9	765	335	9.5	9,638	173.9
Kursk oblast	29.8	1,312	44.0	409	182	10.2	12,638	171.5
Lipetsk oblast	24.1	1,240	51.5	367	174	11.1	13,673	161.3
Tambov oblast	34.3	1,271	37.1	390	168	12.7	8,137	169.9
VOLGA RIVER BASIN								
Republic of Kalmykia	76.1	315	4.1	67	61	30.8	5,382	168.5
Republic of Tatarstan	68.0	3,782	55.6	956	601	10.9	17,924	176.3
Astrakhan oblast	44.1	1,016	23.0	239	159	15.9	10,485	171.0

Table 4A.1 (continued)
Main Social and Economic Indicators of Russian Regions

Region	Area [thousand sq. km]	Population in 2000 [thousands]	Population Density in 2000	Number of Senior Pensioners in 1998 [thousands]	Number of Students in General Education Schools in 1998/1999 [thousands]	Unemploy- ment in 1998 [% of active population]	Per Capita Gross Regional Product* in 1998 [RUR thousand]	Consumer Price Index 12/1998 [as a % of 12/1997]
Volograd oblast	113.9	2,677	23.5	727	379	14.7	11,458	171.8
Penza oblast	43.2	1,530	35.4	429	217	18.1	7,202	175.7
Samara oblast	53.6	3,295	61.5	855	458	8.6	21,962	183.2
Saratov oblast	100.2	2,709	27.0	724	390	16.1	10,528	184.1
Ulianovsk oblast	37.3	1,463	39.2	381	222	11.1	11,137	163.2
NORTH CAUCASES								
Republic of Adygeya	7.6	448	58.9	126	67	16.0	7,519	168.3
Republic of Dagestan	50.3	2,142	42.6	439	461	30.0	4,104	178.0
Ingush Republic	19.3	315	16.3	55	53	51.1	3,338	172.8
Kabarda-Balkar Republic	12.5	431	34.5	179	149	22.4	8,067	168.0
Karachai-Circassian Republic	14.1	670	47.5	112	76	25.5	4,648	173.3
Republic of North Ossetia	8.0	768	96.0	187	110	26.6	7,537	174.2
Chechen Republic	19.3	786	40.7	155	—	—	—	—
Krasnodar krai	76.0	5,007	65.9	1,368	748	16.2	10,593	174.8
Stavropol krai	66.5	2,660	40.0	708	405	16.3	10,646	171.3
Rostov oblast	100.8	4,341	43.1	1,268	609	15.7	9,077	179.4

Table 4A.1 (continued)
Main Social and Economic Indicators of Russian Regions

Region	Area [thousand sq. km]	Population in 2000 [thousands]	Population Density in 2000	Number of Senior Pensioners in 1998 [thousands]	Number of Students in General Education Schools in 1998/1999 [thousands]	Unemploy- ment in 1998 [% of active population]	Per Capita Gross Regional Product* in 1998 [RUR thousand]	Consumer Price Index 12/1998 [as a % of 12/1997]
URALS								
Republic of Bashkortostan	143.6	4,110	28.6	1,040	702	13.4	15,603	178.7
Udmurt Republic	42.1	1,629	38.7	389	266	13.1	12,233	164.5
Kurgan oblast	71.0	1,096	15.4	290	170	13.1	8,767	173.8
Orenburg oblast	124.0	2,219	17.9	573	363	13.4	12,904	178.5
Perm oblast	127.7	2,806	22.0	722	417	13.0	19,327	183.7
Komi-Perm AO	32.9	150	4.6	42	27	17.4	5,978	156.9
Sverdlovsk oblast	194.8	4,603	23.6	1,240	638	10.5	17,355	194.5
Chelyabinsk oblast	87.9	3,667	41.7	968	546	12.4	12,793	189.1
WEST SIBERIA								
Republic of Altai	92.6	204	2.2	48	40	18.5	8,050	182.4
Altai krai	169.1	2,654	15.7	699	410	16.0	8,400	171.0
Kemerovo oblast	95.5	2,982	31.2	808	443	12.5	15,136	170.4
Novosibirsk oblast	178.2	2,740	15.4	699	407	13.7	12,809	170.8
Omsk oblast	139.7	2,164	15.5	527	356	15.5	13,526	172.2
Tomsk oblast	316.9	1,068	3.4	246	165	14.6	19,797	174.6

TTable 4A.1 (continued)
Main Social and Economic Indicators of Russian Regions

Region	Area [thousand sq. km]	Population in 2000 [thousands]	Population Density in 2000	Number of Senior Pensioners in 1998 [thousands]	Number of Students in General Education Schools in 1998/1999 [thousands]	Unemploy- ment in 1998 [% of active population]	Per Capita Gross Regional Product* in 1998 [RUR thousand]	Consumer Price Index 12/1998 [as a % of 12/1997]
Tyumen oblast	161.8	1,351	8.3	308	226	14.0	24,691	164.5
Khanty-Mansi AO	523.1	1,382	2.6	178	261	14.4	86,578	165.1
Yamal-Nenets AO	750.3	504	0.7	60	98	11.2	99,715	159.9
EAST SIBERIA								
Republic of Buryatia	351.3	1,032	2.9	230	193	22.1	10,702	163.7
Republic of Tyva	170.5	311	1.8	72	69	20.9	5,950	154.2
Republic of Khakassia	61.9	579	9.4	139	96	9.6	14,040	182.3
Krasnoyarsk krai	710.0	2,988	4.2	685	454	16.4	23,540	160.4
Tajmyr AO	862.1	44	0.1	8	8	15.5	12,399	150.4
Evenk AO	767.6	19	0.0	4	4	5.5	9,692	124.7
Irkutsk oblast	745.5	2,599	3.5	622	419	13.7	19,511	171.5
Ust-Orda Buryat AO	22.4	143	6.4	33	33	8.4	9,741	156.7
Chita oblast	412.5	1,177	2.9	252	198	20.4	10,725	165.8
Aginsk-Buryat AO	19.0	79	4.2	15	19	35.7	4,842	176.5

TTable 4A.1 (continued)
Main Social and Economic Indicators of Russian Regions

Region	Area [thousand sq. km]	Population in 2000 [thousands]	Population Density in 2000	Number of Senior Pensioners in 1998 [thousands]	Number of Students in General Education Schools in 1998/1999 [thousands]	Unemploy- ment in 1998 [% of active population]	Per Capita Gross Regional Product* in 1998 [RUR thousand]	Consumer Price Index 12/1998 [as a % of 12/1997]
FAR EAST								
Republic of Sakha	3,103.2	989	0.3	201	194	13.6	33,526	155.4
Jewish AO	36.0	197	5.5	44	35	23.9	8,982	166.3
Chukotka AO	737.7	79	0.1	14	12	4.7	32,823	152.1
Primorski krai	165.9	2,172	13.1	479	323	14.9	14,264	170.4
Khabarovsk krai	788.6	1,506	1.9	346	232	12.4	19,528	163.9
Amur oblast	363.7	998	2.7	205	159	16.9	14,464	171.4
Kamchatka oblast	170.8	359	2.1	71	52	17.6	25,851	162.3
Koryak AO	301.5	30	0.1	6	6	8.4	57,881	129.9
Magadan oblast	461.4	239	0.5	47	35	18.1	27,717	153.7
Sakhalin oblast	87.1	599	6.9	144	91	17.1	21,335	174.3
Kaliningrad oblast	15.1	948	62.8	218	135	16.7	9,144	202.5

SOURCE: *Russia: Statistical Yearbook*, Goskomstat, 1999; *Population of the Russian Federation: Towns, Townships and Raions*, Goskomstat, 2000; *Social and Economic Situation in Russia*, vol. 12, Goskomstat, 1998.

Table 4A.2
Major Ethnic Groups in Russian Regions, 1989

Regions	Title Ethnicity [% of Total Population]*	Russians [%]	Other Ethnicities [%]
NORTH			
Republic of Karelia	10.0	73.6	16.4
Republic of Komi	23.3	57.7	19.0
Arkhangelsk oblast		92.1	7.9
Nenets AO	11.9	65.8	22.3
Vologda oblast		96.5	3.5
Murmansk oblast		82.9	17.1
NORTH WEST			
City of St. Petersburg		89.1	10.9
Leningrad oblast		90.9	9.1
Novgorod oblast		94.7	5.3
Pskov oblast		94.3	5.7
CENTER			
Bryansk oblast		96.0	4.0
Vladimir oblast		95.8	4.2
Ivanovo oblast		95.8	4.2
Kaluga oblast		93.8	6.2
Kostroma oblast		96.3	3.7
City of Moscow		89.7	10.3
Moscow oblast		93.5	6.5
Oryol oblast		97.0	3.0
Ryazan oblast		96.1	3.9
Smolensk oblast		94.1	5.9
Tver oblast		93.5	6.5
Tula oblast		95.4	4.6
Yaroslavl oblast		96.4	3.6

Table 4A.2 (continued)
Major Ethnic Groups in Russian Regions, 1989

Regions	Title Ethnicity [% of Total Population]*	Russians [%]	Other Ethnicities [%]
VOLGA-VYATKA			
Republic of Mari El	43.3	47.5	9.2
Republic of Mordovia	32.5	60.8	6.7
Chuvash Republic	67.8	26.7	5.5
Kirov oblast		90.4	9.6
Nizhny Novgorod oblast		94.7	5.3
CENTRAL BLACK EARTH			
Belgorod oblast		92.9	7.1
Voronezh oblast		93.4	6.6
Kursk oblast		96.9	3.1
Lipetsk oblast		97.4	2.6
Tambov oblast		97.2	2.8
VOLGA RIVER BASIN			
Republic of Kalmykia	37.7	45.4	16.9
Republic of Tatarstan	48.5	43.3	8.2
Astrakhan oblast		72.0	28.0
Volgograd oblast		89.1	10.9
Penza oblast		86.2	13.8
Samara oblast		83.4	16.6
Saratov oblast		85.6	14.4
Ulianovsk oblast		72.8	27.2
NORTH CAUCASES			
Republic of Adygeya	22.1	68.0	9.9
Republic of Dagestan	27.5	9.2	63.3
Ingush Republic	74.5	13.2	12.3
Kabarda-Balkar Republic	48.2	32.0	19.8
Karachai-Circassian Republic	31.2	42.4	26.4
Republic of North Osetia	53.0	29.9	17.1

Table 4A.2 (continued)
Major Ethnic Groups in Russian Regions, 1989

Regions	Title Ethnicity [% of Total Population]*	Russians [%]	Other Ethnicities [%]
Krasnodar krai		86.7	13.
Stavropol krai		84.0	16.0
Rostov oblast		89.6	10.4
URALS			
Republic of Bashkortostan	21.9	39.3	38.8
Udmurt Republic	30.9	58.9	10.2
Kurgan oblast		91.4	8.6
Orenburg oblast		72.2	27.8
Perm oblast		83.8	16.2
Komi-Perm AO	60.2	36.1	3.7
Sverdlovsk oblast		88.7	11.3
Chelyabinsk oblast		81.0	19.0
WEST SIBERIA			
Republic of Altai	31.0	60.4	8.6
Altai krai		89.5	10.5
Kemerovo oblast		90.5	9.5
Novosibirsk oblast		92.0	8.0
Omsk oblast		80.3	19.7
Tomsk oblast		88.2	11.8
Tyumen oblast		72.6	27.4
Khanty-Mansi AO	1.6	66.3	32.1
Yamal-Nenets AO	6.1	59.2	34.7
EAST SIBERIA			
Republic of Buryatia	24.0	70.0	6.0
Republic of Tyva	64.3	32.0	3.7
Republic of Khakassia	11.1	79.5	9.4
Krasnoyarsk krai		87.6	12.4
Tajmyr AO	15.7	67.1	17.2

Table 4A.2 (continued)
Major Ethnic Groups in Russian Regions, 1989

Regions	Title Ethnicity [% of Total Population]*	Russians [%]	Other Ethnicities [%]
Evenk AO	15.3	67.5	17.2
Irkutsk oblast		88.5	11.5
Ust-Orda Buryat AO	36.3	56.5	7.2
Chita oblast		88.4	11.6
Aginsk-Buryat AO	54.9	40.8	4.3
FAR EAST			
Republic of Sakha	33.4	50.3	16.3
Jewish AO	4.2	83.2	12.6
Chukotka AO	9.8	66.1	24.1
Primorski krai		86.9	13.1
Khabarovsk krai		86.4	13.6
Amur oblast		86.8	13.2
Kamchatka oblast		81.0	19.0
Koryak AO	25.1	62.0	12.9
Magadan oblast		75.2	24.8
Sakhalin oblast		81.6	18.4
Kaliningrad oblast		78.5	21.5

* The title ethnicity is the indigenous ethnicity which gave its name to the ethnic autonomy. Only for ethnic autonomies.

SOURCE: *Russia: Statistical Yearbook*, Goskomstat, 1999.

Annex 4.2

Population, Settlements and Administrative Units

Figure 4A.1
Territorial Division of Regions

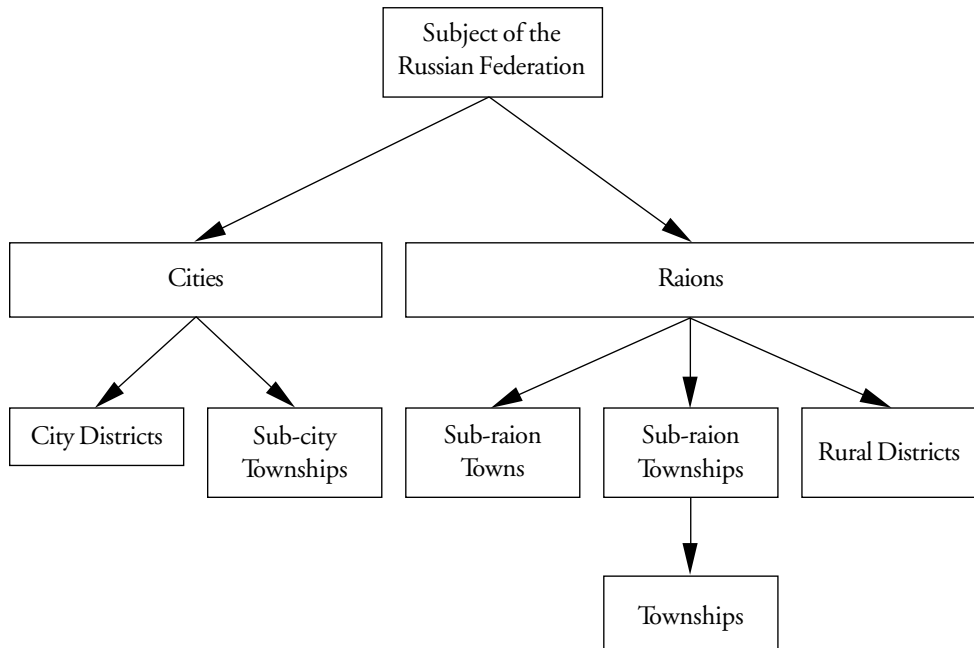


Table 4A.3
Territorial Units and Municipalities in the Russian Federation at Sub-regional Levels

Regions	Number of Territorial Units 01.01.2000						Number of Territorial Units Registered as Municipalities 01.09.2000					
	1st Subregional Level			2nd Subregional Level			Cities	Raions	City Districts	Towns	Townships	Rural Districts
	Cities	Raions		City Districts	Towns	Townships						
Russian Federation	646	1,867	329	446	1,875	24,470	418	1,442	136	174	525	9,566
North												
Republic of Karelia	7	16		6	11	132		19				
Republic of Komi	8	12	1	2	32	191	8	12	1			
Arkhangelsk oblast	7	20	9	6	36	224	6	20				
Nenets AO	1				2	18				1	2	18
Vologda oblast	4	26		11	13	371	2	26				
Murmansk oblast	13	5	3	3	16	17	13	5		1	4	1
NORTH - WEST												
City of St. Petersburg	1		20						111			
Leningrad oblast	20	17		11	34	204	7	17		3	1	1
Novgorod oblast	3	21		7	18	272	1	21				
Pskov oblast	2	24		12	14	248	2	24				2

Table 4.A.3 (continued)
Territorial Units and Municipalities in the Russian Federation at Sub-regional Levels

Regions	Number of Territorial Units 01.01.2000						Number of Territorial Units Registered as Municipalities 01.09.2000					
	1st Subregional Level		2nd Subregional Level				Cities	Raions	City Districts	Towns	Townships	Rural Districts
	Cities	Raions	City Districts	Towns	Townships	Rural Districts						
CENTER												
Bryansk oblast	5	27	4	11	29	414	4	27		6	3	1
Vladimir oblast	10	16	3	13	35	222	9	15	1	11	35	1
Ivanovo oblast	6	21	4	11	31	205	7	20				
Kaluga oblast	4	24	3	15	11	328	2	17		6	6	14
Kostroma oblast	7	24		5	8	275	6	24				
City of Moscow	1		10	1	3					1		
Moscow oblast	56	39		18	111	472	29	39			5	
Oryol oblast	3	24	4	4	13	223	3	24		4	13	223
Ryazan oblast	4	25	4	8	26	486	4	25				
Smolensk oblast	2	25	3	13	15	414	2	25				
Tver oblast	12	36	4	11	33	612	5	36			2	
Tula oblast	9	23	5	12	49	341	2	23			1	
Yaroslavl oblast	6	17	6	5	13	228	2	17				

Table 4A.3 (continued)
Territorial Units and Municipalities in the Russian Federation at Sub-regional Levels

Regions	Number of Territorial Units 01.01.2000						Number of Territorial Units Registered as Municipalities 01.09.2000					
	1st Subregional Level		2nd Subregional Level				Cities	Raions	City Districts	Towns	Town- ships	Rural Districts
	Cities	Raions	City Districts	Towns	Town- ships	Rural Districts						
VOLGA-VYATKA												
Republic of Mari El	3	14		1	17	179	3	14				
Republic of Mordovia	3	22	3	4	19	420	1	22	3	4	19	420
Chuvash Republic	5	21	3	4	8	350	5	21				
Kirov oblast	5	39	4	13	54	573	5	39			1	
Nizhny Novgorod oblast	12	48	8	15	70	541	4	48		10	52	483
CENTRAL BLACK EARTH												
Belgorod oblast	6	21	2	3	21	333	2	20				
Voronezh oblast	7	32	6	8	21	492	1	32		11	17	486
Kursk oblast	5	28	3	5	23	478	5			5	23	477
Lipetsk oblast	2	18	4	6	2	303	2	18			1	303
Tambov oblast	7	23	3	1	12	309	7	23		1	12	309

Table 4A.3 (continued)
Territorial Units and Municipalities in the Russian Federation at Sub-regional Levels

Regions	Number of Territorial Units 01.01.2000						Number of Territorial Units Registered as Municipalities 01.09.2000					
	1st Subregional Level		2nd Subregional Level				Cities	Raions	City Districts	Towns	Townships	Rural Districts
	Cities	Raions	City Districts	Towns	Townships	Rural Districts						
VOLGA RIVER BASIN												
Republic of Kalmykia	1	13		2		113	1		2			113
Republic of Tatarstan	13	43	7	7	21	900				7	21	906
Astrakhan oblast	3	11	4	3	10	150	3	11		3	10	127
Volgograd oblast	6	33	8	13	25	449	1	33		5		
Penza oblast	5	28	4	6	16	376	1		4	10	16	376
Samara oblast	10	27	12	1	22	324	10	27				
Saratov oblast	13	38	6	5	30	607	2	38			1	
Ulianovsk oblast	3	21	4	3	33	325	3	21				
NORTH CAUCASES												
Republic of Adygeya	2	7			5	50					5	50
Republic of Dagestan	10	41	3		18	696	1	41		9		
Ingush Republic	3	4	6			32			6			
Kabarda-Balkar Republic	2	9		5	4	112	2	9		5	13	107
Karachai-Circassian Rep.	2	8		2	7	79	2			1	4	78

Table 4A.3 (continued)
Territorial Units and Municipalities in the Russian Federation at Sub-regional Levels

Regions	Number of Territorial Units 01.01.2000					Number of Territorial Units Registered as Municipalities 01.09.2000					
	1st Subregional Level		2nd Subregional Level			Cities	Raions	City Districts	Towns	Townships	Rural Districts
	Cities	Raions	City Districts	Towns	Townships						
Republic of North Ossetia	1	8	4	5	7	1	8		5	7	93
Chechen Republic ¹⁾	5	16	4		3						
Krasnodar krai	15	38	11	11	23	15	33				
Stavropol krai	10	26	3	9	7	10			9	4	281
Rostov oblast	16	43	8	7	25	16	39				
URALS											
Republic of Bashkortostan	21	54	7		41					40	943
Udmurt Republic	5	25	5	1	10	5	25				1
Kurgan oblast	2	24		7	6	1	24		8	6	420
Orenburg oblast	11	35	7	1	5		1		11	1	566
Perm oblast	13	29	7	11	45	13	27		1	4	
Komi-Perm AO	1	6			1	1	6				
Sverdlovsk oblast	34	30	12	13	97	28	29		6	9	
Chelyabinsk oblast	23	24	10	7	30	23	19		7	20	256

Table 4A.3 (continued)
Territorial Units and Municipalities in the Russian Federation at Sub-regional Levels

Regions	Number of Territorial Units 01.01.2000					Number of Territorial Units Registered as Municipalities 01.09.2000					
	1st Subregional Level		2nd Subregional Level			Cities	Raions	City Districts	Towns	Townships	Rural Districts
	Cities	Raions	City Districts	Towns	Townships						
WEST SIBERIA											
Republic of Altai	1	10									
Altai krai	11	60	5	1	14	11	60		1	7	687
Kemerovo oblast	18	19	14	2	46	18	17		1		
Novosibirsk oblast	7	30	10	7	18	1			7	18	428
Omsk oblast	6	32	5		24	1	32				
Tomsk oblast	6	16	4		1	4	16				
Tyumen oblast	5	22	3		8	4	2			4	285
Khanty-Mansi AO	14	9		2	24	14	8				
Yamal-Nenets AO	7	7			9	7	6				
EAST SIBERIA											
Republic of Buryatia	2	21	3	4	29	2	21				
Republic of Tyva	2	16		3	2		1				
Republic of Khakassia	3	8		2	13	3			2	13	78
Krasnoyarsk krai	17	42	7	7	44	15	42		7	41	469

Table 4A.3 (continued)
Territorial Units and Municipalities in the Russian Federation at Sub-regional Levels

Regions	Number of Territorial Units 01.01.2000						Number of Territorial Units Registered as Municipalities 01.09.2000					
	1st Subregional Level		2nd Subregional Level				Cities	Raions	City Districts	Towns	Townships	Rural Districts
	Cities	Raions	City Districts	Towns	Townships	Rural Districts						
Tajmyr AO	1	3			1	2	1	2		1		
Evenk AO		3			1	3						
Irkutsk oblast	14	27	6	8	55	307	14	17				
Ust-Orda Buryat AO		6				77		6				
Chita oblast	5	28	4	5	40	332	5	26		1		
Aginsk-Buryat AO		3			4	34				4		35
FAR EAST												
Republic of Sakha	5	33		8	60	357					2	
Jewish AO	1	5		1	12	47	1	5				
Chukotka AO	1	8		2	14	45	1	8				
Primorski krai	12	24	5		46	226	12	22	5			
Khabarovsk krai	6	17	7	1	24	186	2	17		18		187
Amur oblast	7	20		2	24	286	7	20		2	24	287
Kamchatka oblast	3	7		1	6	26	2	7			1	

Table 4.A.3 (continued)
Territorial Units and Municipalities in the Russian Federation at Sub-regional Levels

Regions	Number of Territorial Units 01.01.2000						Number of Territorial Units Registered as Municipalities 01.09.2000					
	1st Subregional Level			2nd Subregional Level			Cities	Raions	City Districts	Towns	Townships	Rural Districts
	Cities	Raions		Cities	Towns	Townships						
Koryak AO		4				2					2	27
Magadan oblast	1	8		1	1	28	1	6	1	29	27	
Sakhalin oblast	9	17		9		30	1	17		1		
Kaliningrad oblast	6	13		5	16	5	3	13	2	1		

1) as of January 1, 1992.

SOURCE: calculated by authors from *Population of the Russian Federation: Towns, Townships and Raions, Goskomstat, 2000* and *Forming Local Self-Governance in the Russian Federation, Goskomstat, 2000*.

Table 4A.4
Settlements by Population Size Categories in Russia

Urban Settlements as of 1/1999

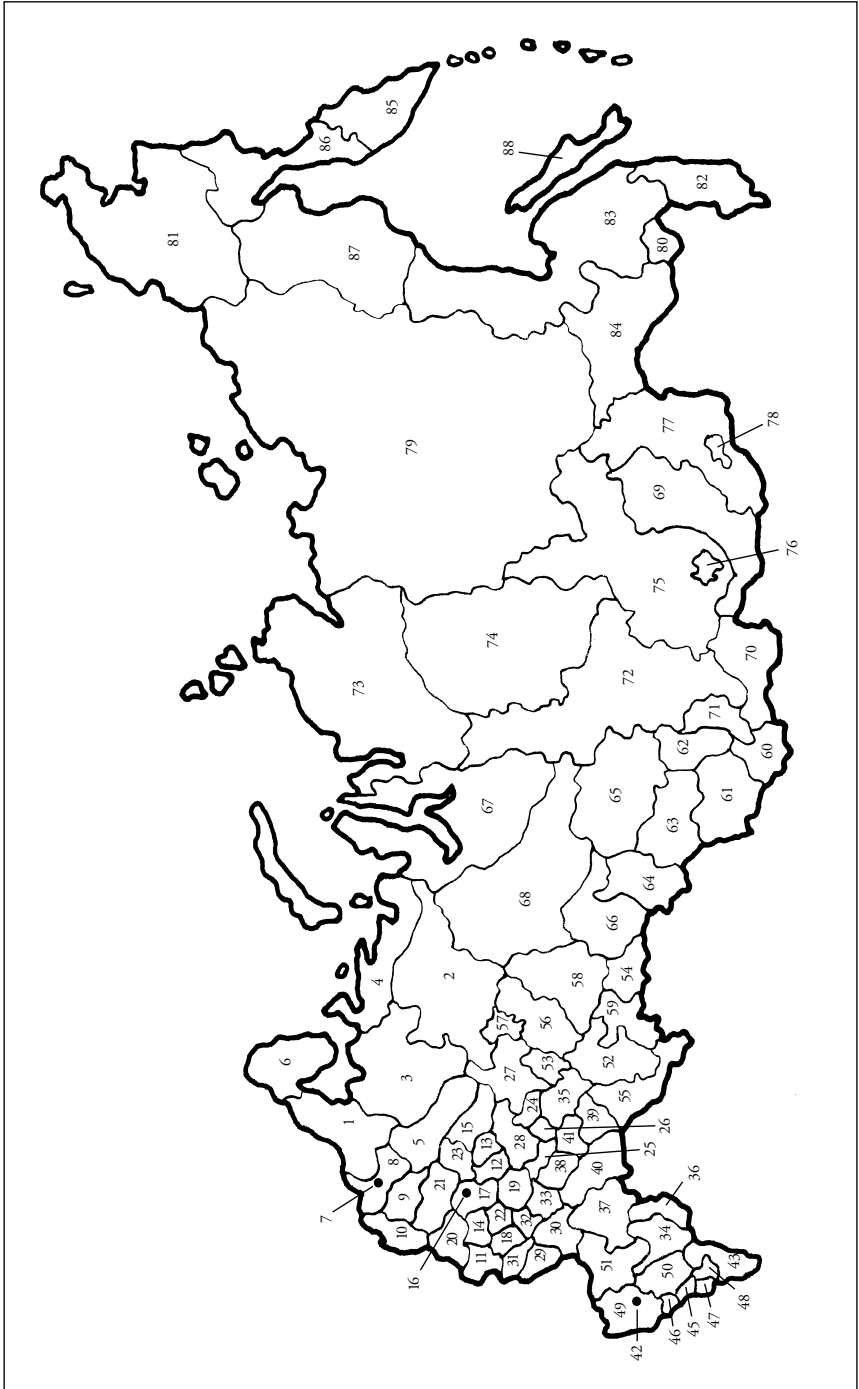
Number of Residents	Number of Settlements	% of Total	Number of Residents	% of Total
0–3,000	559	18.6	980	0.9
3,000–5,000	443	14.7	1,743	1.6
5,000–10,000	716	23.8	5,086	4.8
10,000–50,000	949	31.6	20,265	19.0
50,000–100,000	174	5.8	11,972	11.2
100,000–1,000,000	152	5.1	41,921	39.3
1,000,000+	12	0.4	24,644	23.1
Total	3,005	100.0	106,611	100.0

Rural Settlements as of 1998

Number of Residents	Number of Settlements	% of Total	Number of Residents	% of Total
0–1,000	144,534	94.5	20,415	52.3
1,000–2,000	5,718	3.7	7,759	19.9
2,000–5,000	2,069	1.4	6,127	15.7
5,000+	601	0.4	4,762	12.2
Total	152,922	100.0	39,063	100.0

SOURCE: *Russia: Statistical Yearbook*, Goskomstat, 1999.

Figure 4A.2
Administrative Map of the Russian Federation



North

1. Republic of Karelia
2. Republic of Komi
3. Arkhangelsk oblast
4. Nenets AO
5. Vologda oblast
6. Murmansk oblast

North West

7. City of St. Petersburg
8. Leningrad oblast
9. Novgorod oblast
10. Pskov oblast

Center

11. Bryansk oblast
12. Vladimir oblast
13. Ivanovo oblast
14. Kaluga oblast
15. Kostroma oblast
16. City of Moscow
17. Moscow oblast
18. Oryol oblast
19. Ryazan oblast
20. Smolensk oblast
21. Tver oblast
22. Tula oblast
23. Yaroslavl oblast

Volga–Vyatka

24. Republic of Mari El
25. Republic of Mordovia
26. Chuvash Republic
27. Kirov oblast
28. Nizhny Novgorod oblast

Central Black Earth

29. Belgorod oblast
30. Voronezh oblast
31. Kursk oblast
32. Lipetsk oblast
33. Tambov oblast

Volga River Basin

34. Republic of Kalmykia
35. Republic of Tatarstan
36. Astrakhan oblast
37. Volgograd oblast
38. Penza oblast
39. Samara oblast
40. Saratov oblast
41. Ulianovsk oblast

North Caucasus

42. Republic of Adygeya
43. Republic of Dagestan
44. Ingush Republic
45. Kabarda-Balkar Republic
46. Karachai-Circassian Republic
47. Republic of North Osetia
48. Chechen Republic
49. Krasnodar krai
50. Stavropol krai
51. Rostov oblast

Urals

52. Republic of Bashkortostan
53. Udmurt Republic
54. Kurgan oblast
55. Orenburg oblast
56. Perm oblast
57. Komi-Perm AO
58. Sverdlovsk oblast
59. Chelyabinsk oblast

West Siberia

60. Republic of Altai
61. Altai krai
62. Kemerovo oblast
63. Novosibirsk oblast
64. Omsk oblast
65. Tomsk oblast
66. Tyumen oblast
67. Khanty-Mansi AO
68. Yamal-Nenets AO

East Siberia

69. Republic of Buryatia
70. Republic of Tyva
71. Republic of Khakassia
72. Krasnoyarsk krai
73. Tajmyr AO
74. Evenk AO
75. Irkutsk oblast
76. Ust-Orda Buryat AO
77. Chita oblast
78. Aginsk-Buryat AO

Far East

79. Republic of Sakha
80. Jewish AO
81. Chukotka AO
82. Primorski krai
83. Khabarovsk krai
84. Amur oblast
85. Kamchatka oblast
86. Koryak AO
87. Magadan oblast
88. Sakhalin oblast
89. Kaliningrad oblast

Annex 4.3

Major Laws on Public Administration and Local Government

- Federal Law on General Principles of Local Self-government (28 August 1995)
- Federal Law on the Constitutional Right to Local Government Elections (1996)
- Federal Law on Local Local Government Finance (1997)
- Presidential Decree on Guarantees of Local Self-government (1993)
- Federal Law on Municipal Service (1997)
- Federal Law on the Tax System (1991)
- Tax Code (1998)
- Budget Code (1998), effective from 1 January 2000.
- Federal Law on Electoral Rights and Referenda (19 September 1997)

The following laws were revoked in 2000:

- Law on the Budget System and Process in the Russian Federation (1991)
- Law on Budgetary Rights and the Use and Formation of Extra-budgetary Funds (1993)

Annex 4.4

Responsibilities of Administrative Tiers

Figure 4A.3
Different Organizational Types of Public Administration in Russia

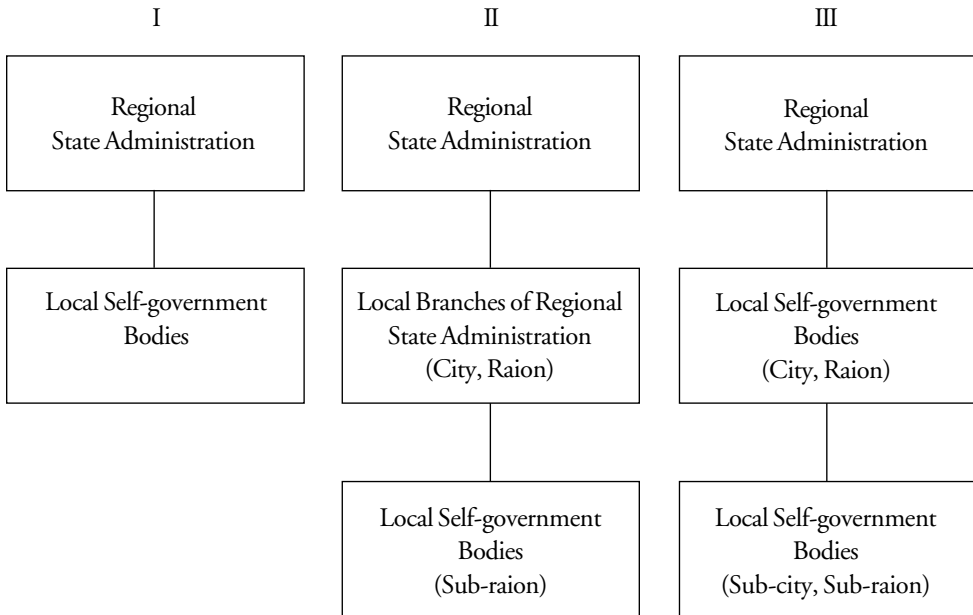


Table 4A.5
Specific Functions of Local Government Tiers in Russia

Functions	Local	Regional	Central	Remarks
I. EDUCATION				
Pre-school (Kindergartens)	X			
Primary	X			
Secondary	X			
Technical	X	X	X	The delineation of functions depends on ownership of relevant facilities
Higher		X	X	
II. SOCIAL WELFARE				
Welfare homes		X		
Personal services for elderly and handicapped	X			
Special services (for homeless, families in crisis, etc.)		X		
Social housing	X			
Social benefits and transfers	X	X	X	The execution of federal mandates is delegated to the regions. Some regions delegate them to local governments, some do not.
III. HEALTH SERVICES				
Sanitary control	X	X	X	
Hospitals	X	X	X	The delineation of functions depends on ownership of relevant facilities
Policlinics	X	X	X	
Physical fitness	X			

Table 4A.5 (continued)
Specific Functions of Local Government Tiers in Russia

Functions	Local	Regional	Central	Remarks
IV. CULTURE, LEISURE				
Theaters		X	X	Federal institutions
Museums	X	X	X	
Libraries	X			
Parks	X			
Maintaining buildings for cultural events	X			
V. HOUSING AND UTILITIES				
Water supply	X			
Sewage	X			
Electricity	X			
Gas	X			
Central heating	X			
Refuse collection	X			
Refuse disposal	X			
Cemeteries	X			
Street cleaning	X			
Subsidies for housing and utilities	X			
Environmental protection	X	X	X	
VI. TRAFFIC, TRANSPORT				
Roads	X	X	X	Depending on the status of roads (federal, regional, or local)
Public lighting	X			
Public transport	X	X		

Table 4A.5 (continued)
Specific Functions of Local Government Tiers in Russia

Functions	Local	Regional	Central	Remarks
URBAN DEVELOPMENT				
District and town planning	X			
Local economic development	X	X		
Tourism		X		
GENERAL ADMINISTRATION				
Authoritative functions (licenses, etc.)	X	X	X	
Other administrative matters (electoral register, etc.)	X	X	X	
Local police	X			Ministry of Interior (police) is a federal agency, but the maintenance of law and order in communities is listed among local functions. Localities may establish their own law enforcement divisions.
Local fire brigades	X			Fire control is included among local functions, but fire brigades are part of the federal Ministry of the Interior
Civil defense			X	

Table 4A.6
**Decentralization of Public Services: Regional and Local Proportion
of Total Sub-national Expenditures on Four Major Functions, 1999**

Region	Housing and Utilities		Education		Culture and Art		Health Care and Physical Fitness	
	[%] Regional	[%] Local	[%] Regional	[%] Local	[%] Regional	[%] Local	[%] Regional	[%] Local
Russian Federation	26.3	73.7	24.1	75.9	43.3	56.7	42.4	57.6
NORTH								
Republic of Karelia	14.9	85.1	17.8	82.2	49.8	50.2	39.5	60.5
Republic of Komi	3.4	96.6	10.1	89.9	26.3	73.7	66.1	33.9
Arkhangelsk oblast	7.5	92.5	8.1	91.9	28.9	71.1	35.7	64.3
Vologda oblast	3.5	96.5	24.0	76.0	41.7	58.3	37.8	62.2
Murmansk oblast	1.4	98.6	5.1	94.9	28.4	71.6	30.0	70.0
Nenets AO	34.2	65.8	41.7	58.3	49.0	51.0	82.1	17.9
NORTH WEST								
City of St. Petersburg	97.9	2.1	99.4	0.6	99.0	1.0	99.4	0.6
Leningrad oblast	2.1	97.9	11.5	88.5	30.4	69.6	47.3	52.7
Novgorod oblast	14.5	85.5	9.9	90.1	16.2	83.8	50.9	49.1
Pskov oblast	15.6	84.4	18.1	81.9	42.7	57.3	40.1	59.9
CENTER								
Bryansk oblast	8.4	91.6	9.8	90.2	28.5	71.5	44.7	55.3
Vladimir oblast	1.3	98.7	4.3	95.7	19.1	80.9	25.0	75.0
Ivanovo oblast	0.6	99.4	8.1	91.9	31.2	68.8	26.7	73.3
Tver oblast	2.3	97.7	9.3	90.7	31.2	68.8	39.8	60.2
Kaluga oblast	4.9	95.1	18.8	81.2	40.6	59.4	32.4	67.6
Kostroma oblast	21.0	79.0	11.4	88.6	30.4	69.6	30.8	69.2
Moscow oblast	5.5	94.5	11.9	88.1	14.9	85.1	19.0	81.0
Oryol oblast	49.6	50.4	20.7	79.3	37.2	62.8	36.2	63.8
Ryazan oblast	15.8	84.2	13.4	86.6	30.1	69.9	41.1	58.9
Smolensk oblast	7.1	92.9	16.9	83.1	32.4	67.6	23.4	76.6
Tula oblast	5.1	94.9	8.3	91.7	26.4	73.6	24.0	76.0

Table 4A.6 (continued)
**Decentralization of Public Services: Regional and Local Proportion
of Total Sub-national Expenditures on Four Major Functions, 1999**

Region	Housing and Utilities		Education		Culture and Art		Health Care and Physical Fitness	
	[%] Regional	[%] Local	[%] Regional	[%] Local	[%] Regional	[%] Local	[%] Regional	[%] Local
VOLGA-VYATKA								
Yaroslavl oblast	2.2	97.8	12.4	87.6	31.8	68.2	26.6	73.4
Republic of Mari El	7.9	92.1	25.0	75.0	40.4	59.6	30.9	69.1
Republic of Mordovia	22.7	77.3	15.7	84.3	39.8	60.2	32.4	67.6
Chuvash Republic	9.3	90.7	10.0	90.0	34.8	65.2	21.9	78.1
Nizhny Novgorod oblast	3.3	96.7	14.1	85.9	18.1	81.9	10.4	89.6
Kirov oblast	7.4	92.6	7.0	93.0	20.5	79.5	28.0	72.0
CENTER-BLACK SOIL								
Belgorod oblast	14.3	85.7	19.5	80.5	31.2	68.8	38.9	61.1
Voronezh oblast	7.3	92.7	10.9	89.1	22.8	77.2	27.3	72.7
Kursk oblast	10.3	89.7	12.6	87.4	63.6	36.4	43.4	56.6
Lipetsk oblast	2.5	97.5	9.3	90.7	29.0	71.0	33.7	66.3
Tambov oblast	1.3	98.7	9.6	90.4	28.2	71.8	40.2	59.8
VOLGA RIVER BASIN								
Republic of Kalmykia	50.2	49.8	10.6	89.4	33.1	66.9	77.2	22.8
Republic of Tatarstan	13.9	86.1	9.2	90.8	44.3	55.7	28.2	71.8
Astrakhan oblast	10.2	89.8	18.2	81.8	45.1	54.9	34.4	65.6
Volgograd oblast	6.0	94.0	13.5	86.5	30.8	69.2	16.8	83.2
Samara oblast	3.3	96.7	40.6	59.4	28.8	71.2	75.9	24.1
Penza oblast	16.2	83.8	44.1	55.9	56.9	43.1	55.7	44.3
Saratov oblast	5.6	94.4	14.9	85.1	38.2	61.8	29.7	70.3
Ulianovsk oblast	20.4	79.6	26.3	73.7	55.0	45.0	50.5	49.5
NORTH CAUCAUSES								
Republic of Dagestan	21.7	78.3	14.9	85.1	35.1	64.9	81.0	19.0
Kabarda-Balkar Rep.	53.5	46.5	24.7	75.3	40.8	59.2	40.6	59.4
Republic North Ossetia	11.9	88.1	19.8	80.2	72.9	27.1	54.3	45.7

Table 4A.6 (continued)
**Decentralization of Public Services: Regional and Local Proportion
of Total Sub-national Expenditures on Four Major Functions, 1999**

Region	Housing and Utilities		Education		Culture and Art		Health Care and Physical Fitness	
	[%] Regional	[%] Local	[%] Regional	[%] Local	[%] Regional	[%] Local	[%] Regional	[%] Local
Ingush Republic	87.9	12.1	46.6	53.4	56.4	43.6	68.3	31.7
Krasnodar krai	11.0	89.0	7.9	92.1	23.3	76.7	23.2	76.8
Stavropol krai	35.6	64.4	15.3	84.7	23.1	76.9	24.3	75.7
Rostov oblast	2.3	97.7	8.3	91.7	62.9	37.1	34.5	65.5
Republic of Adygeya	11.9	88.1	28.6	71.4	51.8	48.2	42.6	57.4
Karachai-Circassian Rep.	34.1	65.9	10.5	89.5	31.2	68.8	41.5	58.5
URALS								
Rep. of Bashkortostan	50.4	49.6	26.2	73.8	58.8	41.2	38.0	62.0
Udmurt Republic	9.0	91.0	9.7	90.3	22.9	77.1	28.1	71.9
Kurgan oblast	5.1	94.9	17.1	82.9	23.5	76.5	34.1	65.9
Orenburg oblast	37.7	62.3	45.0	55.0	60.4	39.6	56.2	43.8
Perm oblast	2.6	97.4	9.6	90.4	29.1	70.9	26.1	73.9
Sverdlovsk oblast	2.0	98.0	19.0	81.0	29.6	70.4	44.6	55.4
Chelyabinsk oblast	5.2	94.8	12.8	87.2	29.2	70.8	16.8	83.2
Komi-Perm AO	8.3	91.7	11.1	88.9	27.8	72.2	45.7	54.3
WEST SIBERIA								
Altai krai	5.9	94.1	8.9	91.1	26.1	73.9	21.7	78.3
Republic of Altai	30.3	69.7	21.8	78.2	24.0	76.0	55.7	44.3
Kemerovo oblast	2.3	97.7	11.9	88.1	17.0	83.0	18.3	81.7
Novosibirsk oblast	0.0	100.0	6.9	93.1	49.8	50.2	27.0	73.0
Omsk oblast	32.9	67.1	42.1	57.9	61.1	38.9	46.3	53.7
Tomsk oblast	3.9	96.1	19.5	80.5	30.9	69.1	39.5	60.5
Tyumen oblast	19.3	80.7	19.9	80.1	50.7	49.3	62.1	37.9
Khanty-Mansi AO	12.1	87.9	9.5	90.5	8.6	91.4	14.2	85.8
Yamal-Nenets AO	1.5	98.5	13.8	86.2	21.8	78.2	34.6	65.4

Table 4A.6 (continued)
**Decentralization of Public Services: Regional and Local Proportion
of Total Sub-national Expenditures on Four Major Functions, 1999**

Region	Housing and Utilities		Education		Culture and Art		Health Care and Physical Fitness	
	[%] Regional	[%] Local	[%] Regional	[%] Local	[%] Regional	[%] Local	[%] Regional	[%] Local
EAST SIBERIA								
Republic of Buryatia	3.9	96.1	9.0	91.0	39.3	60.7	37.7	62.3
Republic of Tyva	13.9	86.1	11.6	88.4	33.7	66.3	46.1	53.9
Republic of Khakassia	10.8	89.2	13.2	86.8	26.5	73.5	29.7	70.3
Krasnoyarsk krai	5.3	94.7	8.3	91.7	25.6	74.4	17.1	82.9
Irkutsk oblast	3.4	96.6	6.5	93.5	63.6	36.4	19.0	81.0
Chita oblast	3.9	96.1	17.1	82.9	37.7	62.3	44.1	55.9
Aginsk-Buryat AO	17.2	82.8	12.7	87.3	67.4	32.6	90.2	9.8
Tajmyr AO	77.1	22.9	16.2	83.8	20.2	79.8	78.2	21.8
Ust-Orda Buryat AO	66.4	33.6	7.9	92.1	14.6	85.4	38.4	61.6
Evenk AO	6.3	93.7	27.4	72.6	50.7	49.3	60.4	39.6
FAR EAST								
Republic of Sakha	9.4	90.6	23.5	76.5	49.7	50.3	42.5	57.5
Primorski krai	1.4	98.6	11.3	88.7	18.4	81.6	36.2	63.8
Khabarovsk krai	25.5	74.5	8.4	91.6	32.6	67.4	33.8	66.2
Amur oblast	0.0	100.0	23.3	76.7	14.0	86.0	32.9	67.1
Kamchatka oblast	4.5	95.5	11.4	88.6	27.8	72.2	26.1	73.9
Magadan oblast	6.2	93.8	8.9	91.1	36.4	63.6	38.6	61.4
Sakhalin oblast	5.4	94.6	6.4	93.6	38.0	62.0	25.0	75.0
Jewish AO	9.7	90.3	11.8	88.2	17.5	82.5	76.6	23.4
Koryak AO	8.6	91.4	15.9	84.1	25.6	74.4	18.7	81.3
Chukotka AO	7.4	92.6	7.6	92.4	17.4	82.6	37.1	62.9
Kaliningrad oblast	4.8	95.2	5.7	94.3	36.9	63.1	31.6	68.4

SOURCE: Authors' calculations based on RF Ministry of Finance data.

Table 4A.7

Federal, Regional and Local Shares of Total Budget Expenditures, 1999*

Year	Consolidated Government Expenditures [% of GDP]	Federal Government Expenditures [% of Consolidated Expenditures]	Regional Government Expenditures [% of Consolidated Expenditures]	Local Government Expenditures [% of Consolidated Expenditures]
1997	32.5	44.6	23.8	31.7
1998	27.9	45.9	24.2	29.8
1999	27.7	48.0	24.5	27.5

* In Russia social insurance, unemployment and medical insurance funds are separate funds, excluded from budgets of all levels and are therefore not covered in this table

SOURCE: Calculations based on Ministry of Finance data.

Table 4A.8

Structure of Local Government Revenues in the Russian Federation, 1999

Revenue Sources	RUR billion	[%]
Total Local Revenues	346.3	100.0
of which:		
Tax Revenues	245.9	71.1
Local taxes and fees	45.5	13.1
Permanently assigned shared taxes and fees ¹	47.4	13.7
Shared taxes at annually fixed rates	153.0	44.2
Non-tax Revenues	12.4	3.6
Revenues of Earmarked Budgetary Funds	2.6	0.7
Intergovernmental Grants	84.0	24.3
Subsidies and transfers	54.2	15.7
Subventions	9.4	2.7
Other	20.4	5.9
Other Grants ²	1.4	0.4

¹ Tax revenues assigned to localities on a permanent basis under the Federal Law on the Tax System in the Russian Federation.

² Grants from state extra-budgetary funds and public organizations

SOURCE: Calculations based on Ministry of Finance data.

Table 4A.9
Sources of Local Government Revenues, 1997–1999

Year	Own Local Tax Revenues ¹ [%]	Shared Revenue from Taxes and Grants ² [%]
1997	25.1	74.9
1998	30.3	69.7
1999	31.1	68.9

¹ Own local tax revenues include local taxes and fees, permanently assigned shared taxes and fees, non-tax revenues and revenues of earmarked budgetary funds.

² Grants include intergovernmental grants and grants from state extra-budgetary funds and public organizations.

SOURCE: Calculations based on Ministry of Finance data.

Table 4A.10
**Structure of Local Government Expenditures by Function and Type of Settlement,
 1998 and 1999**

Function	1998						1999
	Cities	Raions	Towns	Townships	Rural Districts	Share of Function in Total Sub-regional Spending	Share of Function in Total Sub-regional Spending*
Public government	3.9	7.2	4.5	6.8	12.1	5.3	5.7
Law enforcement, public order	1.6	1.2	1.5	0.5	0.2	1.4	1.5
Industry, energy, construction	1.4	1.6	0.4	0.5	0.2	1.4	1.4
Agriculture and fishing	0.8	5.3	0.4	0.4	1.1	2.1	1.8
Public transport roads, telecommunications	4.9	1.1	1.2	0.4	0.1	3.4	3.1
Housing and utilities	34.3	23.5	37.0	28.1	10.4	29.9	27.1
Education	24.3	28.9	35.8	45.5	56.6	27.8	27.8
Culture and art	1.6	3.0	1.4	2.5	8.1	2.3	2.5
Health care and physical fitness	15.6	14.6	10.7	9.9	8.8	14.8	15.6
Welfare	5.4	7.4	3.1	1.7	1.7	5.7	5.4
Other expenditures	6.4	6.0	3.9	3.9	0.8	5.9	4.2
Total expenditures	100.0	100.0	100.0	100.0	100.0	100.0	100.0

* Only aggregated data for all local governments are available for 1999.

SOURCE: Calculations based on Ministry of Finance data.

Table 4A.11
Own Revenue Sources of Local Governments, 2000

Tax	Tax Imposed by:	Tax Base Set by:	Tax Rate Set by:	Payments Accrue to:
a) Personal property tax*	Federal government for the entire RF	Federal government	Regional and local authorities	Local budget
b) Land tax*	Federal government for the entire RF	Federal government	Regional and local authorities	Shared among federal, regional and local governments in the proportion of 30:20:50
c) Registration fee for individuals engaged in entrepreneurial activities	Federal government for the entire RF	Regional and local authorities	Regional and local authorities	Local budget
d) Tax on construction of manufacturing facilities in health resort areas**	Local authorities	Local authorities	Local authorities	Local budget
e) Health resort fee	Local authorities	Local authorities	Local authorities	Local budget
f) Fee for the right to engage in trade**	Local authorities	Local authorities	Local authorities	Local budget
g) Special purpose fees for individuals and businesses for support of the police service, improvements of territories, education and other purposes	Local authorities	Federal government (12 minimum monthly wages)	Local authorities within federal limits (0–3%)	Local budget

Table 4A.11 (continued)
Own Revenue Sources of Local Governments, 2000

Tax	Tax Imposed by:	Tax Base Set by:	Tax Rate Set by:	Payments Accrue to:
h) Advertisement tax	Local authorities	Federal government (cost of services)	Local authorities within federal limits (0–5%)	Local budget
i) Tax on resale of motor vehicles, hardware and personal computers**	Local authorities	Federal government (transaction amount)	Local authorities within federal limits (0–10%)	Local budget
j) Charge on dog owners**	Local authorities	Federal government (minimum monthly wage)	Local authorities within federal limits (0–14% per annum)	Local budget
k) License fee for the right to trade in wine and vodka products**	Local authorities	Federal government (minimum monthly wage)	Federal government (25–50% of minimum monthly wages)	Local budget
l) License fee for the right to hold local auctions and lotteries**	Local authorities	Federal government (value of goods put up for an auction or an issue amount of lottery tickets)	Local authorities within federal limits (0–0%)	Local budget
m) Fee for issuance of an authorization to a municipal apartment**	Local authorities	Federal government (minimum monthly wages)	Federal government (0–75%)	Local budget
n) Fee for parking of motor vehicles**	Local authorities	Local authorities	Local authorities	Local budget
o) Fee for the right to use local symbols**	Local authorities	Federal government (value of sold products)	Local authorities within federal limits (0–0.5%)	Local budget

Table 4A.11 (continued)
Own Revenue Sources of Local Governments, 2000

Tax	Tax Imposed by:	Tax Base Set by:	Tax Rate Set by:	Payments Accrue to:
p) Racecourse participation fee**	Local authorities	Local authorities	Local authorities	Local budget
q) Racecourse prize fee**	Local authorities	Federal government (prize amount)	Local authorities within federal limits (0–5%)	Local budget
r) Charge on individuals participating in racecourse totalizators**	Local authorities	Federal government (payment for participation in the game)	Local authorities within federal limits (0–5%)	Local budget
s) Fee for exchange transactions**	Local authorities	Federal government (transaction amount)	Local authorities within federal limits (0–1%)	Local budget
t) Fee for the right to shoot movies and TV films**	Local authorities	Local authorities	Local authorities	Local budget
u) Fee for street cleaning**	Local authorities	Local authorities	Local authorities	Local budget
v) Fee for setting up gambling business**	Local authorities	Local authorities	Local authorities	Local budget
w) Housing and social infrastructure maintenance fee**	Local authorities	Federal government (volume of sales)	Local authorities within federal limits (0–1.5%)	Local budget

* According to the General Part of the Tax Code, as soon as representative branches of regional governments introduce the Immovable Property Tax in their jurisdictions, taxes referred to in a) and b) will cease to be levied.

** Pursuant to Federal Law No. 150 of July 31, 1998, as soon as representative branches of regional governments introduce the Sales Tax in their jurisdictions, taxes referred to in d), f), i), j), k), l), m), n), o), p), q), r), s), t), u) and v) will cease to be levied.

Notes

- ¹ As of October 2000, only the republics of Bashkortostan and Tatarstan retained individual privileges not stipulated in the Constitution.
- ² Goskomstat, 1994 Census.
- ³ The only exception is the federal Ministry of Finance, which gave up its regional, city, and raion offices with transition to the decentralization of local government. All local branches of the Ministry of Finance were officially transformed into the financial departments of regional or local governments.
- ⁴ This section draws heavily on S. Mitrokhin, "Implementation of the Municipal Project in Russia: Some Aspects of Federal Policy," 1999, which contains a comprehensive review of local government reform history in Russia.
- ⁵ This classification was proposed in Zamotayev (1999).
- ⁶ Goskomstat, *Forming Local Self-governance in the Russian Federation*, 2000.
- ⁷ In the Ingush Republic, for example, heads of municipalities have been appointed by decrees of the President of the Republic.
- ⁸ According to Goskomstat data, 11,809 municipalities have local budgets. However, the majority of them have no power to introduce local taxes in their jurisdictions.
- ⁹ B. Ovchinnikov, "Municipal Elections: Tendencies and Patterns," 1999.
- ¹⁰ G. Luhterhandt-Mikhalyova, "Political Parties in the Regions and at the Municipal Level, 1999.
- ¹¹ For example, the Karelia Republic, the Buryat Republic, the Sakha (Yakut) Republic, and Primorski krai.
- ¹² D. Grushin, "Ethnicities and Local Government," 1999.
- ¹³ Goskomstat, *Forming Local Self-governance in the Russian Federation*, 2000.
- ¹⁴ For example, in Saratov oblast.
- ¹⁵ For example, in some municipalities in Voronezh oblast.
- ¹⁶ The experience of the Tula oblast where elders were recently elected in most of the sub-raion settlements is described in Morozhikhin and Morozhikhin, *Self-governed Village*, 1999.
- ¹⁷ City of Petrozavodsk Administration, <http://www.petrozavodsk.ru>.
- ¹⁸ Health care is financed by the municipal, regional or federal budget as well as from the mandatory medical insurance fund. This dual financing scheme generates difficulties in delineating powers.

- ¹⁹ Goskomstat, *Forming Local Self-governance in the Russian Federation*, 2000.
- ²⁰ This refers to commercial banks established with assistance from municipal capital. One example is *Dom-bank*, which operates in Domodedovo raion of Moscow region. The raion administration originally held a small share (one percent) in the bank capital. The administration and committee for property management presently hold a controlling block of shares (fifty-two percent).
- ²¹ Starting from 2001, all VAT revenues are due to be consolidated in the federal budget.
- ²² Starting from 2001, municipalities will receive five percent of collections from the enterprise profits tax.
- ²³ In Vladimir oblast, subventions from the oblast budget in 1999 were provided primarily for payment of child benefits to low-income families, while in Leningrad oblast they were designated for subsidies to eligible groups for housing, utilities and free medicine.
- ²⁴ In Leningrad oblast, subventions to local budgets in 1999 were used to support the State Service of Medical and Social Examination. In Altai krai local budgets received subventions for maintenance of inter-raion budget agencies.
- ²⁵ Fiscal Policy Center, Georgia State University, under the Fiscal Reform in Russia Project sponsored by the United States Agency for International Development.
- ²⁶ One exception is the City of Togliatti in Samara oblast. The municipality introduced a tax on imputed income (the tax was in fact a property tax on small business), and set up municipal tax service for collection purposes. The service operated quite successfully. However, after implementation of the law on imputed income across the entire Federation the local tax on imputed income was abolished, although its federal version was difficult to administer and inefficient. In the end, the municipal tax service had to be dissolved.
- ²⁷ Since local government bodies are distinct from the state administration, it is important to distinguish between a single treasury system and a single treasury set up as a federal entity.
- ²⁸ This study was undertaken by the Georgia State University under the Fiscal Reform in Russia Project sponsored by the United States Agency for International Development.

Chapter 5

Local Government in Georgia

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Developing New Rules in the Old Environment

Local Government in Georgia

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Local Government in Georgia

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1. Overview of Local Government Reform

Local government has posed one of the most significant problems in building the Georgian state. Unlike Parliament and the government, both of which relatively well established by legislation, the structure of local governments remains vague, due to the lack of any tradition of self-government in Georgia.

The only early example of self-government in Georgia is Tbilisi, where the institution of city elders (*Tbileli Berebi*) was in place from about 1080 until 1122. Although city government emerged in the twelfth century, its development was hampered by invasions of nomadic tribes such as the Mongols, the Temur-Leng and Turkmens. Since roughly the same time, however, forms of community self-government have existed in the mountainous regions, which, unlike other districts, have continuously maintained institutions of elders (*khevisberi*).

After the annexation of Georgia by the Russian empire, the country was ruled first by military and then by civil Russian administration from 1801 to 1829. In 1841, limited self-government was introduced in Tbilisi. Georgian villages began to convene village assemblies in 1865, in a move similar to the peasant reform carried out in central Russia. About seven hundred of these assemblies appeared, made up entirely of family elders. However, no truly democratic elective bodies functioned in Georgian villages until 1917. In 1874, municipal reform was carried out in the cities, leading to the introduction of elective city councils (*satatbiro*) between 1874 and 1888 in Tbilisi, Kutaisi, Gori, Akhaltsikhe, Poti and Batumi.

Local administration was chosen by representative bodies; the mayor was elected by the city council and the village headman (*mamasakhlisi*) by the village assembly. However, the election base was limited to five percent of the population due to stringent social, age and property requirements. Furthermore, local administration functioned as a local branch of the central government rather than a local self-government body.

It was only after the February 1917 revolution in Russia, during the short-lived independent Georgian Republic, that attempts were made to democratize government and introduce principles

of local self-governance. The first elections to local and municipal self-governing bodies were held in 1919. These attempts ended when Russian Bolsheviks invaded Georgia in 1921.

During the Soviet era, institutions of local self-governance existed only in the form of puppet organizations. Neither the Constitution nor legislation acknowledged the concept of self-government. The monopolistic party system and fully centralized budget precluded the need for local initiative and local soviets of people's deputies carried out local government at all levels as bodies of state power. Furthermore, there was no separation of competencies between different administrative levels. According to the Constitution, all soviets had similar competencies and responsibilities, resulting in numerous legal battles during *perestroika*.

The Law on the Transition Period, adopted 14 November 1990, was the first of several laws designed to replace the Soviet system, among which were the following:

- Several amendments to the Constitution of the Republic of Georgia, passed throughout 1990–1991;
- Law on Elections to the Local Bodies of State Power (adopted 24 January 1991);
- Law on Local Administration during the Transition Period (adopted 29 January 1991);
- Law on Prefectures (adopted 23 April 1991).

Local administration from 1990 to 1991 generally functioned on two levels. The first level was constituted by villages, settlements and towns. The representative body was the local council (*sakrebulo*), elected for a three year term. The head of local administration (*gamgebeli*) was nominated by the prefect and confirmed by the local council.

The second level consisted of districts and cities with special status. At this level, local councils were elected for a three year term. In addition, a prefect was appointed by the Chairman of the Supreme Council (later the president of the republic) to head the district executive branch and act as the representative of the central government for a four-year term. As the highest regional state official, prefects had supervisory powers over local authorities, including village and town councils, and were entitled to annul local council decisions without appeal.

The law also specified the following categories of local government: district, town, city district, community, settlement and village.

After the coup of 1991, the office of the prefect was abolished and regional authority was transferred to district heads of local administration. The 1921 Constitution, reinstated in 1992, has not affected the development of local self-government.

The current state of local self-government is complicated by unresolved issues of territorial organization. This problem is regarded as sensitive by political circles, ethnic minorities and the public and has frequently turned critical in recent years. Widespread ethnic prejudice and unresolved socio-economic problems create additional difficulties for the state.

Relations with regions not populated by ethnic minorities are equally complex due to the following reasons:

- strong ideological opposition;
- tribal traditions, which became increasingly entrenched in certain regions in the 1990s;
- intensified confrontation between the mafia and local and central nomenklatura;
- widespread apathy and distrust of the state due to events of the last decade (the *coup d'état*, civil war and ethnic conflicts);
- economic crisis due to the disintegration of the Soviet economic sphere and the total lack of preparation for competition in the global market;
- political crisis caused by an inefficient and underdeveloped state system and a government which lacks a clearly formulated strategy in several critical areas;
- lack of priority given to issues of local government since, during independence, those in power felt that Georgia faced other more pressing problems;
- the scope of the problem. Because politicians found self-government to be so difficult to solve, they failed to develop basic principles of local self-government or a model of territorial organization for its implementation.

It should be noted that the Georgian government was both unstable and unpopular between 1992 and 1995 and at present. This, combined with the overall ignorance of the population in self-governing issues, paints a bleak picture for local self-government in Georgia.

2. Legal and Constitutional Basis

2.1 Territorial Structure, Levels of Self-government

The current system of local governments delineates two tiers of self-government. The first is made up of the smallest administrative units: villages, communes, small rural towns and district-level cities. Elected bodies at this level enjoy a relatively full degree of autonomy, with the power to create executive bodies and supervise their activities.

The second tier consists of districts and cities with special status (Batumi, Rustavi, Sokhumi, Poti, Kutaisi and Tskhinvali). This tier acts as mediator between the regions and the central government and possesses greater powers. This level is centrally-governed, not self-governed: elected bodies may monitor the activity of executive agencies such as the city hall (*gamgeoba*), but these executive officials are appointed by and accountable to the central government.

Tbilisi has special status as the capital city, as established by the Law on the Capital of Georgia. The representative body is the Tbilisi local council, which is elected by proportional ballot. The executive branch is composed of the mayor, the premier and district *gamgebeli*, who are nominated by the mayor and appointed by the president.

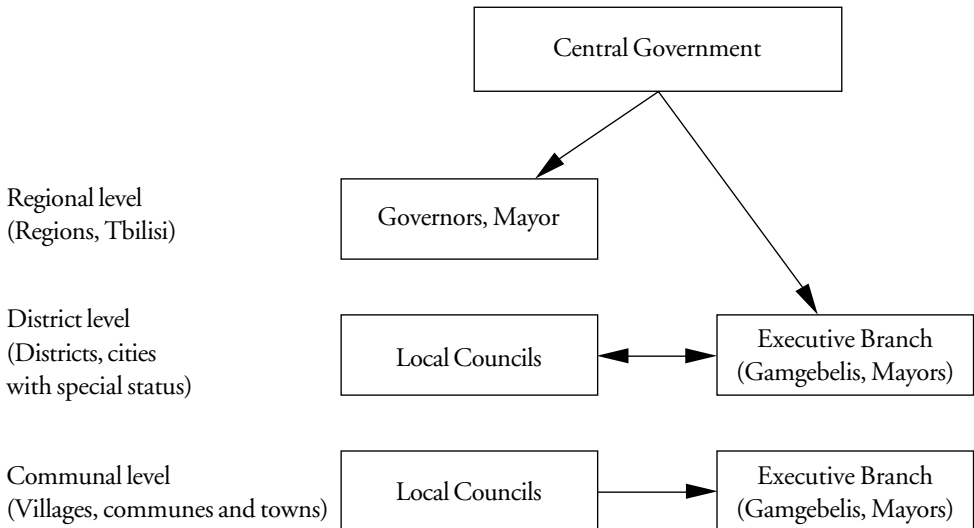
Local self-government bodies in mountainous territories have additional powers as determined by law.

At all levels of government in Georgia, central and local, town and district, elected representative institutions are forced to coexist with executive bodies not under their control.

The most important change in territorial structure was the creation of regions headed by the state commissioner, also commonly referred to as the governor. The institution of the governor is established by presidential decree rather than by legislation. Governors currently head the nine regions of Georgia (Kakheti, Shida Kartli, Kvemo Kartli, Mtskheta-Mtianeti, Meskhet-Djavakheti, Imereti, Samegrelo and Zemo Svaneti, Racha-Lechkhumi and Kvemo Svaneti, Guria).

The relationship between regional and local levels of government is illustrated in figure 5.1 below. It should be noted that the Organic Law on Local Government and Self-governance addresses local government at the first level, rather than self-government in general, and does not provide for any elective bodies at the regional level. As mentioned above, there is a need for a constitutional Law on Administrative-territorial Organization of Georgia to regulate territorial organization and relations between the central government and autonomous republics in the future.

Figure 5.1
Relationships between Different Tiers of Government



2.2 Legal Basis of Local Government

Unfortunately, the legislative foundation for local government in Georgia is underdeveloped and often self-contradictory due to frequent amendment. For instance, the Law on the Structure and Operation of Executive Power has been amended twice since its adoption in 1990. Furthermore, several essential areas lack any legislative basis; key fields such as regional organization and the office of regional state commissioner are determined by presidential decree, not parliamentary legislation.

The 1995 Constitution failed to stipulate a model for administrative-territorial organization. Instead, its second clause postpones settlement of the issue until restoration of the country's territorial integrity. Meanwhile, the system of local government is determined by the Organic Law on Local Government and Self-governance, adopted in October 1997. Despite many juridical flaws, this law provided the basis for the development of a relatively efficient system of self-government. The Organic Law on Local Government superseded several contradictory normative laws passed between 1991 and 1997 (in total, three laws, one resolution and eleven decrees).

The Law on the Capital of Georgia followed on 18 February 1998. Despite these positive steps forward, requirements for local elections were not specified until late summer. The Law on Local Council Elections was signed by the president of Georgia on 4 August 1998, at the same time as the Law on the Status of Local Council Members.

The year 1999 witnessed the passage of the Law on the Social, Economic and Cultural Development of Mountainous Regions and the Law on Direct State Governance. The process of dividing financial and budgetary responsibilities between central and local governments began with the adoption of the Law on Financial Bodies of the Local and State Governments.

Finally, both the Law on Public Service and the Law on Corruption and Conflict of Interest in Public Service regulate government activities in general, including those of local governments.

While a system of local government has developed at the communal and district levels over the past three years, the status of the regional level remains ambiguous. The office of regional state commissioner has no legal basis and may be considered unconstitutional. The only law to address the subject is the Law on the Fund for State Commissioners.

2.3 Functions of Local Government

Local councils at all levels of government are responsible for the following:

- reviewing and approving the local budget, making any necessary amendments, approving the budget execution report and supervising budget execution;

- approving long-term social and economic development plans and supervising their implementation;
- levying and rescinding local taxes and fees and determining tax exemptions;
- supervising the activities of executive bodies and council officials and evaluating their annual reports;
- electing the council chairman and secretary, forming council committees, electing committee chairmen, approving committee staff and making any necessary changes;
- confirming elected council members and removing them from office before their terms are up;
- reviewing reports from heads of any local government bodies created by the council or officials;
- adopting local government resolutions, amending them and supervising their implementation;
- establishing rules for the ownership, use and disposal of local self-government property;
- founding and liquidating local services and relevant enterprises;
- creating local government housing and construction funds and regulating their disposal;
- approving programs for the revitalization and development of community services and supervising their implementation;
- establishing a local information service;
- resolving issues of local importance concerning education, health care, culture and sports;
- regulating the provision of social services;
- approving agreements and contracts made on behalf of the local self-government.

In addition to these responsibilities, second-tier local governments (districts and cities with special status) and the councils of Tbilisi are charged with the following duties:

- ensuring the observance of human rights, legality and public law and order, and evaluating reports from relevant bodies and officials;
- monitoring the use of natural resources in accordance with Georgian legislation;
- approving measures for environmental protection and ecological safety;
- approving measures for the protection of cultural heritage;
- ensuring the implementation of state programs;
- approving programs to provide a social safety net and promote employment;
- approving measures to relieve the consequences of catastrophes, acts of God and epidemics.

3. Local Politics, Decision Making

3.1 Local Politics

As the political and economic elite realize the necessity of legitimizing their power, elections have become a trophy for democratic legitimacy in recent years.

The *nomenklatura* employs classic clientele methods in its relations with the population, either using intimidation or offering economic compensation in order to win elections (for example, paying

salaries and pensions, distributing food products or repairing roads). In areas where civil society is weaker, such as ethnic enclaves, or areas under the control of local autocrats, such as regions, the population tends to comply with the nomenklatura and vote as instructed.

Illegal methods are used increasingly often; these include distributing gifts among constituencies prior to elections, stuffing ballot boxes and bribing members of electoral commissions. Reports and press releases from local and international monitors provide numerous examples of these violations as well as examples of obstruction by authorities, particularly police, during virtually every election. Observers are barred from monitoring voting, campaigning frequently continues on election day, individual voters cast their ballots repeatedly at different polling stations, registration procedures are violated and the tallying of votes is rigged. Particularly in regions, the local population votes for local nomenklatura, primarily out of reluctance to offend the parties in power.

Nonetheless, voters express their dissatisfaction by the post-Soviet trend whereby citizens vote against the government rather than for a candidate, by the decrease in voter participation since 1990 and by the increase in people who do not trust local government (from fifty-three percent in 1996 to sixty-seven percent in 1998).

Party politics has a pervasive influence on local self-government. Political parties in Georgia, though diverse, can be divided into two main groups:

- Political parties created around former nomenklatura or representatives of certain regional or family clans. These parties have strong political and economic leverage at their disposal, extending to physical force when necessary;
- Political movements and groups with low membership. These parties are active only during elections or limit their activities to local civil disobedience campaigns and other ineffective protests.

Party corruption, present at every level, is at its most blatant during elections. Examples range from purchasing votes to falsifying election results during counting.

Civil society is dependent on western donor assistance and does not significantly influence public opinion. However, non-governmental organizations (NGOs) have begun to play a greater role in local self-government. This is primarily true of large cities, but has slowly spread to the regions in the past two years. Community organizations have started to emerge and some, such as the *Varketili* organization based in a district of Tbilisi, have seriously affected local policymaking and even regulate certain services.

Some local self-government bodies have begun to coordinate their activities and international organizations have been promoting the establishment of local council associations. The Association of Georgian Councils was founded in 1999, with the help of the National Democratic Institute (NDI), while the smaller National Association of Sakrebulo was created at the initiative of the district city of Gori. Association activities have thus far been limited to regular assemblies and the distribution of methodological literature. Limited financial resources and lack of experience among

local councils negatively impact the quality of activities. Nevertheless, this type of association has great potential for exchanging best practices in self-governance, improving personnel skills and developing joint programs.

3.2 Internal Structure of Local Self-government

Local councils in cities with special status consist of thirty members, while the Tbilisi city council consists of fifty-five. The composition of the remaining local councils is defined according to population by the following scale:

Table 5.1
Number of Local Council Members According to Population Size

Population	Number of Council Members
0–500	5
500–1,000	7
1,000–2,000	9
2,000–5,000	13
5,000–10,000	17
10,000–30,000	19
30,000–50,000	21
50,000+	25

Local council officials include the chairman, secretary and chairmen of local council commissions. In addition, the Tbilisi local council possesses deputy chairmen of local council commissions and chairmen of political factions.

Local council members elect a council chairman from among their number. The chairman is chosen by a majority vote of members present at the meeting, provided that the votes equal at least one third of total membership (at least one half in Tbilisi). The council chairman is responsible for:

- directing council activities and preparing for, convening and chairing council meetings;
- representing the local council to other organizations;
- coordinating the activities of standing and temporary council commissions;
- signing local council decisions;
- other duties in accordance with council provisions and existing legislation.

The council chairman nominates a candidate for the position of secretary, who may then be elected by a majority of members present at the meeting (in Tbilisi, the candidate must receive over half of the total votes). The local council secretary fulfills the chairman's responsibilities in the chairman's absence or in case of his or her resignation. In addition, the secretary performs other activities at the direction of the council or chairman within council regulations. The secretary may become a full-time salaried council employee at the council's decision.

Local councils create standing or temporary commissions as needed. Neither the functions nor number of standing commissions are regulated by law. In Tbilisi only, the number of standing commissions may not exceed five. Chairmen of local commissions must be elected from local council members, but outside individuals may be invited to be commission members. Commission activities are regulated by council provision.

According to legislation, local council meetings should take place at least once every three months. Extraordinary meetings may be called by chairmen, mayors or the premier of Tbilisi. They may also be requested by least one third of the local council or at least one fifth of all voters (at least 10,000 voters in Tbilisi), in which case the chairman is obliged to convene the meeting within a week of the demand.

Issues are decided by open vote, except for votes of no confidence or other personal matters. Most local council decisions are passed by a majority vote of members present, provided that at least half of the council is present. All meeting proceedings are recorded in the local council minutes.

3.3 Local Elections

Local council members are elected by universal, direct, equal and secret vote. Most local council elections are held in multi-mandate electoral districts according to a proportional electoral system. In territories with fewer than two thousand voters, however, elections are held according to a majority electoral system. The term of office for local councilors is three years.

In Georgia, local elections were most recently held on 15 November 1998. These were the third such elections after 1919 and 1991, excluding the purely formal elections of the Communist era. Local government bodies were elected throughout Georgia, with the exception of the Abkhazia Autonomous Republic and the Tskhinvali region (the former South Ossetia Autonomy). Overall, 1,031 local councils were elected, 654 at the communal level and 378 at district level, with a total of 10,693 council members.

All Georgian citizens of at least eighteen years of age who had been registered in the local government territory for at least three months had active voting rights. Passive voting rights were granted to citizens who were at least twenty-one years old, registered on the territory of the corresponding

council and had permanently resided in Georgia for at least five years. Military personnel participated only in elections at the second tier of local government. Internally displaced persons were not eligible to take part in local elections.

Parties and coalitions may nominate candidates. In local councils where elections are held according to a majority system, candidates may be nominated by voter initiative groups of at least five citizens. In order to participate, political parties are required by law to present electoral lists in at least half of the districts holding elections according to the proportional system, a total of 189 local councils. Due to this requirement, the number of participating parties decreased. The Central Electoral Commission eventually registered eleven political parties and two coalitions consisting of six parties.

In comparison with the 1995 parliamentary and presidential elections, the 1998 local elections were relatively fair, notwithstanding several infringements. The governing party, the Citizens' Union of Georgia, had an unexpectedly poor showing in the local elections. Although they won over half the total number of seats, they failed to win a majority in thirty-three out of sixty-five districts and five cities with special status. This is an indication of the party's low popularity as well as the fact that opposition parties have mastered the same illegal tactics employed by the governing party in the 1995 elections. In addition, the opposition utilized the rhetoric of social populism and the population's negative attitude towards any political force in power. Finally, because the ruling party viewed local elections as less significant, they did not mobilize all its forces or rig election results on the same scale as in parliamentary or presidential elections. Consequently, opposition parties won majorities in the capital and four other major cities (Kutaisi, Rustavi, Batumi and Poti).

Despite numerous violations, the 1998 local elections clearly represented a step forward for democratic development in Georgia. For the first time since independence, the principle of self-government was implemented in the country, as elected rather than appointed executive bodies emerged at the first level of government.

Table 5.2
Local Election Results in 1998

Districts	Number of Council Members	Pro-governmental Parties					Left-wing parties			Right-wing parties			
		Citizens' Union	The Lemti Political Organization	The "National Consent" Bloc	The "Sportive Georgia" Political Organization	Green Party of Georgia	Union of Democratic Revival	Labor Party	Socialist Party	National Democrat Party	Popular Party	Union of Georgian Traditionalists	The "Georgia" Bloc
Tbilisi	55	20	0	0	0	0	4	12	9	3	4	3	0
Abasha	19	6	0	0	0	0	2	3	2	6	0	0	0
Adigeni	19	12	0	0	0	2	0	1	0	0	4	0	0
Akhalgori	17	11	0	0	0	0	0	5	0	1	0	0	0
Akhalkalaki	21	9	1	2	0	0	0	0	1	5	3	0	0
Akhatsikhe	21	13	0	0	0	0	1	5	1	1	0	0	0
Akhmeta	19	10	0	0	2	0	0	0	0	7	0	0	0
Ambrolauri	19	12	0	0	0	0	0	0	4	3	0	0	0
Aspindza	17	16	0	0	0	0	0	1	0	0	0	0	0
Baghdati	19	7	0	0	0	0	1	1	1	7	1	1	0
Batumi	30	0	0	0	0	0	30	0	0	0	0	0	0
Bolnisi	21	17	0	0	0	0	1	0	0	3	0	0	0

Table 5.2 (continued)
Local Election Results in 1998

Districts	Number of Council Members	Pro-governmental Parties				Left-wing parties			Right-wing parties				
		Citizens' Union	The Lemti Political Organization	The "National Consent" Bloc	The "Sportive Georgia" Political Organization	Green Party of Georgia	Union of Democratic Revival	Labor Party	Socialist Party	National Democrat Party	Popular Party	Union of Georgian Traditionalists	The "Georgia" Bloc
Borjomi	19	10	0	0	0	0	0	1	7	0	1	0	0
Chkhorotsku	19	12	0	1	0	0	0	0	0	5	0	1	0
Chokatauri	19	12	0	0	0	0	0	0	0	0	7	0	0
Dedoplistskaro	19	11	0	0	0	0	0	5	0	1	1	1	0
Dmanisi	19	18	1	0	0	0	0	0	0	0	0	0	0
Dusheti	19	6	0	0	0	0	0	13	0	0	0	0	0
Gardabani	25	24	0	0	0	0	0	1	0	0	0	0	0
Gori	25	13	0	0	0	0	1	2	3	2	4	0	0
Gurjaani	25	15	0	0	0	0	3	4	0	2	0	1	0
Kareli	21	17	0	0	0	0	0	0	1	1	2	0	0
Kaspi	21	14	0	0	1	0	0	3	2	1	0	0	0
Kazbegi	13	9	0	0	0	0	1	0	0	3	0	0	0

Table 5.2 (continued)
Local Election Results in 1998

Districts	Number of Council Members	Pro-governmental Parties					Left-wing parties			Right-wing parties			
		Citizens' Union	The Lemti Political Organization	The "National Consent" Bloc	The "Sportive Georgia" Political Organization	Green Party of Georgia	Union of Democratic Revival	Labor Party	Socialist Party	National Democrat Party	Popular Party	Union of Georgian Traditionalists	The "Georgia" Bloc
Keda	19	0	0	0	0	0	19	0	0	0	0	0	0
Khashuri	21	12	0	0	0	0	0	2	6	0	1	0	0
Khelvachauri	25	0	0	0	0	0	25	0	0	0	0	0	0
Khobi	19	9	0	3	0	0	6	0	0	1	0	0	0
Khoni	19	5	0	0	0	0	0	1	0	9	3	1	0
Khulo	19	0	0	0	0	0	19	0	0	0	0	0	0
Kkaragouli	19	7	0	0	0	0	0	2	5	3	2	0	0
Kobuleti	25	0	0	0	0	0	25	0	0	0	0	0	0
Kutaisi	30	10	0	0	0	0	2	7	2	2	1	6	0
Lagodekhi	21	10	0	0	0	0	0	1	7	1	2	0	0
Lanchkuti	21	10	0	0	0	0	3	0	0	2	4	1	1
Lentekhi	17	0	10	0	0	0	1	6	0	0	0	0	0

Table 5.2 (continued)
Local Election Results in 1998

Districts	Number of Council Members	Pro-governmental Parties				Left-wing parties			Right-wing parties				
		Citizens' Union	The Lemti Political Organization	The "National Consent" Bloc	The "Sportive Georgia" Political Organization	Green Party of Georgia	Union of Democratic Revival	Labor Party	Socialist Party	National Democrat Party	Popular Party	Union of Georgian Traditionalists	The "Georgia" Bloc
Marneuli	25	21	0	0	0	0	0	0	0	0	4	0	0
Martvili	21	11	0	0	0	1	1	1	1	1	6	0	0
Mestia	17	2	8	0	0	0	6	0	0	0	1	0	0
Mtsketa	21	9	0	0	1	0	0	5	3	1	1	1	0
Ninitsminda	19	16	3	0	0	0	0	0	0	0	0	0	0
Oni	17	8	0	0	0	0	1	6	2	0	0	0	0
Ozurgeti	25	13	0	0	0	0	1	0	0	4	3	3	1
Poti	30	14	0	3	3	0	4	3	1	2	0	0	0
Qvareli	19	8	0	0	2	0	0	5	1	2	0	0	1
Rustavi	30	9	0	0	0	0	7	8	2	2	2	0	0
Sachkhere	21	11	0	0	0	0	7	0	1	1	0	1	0
Sagarejo	21	12	0	0	0	0	1	2	1	0	4	1	0

Table 5.2 (continued)
Local Election Results in 1998

Districts	Number of Council Members	Pro-governmental Parties					Left-wing parties			Right-wing parties			
		Citizens' Union	The Lemti Political Organization	The "National Consent" Bloc	The "Sportive Georgia" Political Organization	Green Party of Georgia	Union of Democratic Revival	Labor Party	Socialist Party	National Democrat Party	Popular Party	Union of Georgian Traditionalists	The "Georgia" Bloc
Samtredia	21	7	0	0	0	0	1	3	1	5	2	2	0
Senaki	21	10	0	0	0	0	4	2	2	3	0	0	0
Shuakhevi	19	0	0	0	0	0	19	0	0	0	0	0	0
Sighnaghi	21	11	0	0	0	0	1	3	1	1	1	0	4
Tchiatura	21	8	0	0	0	0	1	1	8	0	2	0	1
Telavi	25	13	0	0	0	0	1	0	2	3	1	5	0
Terjola	21	9	0	0	0	0	0	0	10	0	2	0	0
Tetritskaro	19	14	0	0	0	0	1	3	0	0	0	1	0
Tianeti	19	10	0	0	0	0	0	2	7	0	0	0	0
Tkibuli	19	9	0	0	0	0	1	1	3	1	2	2	0
Tsageri	19	9	2	0	0	0	0	6	2	0	0	0	0
Tsalenjika	19	13	0	4	0	0	0	1	0	1	0	0	0

Table 5.2 (continued)
Local Election Results in 1998

Districts	Number of Council Members	Pro-governmental Parties					Left-wing parties			Right-wing parties					
		Citizens' Union	The Leml Political Organization	The "National Consent" Bloc	The "Sportive Georgia" Political Organization	Green Party of Georgia	Union of Democratic Revival	Labor Party	Socialist Party	National Democrat Party	Popular Party	Union of Georgian Traditionalists	The "Georgia" Bloc		
Tsalka	19	18	0	0	0	0	0	0	0	1	0	0	0	0	0
Tskaltubo	21	14	0	0	0	1	0	3	0	0	2	0	0	0	1
Vani	19	5	0	0	0	0	1	4	0	0	1	0	0	8	0
Zestaphoni	25	10	0	0	0	0	2	1	0	0	1	1	3	8	0
Zugdidi	25	11	0	0	0	0	4	0	5	2	2	1	2	2	0

4. Functional Structure of Local Government

4.1 Local Administration Functions

The local administration is responsible for the following:

- ensuring observance of public law and order;
- ensuring protection of human rights and legality;
- managing and disposing of local government property;
- regulating use of natural resources, protecting the environment and preserving the ecological balance;
- resolving issues of land use in subordinate territories;
- organizing waste disposal and recycling;
- organizing sanitation, anti-epidemic and veterinary measures;
- defining special protected environmental areas and preserving institutions of cultural heritage;
- overseeing issues of education, child care, health care, culture, sports and tourism;
- developing and maintaining power, gas, water supply and land improvement systems;
- constructing, maintaining and repairing regional roads;
- overseeing local communication networks created by local funds;
- providing social insurance and employment;
- providing relief for consequences of catastrophes, acts of God and epidemics;
- assisting in the organization of civil defense;
- creating and financing social and economic development programs;
- mobilizing human and transportation resources in cases stipulated by the law of Georgia;
- mobilizing local reserves for the Georgian armed forces;
- providing assistance to the Military of Defense by organizing military assemblies or training and supplying military units with agricultural products.

The above-mentioned responsibilities may be divided by mutual agreement between the local administration and other local government bodies.

4.2 Structure of Local Administration

The executive branch of the local council is the directorate, which may consist of a gamebeli, a first deputy gamebeli, a deputy gamebeli, a head of apparatus and directors of local services.

Communal directorates are generally comprised of three to seven members. Directorates are not established in communities with fewer than three thousand inhabitants; instead, those functions are executed solely by the gamebeli. At this level, the gamebeli is elected by the corresponding local council from its members, acts as council chairman and is accountable to the local council. The directorate structure is defined by local council provision. Upon resignation or dismissal of the gamebeli, the given directorate is dissolved.

At the district level, directorates are a division of state administration that also perform the executive functions of local government. Directorates of cities with special status are made up of seven to fifteen members, and *raion* or district directorates of five to eleven members. The *gamgebelis* of both are appointed and dismissed by the president of Georgia, who also approves the directorate structure. *Gamgebelis* at this level are accountable to both the president of Georgia and the local council.

Gamgebelis at both levels are charged with the following duties:

- to oversee preparation of the draft local budget and submit it to the local council forty-five days before the budgetary year;
- to submit social and economic development plans to the local council;
- to submit corresponding legislation to the local council;
- to implement local council decisions;
- to approve the appointment and dismissal of heads of territorial divisions of state agencies.

In addition, *gamgebelis* of the second level must:

- maintain public order in the district;
- monitor issues of legality and human rights in the district.

The directorate formulates the draft budget, prepares social and economic development programs and grants preliminary approval to economic transactions for sums over GEL 5,000 (approximately USD 2,500). All directorate decisions are approved by a majority of officials present. The first deputy *gamgebeli* oversees economic affairs and fulfills the *gamgebeli*'s duties in his or her absence, while deputy *gamgebelis* head different branches of executive activity. Local governments also establish agencies to manage various functions within local government competence. The heads of such agencies are appointed by the *gamgebeli* in coordination with the local council.

All local government bodies and officials may initiate legislation within their defined competence. Second tier *gamgebelis* draft legislative statements after consulting members of the directorate. The directorate may draft legislative statements only in cases specified by law or the local council.

The executive branch in Tbilisi is structured somewhat differently. Because the city is divided into eleven city districts, the municipality of Tbilisi consists of the directorates of Tbilisi and its districts. Local self-government is implemented only through the Tbilisi municipality council; there are no representative bodies in the city district governments

Other Tbilisi government officials include the city government premier, deputy premier, *gamgebelis* of Tbilisi districts and heads of individual city communal and public services, who are nominated by the mayor of Tbilisi and approved by the local council. The only exceptions are the city premier and city district *gamgebelis*, who must be approved by the president of Georgia. The structure and operation of Tbilisi government are defined by law and presidential decree. The government implements local council and municipality decisions and formulates capital budget projects and social and economic development programs.

The mayor is a citizen of Georgia and a resident of Tbilisi appointed by the president of Georgia. The mayor is responsible for the following:

- submitting an organizational chart of the city government for approval to the local council;
- submitting candidates for city premier and city district gamgebeli for approval to the president of Georgia;
- appointing and dismissing deputy premiers, heads of apparatus and heads of Tbilisi city services in coordination with the local council;
- appointing and dismissing heads of other public services;
- suspending implementation of city government provisions when necessary and requesting their annulment from the local council;
- suspending or annulling decisions of the city premier and gamgebeli;
- consenting to the appointment and dismissal of heads of territorial divisions of state agencies.

The Tbilisi City government is led by the city premier, who is accountable to the president of Georgia, the local council and the mayor. The city premier is responsible for the following:

- submitting programs of social and economic development to the local council in coordination with the mayor;
- formulating draft legislation and submitting it to the Tbilisi local council;
- fulfilling mayoral duties in the mayor's absence.

There are no more than three deputy premiers, each of whom direct branches of local administration. Provision of public services is directed by department heads, who are responsible to the mayor, the city premier and the local council.

Organizational support is provided by the local government apparatus, or administrative staff. This is led by a head of apparatus, who is appointed and dismissed by the gamgebeli in coordination with the local council. The head of apparatus submits the administrative staff structure to the local council, while the gamgebeli appoints staff employees.

4.3 Control, Supervision and Audit of Local Governments

Control over local government activity may be divided into three categories: public control over local councils, local council control over the executive branch and central government control over local governments.

1. *Public control over local councils.*

Local council members are obliged to meet with voters at least once every three months and report on their activities at least once a year. Local council meetings are open to the public. Closed meetings may be if held they involve information which is secret or restricted by law. According to the new Administrative Code, citizens may request any necessary public information from government agencies and attend non-closed council sessions. In practice, citizens do not exercise these rights.

2. *Local council control over the executive branch.*

Gamebelis report on their activity to local councils once a year. In addition, the local council creates a commission on oversight, made up of at least three council members, in order to supervise executive activities. This commission monitors the registration and collection of taxes, the legality of expenditures and their correspondence to the local budget and reports on its activity to the local council every three months. The commission also presents an annual report to the local council during approval of the local budget execution report.

3. *Central government control over the local government.*

The central government has the most effective means of control at its disposal. Legislative control is exercised by the prosecutor's office, economic control by the chamber of control and control over specific functions by the relevant ministries, such as the Ministry of Internal Affairs or the Ministry of Finance. Courts play a very limited role in resolving conflicts between central and local governments. In practice, all such cases are decided by the president of Georgia.

The mechanisms of control available to the central government far outweigh the others. Although the mayor of Tbilisi, for example, is accountable both to the president and to the local council and citizens of Tbilisi, voters and the city council have no legal mechanisms to influence city hall, apart from generally defined rights. Presidential displeasure, on the other hand, means possible removal from office.

However, the state government is not willing or able to exercise control over local government finances, either over local budgets or the use of transfers from the central budget. No state or independent auditing system exists, a situation conducive to corruption and the resulting depletion of already limited finances.

4.4 Relationship Between Elected and Appointed Local Government Bodies

According to current legislation, local councils monitor the activity of local administrations and local officials and review annual reports from heads of local services.

Communal local councils approve the directorate structure and candidates presented by the mayor. In theory, a local council may issue a vote of no confidence in the gamebeli, a directorate or a directorate official. A motion of no confidence may be put to council vote at the initiative of one third of its members; the motion passes if supported by one half of the local council. The local council is also authorized to suspend or revoke decisions of the directorate or gamebeli.

In exceptional circumstances, a district local council may apply to the president of Georgia to dismiss its gamebeli by majority vote. A motion of no confidence may be introduced against the gamebeli at the request of at least one third of the council members or against the directorate or a directorate official at the request of at least half the council. The decision is passed if supported by a majority vote. Upon a vote of no confidence, the directorate or directorate official is considered to have resigned.

Within a week of being presented with a local council resolution, the *gamebeli* is authorized to send it back to the local council with suggested revisions. The local council must vote upon the recommendations within a two-week period. If they are not passed, the local council votes again on the original version and may adopt it by a simple majority vote.

The Tbilisi mayor has the special right to appoint an acting deputy premier, head of apparatus or heads of local services for up to six months if the council does not approve the mayor's candidate after two attempts and fails to elect their own candidate within two weeks.

In reality, these mechanisms of control do not function, especially at the district level. District *gamebelis* and mayors of cities with special status are appointed by the president and represent the governing coalition. Although local governments have passed votes of no confidence, not one has received presidential approval.

Local councils are thus unable to implement effective control over the executive branch. At the district level, high administration officials are appointed by the central government. At the first level, they are a member of the majority party. Therefore, they retain their local council membership even when faced with votes of no confidence and have the opportunity to retrieve their status through party deals within the council.

Executive authorities are indifferent to political debates in the local council. This is true not only of the regional state commissioners, who are not formally accountable to local councils, but also of heads of district administrations. It has become common practice for both to disregard local council decisions and occasionally apply their own pressures on local council policy.

The following contradictions to the European Charter of Local Self-government are inherent in the current state of local self-government in Georgia:

- Heads of district-level local governments are appointed by the president rather than elected by the population or local councils, in contradiction to article 2(3);
- No elected representative bodies function at the regional level, while the governor's authority is steadily expanding, in contradiction to article 2(3);
- Local representative bodies are unable to deal with many issues within their competence, in contradiction to article 6(4);
- Central government control over local self-government institutions runs counter to legal requirements, in contradiction to article 2(8);
- The government delegates a range of responsibilities to local self-governments without assigning the requisite financial resources, in contradiction to article 2(9).

Although Georgia has not yet joined the European Charter of Local Self-Government, it must still observe European conventions as a member of the Council of Europe. However, the overwhelming majority of Georgian authorities remain unconcerned about this issue. Meanwhile, in the absence of real legal instruments, local councils respond to blatant violations of principles of self-government with hopelessness and pessimism rather than active protest.

5. Public Service Provision

Local governments encounter a host of problems in the provision of public services, among which are the following:

- Local self-governing bodies are poorly informed and lack skilled staff. Thus, even the small role assigned to them by legislation is often beyond their reach;
- Many bureaucrats derive advantages from the current situation and are thus unwilling to implement any real reforms;
- Local governments face pressing financial difficulties due to the lack of funds and their obligation to pay a high proportion of local revenues to the central budget;
- The cost of public services is very high and quality very low. No optimal model exists for allocating human, material and financial resources and concepts of strategic planning and market demand analysis are alien to local officials;
- The majority of the population of Georgia cannot afford these services;
- There are no truly independent alternative systems, such as various specialized services, agencies and companies.

Private initiative is weak and the government does little to encourage it. This situation stems from the Soviet era, when the propaganda of a socially oriented society and the monopolization of all vital social functions by the Soviet system created the illusion that the state would act indefinitely as the agent of public good.

Political circles in Georgia have recently begun to emphasize the need to decentralize public services. The process of privatizing communal services is already underway, with former directors generally becoming the new owners. However, the Georgian government must create the legal basis for effective reform of the state system in the near future to meet the requirements of international financial and political organizations.

Also, the unclear division of competencies between various governmental agencies has led to bitter confrontation, a trend which promises to continue in the future.

In view of these problems facing local government, the present stage of development remains unclear.

5.1 Distribution of Functions

Some types of public services are shared between the central and local governments. Examples of these include health care and education. Both federal and municipal programs exist in these fields; federal programs are financed directly from the central budget, while the local government may fund additional programs or extend federal ones. The remaining expenses are covered by consumers.

The local government budget partially covers expenditures on public service. However, the central government retains control over the most important functions, such as health care, education, public

safety and tax collection. Few local self-government agencies are able to develop independent programs due to lack of funds. Even when services are partially financed by local budgets, the central government still has the legal and political leverage to implement its own public service policy.

Two types of executive institutions exist at the district level, municipal agencies and territorial ministry agencies. The first category includes housing departments and municipal transport, while the second includes the police department and department of education. Heads of both types are members of the directorate and are accountable to the *gangebeli*, the representative of the central government. Only heads of municipal agencies, however, are accountable to the local council. Heads of territorial ministry agencies often refuse to provide documentation or necessary information to the local council.

For several years, the state budget continued to finance enterprises formally subordinated to local self-governments, mainly communal facilities. Heads of these enterprises consequently ran up unjustified expenses, since any debts were covered by the state budget. In 1999, this rule was abolished. As these enterprises gradually became private companies, the government was able to divest itself of unprofitable enterprises. The new owners of privatized services are generally the former heads of administrations or their relatives and quality of service is very poor. There are no accurate statistical data on how many enterprises were privatized.

The concept of transferring control over local services from the district to the regional levels has privately been gaining currency among the *nomenklatura*. If the district administration becomes an elected body, one of the conditions of Georgia's entrance into the European Community, the central government will doubtless attempt to assume real means of management, as is already the case at the first level of local government.

6. Local Finance, Local Property

6.1 Budget System

Throughout the 1990s, Georgia had no considered economic or fiscal policy at the central or local levels, resulting in state budget deficits for the past six years. Consequently, the system of local finance developed haphazardly as the government passed various legislative acts to ratify already existing practices.

The budget system in Georgia is defined as the consolidated state and local government budgets. Prior to 1997 the state budget was defined as the consolidation of the central budget, budgets of special state funds and communal budgets; currently, the state budget consists of only the central budget and budgets of special state funds. In fact, Georgia has a four-tiered budgetary system. The first tier consists of the state budget, the second of consolidated budgets of autonomous republics, the third of budgets of districts and cities with special status and the fourth of communal budgets. At present the state budget, communal budgets and budgets of the autonomous republics are

independent of one another. Local budgets have own revenues and discretion over expenditures with the exception of special purpose transfers and loans from higher-level budgets.

The budgetary system prior to 1997 is too dissimilar to the current system to allow comparison of specific budgetary items. Therefore, this discussion is limited to a detailed analysis of data after 1997.

6.2 Legal Guarantees of Financial Autonomy

The 1996 Law on the Budget System and Budgetary Powers (hereafter referred to as the Law on the Budget System) significantly increased the degree of local government autonomy in determining and implementing financial and fiscal policy. In order to ensure the integrity of the Georgian budget, local governments are legally required to adhere to common principles such as budget classifications, general forms of budget documentation, general principles of the budgetary process and the common monetary system. Nevertheless, local governments are guaranteed an adequate measure of independence by article 8 of the above-mentioned law.

The law also stipulates that the state budget of Georgia, budgets of territorial units and budgets of the Autonomous Republics of Abkhazia and Adjara are independent of one another. Budgets at all levels have the authority to regulate sources of revenue relevant to own and long-term economic norms defined by the law. Full discretion over their use is granted to the highest authorities of Autonomous Republics of Abkhazia and Adjara and local representatives elsewhere in Georgia. State government bodies are not allowed to interfere in budget rights of lower authorities. Certain agencies, such as the State Chancellery, the Ministry of Finance or the State Prosecutor's Office, have the right to interfere in financial activities of local self-governments only if the State Audit Chamber has found serious breaches of law.

Article 29 (2) of the Law on the Budget System also stipulates that local authorities and administrative bodies of the Autonomous Republics of Abkhazia and Adjara and other territorial bodies of Georgia independently draft, adopt and implement relevant budgets.

6.3 Current State of Financial Autonomy

Unfortunately, the legislative basis of local finance in Georgia is highly unstable. The Law on the Budget System, for instance, has been amended nineteen times since its approval. The same is true of the Law on Long-term Economic Norms for Distribution of State Taxes to Budgets of Territorial Units and the Autonomous Republics of Abkhazia and Adjara (henceforth referred to as the Law on Distribution of State Taxes). Although the ostensible purpose of the law is to establish long-term norms, it is amended annually, sometimes twice or more per year. This instability greatly diminishes the actual level of local autonomy.

Under current legislation, local representative bodies adopt rules for the formulation, consideration and term of approval of the local budget within general limits established by the law. However, both

the central and local budget processes rarely correspond to legally stipulated conditions. Violations have become so common that they no longer attract notice.

The local administration is responsible for formulating and executing local budgets, while representative bodies are authorized to supervise budget execution and make any necessary amendments to budget revenues and expenditures without increasing the marginal quantity of the budget deficit. Moreover, if local budget expenditures exceed revenues, the local administration may sequester up to ten percent of the local budget without council permission. To sequester more than ten percent of the budget requires local council consent. If revenues exceed expenditures during implementation of the budget, the remainder is handed over to the relevant local administrative departments or agencies, to be used at their discretion rather than transferred to the budget.

The greatest constraint on the financial autonomy of local governments is the reliance of local officials on the central government that has appointed them. Accordingly, local governments do not submit to supervision by representative bodies, and local interests are not always reflected in local financial and fiscal policy.

Despite these shortcomings, local authorities are relatively financially independent from the central government, as evidenced by the decrease in transfers from the central to local government over the past three years (see table 5.3). While all sixty-one territorial units of the budget system received transfers in 1998, two units (Poti and Rustavi) were not allocated transfers in 1999. In that year, thirteen budgets covered expenditures with own revenues. Although fifty-nine out of sixty-one local governments will be assigned transfers, there is no explicit policy on subsidies. Nor is there detailed information on the actual distribution of subsidies among regions.

Table 5.3
**Share of State Subventions in Local Budget Revenues,
1997–1999**

	1997		1998		1999	
	[USD millions]	[%]	[USD millions]	[%]	[USD millions]	[%]
Local budgets, including subventions from the state	158.6	100.0	177.2	100.0	161.1	100.0
Local budgets, excluding subventions from the state	120.4	75.9	152.2	85.9	140.7	87.4
Subventions from the state budget	36.5	23.0	21.7	12.2	17.9	11.1
Bank loans	1.0	0.6	1.0	0.6	1.0	0.6
Other sources of income	0.7	0.5	2.3	1.3	1.5	0.9

If the central government even slightly increases the percentage of general state taxes to be paid to local budgets, an overwhelming majority of districts will no longer depend on transfers from the central budget. However, the central government is unlikely to relinquish this important mechanism of control over local self-governments and bureaucrats are equally unwilling to lose illegal income received from transfers. In addition, the former Soviet mentality is entrenched in local governments, which continue to request transfers regardless of need.

6.4 Revenues

Revenues of municipal governments are classified as follows:

1. State tax revenues
2. Local tax revenues
3. Revenues from local levies and other non-tax revenues
4. Revenues from privatization of state property
5. Other non-classified revenues
6. Transfers from the central budget
7. Loans from the central budget

1. *State tax revenues*

State taxes are shared among central and local budgets according to the Law on Distribution of State Taxes. This income source is currently composed of ten taxes, which altogether made up 62.4 percent of local budget revenues in 1998 and sixty-seven percent in 1999.

2. *Revenues from local taxes*

Local representative bodies may introduce five local taxes and establish their rates within margins determined by the Tax Code. These taxes are levied on economic activity, gambling establishments, resorts, hotels and advertisements. This type of revenue comprised only 5.9 percent of local budget income in 1997, 4.7 percent in 1998 and 4.9 percent in 1999. The tax on economic activity is the most significant local tax, since all economic agents must pay one percent of their total revenue. More detailed statistical data on local tax revenue are unavailable. The small share of local taxes in local budget revenues is another factor limiting the degree of financial autonomy.

3. *Revenues from local levies and other non-tax revenues*

Local levies in Georgia are governed by the Law on Principles of the Levy System and the Law on Local Levies. A local levy is defined as an obligatory payment to the local budget by natural and legal persons, for the right to carry out certain activities for a period of time established by local authorities. Local levies are imposed on the following activities: trade, public advertising, use of restricted public places, local transportation, initiating construction or renovation of a building, parking and tenders.

Unfortunately, there are no statistics on the total amount of all local levies, let alone a breakdown of revenues according to specific levies. The only available data are presented below as the

share of levies and non-tax revenues in total local revenues (table 5.4). At present, this amount is negligible, comprising only 2.86 percent of total local budget revenue in 1999. These levies have the potential to be used far more effectively. Against the current background of corruption, however, collections of levies are more likely to find their way to individual officials' incomes.

Table 5.4
Local Budget Revenues, 1997–1999

Type of Revenue	1997		1998		1999	
	[USD millions]	[%]	[USD millions]	[%]	[USD millions]	[%]
Total own tax and non-tax revenues	124.3	78.3	155.7	87.8	144.2	89.5
1. State tax revenue	95.2	60.0	110.7	62.4	107.8	66.9
VAT	4.3	2.7	16.7	9.4	15.9	9.9
Excise	2.8	1.8	1.6	0.9	3.9	2.4
Customs duty	0.0	0.0	2.5	1.4	4.0	2.5
Profit tax	19.5	12.3	20.9	11.8	17.6	11.0
Income tax	37.1	23.4	34.2	19.3	30.0	18.6
Land tax	11.6	7.3	14.2	8.0	12.3	7.7
Tax on the use of natural resources	2.0	1.3	1.5	0.8	2.6	1.6
Tax on environmental pollution	0.0	0.0	4.8	2.7	8.3	5.1
Property tax	12.1	7.7	13.5	7.6	12.2	7.6
Tax on the transfer of real estate	5.1	3.2	0.8	0.5	1.0	0.6
State fee	0.7	0.4	0.0	0.0	0.0	0.0
2. Local tax revenue	9.4	5.9	8.4	4.7	7.9	4.9
3. Local levies and other non-tax revenues	4.1	2.6	8.1	4.6	4.6	2.9
4. Revenues from privatization	9.8	6.2	18.3	10.3	15.8	9.8
5. Other unclassified revenues	5.9	3.7	10.2	5.7	8.0	5.0
Total transfers and loans from the central budget	34.4	21.6	21.5	12.2	16.9	10.5
6. Transfers from the central budget	33.4	21.0	20.5	11.6	15.9	9.9
7. Loans from the central budget	1.0	0.6	1.0	0.6	1.0	0.6
Total local budget revenues	158.7	100.0	177.2	100.0	161.1	100.0

Other non-tax revenues include rent for state or municipal property and dividends from partially or fully-owned municipal enterprises. Exact statistics of these revenues do not exist. Nevertheless, given that central budgets do not receive any of these revenues due to corruption, we may venture a guess that local budgets do not either.

4. *Revenues from privatization of state property*

Funds from the privatization of state or municipal property also form a small share of local budgets, comprising 6.18 percent in 1997, 10.32 percent in 1998 and 9.84 percent in 1999. The process of privatization of small and medium enterprises in Georgia is essentially finalized, so revenues from this source will significantly diminish or disappear altogether.

5. *Other non-classified revenues*

This type of revenue includes the repayment of loans by sub-budgets as well as other income not classified elsewhere in the budget. Considering that this type of revenue forms five percent of total revenues, more precise data should be available, but unfortunately are not.

6. *Transfers from the central budget*

Transfers from the central budget have been tending to diminish, a clear indication of progress in developing local financial autonomy. The majority of administrative-territorial units are capable of balancing their budget with own revenues and therefore should not be financially dependent on the central government. Assistance from the central government is necessary mainly in mountainous regions and administrative units with problems due to natural, social or migratory circumstances that are too great to resolve solely with own revenues.

Under current policy, however, fifty-nine out of sixty-one administrative-territorial units receive transfers from the central government. Consequently, districts in true need do not receive appropriate assistance, since most funding has been diverted to districts better equipped to solve budgetary difficulties on their own.

7. *Loans from the central budget*

Unlike transfers, loans were extended to only sixteen districts, making up 0.6 percent of total local revenues. Five to ten years ago, loans were non-repayable, following practices established under communism. Over the last three years, however, the practice of loan redemption has been instituted, mainly due to pressure from the International Monetary Fund.

6.5 Expenditures

Because indices of several expenditures do not exist, this section examines current indicators only.

The Georgian Parliament has not yet approved the execution of the 1999 state budget, since the Extraordinary Parliamentary Commission is still reviewing the legality of several incurred expenses.

This makes it difficult to analyze the financing of various expenditures. Nevertheless, it is clear from available data that neither central nor local budgets have an investment character: state expenditures over the past three years have not gone to capital expenditures, bonds and covering of internal debts. Sub-budgets have been allocated insignificant credits from major budgets.

In addition, expenditures do not always match revenues. Although environmental taxes comprised 6.76 percent of total local revenues in 1999, expenditures on the environment only make up 0.01 percent of total expenditures.

Under current legislation, authorities in territorial units implement the budget with the assistance of local finance and tax departments. The budget is implemented according to monthly and quarterly schedules of revenues and expenditures. This schedule is prepared by local finance and tax services or, if they do not exist, by the head of local administration. Budget implementation should correspond to the budget approved by the representative body of local authorities.

Representative bodies elect inspection commissions from their number to oversee the legality of local budget implementation. The commission monitors the collection of revenues according to schedule as well as the legality of incurred expenses and their correspondence with the local budget.

Local administrations are obliged to present a report on the execution of the consolidated budget in the relevant territory to the Department of Statistics and Chamber of Control, the highest state controlling body. The frequency of budget reporting and forms for all levels of budgets are jointly determined by the Ministry of Finance and the State Department of Social-Economic Information.

Table 5.5
Central and Local Expenditures, 1999

	Consolidated Central and Local Budgets		Central Budget		Local budgets	
	[USD millions]	[%]	[USD millions]	[%]	[USD millions]	[%]
Total expenditures	942.0	100.0	624.0	100.0	159.9	100.0
Education	89.8	9.5	17.6	2.8	45.6	28.5
Social assistance	203.1	21.6	172.6	27.7	6.9	4.3
Family assistance	3.8	0.4	0.0	0.0	2.5	1.6
Health care	24.4	2.6	10.8	1.7	8.0	5.0
State or municipal programs	9.0	1.0	0.0	0.0	5.8	3.6

Table 5.5 (continued)
Central and Local Expenditures, 1999

	Consolidated Central and Local Budgets		Central Budget		Local Budgets	
	[USD millions]	[%]	[USD millions]	[%]	[USD millions]	[%]
Culture and sports	35.6	3.8	17.6	2.8	10.3	6.5
Culture	13.1	1.4	0.0	0.0	8.5	5.3
Sports	2.8	0.3	0.0	0.0	1.8	1.1
Economic services	72.6	7.7	0.0	0.0	47.2	29.5
Utilities and communal flats	42.5	4.5	3.5	0.6	25.1	15.7
Water supply	3.9	0.4	0.0	0.0	2.5	1.6
Veterinary services	0.7	0.1	0.0	0.0	0.5	0.3
Agriculture	12.1	1.3	10.7	1.7	0.1	0.1
Transport and communications	27.6	2.9	24.7	4.0	0.1	0.0
Management of roads	0.3	0.0	0.0	0.0	0.2	0.1
General administration	27.7	2.9	0.0	0.0	18.0	11.3
Legislative and executive bodies	21.3	2.3	0.0	0.0	13.8	8.6
Supreme councils of autonomies	6.5	0.7	0.0	0.0	4.2	2.6
Administrative duties	1.0	0.1	0.0	0.0	0.6	0.4
Land use and land cadastre	0.6	0.1	0.0	0.0	0.4	0.2
Tax collection	0.4	0.0	0.0	0.0	0.3	0.2
Other state administrative affairs	19.7	2.1	0.0	0.0	12.8	8.0
Military commissariat and civil defense	0.6	0.1	0.0	0.0	0.4	0.2
Law-enforcement bodies	77.0	8.2	52.2	8.4	12.2	7.6
Archives	0.2	0.0	0.0	0.0	0.1	0.1
Registry offices	0.1	0.0	0.0	0.0	0.1	0.1
Other expenditures	366.1	38.9	314.3	50.4	10.1	6.3

6.6 Budget Process

The local and central budget processes are regulated by the Law on the Budget System. Local representative bodies are authorized to adopt their own provisions on the budget process within limits set by the law. As this occurs rarely, local budgets are generally formulated, considered, approved and amended as specified in the above law.

Draft budgets are prepared by financial departments; if they do not exist, that task falls to the local administration. Local authorities draw up drafts of district, city, community, village and settlement budgets and a draft of the consolidated budget for the territorial unit.

At the beginning of each budget year, the financial department presents forecast indicators of expenditures and revenues of territorial unit budgets to the local administration. Based on this information, municipal governments decide on the parameters for revenues and expenditures for the new budget year. The financial department accordingly draws up a detailed draft budget with specified revenue sources and expenditures and submits it to the municipal government. Once approved by the local administration, the budget is sent to local representative bodies for adoption.

In order to prevent budget deficits, the law stipulates that local budgets must contain a reserve fund composed of excess revenue, for financing extraordinary expenses during the year. If the reserve fund is utilized, it must be replenished at the first opportunity, as the balance is carried over to the following year. This requirement is a theoretical one: as a rule, it is the marginal deficit that is determined rather than the budget reserve. With few exceptions, budgets of all levels in Georgia have accumulated alarmingly large internal and foreign debts. Foreign debt alone exceeded GEL 2 billion in 1999, a year in which GDP was equal to GEL 2.5 billion. Internal debts are currently being tallied.

The Georgian government allocates almost no grants from the state budget, since the state itself relies on grants and other forms of assistance from international organizations and foreign governments. The central government does grant subventions, subsidies and transfers from sub-budgets in order to finance special purpose programs. Municipalities may only apply for loans from the Georgian investment market after submitting the necessary information to the State Chancellery and receiving presidential approval.

Heads of local administrations seek to obtain transfers from the central government by any means possible. The Autonomous Republic of Ajara, for example, appropriated state taxes collected on its territory, violating the Law on Distribution of State Taxes. Presented with a *fait accompli*, the central government legalized the appropriated revenues after the fact. The municipality of Tbilisi, citing the precedent of Ajara, demanded and received a similar privilege. While other municipalities retain sixty percent of taxes on profit and income, Tbilisi retains eighty percent. In practice, therefore, there is no distinction made between legal and illegal methods of distributing funds between different level budgets. In these circumstances, personal relationships between municipal heads and higher-level governments count for everything.

Municipalities distribute transferred revenues at their own discretion, though not always within their rights according to law.

6.7 Trends in Local Finance

The generally accepted reason for the lack of state revenues is rampant corruption, which ruins the state financially while corroding its legal and ethical foundations. It will be worthwhile to discuss measures to increase local and central budgets only when the government manages to defeat corruption and decrease its influence over the economy and other public processes.

Data on the mobilization of revenues in the central and local budgets paint a clear picture, which hardly needs comment.

Table 5.6
Share of State and Local Budget Revenue in GDP, 1997–1999

	1997		1998		1999	
	[USD millions]	[%] of GDP	[USD millions]	[%] of GDP	[USD millions]	[%] of GDP
GDP	4,519.0	100.0	4,863.0	100.0	5,475.0	100.0
Consolidated state and local budgets	599.6	13.3	606.3	12.5	488.1	8.9
State budget (and special funds)	456.4	10.1	428.9	8.8	327.0	6.0
Local budgets	158.6	3.5	177.4	3.6	161.1	2.9

The practice of selling government bonds is not yet established in Georgia.

Regardless of several serious shortcomings, the banking system is the most developed and progressive sub-system in Georgia. Municipalities extend loans very rarely and for minor sums. More significant was the municipal practice of issuing guarantees on large commercial loans, a flawed practice which is now used less frequently.

The Law on Bankruptcy Proceedings has many serious flaws and is awaiting drastic amendment in Parliament. Currently, bankruptcy proceedings are initiated in the local courts; higher courts may be involved only after the local court issues a ruling.

State and municipal property are not yet clearly differentiated, although steps have recently been taken to this end. For example, the Presidential Decree on the Transfer of State Property to Local Authorities took effect from 25 May 1999. The Law on Financial Bodies of Local and State

Governments, adopted 22 June 1999, is another progressive law which should positively affect the development and improvement of local management systems.

Meanwhile, municipally-owned enterprises have become less prevalent. The General Administrative Code, effective from January 2000, obliges government bodies to solve their economic problems through public tenders and contracts, rather than by creating enterprises.

Table 5.7
Ownership of Enterprises, 1999

	Number of Total Enterprises	Percent of Total Enterprises
Total enterprises	12,596	100.0
Privatized	9,747	77.4
State-owned	2,411	19.1
Municipally-owned	111	0.9
Other	327	2.6

In conclusion, local authorities undoubtedly have a certain degree of financial autonomy, though by no means large. The only prospect for further development of local financial autonomy is through considered initiatives, complementary to state interests, at the central level. Unfortunately, this is a rare occurrence in Georgia.

7. Relationship Between the State Administration and Local Governments

According to legislation, local self-government bodies and officials are delegated responsibility for executing certain state government functions, but the central government retains control of important services. The relevant minister and the head of the state department appoint and dismiss heads of territorial divisions of central agencies, their deputies and other public servants in coordination with the local government body.

When appointing heads of the district police, the department of education or the department of health care, for example, the ministries do not confer with either the local council or the *gangebeli*, although the *gangebeli*'s approval is required by law. Conflicts between heads of territorial offices of the central government and heads of district administration sometimes occur, even though *gangebelis* are appointed by the central government and therefore represent the ruling party. These conflicts spring from personal incompatibility, which usually originate in the agencies' intentions to impose

full control over the district. In most cases, similar appointments are made through informal agreements with the head of local administration. Many heads of territorial offices of the central government consequently belong to local nomenklatura.

The status of these territorial agencies represent another gray area in the system of government. Although they are territorial divisions of central ministries, not executive branches of the local government, they are supervised by district *gamebeli* and their heads are represented in the directorate.

At the first level of self-government, the local council has the authority to appoint and dismiss local officials, including mayors and heads of local self-governments. This should not be taken to indicate that self-government is implemented to a higher degree at the first level, since meager local budgets and a real lack of rights nullify the significance of this authority.

Conflicts between various levels of government are solved by the Georgian president and the judiciary system within its sphere of competence. There few precedents of settling conflicts through legal mechanisms, however. The central government does not typically interfere in the everyday activities of local self-governments unless a particular self-government body has violated the interests of the Tbilisi nomenklatura or has blatantly flouted law. Consequently, local administrations, which are staffed mainly by local nomenklatura, are able to use their offices in favor of local mafia clans.

According to legislation, the state office coordinates local government activities. Legislative disputes among the various state divisions are resolved by the relevant ministers and heads of departments. If they are not able to reach an agreement, the president of Georgia settles the affair.

Finally, the regional state commissioners, or governors, are steadily increasing their power in regions. *Gamebelis* are increasingly resentful of the governors' right to nominate heads of district administrations, as they prefer not to have a mediator in their often informal relations with the central government. A governor's power often depends on personal factors, with certain governors delegated a wide range of authority from the center. The population has a mixed attitude towards this institution, and confidence in the governor seems to be dropping, in many cases transforming into intense dislike. Some regions have witnessed serious confrontations between the governor's staff and local political forces.

In conclusion, self-government bodies, particularly elected ones, have no real power despite their legally granted rights.

8. Local Government Employees

The rights and responsibilities of local council members are defined by Georgian legislation. Council member status begins upon certification and ends on the first meeting of the newly elected council or on early termination from office. The vote of a council member may not be influenced. Local

council members receive no compensation and execute their responsibilities while continuing their former employment.

In the past, council members and candidates possessed the same immunity as a member of Parliament whereby they could not be charged with criminal offenses, arrested, searched or imprisoned on the relevant local territory without a warrant signed by the local council chairman. If caught committing a crime, the individual no longer possessed immunity and the council chairman was immediately informed. This immunity was frequently abused during election periods, so the Parliament of Georgia rescinded this article in 1999.

Local councilors also face certain restrictions. A councilor cannot concurrently fill a position requiring nomination or approval by Parliament, the president or supreme representative bodies of autonomous republics. Nor may a councilor hold positions in the Office of the Procurator, the State Audit Chamber, law enforcement bodies or defense agencies. Finally, councilors are also not allowed to hold any executive offices in local self-government bodies, except that of village, community and city *gamgebeli*.

The law also defines the status and rights of local self-government personnel. Employees of the council, town hall and local administration are considered to be public servants.

The local hierarchy of public service is headed by state political officials. The term “official” refers to the state commissioner and deputy commissioner; heads of district local representative bodies, cities with special status and city districts; and heads and first deputy heads of local administration in districts, cities with special status and city districts. Officials are not allowed to pursue outside paid employment other than scientific, pedagogical or creative activity. They and their family members are not permitted to hold shares in the charter capital of entities over which the official has control or influence.

The civil service includes public servants, support personnel and non-staff personnel. Official status may be granted by election or appointment of any citizen of Georgia who has attained the age of eighteen, has at least a secondary education and command of the national language of Georgia. Any additional requirements are established within legal limits by the head of the relevant institution or his or her superior.

In order to prevent conflicts of interest, public servants are subject to a number of restrictions. Public officials are not allowed to engage in entrepreneurial activities, to hold more than one office in state or local government institutions, to pursue other employment or to belong to a representative or legislative body at any level.

Although the legislation on public service has been systematized, this is not reflected in the current situation. Georgian government in general and local self-government in particular is characterized by a lack of expertise among local government staff and a marked clientele-feudal tendency inherited from the Soviet era.

The Georgian government is pervaded by qualities characteristic of a patrimonial society; nepotism, regionalism, tribalism, clannism and regional and national clientelism. Corruption and personal connections play an important role in the hiring process. According to legislation, employees must be recruited through an interview process. However, appointments are usually made directly by the agency head, especially for those offices that produce lucrative bribes. When interviews do take place, testing procedures are disregarded in favor of relatives or friends of high-ranking officials. There is little or no transparency throughout the process.

Bureaucracy at the local government level can be classified into the three following groups:

1. Former Communist nomenklatura. Although the structure of the regional political elite has not yet been studied, the structure of the central government may serve as an example. Individuals who held high positions in the Soviet era constitute forty-one percent of high ranking officials in the current central government. In addition, the proportion of former *Komsomol* (Soviet Youth Organization) functionaries has been steadily increasing, from fourteen percent in 1997 to eighteen percent in 1999. These proportions are almost certainly much higher in regions.
2. "Bureaucratic bourgeoisie." The groups which have most benefited from privatization seek protectors among influential government officials. These officials often bring together the interests of local nomenklatura, newly emerged entrepreneurs and mafia clans.
3. Local elite. This social stratum has begun to play an active role and includes local Soviet nomenklatura and heads of current local administrations, for example, former chairmen of collective farms, heads of farms, the "red directors" (pro-soviet industrial managers) and heads of communal services. This group's showings in the 1995 and 1999 parliamentary elections sent a clear message to the central government that they may not be disregarded.

An overwhelming majority of bureaucrats are part of the former Soviet nomenklatura, particularly in regions. This mentality perpetuates an authoritarian style of governance combined with features of the late Soviet system such as gerontocracy and corruption. Illegal conflicts of interest often occur, with local council members continuing to work in executive agencies even though they are prohibited from doing so by law.

In addition, the lack of expertise among public servants poses a severe problem. The only government institution to deal directly with this issue is the regional policy and governing service of the State Chancellery. In addition, the Institute of Public Administration, an independent qualification center, and various NGOs organize training courses. Taken together, they are still an inadequate basis for the necessary system of training. Furthermore, local government officials have no motivation to learn new management methods, since they take a political rather than a professional view of their obligations.

9. Legal Guarantees for Local Autonomy

According to current legislation, local self-government resolutions are binding upon citizens, local government bodies and any enterprise, institution or organization on the subordinate territory. Georgian citizens, local self-government bodies and local officials have the right to appeal acts passed by the state or local governments that infringe on rights of local self-government.

Resolutions may be initiated by local council members; beyond that, the law does not specify. In the Tbilisi local council, draft legislation may be submitted by local council members, commissions, factions, the mayor of Tbilisi, a city premier or a petition signed by at least five thousand residents. The local council is obliged to decide upon the draft at the next meeting.

However, there remains a wide range of legal restrictions on local councils. Council resolutions may be rescinded by council decision or by order of the court. Bodies of state administration that have transferred specific rights to local self-government bodies may also veto any local government resolutions within the sphere of transferred powers.

The council mandate shall be terminated if:

- the number of council members is reduced by more than a half;
- the council fails to elect the head of the administration within two months;
- the council has not approved the local budget within two months of the beginning of the fiscal year.

If the local council is suspended, dissolved or otherwise terminated before the official end of its term, the local administration is dissolved as well.

Local administrations decisions are suspended or abolished through different procedures at the first and second levels. At the first level, resolutions of the relevant local administration or head may be suspended by the local council or the head of the regional administration for up to one month. At the district level, resolutions may be suspended by regional state commissioners for one month in cases determined by the law. These resolutions may then be annulled by the court, or in specific cases, by the President of Georgia. District councils are entitled to apply to the relevant state body for the suspension or cancellation of a district administration decision and receive a response within ten days.

Local councils may be dissolved or temporarily closed if local council activities are judged to threaten the country's sovereignty, its territorial integrity or the constitutional rights of governmental agencies. The president of Georgia is also entitled to impose direct rule over a territory and assign a *gamgebeli* to implement it.

The legislative framework for the protection of local government rights remains unfinished. Although the Organic Law on Local Government states that normative acts on mechanisms of legal protection are to be adopted by mid-1998, none of them have been developed yet.

Although the legal framework is incomplete, the reality is still worse. An overwhelming majority of local councils, particularly at the first level, are ignorant of their rights. Where there are more politically sophisticated local councils, typically in larger cities, they interact with the administration purely along political party lines. For example, if different parties are in power at various levels of self-government, the higher level will cancel any decisions of the lower one on party basis alone.

At present, the judiciary plays an insignificant role in resolving issues of local self-government. However, several precedents of local-government related lawsuits give rise to the hope that the role of the judiciary will continue to grow.

10. Next Steps in the Transition Process

In discussing local government in Georgia, the following conclusions must be drawn:

1. Local governments lack autonomy in decision making and real power to implement their decisions. Despite formal recognition of ownership rights, they are unable or unwilling to exercise their authority and effectively supervise subordinate institutions.
2. Local government reform is initiated from above by the central government and lacks a corresponding basis in society. In practice, councilors and local officials do not fully comprehend the concepts of decentralization and democracy.
3. On one hand, low public awareness, together with incompetence in the state apparatus, creates the potential for populist demagoguery. On the other hand, the low level of political education allows the central government to maintain sufficient control on the local population and to discredit the authority of newly elected local councils.
4. The population does not in fact participate in local government processes, since local residents view the local government as a representative of central authority rather than a government that represents their interests.
5. The prevalent black market, a mafia-controlled economy and the chronic deficit of central and local budgets seriously impede the process of reforms.

Future prospects do not seem much better. As the process of reform continues to be drawn out, it is increasingly unlikely that the government will enjoy the same levels of popular support as in 1989–1992. The crisis in legitimacy triggered by the coup, the military defeat in the war, the drop in living standards and the spread of corruption has transformed the initial enthusiasm into cynicism. Between sixty-seven and seventy-five percent of the population distrusts the government and has no hope for the future, according to opinion polls conducted by independent mass media and research organizations since 1993. State structures are therefore unstable and dependent on foreign powers such as

Russia; on internal factors such as corruption, the mafia, bureaucracy and retrograde processes; and on personal factors such as the question of succession to the presidency.

The legislation base must be finalized and adapted to real circumstances in order to secure efficient activities in the future. So far only NGOs have promoted these initiatives, albeit weakly. However, the state is becoming more interested in these activities as the current social, economic and political crisis continues to deepen and the Georgian government faces stricter demands from international organizations such as the World Bank and the IMF. There have already been several precedents of successful western-style lobbying of laws by NGOs, such as the law on the privatization of lands owned by industrial enterprises.

In addition, the central and local governments must make efforts to inform citizens and involve them in the governing process. Unfortunately, much of the population is either completely ignorant of concepts of local self-governance or are skeptical about proposed solutions.

Although no nationwide surveys on this issue have been conducted in Georgia for the last three years, some regional studies shed light on popular attitudes. According to a survey of five hundred respondents in the Mtskheta district carried out by the International Centre for Civic Culture, the population is ignorant of local council activity: 53.6 percent of respondents felt that nothing had changed since the local elections; only 7.9 percent felt they had a voice in the governing process; 70.6 percent had never applied to a local member of Parliament to solve their problems; and fifty percent had no idea what documents were required for everyday activities (building permits, et cetera).

Respondents were equally ill-informed about the local budget process: ninety-five percent knew nothing about the local budget, while 68.4 percent did not know how the budget was spent. Respondents also voiced low confidence in local government, with 43.1 percent answering that only a small part of the budget was spent properly and 20.4 percent claiming that budgetary funds were spent improperly overall.

When asked if they would pay bribes in their relations with government agencies, 11.2 percent said yes, while 59.2 percent replied that they would if there were no other option. Only 29.3 percent said they would refuse.

When asked about local administrations, 66.4 percent of respondents supported elections of *gamgebeli*, while only 15.5 percent thought that they should be appointed; 18.6 percent responded that it made no difference. In comparison, a survey carried out by the Caucasian Institute for Peace, Democracy and Development in 1997 found that 90.7 percent of respondents favored local administration elections, while only 9.1 percent supported the state appointment of *gamgebeli*.

The multitude of problems facing the system of local government urgently requires attention from the government, society and international organizations. Unfortunately, the party in power at the

central government level turns a blind eye to these problems and regards any local initiative as opposition party maneuvers, regardless of their merits.

On the other hand, the following factors operate in favor of local government reform efforts:

1. In February 1999, Georgia became a member of the Council of Europe. One of the main preconditions of membership was the requirement that all levels of local self-government become elected within three years.
2. There is a clear drive for self-governance in a number of regions and cities due to the central government's inability to effectively address local problems. Despite the consolidation of control from above, there is a gradually increasing desire for greater independence among districts. This sentiment is common both to opposition parties and to local offices of the ruling party, though the latter protest only tacitly against central government policies
3. Although council members are overwhelmingly inexperienced, the creation of local councils in 1998 was in itself a progressive step, and will provide a school of experience for over ten thousand councilors as well as a means to promote democratic principles within the state system and throughout society.

To further the development of local self-government, it is essential to improve legislation, decentralize the governing system and strengthen institutions of civil society such as interest groups, political parties, the mass media and the third sector. Only by advancing in these areas and by solving economic problems, such as the development of local small and medium-sized businesses and the creation of new employment opportunities, can the government guarantee the establishment of truly democratic self-government in Georgia.

11. Territorial Autonomies

Soviet Georgia contained three autonomous territories. Two of them were based on ethnicity (the Abkhaz Autonomous Republic and South Ossetian Autonomous Region), while the Adjarian Autonomous Republic was based on religion, a unique precedent in the Soviet Union.

When the national liberation movement emerged in Georgia, it was met by strong opposition from the two ethnic autonomous territories, who demanded the change of their political status.

11.1 Autonomous Republic of Adjara

The Autonomous Republic of Adjara is the only autonomy currently under Georgian jurisdiction. Over eighty percent of the Adjarian population is of Georgian origin, so ethnic conflict with the rest

of Georgia is not an issue. However, this region has become a second political center in opposition to the government installed in Tbilisi. The struggle for spheres of influence between the two camps of former Communist nomenklatura often erupts into legal battles. When the Adjarian autonomy does not find central government decisions to be expedient, it simply refuses to implement them.

In the last local elections, for instance, the leadership of Adjara designated the mayor of Batumi and district heads as elected positions rather than appointed ones, violating the Law on Local Government. This should not be interpreted to mean that Adjara is more democratic, since elections were carried out by the former Soviet method, whereby over ninety percent of the population voted for a candidate who had in effect been appointed. This move was, therefore, primarily intended to curb the influence of the central government and the president.

Conflict between the two political centers is not always inevitable. For example, in the spring of 2000, the Supreme Council amended the Adjara constitution to change the title of their territory to the Autonomous Republic of Adjara. Tbilisi did not react to this amendment negatively. However, the division of legislative responsibilities between the center and the autonomy remains a serious problem.

11.2 Autonomous Republic of Abkhazia

Abkhazia received the status of autonomy by the 107th clause of the 1921 Constitution of Georgian Democratic Republic. Most of the population of Georgia agrees that the Abkhaz should be granted autonomy.

At the time of independence, ethnic Abkhaz constituted only seventeen percent of the population of Abkhaz Autonomous Republic, while ethnic Georgians in Abkhazia constituted forty-six percent. Nevertheless, pursuant to the regulations cultivated under Soviet rule, ethnic Abkhaz enjoyed certain privileges in the state government personnel policy.

In response to the restoration of the 1921 Georgian Constitution by Georgia's Military Council on 23 July 1992, the Abkhaz Supreme Council reinstated the Abkhaz Constitution of 1925, implying the secession of Abkhazia from Georgia.

Abkhaz separatists offered armed resistance to Georgian forces, eventually developing into a war during which they received assistance from the Russian military and North Caucasian mercenaries. In September 1993, Abkhaz separatists sealed their victory over Georgian armed forces. Due to ethnic cleansing launched during the war, the Georgian population in the region has been wiped out, and more than 200,000 Georgian residents of Abkhazia have become refugees or displaced persons.

Independent Abkhaz legislation and state institutions are currently operating in Abkhazia, with a system of local government developed after the war. On 23 November 1996, a parliamentary

election was conducted in Abkhazia. According to formal Abkhaz sources, the voter turnout was eighty-one percent, with 180,000 voters out of 220,000 participating in the ballot. No international observers monitored the elections, as the Georgian government declared them illegal.

The local elections, held on 14 March 1998, laid the foundation for the development of a system of self-government in Abkhazia. Local council elections for both the first and second level of local government were held by the majority system and characterized by a large number of candidates. Elections were not held in areas depopulated by ethnic cleansing. Local administrations were formed solely by central authorities (*sokhumi*), with local administration heads appointed by and accountable to the president.

The Georgian government does not recognize the legitimacy of the Abkhaz separatist government or the current system of governing.

11.3 Tskhinvali Region

The South Ossetian Autonomous Region was created under Bolshevik rule on 20 April 1922. Prevailing opinion in Georgian society at the time held that this was a reward to local Ossetians from the Bolsheviks for their assistance in establishing Soviet rule in Georgia.

Ethnic Ossetians constitute about seventy percent of the region's population. Roughly 60,000 Ossetians remain out of the 105,000 Ossetians residing in Georgia prior to 1990. In that year, armed conflict began when the South Ossetian establishment conducted elections and the newly elected Supreme Soviet declared the South Ossetian Republic without consent from Tbilisi. In December 1990, Georgia's Supreme Council formally abolished the South Ossetian Autonomous Region, a decision which led to escalated violence.

The armed conflict was limited, ending on 24 June 1992, and was characterized by mixed success on both sides. The Ossetian side succeeded in establishing political autonomy on the territory populated by ethnic Ossetians.

No changes have been made in the South Ossetian system of local self-government since the Soviet era; even the terminology remains Soviet. Formally, people's soviets are still in power. In reality, authority belongs to the separatist executive authorities. However, Georgian villages of the conflict zone are under Georgian jurisdiction.

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Glossary of Georgian Terms

- Khevisberi* — Institutions of elders
Gamgebeli — Head of local administration
Gamgeoba — City hall
Mamasakhlisi — Village headman
Sakrebulo — Local council
Tbileli Berebi — Historical institution of city elders in Tbilisi, operating roughly from 1080–1122

Annex 5.1

Major General Indicators

Size of territory	69,700 square kilometers	
Population		
Including the conflict zones (1999)	5,444,700	
Not including residents in the conflict zones, emigrants or internally displaced persons	4,322,100	
Pensioners (1998)	423,000	
School-age children (1999)	1,055,000	
Population density	78 people per square kilometer	
Major ethnic divisions (1989):		
Georgians	3,787,000	70.13 percent
Armenians	437,000	8.09 percent
Russians	341,000	6.31 percent
Azerbaijanis	308,000	5.70 percent
Ossetians	164,000	3.04 percent
Greeks	100,000	1.85 percent
Abkhazs	96,000	1.78 percent
Ukrainians	52,000	0.96 percent
Kurds	33,000	0.61 percent
Jews	25,000	0.46 percent
Other ethnicities	58,000	1.07 percent
Per capita GDP (1999)	USD 1,267	
Total revenues (1999)	USD 488,000,000	
Central budget	USD 327,000,000	
Local budgets	USD 161,000,000	
Total expenditures (1999)	USD 783,900,000	
Central budget	USD 624,000,000	
Local budgets	USD 159,900,000	
Public debt (1998)	USD 409,000,000	

Unemployment (1998)	345,000
Inflation rate (1999)	approximately 5.8 percent
Average population per local government	4,474
Number of public employees (1998)	39,853
State government employees	11,203
Local government employees	28,650

SOURCE: The State Department of Statistics and Ministry of Finance

Annex 5.2

Population, Settlements and Administrative Tiers

Table 5A.1
Settlements by Population Size Categories in Georgia, 1999*

Population Size Categories	Number of Settlements	Percentage of Settlements	Number of Inhabitants	Percentage of Population
0–1,000	3,150	84.3	934,800	21.6
1,000–5,000	509	13.6	913,400	21.1
5,000–10,000	47	1.3	300,200	6.9
10,000–50,000	25	0.7	543,100	12.6
50,000–100,000	1	0	64,700	1.5
100,000–1,000,000	3	0.1	478,100	11.1
1,000,000+	1	0	1,087,800	25.2
Total	3,736	100.0	4,322,100	100.0

Table 5A.2
Municipalities by Population Size Categories in Georgia, 1999*

Population Size Categories	Number of Municipalities	Percentage of Municipalities	Number of Inhabitants	Percentage of Population
0–1,000	212	21.9	129,709	3.0
1,000–2,000	274	28.5	407,052	9.4
2,000–5,000	354	36.6	1,045,022	24.2
5,000–10,000	89	9.2	550,117	12.7
10,000–50,000	32	3.3	552,400	12.8
50,000–100,000	1	0.1	64,700	1.5
100,000–1,000,000	3	0.3	478,100	11.1
1,000,000+	1	0.1	1,095,000	25.3
Total	966	100.0	4,322,100	100.0

Table 5A.3
Types of Administrative-territorial Units in Georgia

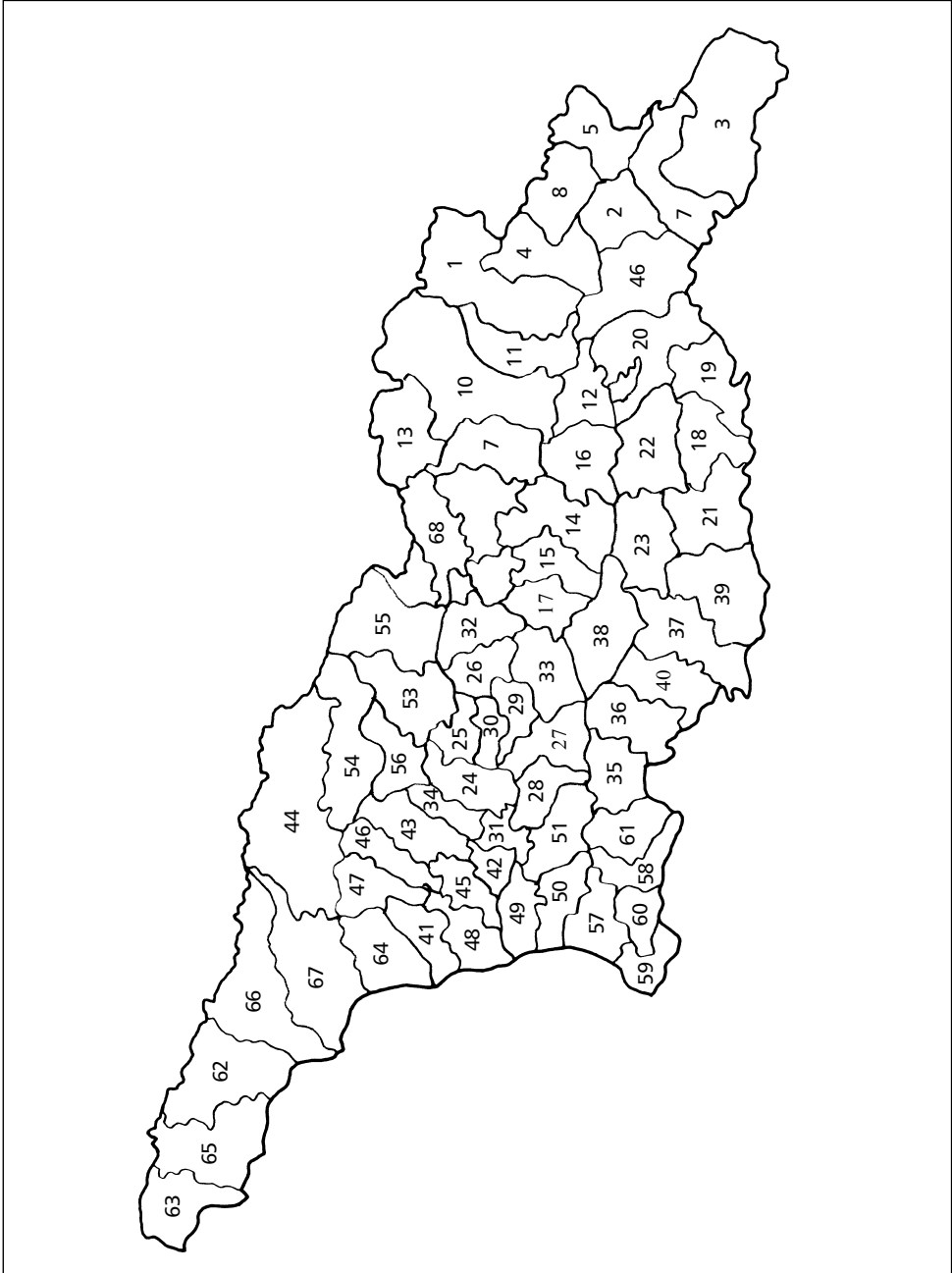
Type of Administrative-territorial Unit	Number of Units
First tier (village, settlement, town)	966
Second tier (district, city with special status)	65
Total	1,031

Table 5A.4
Administrative-territorial Structure in Georgia*

Local and Regional Governments	Average Number of Inhabitants per Unit	Average Number of Settlements per Unit
First tier	4,474	4
Second tier	66,494	57

* *Not including conflict zones.*

Figure 5A.1
Administrative Map of Georgia



Regions and Districts	Historical–Cultural Regions		
		33. Kharaguli	Imereti
		34. Khoni	Imereti
Tbilisi			
Kakheti		Samtskhe–Javakheti	
1. Akhmeta	Kakheti	35. Adigeni	Samtskhe–Javakheti
2. Gurjaani	Kakheti	36. Akhaltsikhe	Samtskhe–Javakheti
3. Dedoplistskaro	Kakheti	37. Akhalkalaki	Samtskhe–Javakheti
4. Telavi	Kakheti	38. Birjomi	Shida Kartli
5. Lagodekhi	Kakheti	39. Ninotsminda	Samtskhe–Javakheti
6. Sagarejo	Kakheti	40. Aspindza	Samtskhe–Javakheti
7. Signagi	Kakheti		
8. Kvareli	Kakheti	Samegrelo–Zemo Svaneti	
Mtskheta–Mtianeti		41. Zugdidi	Samegrelo
9. Akhlagori	Shida Kartli	42. Abasha	Samegrelo
10. Dusheti	Mtianeti	43. Martvili	Samegrelo
11. Tianeti	Kakheti	44. Mestia	Svaneti
12. Mtskheta	Shida Kartli	45. Senaki	Samegrelo
13. Kazbegi	Mtianeti	46. Chkhorotsku	Samegrelo
		47. Tsalenjikha	Samegrelo
		48. Khobi	Samegrelo
Shida Kartli		Guria	
14. Gori	Shida Kartli	49. Lanchkhuti	Guria
15. Kareli	Shida Kartli	50. Ozurgeti	Guria
16. Kaspi	Shida Kartli	51. Chokhatauri	Guria
17. Khashuri	Shida Kartli		
68. Java	Shida Kartli	Ratcha–Lachkhumi	
Kvemo Kartli		Kvemo Svaneti	
18. Bolnisi	Kvemo Kartli	53. Ambrolauri	Ratcha
19. Marneuli	Kvemo Kartli	54. Lentekhi	Svaneti
20. Gardabani	Kvemo Kartli	55. Oni	Ratcha
21. Dmanisi	Kvemo Kartli	56. Tsageri	Lechkhumi
22. Tetrtskaro	Kvemo Kartli		
23. Tsalka	Kvemo Kartli	Atchara	
Imereti		57. Kobulati	Atchara
24. Tskaltubo	Imereti	58. Shuakhevi	Atchara
25. Tkibuli	Imereti	59. Khelvachauri	Atchara
26. Tchiatura	Imereti	60. Keda	Atchara
27. Bagdadi	Imereti	61. Khulo	Atchara
28. Vani	Imereti		
29. Zestaponi	Imereti	Abkhazia	
30. Terjola	Imereti	62. Sukhumi	Abkhazia
31. Samtredia	Imereti	63. Gagra	Abkhazia
32. Sachkhere	Imereti	64. Gali	Abkhazia
		65. Gudauta	Abkhazia
		66. Gulrupsisi	Abkhazia
		67. Ochamchire	Abkhazia

Annex 5.3

Major Laws on Public Administration and Local Government

- The Constitution of Georgia (25 August 1995)
- Law on the Tax System (6 February 1998)
- Law on the Budget System and Budgetary Powers (29 May 1996)
- Law on the Capital of Georgia (20 February 1998)
- Law on Corruption and Conflict of Interest in Public Service (17 October 1997)
- Law on the Fund for State Commissioners (21 February 1997)
- Law on Direct State Governance (9 June 1999)
- Law on Financial Bodies of Local and State Governments (22 June 1999)
- Law on Local Council Elections (25 June 1998)
- Law on Local Government and Self-governance (16 October 1997)
- Law on Local Taxes (29 May 1998)
- Law on the Long-term Economic Norms of State Tax Deductions with Respect to the Autonomous Republics of Abkhazia and Ajara and Other Territorial Units (10 March 2000)
- Law on Public Service (31 October 1997)
- Law on the Social, Economic and Cultural Development of Mountainous Regions (8 June 1999)
- Law on the State Budget (10 March 2000)
- Law on the Status of Local Council Members (26 June 1998)
- Law on the Structure and Operation of Executive Power (15 April 1997)
- The General Administrative Code of Georgia (25 June 1999)
- The Tax Code of Georgia (13 June 1997)

Essential regulations and decrees:

- Presidential Decree No. 334 on the Transfer of State Property to Local Self-Government Bodies (25 May 1999)
- Regulations of Procedures to Resolve Issues in the Administrative Organization of Georgia
- A List of Documents and Legislative Materials on Administrative Organization of Georgia to be Submitted to the President (prepared by the State Chancellery)

Notes

- ¹ OSCE and the Georgian organization International Society for Fair Elections and Democracy, among others.
- ² Public polls conducted under the aegis of USIA.
- ³ In 1997, this tax and the preceding one composed a single tax on environmental impact.
- ⁴ The tax on the transfer of real estate was approved in 1998.
- ⁵ From 1998, this category is combined with state taxes.
- ⁶ This item also includes expenditures on religion.
- ⁷ The category “other expenditures” reflects differences in the classification of national and municipal budgetary items.
- ⁸ There is no new information.
- ⁹ The number of unemployed registered by the Department of Statistics is 3,800.
- ¹⁰ Since statistical data of various governmental agencies differ, the given data may not match information of other sources.

Chapter 6

Local Government
in Armenia

by

David Tumanyan

Developing New Rules in the Old Environment

Local Government in Armenia

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Local Government in Armenia

David Tumanyan

1. Overview of Local Government Reform

From 1922 to 1991, Armenia formed part of the Soviet Union and Armenian local governments functioned as a component of Soviet administration. In the late 1980s, the Karabakh movement emerged, initially to call for the incorporation of Nagorni–Karabakh into Armenia, but gradually evolving into a struggle for independence led by the Armenian National Movement. Upon winning the 1990 parliamentary elections, they commenced the process of seceding from the Soviet Union. On 23 August 1990 the General Council, or Parliament, adopted the declaration of independence. A referendum was held on 21 September 1991, and two days later the General Council proclaimed the Republic of Armenia. Of the former Soviet republics, Armenia was the only one to secede in accordance with the laws of the Soviet Union.

The Soviet administrative-territorial division of Armenia into thirty-seven *raions* persisted until 1996. During that time, Armenia was involved in the Karabakh war and blockaded by Turkey and Azerbaijan. Only after the cease-fire in May 1994 could the government turn its attention to strategic development problems. In particular, democratization and the creation of a civil society required innovative approaches to issues of local self-governance.

The Constitution of the Republic of Armenia, adopted by referendum on 5 July 1995, directly addresses issues of regional and local self-government in chapter 8, articles 104–110. These articles became the legal foundation for administrative-territorial reforms. Further legislation rapidly followed, paving the way for the creation of new systems of territorial administration and local self-government in a short space of time. Public policy aimed to increase local autonomy in issues of local importance and strengthen the capacity of regional governments to solve broader regional issues by expanding their territories.

According to the Constitution and Law on the Administrative-territorial Division of the Republic of Armenia (4 December 1995), Armenia is divided into ten regions (*marzer*) and the capital city of Yerevan, which is accorded regional status. Marzer are further divided into rural and urban communities (*hamainkner*), and Yerevan into districts (see table 6.1 for data on marzer). Marzer vary greatly in territory, population, number of communities and level of economic development. The largest region is Gegharkunik Marz, whose 5,348 square kilometers also includes Lake Sevan (1,256 square kilometers). Shirak Marz has the most communities, with a total of 119. Marzer are governed

through the system of state administration. The Armenian government appoints and dismisses regional governors (*marzpetner*) to carry out the following duties with the assistance of regional administrations (*marzpetaran*):

- to implement the government's regional policy;
- to coordinate the activities of regional agencies of state administration;
- to mediate between the central and local governments;
- to regulate inter-community issues within their competence.

Table 6.1
General Characteristics of Armenian Marzer

Name of Region (marzer)	Territory [sq. km]	Regional Capital	Distance from Yerevan [km]	Number of Municipalities or Districts		Population [in thousands]	
				Rural	Urban	1996	1999
Yerevan	227	Yerevan	—		12	1,249.4	1,248.7
Aragatsotn	2,753	Ashtarak	20	111	3	162.5 45.7	166.7 46.9
Ararat	2,086	Artashat	29	93	4	305.0 96.5	310.0 98.7
Armavir	1,242	Armavir	48	94	3	315.5 123.5	321.1 122.7
Gegharkunik	5,348	Gavar	98	87	5	272.4 101.1	277.6 102.0
Lory	3,789	Vanadzor	120	105	8	392.4 265.4	394.1 265.6
Kotayk	2,089	Hrazdan	50	60	7	325.9 201.0	328.9 201.3
Shirak	2,681	Gumry	116	116	3	358.3 242.5	361.8 243.6
Sunik	4,506	Kapan	316	106	7	161.9 114.4	163.6 115.1
Vayots Dzor	2,308	Yeghegnadzor	119	41	3	68.3 28.0	69.1 28.4
Tavush	2,704	Igevan	137	58	4	154.8 62.6	156.6 63.0
Armenia	29,743	Yerevan		871	59	3,766.4 2,530.1	3,798.2 2,536.0

The regional council is an advisory body, composed of the marzpet and all community heads from the region. Although its competencies are not defined by law, the regional council typically discusses issues of regional policy and regional development. The marzpet may take the results of these discussions under consideration when performing government duties.

Although Yerevan has regional status, local self-government and state administration in Yerevan possess special features. The mayor of Yerevan is appointed by the president of Armenia, upon nomination by the prime minister. The twelve city districts function as units of local government (see table 6.2). The districts themselves vary greatly with respect to territory, population, infrastructure, public parks and other characteristics. When district boundaries were being drawn up, several factors were taken into consideration, including former territorial divisions, geography, the current state of urban development and future strategies for urban planning.

The Yerevan Council is comprised of the district heads and chaired by the Mayor of Yerevan. In general, the council has limited scope of action. Its responsibilities include approval of estimated expenditures in the budget, which is prepared according to legal specifications and submitted by the mayor. Council responsibilities also include other city-related responsibilities that fall outside the jurisdiction of district governments. These include naming streets, squares, avenues, parks and educational, cultural and other city institutions; regulating the activity of trade and public service enterprises; and awarding honorary citizenship to Armenian or foreign citizens.

Table 6.2
Yerevan Districts

District	Number of Inhabitants, 1 January 1999 [thousands]
Ajapniak	125.9
Avan	50.5
Arabkir	151.4
Davitashen	50.7
Erebuny	126.5
Kentron	180.5
Malatia-Sebastia	159.6
Nor Nork	131.5
Nork-Marash	14.6
Nubarashen	9.3
Shengavit	145.5
Kanaker-Zeitun	102.7
Total	1,248.7

In Armenia, local self-government is exercised only within the unit of the community. Each urban or rural community may consist of one or more settlements; there are one thousand settlements in Armenia, but only 930 communities. These consist of forty-seven urban communities, 871 rural communities and twelve Yerevan districts.

After establishing the register of communities nationwide, the National Assembly adopted the Law on Elections to Local Governments (14 May 1996) and the Law on Local Self-government (22 July 1996). The first local elections were held in November of that year. Based on the European Charter of Local Self-government (1985), the Law on Local Self-government established general principles of local self-government as well as the specific division of powers within local governments. Local government powers consist of own responsibilities, funded by the local budget, and responsibilities delegated and funded by the state. Local governments have some flexibility in implementing voluntary community-related activities within the framework of the law.

Communities vary widely in population, territorial size, property and social and economic structure. There is no legal distinction between a city and village; these names are derived from tradition and location. For instance, the term “city” refers to both Dastakert in Sunik Marz, with six hundred inhabitants, and Gumry in Shirak Marz, which is the second largest city in the republic, with 211,700 inhabitants. The largest rural community has 10,049 inhabitants (Akhurian, in Shirak Marz), and the smallest only thirty-seven (Kashuni, in Sunik Marz). Despite their different natures, all community governments are regulated by the same laws.

In implementing community-related policies, the government gives weight to population indicators. For example, population size is the main factor in determining community subsidies under the Financial Equalization Law. Communities with fewer than three hundred inhabitants are allotted extra definite quantity subsidies. Other geographic and demographic characteristics are defined by law. According to Government Act No. 713 on Classification of Armenian Border Communities (17 November 1998), 173 communities are ranked as border communities, including nine cities and 190 villages. According to Government Act No. 756 on Classification of Armenian Settlements According to Altitude (27 November 1998), settlements 1,700–2,000 meters above sea level are considered mountainous settlements, while those above 2,000 meters are classified as high mountainous settlements. Altogether there are 195 mountainous communities (eight urban and 187 rural) and 143 high mountainous communities (four urban and 139 rural).

The financial basis of local government was first addressed by the Law on the Budget System (21 July 1997), which stipulates procedures for the creation, implementation and supervision of community budgets; intergovernmental fiscal relations; and types of revenues and expenditures. The Law on Local Duties and Fees (9 January 1998), which defines the types and permitted rates of local duties and fees, further enhanced local initiative and economic and political autonomy. Transfers from the central to local budgets are regulated by the Financial Equalization Law (23 December 1998), which establishes the general concept of financial equalization, the form of subsidies and the main factors for their calculation. Each of the above-mentioned laws has been repeatedly amended since adoption.

According to Armenian law, the central government has the authority to decide on over twenty spheres of local government interest. These include allocating budgetary loans, credits and guarantees; establishing procedures for the collection and distribution of local taxes; and confirming community property.

Armenian legislation on local self-government is largely based on the European Charter of Local Self-government. In its Report on Local Democracy in Armenia, the Bureau of the Congress of Local and Regional Authorities of Europe (CLRAE) noted that “the chief requirements of the Charter are thus fulfilled by Armenian law, which does not contain any provision conflicting outright with a principle of the Charter.” However, the report goes on to mention that “the fact remains, as the Armenian authorities are themselves convinced, that the functioning of local government at present is not without defects and shortcomings that will have to be rectified.”

2. Local Politics, Decision Making

2.1 Public Participation in Decision Making

Armenian legislation does not address public participation in the decision making process in detail, although it may do so according to the Law on Local Self-government. In general, the community head and community elders have the right to initiate decisions, but residents may submit draft resolutions and attend council sessions with the permission of the local council. However, the level of public participation is very low. Most citizens are poorly informed about local authorities and their responsibilities as well as local government procedures. Although the Constitution provides for forms of direct democracy, such as referenda, public hearings and meetings, they have rarely been used at the local government level. Only a few cases of public hearings are known. The absence of direct forms of democracy is due to many factors, such as lack of financial resources, an ill-defined legal framework, minimal activity on the part of non-governmental organizations (NGOs) and overall organizational difficulties.

Even though over 2,200 NGOs are registered in Armenia, few of them are active and involved with local governments. According to the Law on Non-governmental Organizations (1 November 1996), an NGO is a voluntary union formed to satisfy people’s spiritual and other non-material requirements. An NGO may be initiated by an individual or another NGO, and founded by the decision of an assembly of no fewer than three individuals or two NGOs. All NGOs, both regional and local, must be officially registered with the Ministry of Justice in Yerevan.

2.2 Internal Structure of Local Government Decision Making

Together, the council of community elders and the community head comprise the local decision-making bodies. The community elders act as the representative body, providing guidance on community development, improvement of community life, public service delivery and other issues.

Council sessions are held at least once per quarter at the elders' discretion. These are presided over by the community head, who has a tie-breaking vote. Community elders have the authority to issue resolutions on any matters related to community interests. Community elders may also issue statements on matters which are outside their jurisdiction but related to the community. These may be addressed to the public, the head of the community, the marzpet or other state authorities.

The first session of the newly elected community elders must be convened no later than twenty days after the elections. The council of elders is considered formed if more than fifty percent of the members have been elected.

The institution of elders dates back to 2200–2100 BC, when seventeen small Armenian princedoms formed a confederation around the Kutuy princedom of southern Armenia. According to ancient Mesopotamian manuscripts, the Kutuy kings were elected rather than hereditary, and individual princedoms retained local autonomy. Local administrators were elected by councils of elders and public assemblies. The same system was in place in the federation of Nairian countries, founded in the second millennium BC during the struggle against the Assyrians. This is the earliest record of regional local self-governments. The earliest mention of urban self-governments dates back to the sixth century BC. Sovereign municipal assemblies operated in large cities, managed by the mayor. Members of municipal assemblies included community elders chosen from old and wise people, the head priest, the judge, city district mayors and ethnic leaders in cities with mixed ethnicities.

The following responsibilities are mandatory for community elders:

- to issue regulations on the council of elders;
- to determine the salary of the community head, according to legal specifications;
- to approve the structure of the local administration;
- to approve the general urban development plan;
- to approve the local budget;
- to establish local duties and fees;
- to approve the implementation of the land cadastre regulating use of communally owned land;
- to establish rules of operation for trade, catering and public service enterprises;
- to approve the annual inventory of community property;
- to publish a three-year development plan and the annual budget;
- to publish the annual statement of the community head on budget performance.

The council of elders may undertake the following responsibilities at their own discretion:

- to dismiss the head of the community;
- to request any non-classified information pertinent to community activities from state authorities;
- to make amendments to the budget;

- to name streets, avenues, squares and parks;
- other issues within the framework of voluntary powers.

Mandatory duties of the head of the community include the following:

- to approve regulations on the organization and functioning of the local administration;
- to establish a list of positions and official salaries of local administration staff;
- to prepare the general urban development plan, implement the land cadastre and approve detailed plans of certain sectors within the general urban development plan;
- to appoint and dismiss local administration staff;
- to open the founding session of the community elders;
- to approve the annual inventory of community property;
- to make decisions and issue orders within his or her jurisdiction.

Either the community head or a community elder may submit draft resolutions for the council's consideration (see figures 6.1 and 6.2) Local council resolutions are implemented by the respective executive bodies, in cooperation with other interested organizations and people. Local councils set up specialized committees to identify the main priorities of development for the respective communities. Council decisions are passed by a majority vote of elders present, provided that over half its members attend the meeting. A copy of the council decision must be delivered to the office of the regional governor within seven days.

Figure 6.1

Submission of a Draft Decision by the Head of the Community

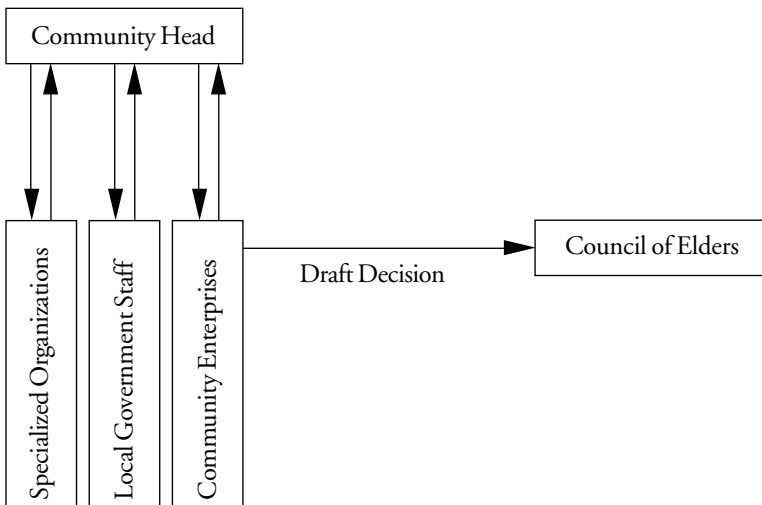
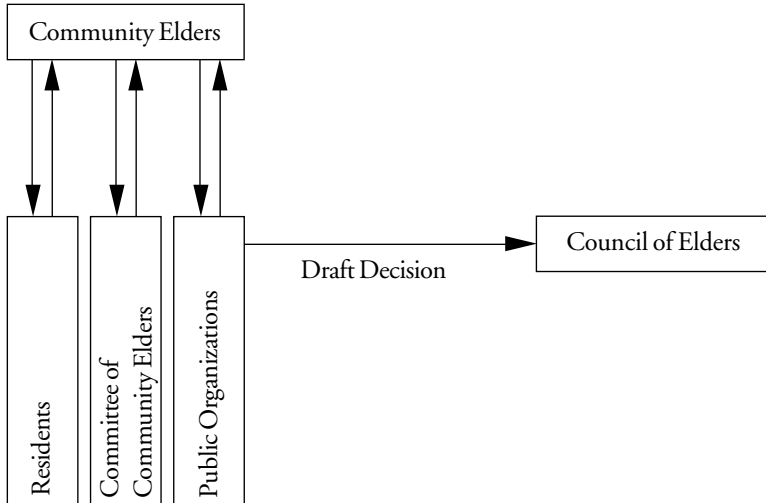


Figure 6. 2
Submission of a Draft Decision by a Community Elder



2.3 System of Local Elections

The first local elections in the Republic of Armenia were held in November 1996 under the Law on Elections to Local Governments. The second round of elections took place on 24 October 1999 pursuant to the Electoral Code, which was adopted on 17 February 1999 to ensure guarantees of transparency, democracy and fairness. Community heads and elders are chosen through general, equal and direct elections by secret ballot. Extraordinary elections may occasionally be called.

The term of office for both elders and community heads is three years. Communities with up to three thousand inhabitants elect five elders to the local council, communities with up to twenty thousand inhabitants elect ten and communities with over twenty thousand inhabitants elect fifteen. A candidate for the position of elder must be an Armenian citizen over twenty-one years old, registered in the community for the past year and entitled to vote according to the special requirements of Armenian law. Candidates for community head must be at least twenty-five years old, but otherwise meet the same requirements. Members of the Constitutional Court and judges may not be nominated as candidates for either position.

Regional electoral committees organize local elections, compile and publish election results and certify the elected elders and community heads. Regional electoral committees consist of:

- three government appointed members;
- one member appointed from each party or coalition represented in the acting or dissolved National Assembly, if they have applied to participate in the National Assembly elections through a proportional voting system and have produced at least thirty thousand certified signatures defending their nomination in the list;
- one member appointed from each of the first five parties not represented in the acting or dissolved National Assembly, but which have applied to participate in the National Assembly elections through a proportional voting system and have produced at least thirty thousand certified signatures defending their nomination in the list.

Elections are organized in multi-mandate electoral districts as follows:

- one majority system electoral district with five mandates in communities with up to three thousand inhabitants;
- two majority system electoral districts with five mandates each in communities with up to twenty thousand inhabitants. The population of an electoral district shall not exceed fifty-five percent of the total population of the community;
- three majority system electoral districts with five mandates each in communities with over twenty thousand inhabitants. Electoral districts must be divided according to population, not deviating by more than five percent of the population.

Candidates for community elders and head may have legally authorized representatives to campaign on their behalf. In order to ensure fairness, elections may be covered by the mass media and observed by international organizations, representatives from foreign countries and NGOs. Candidates' legally authorized representatives, observers and representatives of the mass media have the right to be present at the electoral committee sessions, to examine documents, sample ballots, electoral committee decisions and records and to appeal against the actions of electoral committees. Observers from CLRAE were present in the last local elections and reported that "the CLRAE delegation found no serious irregularities such as to cast doubt on the fairness of the ballot held on 24 October 1999 to elect community leaders and community councilors. In its press release, it concluded that the elections had been free and fair."

Political parties play almost no role in local elections and do not have the right to nominate candidates. Political affiliation is mentioned only on the ballot itself, if in fact the candidate belongs to any particular party. This is rarely the case; in the 1999–2000 elections, 74.2 percent of the winning candidates ran as independents (see table 6.3).

Table 6.3
Results of the 1999–2000 Local Elections in Armenia

Electoral Party	Community Heads				Council of Elders			
	Total Mandates	[%]	City Mayors and District Heads	Village Heads	Total Mandates	[%]	Urban and District Communities	Rural Communities
Independent Candidates	554	67.1	24	530	2,779	75.8	414	2,365
Armenian Republic Party	156	18.9	16	140	314	8.6	101	213
Armenian People's Party	53	6.4	2	51	146	4.0	38	108
Armenian Revolutionary Federation	9	1.1	0	9	112	3.0	28	84
Armenian Communist Party	16	1.9	0	16	115	3.1	21	94
Armenian National Movement	22	2.7	1	21	72	2.0	1	71
National Democratic Union	0	0.0	0	0	41	1.1	5	36
Powerful Homeland	5	0.6	0	5	32	0.9	3	29
Lawful Country	3	0.4	0	3	36	1.0	4	32
Other Parties	8	0.9	0	8	20	0.5	2	18
Total	826	100	43	783	3,667	100	617	3,050

2.4 Ethnic Issues, Multicultural Government

Though there are few ethnic minorities in Armenia, some communities do exist where the majority of inhabitants are of different nationalities. The Yezdies, for instance, inhabit eighteen rural communities in Aragatsotn region. There are also a few communities where Russians and Assyrians are the majority. Some national minorities may operate schools, publish newspapers or sponsor radio broadcasts. However, Armenian is the working language in all local self-government bodies.

2.5 Local Government Associations

There are currently three major local government associations operating in Armenia: the Community Union of Armenia (CUA), the Union of Yerevan Elders (UYE) and the Community Finance Officers Association (CFOA). In addition, there are also rural inter-community associations, none of which are particularly active. Local government associations are established by the agreement of community heads and ratified by the community elders. They act as legal entities to help local governments solve

problems of cross-community impact and thereby reduce costs. Armenian law also provides for the establishment of voluntary professional associations, which applies to associations formed by other local government officials. The above-mentioned associations all work towards the goal of improving existing legislation in the field of local government.

The Community Union of Armenia first convened on 12 December 1997. Today membership in the CUA includes six affiliated individuals and 530 communities, representing over three million citizens from forty-seven urban communities, twelve districts and 471 rural communities. The general assembly is held every three years and elects a council, which in turn elects a board. The board manages association affairs, while the executive director of the association is charged with managing operational and financial affairs. The main tasks of the CUA are as follows:

- to support forms of cooperation among communities;
- to sponsor legislative changes and state administrative decisions affecting communities;
- to promote communities as effective instruments of democracy and public service provision;
- to work together with similar foreign organizations and foster international relationships;
- to promote effective local self-government by providing information to local government officers.

The CUA is well known in Armenia. Among its other activities, it has drawn up a draft concept of public policy in the sphere of local self-government and submitted it to the government, which is expected to discuss the draft and adopt an appropriate decision. The CUA cooperates with various international organizations, such as the Urban Institute, the International Union of Local Authorities (IULA) and CLRAE.

The Union of Yerevan Elders, founded in 6 March 1998, currently has seventy-seven members. Its general assembly convenes annually, approves a general program and elects a twelve-member board responsible for its implementation. The assembly also elects a president to conduct daily association affairs. After confirming the president, the board elects a deputy president from its members. The main tasks of the UYE are as follows:

- to harmonize council activities among Yerevan districts;
- to exchange best practices and information on current council activities in other districts;
- to submit amendments to local government laws or suggestions on specific local council activities;
- to encourage professional development among its membership;
- to carry out research and educational activities.

Among its activities, the Union of Yerevan Elders has submitted amendments on local government laws to the National Assembly and organized training workshops for Yerevan community elders. The UYE may respond to local community developments by addressing letters to the government, granting interviews and press conferences and making television appearances. The UYE works together with international organizations such as the Urban Institute.

The Community Finance Officers Association, founded on 24 September 1988, is governed by its general assembly, held once a year. The assembly elects fifteen board members, at least two-thirds of

whom must be community representatives, a president to act as chairman of the board and a deputy president. The association has a total of eighty-four members: sixty-six members representing communities, fourteen representing state agencies and four unaffiliated members.

The main tasks of the CFOA are as follows:

- to participate in drafting legislation on local government finance;
- to exchange best practices in community financial management;
- to attend working groups, meetings and other central government venues in which they may express the interests of their communities;
- to provide assistance to communities currently engaged in the budget process;
- to cooperate with foreign and local self-governments as well as public organizations;
- to organize seminars, meetings and discussions;
- to draft plans for the joint financing of inter-community projects;
- to establish and operate community information centers.

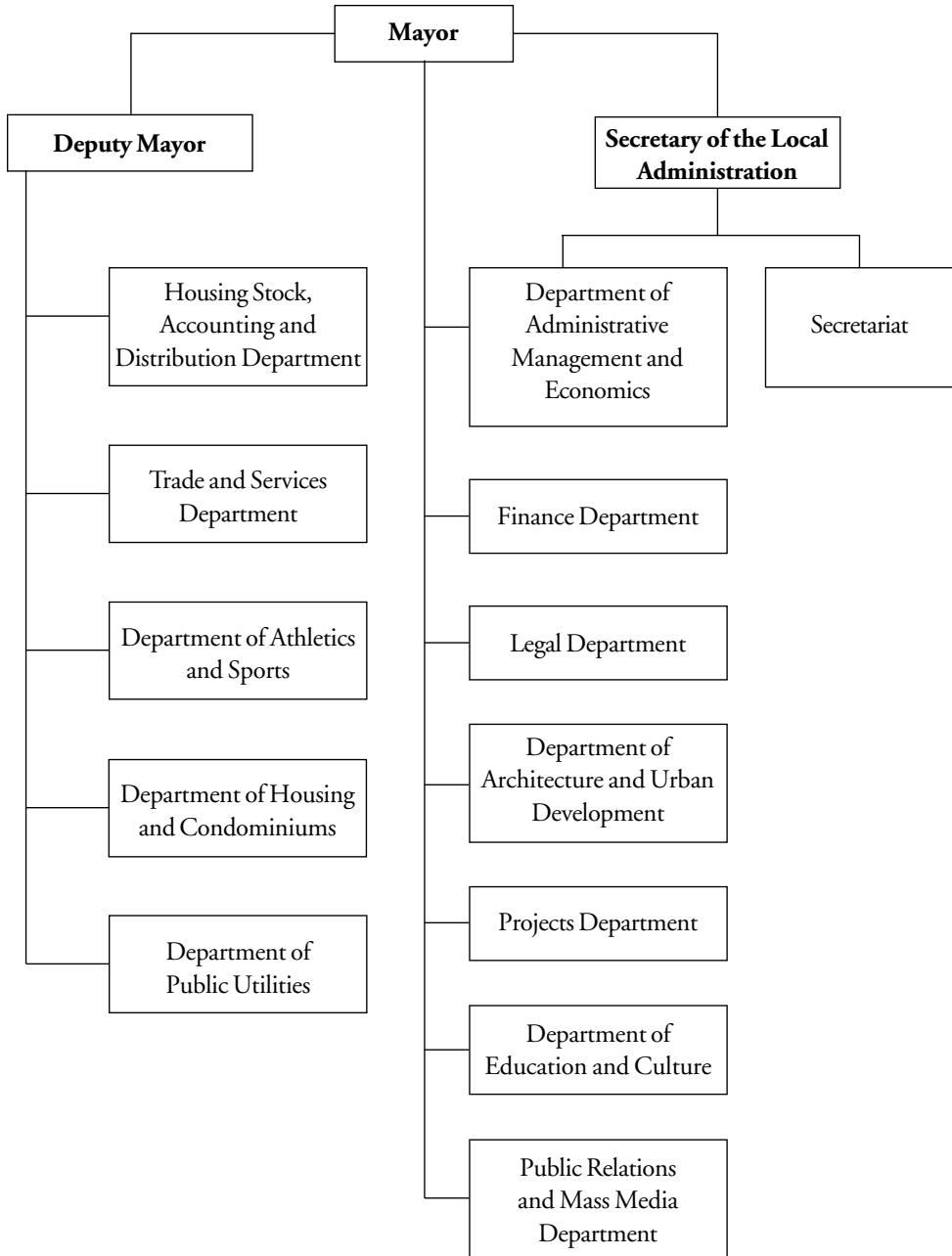
The CFOA provides consultancy services to community finance officers in formulating and implementing community budgets. With the assistance of Eurasia Foundation, the association has created a computer program for drawing up community budgets. This project is currently in the investment phase. The association is also participating in the creation of a new Law on Local Self-government together with the German Technical Cooperation. The CFOA works with international organizations such as ICMA and the Urban Institute.

3. Functional Structure of Local Administration

The local government level utilizes a vertical hierarchy of control. Local administration staff and community institutions are accountable to the head of the community, who is in turn accountable to the community elders.

The community head represents the executive branch of community government, acting on the principle of individual leadership. The head is required to submit a proposed organizational structure of local administration staff to the community elders for approval no later than one month after taking office. If the community elders reject the proposed plan, the head may consider their suggestions and present a revised plan. If agreement cannot be reached, the community elders may submit a motion to the marzpet to dismiss the head of the community. The local administration is a legal entity, with its own seal bearing its name and the state emblem of the Republic of Armenia. Local administration is composed of the deputy head of a community, the secretary of staff and their divisions. The size of local administration staff is defined according to population size by Government Decision No. 372 (adopted 6 December 1996).

Figure 6.3
Structure of Local Administration in the City of Vanadzor (172,700 inhabitants)



The community head is prohibited from simultaneously occupying any other state position or performing other employment with the exception of creative, scientific and pedagogical activities.

The community head is charged with the following duties:

- to approve the local administration charter;
- to establish a list of staff positions and official salaries and hire local administration staff;
- to appoint and dismiss staff officers and directors of community enterprises or organizations;
- to submit drafts of the three-year development plan and the annual budget to the community elders for review;
- to make decisions and issue orders within his or her jurisdiction;
- to carry out the instructions of the regional governor on organizing civil defense and anti-epidemic measures and on minimizing the risk and consequences of technological and natural disasters;
- to exercise other powers specified by the Law on Local Self-government;
- to oversee implementation of council decisions.

The head of a community is charged with mandatory responsibilities in the following spheres: finance, protection of citizens' rights, public safety, defense, planning, development, construction and land use, public utilities and service provision, transportation, trade and services, education and culture, public health, athletics, agriculture and environmental protection. In Yerevan, these responsibilities are divided among the city administration, the council of Yerevan and individual district communities. The following duties are assigned to the heads of rural and urban communities and the head of Yerevan (excluding district heads):

- to grant permission to hold assemblies, demonstrations, marches and other mass gatherings as specified by the law;
- to prepare the general urban and local development plan and submit them to the regional governor upon council approval;
- to approve detailed plans of certain sectors and urban development complexes of the community within the general urban development plan and carry out development activities;
- to name streets, squares, parks, educational, cultural and other community institutions;
- to establish a numbering system for houses, buildings and other structures;
- to organize construction, maintenance and operation of sanitation facilities;
- to ensure proper maintenance of cemeteries;
- to regulate transportation and organize community transport enterprises;
- to provide for the operation of taxi services, with the exception of minibuses;
- to regulate trading, public catering and consumer service enterprises in accordance with legislation and with the consent of the community council.

The local administration performs the following management functions:

- to protect the rights of citizens and the interests of the local self-government;
- to provide local development planning;
- to manage financial matters and community property;
- to implement projects and achieve strategic goals;

- to define, calculate and forecast citizen needs, formulate appropriate methods for their satisfaction and prepare the relevant draft resolutions;
- to assign resources for public service delivery, supplement existing resources and search out new resources;
- to supervise implementation of the three-year development plan, making any necessary adjustments.

Various institutions in community ownership, under direct control of local governments, include kindergartens, specialized schools for art, music and athletics, cultural halls, libraries, parks, clubs and stadiums. Local authorities also have direct control over companies providing heating, sewerage, water supply, public utilities, sanitation and landscaping. Local authorities are also responsible for supervising streets, squares, parks, bridges and other structures of community importance; residential units and buildings; administrative, historical, cultural and athletic institutions; and any other structure owned by local governments. A register of property owned by each community is approved by the central government.

4. Public Service Provision

Local self-government bodies are responsible for providing the following public services:

- water supply,* sewerage, irrigation, gas and central heating systems;
- landscaping and community improvement;
- use and maintenance of community building stock, including residential and non-residential buildings, dormitories, administrative buildings and other community-owned structures;
- ensuring the proper maintenance of cemeteries*;
- construction, maintenance and operation of roads, bridges and other engineering structures within the community's jurisdiction;
- construction, maintenance and operation of sanitation facilities*;
- operation of community public transport*;
- construction and operation of irrigation systems;
- waste collection and disposal.

* refers to services not provided by district heads.

Responsibility for water supply systems has been transferred to local governments, including water treatment stations, supply networks, reservoirs and local water sources. Unfortunately, water supply facilities are typically thirty to forty years old, resulting in a large loss of water. Actual water consumed by residents is not directly measured, but is instead estimated by dividing the total volume of water supplied to a community by the number of its residents. The central government sets a wholesale price of thirty AMD/m³ for water delivered from the source to the community treatment plant. The retail price is then set by the community elders, usually ranging from thirty to sixty AMD/m³.

However, collection of water service fees is low, and community debts to the central government for the supply of bulk water often exceed local budget revenues. To recover these fees, the central government issued Decree No. 49 (3 March 1999) to rent water supply systems for a fixed term of ten years through the central government's Armenian Water Supply and Sewerage Company. Another solution to problems arising from the decentralization of the water supply is to contract with foreign companies for the management of water supply systems, as has been done in Yerevan. The government is also making efforts to find resources from donor organizations for investment, repair and decentralization of the water supply system. The sewerage systems are old and badly maintained. Rates for sewage collection and treatment are set by community elders and vary depending on whether the consumers are individuals or firms.

Since villages represent 93.6 percent of Armenian communities, agriculture is an issue of great local importance. Many communities have their own internal irrigation network, managed and maintained by the local government. Alternatively, associations of water users organize the operation and maintenance of irrigation systems. The central government supplies irrigation water and sets the wholesale price based on the area to be irrigated. To encourage conservation, the government imposes a two-tier rate structure based on consumption for water supplied to the irrigation associations.

Community elders approve the allocation of resources and land for cemeteries. Some communities have transferred the preservation, maintenance and servicing of cemeteries to specialized agencies on a contractual basis. Street cleaning and maintenance of public areas such as gardens and parks are financed from the community budget and performed by local government enterprises or contracted to private companies through public tenders. Community elders determine the area to be cleaned and the rate per unit of area. Landscaping and community improvement are mainly carried out in cities, due to lack of funds in villages. Public transportation, usually buses, are provided only in large and medium-sized cities, either by a community-owned public transportation enterprise or by the private sector. In both cases, fares are set by community elders.

Local governments are also responsible for waste collection and disposal. Rates are set annually by the community elders, on average about one hundred AMD per capita per month. Some local governments negotiate contracts between private enterprises and community residents, in which case the company sets a fee, usually much lower than those charged by communities. Some communities own and operate landfills, which they maintain with funds from the community budget. Communities without landfills must pay a fee for use of the landfill in another community. These fees are another source of budget revenues. However, many communities mismanage fee collections and consequently appropriate street cleaning funds to ensure the performance of waste management services. Sometimes street cleaning and waste collection are performed simultaneously.

Although heating supply is another mandatory responsibility of the local governments, most systems are in extremely poor condition, occasionally not functioning at all. Other communities are unable to collect user charges, forcing them to end the service altogether.

Community housing stock generally consists of apartment blocks (in cities only) and privately owned houses. Most apartment blocks have been privatized. Maintenance of non-privatized apartment blocks is provided on a contractual basis either by local government enterprises or by the private sector. Community elders maintain and establish rent for community-owned non-residential space.

Privatized apartment blocks form condominium associations to carry out maintenance. Condominium associations were first authorized by Government Decision No. 295 (30 May 1995), which provided that they be established in privatized buildings or groups of buildings where more than fifty percent of the units had been transferred to private ownership. The process of forming and legally registering condominium associations began very slowly, with the first registered in early 1996, mainly in Yerevan. Multiple-building associations were typically composed of buildings with adjoining outdoor courtyards, common roofs or infrastructure, such as water mains, heating supply or electrical lines and other common facilities. On 1 June 1996, the National Assembly adopted a more comprehensive Law on Condominiums, under which a condominium association could not be comprised of more than one residential building. Most owners felt their buildings were too small to support improvements in services and facilities and could not afford to hire managers, accountants and cleaning staff. In May 1998, the Condominium Law was amended once again to allow groups of buildings to form condominium associations.

The most recent major change in condominium legislation occurred with the adoption of a new Civil Code for Armenia in 1999. Prior to this, communities retained control over the common areas of condominiums and contracted public property management enterprises (*zshaks*) to maintain them. Common areas are now jointly owned by apartment owners, with shares in proportion to the size of their apartment, and are consequently managed by the condominium association. Since the 1998 amendments to the Condominium Law and the adoption of the Civil Code, registration of associations has proceeded fairly quickly. By February 2000, there were 595 legally registered condominium associations in Armenia, including a total of four thousand buildings and 165,000 apartments. Roughly forty percent of total apartment buildings now have registered condominium associations.

The prevalence of condominium associations is not evenly distributed among the marzer or among communities within a given marz. Within Yerevan, the percentage of apartment block households belonging to condominium associations ranges from 6.4 percent in Kentron District to one hundred percent in Nubarashen District. In Yerevan overall, 56.1 percent of households belong to condominium associations; in seven out of twelve districts, this number is over seventy-four percent. This ratio ranges from 79.4 percent in Sjunik Marz to zero percent in Ararat Marz.

Of registered condominium associations, approximately fifteen percent report that they do not collect fees or operate services either because residents are too poor or because they resent being controlled by association managers perceived as lacking adequate management skills. Many of these associations could be revitalized through a change in leadership or through training in association

management if it were available. Eighty-five percent of condominium associations are more active, with sixty percent reporting improvements in public utility services. The remaining forty percent do not perceive any change in the quality of services, but no condominiums report an actual decline.

According to condominium associations, between sixty and eighty percent of members regularly pay fees. Many condominiums have established methods of assisting their most economically vulnerable residents. On average, roughly ten percent of a building's inhabitants are unable to pay any condominium fees and have been exempted from their financial obligations by decision of the association meeting. In most cases, these residents contribute labor instead.

The relationship between local authorities and condominiums is complicated by a sense of competition, since associations prefer to seek service provision privately rather than through the local government or its enterprises. For example, about twenty-five percent of all condominiums contract privately for solid waste collection. Although the law states that local authorities must support the establishment of condominiums and provide further assistance, there remains a perceived conflict between the interests of local authorities and condominiums. However, there have also been cases of effective cooperation.

Every district in Yerevan provides condominium support service departments. However, residents view these departments as impeding those associations that wish to contract for services elsewhere. With the loss of business to district public utility or housing maintenance departments, staff salaries are frequently delayed for long periods and condominium associations are blamed.

With the support of USAID, the National Association of Condominium Owners (NACO) was founded in 1997 to provide support to condominium associations. Its activities include training programs, consulting, dissemination of public information and research on the number of registered associations, their activities and problems. Originally established by twenty condominium association representatives, NACO now has a membership of four hundred association heads.

Condominium associations struggle with many problems, largely because most citizens and public officials have little understanding of the rights and responsibilities of condominiums and procedures for establishing condominium associations. The legal framework is filled with contradictions and omissions, failing to adequately define the procedures for establishing and registering condominiums, the functions and duties of the participants and legal remedies for the breach of law. For example, under article 31 of the Law on Local Self-government, the preparation and organization of general meetings of condominiums is a mandatory function of the local government. In practice, many local officials instead try to hinder this process. There are no effective citizen participation procedures that would allow condominium residents to work with local government officials in developing legal regulations and rational procedures and policies relevant to condominiums.

The management and operation of kindergartens is another mandatory responsibility of local self-government bodies. The cost of operating and maintaining kindergartens is covered jointly by parents and by the community budget. Community elders establish the fee paid by parents and

determine social groups eligible for reductions or waivers. A number of kindergartens have closed due to an insufficient number of students. Specialized education is provided by the local government; these institutions include music and fine arts schools, athletic schools and centers for enhancing technical and creative potential in children. As with the kindergartens, the elders set fees and determine which students are eligible for exemptions and remaining costs are covered from the budget. In most small communities, such services are not offered and students must attend schools in neighboring communities. Fees vary for this, usually depending on the demand for a given service.

Primary and secondary education is the provenance of the state government, which funds and administers institutions, employs teachers and administrators and determines curricula and performance standards. As an experiment in decentralization, fifty-seven public schools have been transferred to community management. If this experiment succeeds, then decentralization of the educational system will continue.

Maintenance of libraries and museums is entirely covered from community budgets. Although cultural institutions charge fees, they are not sufficient to cover costs and the community budget makes up the deficit. Health care is provided primarily by the central government. However, a few communities have primary health care clinics, which are covered from user fees and the community budget. Ownership of electricity and gas supply systems was not transferred to communities, but local governments must facilitate the installation of such services for community residents and businesses. A special public committee defines the rates for these services, while the respective ministry establishes procedures for operation and maintenance. Local governments have no responsibility for telecommunications, which is provided by the Armentel stock company on a monopoly basis.

Other local government responsibilities include the development of commercial trade, restaurants, consumer services, public lighting and stray animal control, all of which are regulated by council decisions. Services provided by the central government are coordinated and controlled by the governor of the respective region. The local government may open public tenders for service provision, and the private sector is gradually increasing its participation in public service delivery. In some cases services are provided by stock companies, which are fully or partially owned by the local self-government. In general, local authorities play a minor economic role, due to lack of financial resources.

5. Local Finance, Local Property

5.1 Budget System

The Law on the Budget System in the Republic of Armenia regulates all budgetary relations between central and community budgets in a system based on unified state fiscal, monetary and taxation policies. The Armenian budget system follows the common procedures of developing draft budgets, classifying revenues and expenditures, accounting, reporting and implementation. Regulation of budgetary relations is based on the principles of unity, independence, balance and transparency of the

budgets, as defined by law. The aggregate of the revenues and expenditures of the state and community budgets forms the consolidated budget of the Republic of Armenia.

The economic decline that had begun in the final years of the Soviet Union intensified after Armenia declared independence, due to the cessation of economic relations. The GDP continued to fall until 1995. It has risen since then, but consolidated budget expenditures as a percentage of GDP have not (see table 6.4). In relation to consolidated budget expenditures, local budget expenditures are extremely small (see table 6.5).

Table 6.4

National Government Expenditures as a Percentage of GDP in Armenia, 1994–1999

Year	% of GDP
1994	21.9
1995	24.1
1996	19.2
1997	19.0
1998	22.3
1999	24.5

In its fiscal relations with local governments, the central government carries out the following purposes:

- to promote community development by reducing financial disparities between communities and enabling them to implement their mandates;
- to allocate subventions (special-purpose appropriations) to communities for capital expenditures;
- to allocate budgetary credits and loans to the community budgets for capital expenditures.

Communities are heavily dependent on state budget transfers, which typically comprise over fifty percent of local budget revenues. Of the two types of central government transfers, subventions and subsidies, the subsidy is more important by far. Individual communities have full discretion over use of equalization subsidies, which are considered budget revenue and distributed through the community budget. Subsidies are distributed from a fund, the precise size of which is determined each year by the Annual State Budget. In 1998 and 1999, the subsidy fund amounted to at least twenty-five percent of total previous-year collections from income, land and property tax, as stipulated in the Law on the Budget System.

Procedures for distributing equalization subsidies among communities are stipulated in the Law on Financial Equalization. Prior to 2000, subsidies were calculated according to the same procedure for all communities. In 2000, the law was amended so that subsidies are calculated separately for communities with populations over and under three hundred.

Table 6.5
**Relative Size of Local Budget Expenditures and Central Government Expenditures,
 1996–1999 [%]**

	1996	1997	1998	1999
Central budget expenditures, not including subsidies from the state budget to local governments	95.3	93.9	94.7	95.3
Local budget expenditures	4.7	6.1	5.3	4.7
Total expenditures	100.0	100.0	100.0	100.0

Subsidies for communities with more than three hundred inhabitants are determined by the following factors: (a) land and property tax revenue per capita and (b) the number of residents. For communities with fewer than three hundred inhabitants (a total of 172 communities), the subsidy based on (a) may not be less than twenty-five percent of total previous-year collections from income, land and property tax. The total subsidy to these communities based on (b) may not be less than ten percent of previous-year income tax collections. The subsidy based on (a) is destined for communities with over three hundred inhabitants where per capita land and property tax revenues are lower than the national average.

For communities with over three hundred inhabitants, the subsidy based on (b) is calculated by multiplying the number of residents by the subsidy amount per capita (the ratio of the total subsidy based on (b) to the entire population in Armenia living in communities of over three hundred inhabitants). The amount of subsidies for the communities with fewer than three hundred inhabitants is calculated evenly.

The central government may also allocate subventions to local governments for the implementation of concrete projects. Although credits and loans may be issued by procedures stipulated by the government, they are not yet common practice.

5.2 Revenues

Local governments in Armenia, as in most countries, bear responsibility for more expenditures than they can finance from allocated sources of revenue. The resulting vertical imbalance means that communities must generally depend on state transfers. Given that local governments vary enormously in capacity and need, providing local services fairly and efficiently in the absence of a well-designed revenue and transfer system can create horizontal imbalance among the different communities. Budgets are also not executed completely according to their original estimates. In 1999, for example,

only 49.7 percent of local budgets were implemented fully. In order to ensure that financing corresponds to the exercise of local self-government powers, community budgets should be divided into an administrative budget and a capital budget. Revenues and expenditures are to be balanced separately in each section of the budget. However, capital budgets are not actually created in many communities, and capital budget revenues are few.

The main sources of community budget revenue are as follows:

- centrally established taxes and duties;
- subsidies from the state budget;
- local duties and fees;
- land and property rent;
- revenue from the sale of community property.

Table 6.6

The Proportion of State Subsidies in Local Budgets in Armenia, 1997–1999

	1997		1998		1999	
	Amount [AMD thousand]	[%]	Amount [AMD thousand]	[%]	Amount [AMD thousand]	[%]
Local budgets including state subsidies	9,941,968.5	100.0	12,329,077.6	100.0	11,702,161.8	100.0
Local budgets not including state subsidies	6,188,920.2	62.25	8,498,763.5	68.9	9,509,740.8	81.3
Total state subsidies to local budgets	3,753,048.3	37.75	3,830,314.1	31.1	2,192,421.0	18.7

All taxes in Armenia are collected by State Tax Agency. The principle of locally shared taxes was designed to give incentive to the State Tax Agency in collection of all taxes. However, local governments have been assigned a larger role in tax collection. Initially, the centrally established taxes paid to community budgets were land tax and property tax, but later included fifteen percent of income tax collections. Since income tax collections are low or non-existent in rural communities, the government decided in 2000 to designate income tax entirely as state budget revenue. To replace the local share of income tax collections, the government intended to increase the subsidy, but failed to act accordingly. Subsidies and income tax debts of 1999 were not completely transferred to local budgets until December 2000. Land and property taxes are currently the only community budget tax revenues; one hundred percent of each tax is paid to local governments.

Table 6.7
Share of Central Tax Revenues Paid to Local Budgets in Armenia, 1997–2000 [%]

Year	Income Tax	Land Tax	Property Tax
1997	—	100	100
1998	15	95	95
1999	15	95	95
2000	—	100	100

Local governments also receive revenues from the following state duties which are imposed on registration of certain official documents.

- duty for registering acts of civil status such as birth, marriage and death certificates, amending records and issuing copies of certificates or documents that were lost;
- duty for Notary Office services, such as issuing copies of documents certified by the notary, drafting contracts and applications and issuing copies or extracts of official documents.

State duties comprise more than ten percent of local budget revenues. The Law on Local Duties and Fees, adopted in 1998, stipulates requirements and procedures for implementing nine local duties and three local fees. Under this law, community elders have the right to fix rates within a defined range for duties on the following items:

- license to construct or renovate buildings, building facades or other civil engineering structures including temporary ones;
- license to demolish buildings or other civil engineering structures;
- license to sell alcohol or tobacco products, in accordance with standards set by the community or the city of Yerevan;
- license for open-air trade activities, except trade in markets, fairs and provisional buildings;
- license to operate entertainment facilities after midnight, including saunas, catering facilities and gambling establishments in accordance with standards set by the community or the city of Yerevan;
- license to keep a non-pet animal in Yerevan and other urban communities, in accordance with standards set by the community or the city of Yerevan;
- license to advertise in public areas, in accordance with standards set by the community or the city of Yerevan;
- copies of documents from the communal archive;
- license to operate a passenger taxi on community territory, except for minibuses (districts are not allowed to implement this duty).

Local governments may also charge the following fees:

- fee for local government services in preparing technical or financial documentation for the construction of new buildings or renovation of building facades;

- participation fee for auctions and tenders organized by the local self-government, for covering expenses;
- fee for government services in surveying land and other necessary activities in allocating, reclaiming or renting local government property.

Table 6.8
Local Budget Revenues in Armenia, 1997–1999 [%]

Type of Revenue	1997	1998	1999
Taxes	43.3	49.1	57.2
Income tax		14.2	11.1
Land tax	21.2	9.4	12.3
Property tax	7.4	12.7	20.6
State duties	14.7	12.8	10.8
Local duties			2.4
Other tax revenues			0
Non-tax revenues	17.8	16.9	15.1
Land rent payment	7.5	6.4	5.9
Property rent payment			1.0
Local fees			1.0
Other non-tax revenues	2.8	10.5	7.2
Total income	61.1	66.0	72.3
Residual revenue to cover expenses	0.9	2.8	8.5
Transfers and subsidies	40.0	31.2	19.2
Subsidies from the state budget	37.8	29.9	18.7
Subventions		1.2	
Transfers from other community budgets			0.5
Short-term loans	0.2	0.1	
Total	100.0	100.0	100.0

By 1999, the share of local duties and fees in community budget revenue was 3.4 percent overall, although they were primarily implemented in urban communities.

State subsidies form a major share of local revenues, comprising 37.8 percent of community budget revenue in 1997 and 18.7 percent in 1999. The decrease is due to the failure of the state budget to perform its duties in 1999. Although AMD 4,388.7 million had been set aside in equalization subsidies and AMD 86.1 million in subventions, a total of only AMD 2,192.4 million was actually transferred. The remaining sum was considered debt and transferred in 2000.

Table 6.9
Local Budget Expenditures In Armenia, 1997–1999 [%]

Area of Expenditure	1997	1998	1999
Administration	23.1	19.4	23.5
Housing stock and public utilities	28.6	28.6	19.8
Agriculture, fish-farming, forest and water			0.0
Transport and communication			0.6
Other branches of economy	4.6	6.6	8.4
Education	23.0	22.6	21.5
Transfers to the social fund and subsidies, excluding wages	7.8		8.4
Culture and sports	14.8	14.0	13.9
Transfers to the social fund and subsidies, excluding wages	1.7		2.6
Other expenditures	5.9	8.8	12.3
Payment of previous year debts	1.0	0.2	4.0
Payment of state budget loans		0.0	0.1
Total, of which:	100.0	100.0	100.0
Compensation of employees	34.1	28.6	33.8
Investments	0.8	0.5	0.8
Capital repairs	10.3	21.4	4.6

5.3 Expenditures

The community budget is mainly used for current expenditures from the administrative budget. Capital expenditures form a small part of the budget, and may be paid for from a reserve fund which is shown under the administrative budget. This fund is designed to cover contingency appropriations

not provided for in the community budget for the given year and serve as a guarantee for financing the cost of appropriations made for the capital budget, credits and other loans drawn. The proportion of the reserve fund to total estimated revenues in the administrative budget is stipulated by the community budget for the given fiscal year and may not exceed thirty percent. Total expenditures on debt servicing from the reserve fund for credits and other loans drawn may not exceed twenty percent of the reserve fund.

Community elders may decide on the allocation of expenditures; the main areas of expenditure are usually administration, housing stock and public utilities, pre-school education, culture and sports (see table 6.9). In many rural communities, administration expenditures make up the greatest part of budget expenditures. Execution of community budgets is supervised by the community elders, the National Assembly and the central government according to their legally stipulated powers.

5.4 Local Budget Process

The official fiscal year begins on 1 January and ends on 31 December. The budget process for a given fiscal year lasts for about two years, beginning in June of the previous year and ending upon approval of the budget execution report in May of the following year. The head of the local community, with the assistance of local administration staff, drafts the local budget on the basis of the annual objectives stated in the community's three-year development plan. Unfortunately, the local budget process does not always follow the given schedule due to delays in the adoption of the state budget, which contains necessary information on community subsidies.

The community head must submit the following documentation to community elders prior to adoption of the budget:

- the draft of the community budget from a three-year perspective, broken down into separate components, and detailed revenues and expenditures in accordance with defined operational and economic classifications;
- a report from the community head on the major directions of community development for the fiscal year;
- a supporting statement for the required funds and proposed appropriations for implementing special-purpose programs financed from the community budget;
- the debt structure, accompanied by a comparative analysis of its indicators, actual previous year indicators and estimated current year indicators;
- a supporting statement for proposed appropriations from the reserve fund;
- information on transfers from the state budget, as stipulated by law;
- information on the total number of full-time local positions and total payments for wages; a comparative analysis with similar figures from the previous and current years and data on actual number of employees of budgetary institutions financed from the community budget.

The head of a community may submit the draft budget to community elders up to one month after approval of the state budget. It is then adopted by the community elders, with any necessary amendments or additions initiated by either the community head or community elders. The community head is responsible for the implementation of the local budget and local authorities exercise the full right to manage own financial resources.

5.5 Local Property

Community property rights are regulated by the Law on Property in the Republic of Armenia, the Civil Code and the Law on Local Self-government. Local authorities possess substantial authority to manage local property, including the right to sell property, which often provides a major source of community revenue. Community property consists of registered public assets (buildings and other facilities) and other resources including financial and other non-patrimonial properties (for instance, bonds). The inventory of community property was defined by Government Decisions No. 42 and No. 51, adopted in March 1997. According to these and subsequent decisions, the following items fall under the category of community property.

- heating, sewerage, water-supply and irrigation systems of community significance;
- kindergartens, specialized schools, clubs, culture halls, libraries, streets, squares, parks, stadiums, bridges and monuments; landscaping, sanitation facilities, housing maintenance and similar organizations; and administrative buildings;
- non-privatized housing stock.

Communities control few enterprises, and rural communities almost none. At the end of 1999 only 108 out of 43,184 registered legal entities belonged to communities. Data on community enterprises are given in table 6.10. Communities also have thirty-four percent of each fifty companies' stocks. They are mainly municipal enterprises.

Table 6.10
Characteristics of Local Government Enterprises in Armenia (1999)

	Number	Registered Capital [AMD million]	Number of Employees
Yerevan district enterprises	52	222.26	4,463
Urban community enterprises	47	326.16	2,273
Rural community enterprises	9	22.83	362
Total local government enterprises	108	571.25	7,098

6. Relationship Between the State Administration and Local Governments

Armenia is a unitary and indivisible state, which is reflected in the administrative structure. The Armenian government has a two-tier structure, with most administrative powers exercised by the central government. Marzer, the regional units, are subdivisions of the state administration rather than a separate tier of the public administration system, as they lack elected officials or bodies.

The governor, or marzpet, implements central government policies in the following spheres:

- *Finance.* The marzpet prepares proposals for the section of the state budget relevant to the marz, and submits them to the central government for consideration; supervises the use of funds allocated to the marz from the state budget; provides support and methodological assistance to local government bodies during preparation of the community budget.
- *Construction and Utilities.* The marzpet draws up territorial boundaries within the marz as specified by law; proposes any changes to administrative borders of communities to the central government; forecasts demographic developments and allocation of the labor force; organizes communal services and civil construction; contracts for capital construction and repairs with private enterprises; monitors urban construction activities; and manages the regional water supply, sewerage, and water purification plants as well as other communal service enterprises.
- *Transportation.* The marzpet organizes inter-community public transportation and organizes construction, maintenance and operation of roads, bridges, tunnels and other civil engineering projects of regional and national importance.
- *Agriculture and land.* The marzpet manages and disposes of state owned lands not in community ownership; maintains regional border signs and geodesy points; preserves the ecological balance at the regional level; and coordinates measures to combat plant disease and weeds.
- *Education.* The marzpet implements national public education programs and constructs and operates buildings for primary and secondary education.
- *Health care.* The marzpet oversees any state health care institutions accountable to the regions.
- *Social security.* The marzpet implements national social security programs and oversees any social security institutions accountable to the regions.

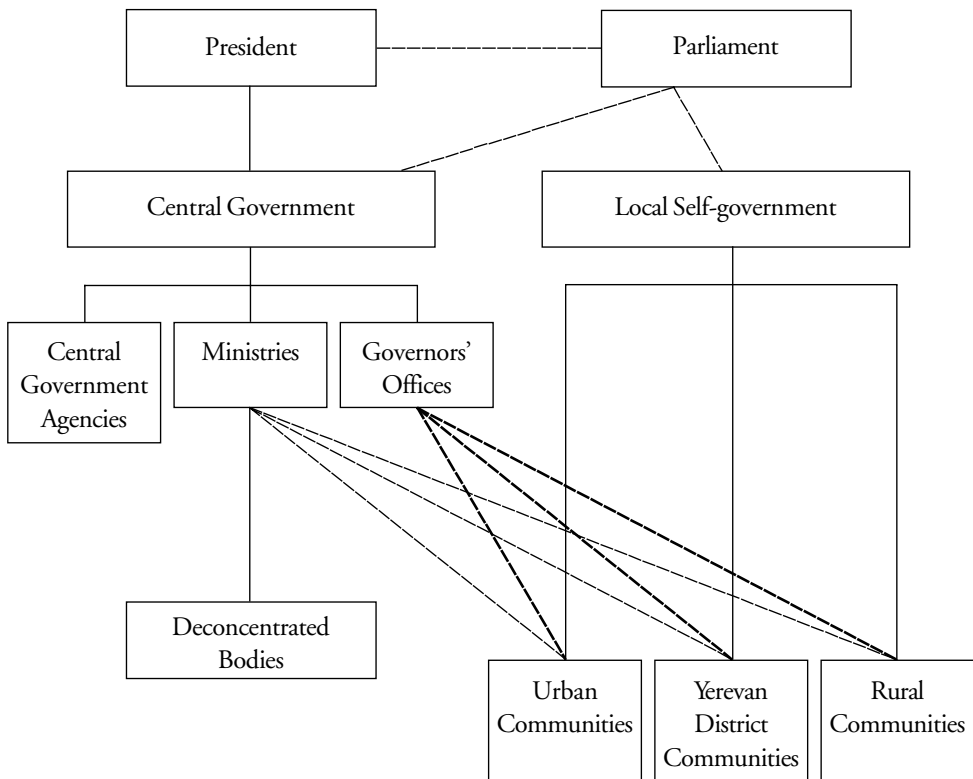
In Armenia, local self-government bodies are perceived as branches of the state government, created by the state and performing state responsibilities and duties. The head of a given community performs a dual function as a local government official and as a representative of state authority.

The apparently broad powers assigned to local governments are in fact quite limited. The Law on Local Self-government states that “local self-government is the right and capacity of local self-government bodies, acting at their own initiative, to dispose of community property and to resolve issues of community importance with a view to improving the well-being of the population.” This article is taken directly from European Charter on Local Self-government. However, contradictions in legislation and inadequate financial support prevent local self-government bodies from enjoying

full autonomy. Furthermore, the state retains sweeping powers in the sphere of local self-government, such as the ability to determine community property.

In Armenia, local self-government is regulated by laws, while central and regional government are regulated by presidential decrees. According to current legislation, the state government may remove a head of a community from office upon the request of the marzpet or the Mayor of Yerevan, in cases when the community has not met its budgetary responsibilities or fulfilled powers delegated by the state. The prime minister may then appoint a city or district head, or the marzpet an interim village head, until the next elections are held.

Figure 6.4
Structure of Central and Local Government in Armenia



- subordination
- - - supervision
- - - Ministry of Finance is the principal source of funding for local self-governments

The new judicial system is still under development. Local self-government bodies may appeal against decisions or actions of state authorities, officials or citizens that infringe upon community rights. In a few cases, mayors have successfully defended their rights in court. The marzpet may likewise appeal against decisions or actions of local self-government bodies in court, but this right is not generally exercised.

Because the regional governor, as regional secretary of the Communist Party, was such a powerful position under Soviet rule, citizens and local government officials continue to perceive the government system as being centralized and authoritarian rather than a decentralized democracy with powers to effect change and deliver public services. The marzpet often uses administrative methods of control in its relations with local self-government bodies. In other cases, relations between central and local governments may assume the nature of a partnership. Provided that local governments have the necessary financial resources, they may choose to offer services similar to those already offered by regional governments, such as health care, primary, secondary and higher education, social services, pensions and unemployment security. Despite their limited financial capacity, local governments do try to exercise their voluntary powers.

Relations between central and local authorities and private sector organizations are regulated by the law. Land, as well as trading, public catering service organizations and small- and medium-sized industries are mainly privatized. Many industrial enterprises do not operate due to the country's economic situation, but other enterprises continue to function.

7. Local Government Employees

Local government employment in Armenia is regulated by the Law on Local Self-government as well as specific government decisions. Unfortunately, the Law on Civil Service has not yet been adopted, and the framework for civil service remains undefined. As a result, Armenia lacks necessary conditions for the creation and maintenance of a stable, professional corps of civil servants. Currently civil servants are defenseless against arbitrary actions from above and high government offices are filled according to political connections. After the second local elections in 1999, for instance, many local government employees were dismissed by the newly elected community leaders. Recruitment, promotion, evaluation and training of staff are not regulated by any normative acts. In the absence of a cohesive national policy, each local government addresses these issues in its own manner.

The Armenian School of Public Administration (ASPA) organizes training of municipal employees. However, training is voluntary and few communities choose to participate. Trainings are also organized through international organizations such as International City/County Management Association (ICMA), United Nations Development Program (UNDP) and the Urban Institute. Despite these beginnings, a more comprehensive training system for local government employees is badly needed.

The only official statistic available on local civil service is the total number of local government employees, which equaled 6,425 in 1998, not including community heads or elders. Of these employees, 77.7 percent were from rural communities, 12.6 percent from urban communities and 9.7 percent from districts.

Remuneration of local government employees is regulated by the Law on Local Self-government. According to the law, community elders are not compensated for their work. The council of elders establishes the salary of the community head as a percentage of the marzpet's salary within the following limits:

- up to forty percent in communities with fewer than a thousand residents;
- up to fifty percent in communities with up to five thousand residents;
- up to sixty percent in communities with up to twenty thousand residents;
- up to seventy-five percent in communities with up to seventy-five thousand residents;
- up to eighty-five percent in communities with over seventy-five thousand residents.

The community head determines the salaries of local administration staff, which may not exceed eighty percent of the head's salary. Local administration salaries are paid from a fund defined in the community budget.

8. Legal Guarantees for Local Autonomy

Although guarantees of local self-government exist, there is a gap between legislation and practice typical of nearly all former socialist countries. The Constitution provides the following general guarantees of local self-government: local autonomy and equal legal protection of all types of property including community property; freedom of economic activity and competition; the right of citizens to express their will directly through free elections and referenda and indirectly through state and local self-governments; and division of powers between the legislative, executive and judicial branches of government.

The following guarantees of local self-government are defined by legislation and government decisions related to local government:

- Local governments shall be delegated any state powers that are more effectively exercised in communities;
- Local governments have the right to perform any activities of local interest not assigned to the state government, within the framework of the law;
- Community heads have a dual function as a local government official and as a representative of the state;
- Judicial protection of community rights, interests and property;
- Local governments shall receive adequate funding for performance of their responsibilities;
- Financially weak communities shall be assisted through financial equalization;

- Local government autonomy;
- Local authorities shall provide public services in the manner they deem necessary, including tenders;
- Community heads shall manage local government staff within their jurisdiction;
- Transparency of local government activities.

These principles are not always upheld. For example, financial assistance from the state is irregular and often inadequate for the exercise of local government responsibilities. And although the Constitution provides for judicial protection of local government rights, there are no administrative courts in Armenia. Litigation between different levels of public administration, though rare, must take place in general courts.

9. Next Steps in the Transition Process

Recent experience in Armenian local self-government has revealed many areas that urgently require clarification or strengthening. These include local government finance, administrative-territorial division, decentralization of responsibilities and procedures of public administration. Following is a list of recommendations for the future development of local self-governance in Armenia.

In order to provide local governments with the necessary finances to carry out their activities, the following steps may be taken:

- to increase the power of local authorities to collect taxes;
- to define a share of centrally established taxes as a new community budget revenue;
- to transfer state funds to community budgets in a timely manner.

In order to clarify the status and responsibilities of various administrative-territorial units, the following steps may be taken:

- to differentiate between the requirements of urban communities, rural communities and districts of Yerevan;
- to enlarge community territories;
- to modify the status of the capital city and allow the city mayor to be directly elected by the population;
- to ensure that the staff of the regional governor corresponds to its assigned functions.

In order to support decentralization and the development of local democracy, the following steps may be taken:

- to broaden the authority of local governments to resolve local matters such as the creation and operation of the social-economic infrastructure, primary and secondary education and community police;
- to create support offices for community councils;

- to increase the transparency of local government activities by publicizing them and soliciting feedback.

In order to develop the system of public administration, the following steps may be taken:

- to adopt the Law on Civil Service;
- to clarify the relationship between bodies of public administration and local authorities;
- to develop mechanisms for the supervision of local authorities;
- to establish administrative courts;
- to clarify the legal requirements for removing the community head from office.

All of these issues require changes to the Constitution and existing legislation as well as the adoption of new normative acts. In addition, the European Charter of Local Self-government must be re-examined in the Armenian political, social and economic context.

Recent Publications on Local Government in Armenia

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Ordyan, E. "The Problems of Public Administration in Armenia." Occasional Papers in Public Administration and Public Policy, vol.1, no. 3. Bratislava: NISPAcee, 2000.

Ordyan, E. and D. Tumanyan. "Reforms of the Public Administration of the Republic of Armenia." In *Public Administration and Social Policies in Central and Eastern Europe.* Bratislava, NISPAcee, 1999.

Women and Men in Armenia. Yerevan: 1999.

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Glossary of Armenian Terms

<i>Avagani</i>	— Elders
<i>Hamaink</i> (plural: <i>hamainkner</i>)	— A rural or urban community
<i>Hamainky ghekavar</i>	— Community head
<i>Marz</i> (plural: <i>marzer</i>)	— A region, the largest administrative subdivision in Armenia
<i>Marzpet</i> (plural: <i>marzpetner</i>)	— Regional governor, appointed by the central government
<i>Marzpetaran</i>	— Regional branch of state administration

Annex 6.1

Major General Indicators

Religion	Armenian Apostolic Church
Official language	Armenian
Currency	Dram [AMD]
UN exchange rate (1999)	USD 1=AMD 535
Size of territory	29,743 square kilometers
Population (1 January 2000)	3,803,400
Urban	2,535,700
Rural	1,267,700
Pensioners	568,200
Old-age pensioners	334,400
School-age children	597,500
Population density	128 people per square kilometer
Major ethnic divisions	
Armenians	96 percent
Yezdies, Kurds, Russians, Ukrainians, etc.	4 percent
Per capita GDP (1999)	AMD 260,067 or USD 486
Total revenues (1999)	AMD 40,042.7 million (100 percent)
National budget	AMD 190,917.8 million (79.5 percent)
Local budget	AMD 11,702.2 million (4.9 percent)
Social security fund	AMD 37,422.7 million (15.6 percent)
Total expenditures (1999)	AMD 280,543.8 million (100 percent)
National budget	AMD 231,656.6 million (82.6 percent)
Local budget	AMD 11,565.7 million (4.1 percent)
Social security fund	AMD 37,321.5 million (13.3 percent)

Public debt (31 December 1999)	
Foreign debt	USD 869.874 million
Internal debt	AMD 31,178.59 million
Unemployment rate	
1997	10.8 percent
1998	9.4 percent
1999	11.1 percent
Inflation rate (1999)	2 percent
Average population per local government (1999)	4,084
Number of public employees (1999)	
Employed by the state government	24,500
Employed by local governments	7,355

Annex 6.2

Population, Settlements and Administrative Units

Table 6A.1
Settlements by Population Size Categories in Armenia (1 January 1999)

Population Size Category	Number of Settlements	Percentage of Settlements	Number of Inhabitants	Percentage of Total Population
0–1,000	544	54.4	202,432	5.5
1,000–2,000	218	21.8	304,300	8.2
2,000–5,000	169	16.9	509,768	13.7
5,000–10,000	35	3.5	231,426	6.2
10,000–50,000	28	2.8	637,200	17.2
50,000–100,000	3	0.3	190,500	5.1
100,000–1,000,000	2	0.2	384,400	10.4
1,000,000+	1	0.1	1,248,700	33.7
Total	1 000	100.0	3,708,726	100.0

Table 6A.2
Communities by Population Size Categories in Armenia (1 January 1999)

Population Size Category	Number of Communities	Percentage of Settlements	Number of Inhabitants	Percentage of Total Population
0–1,000	465	50	197,831	5.3
1,000–2,000	217	23.3	302,481	8.1
2,000–5,000	168	18.1	508,333	13.7
5,000–10,000	35	3.8	234,381	6.3
10,000–50,000	30	3.2	666,000	18.0
50,000–100,000	5	0.5	291,700	7.9
100,000–1,000,000	10	1.1	1,508,000	40.7
1,000,000+	—	—	—	—
Total	930	100.0	3,708,726	100.0

Table 6A.3
Types of Administrative-territorial Units in Armenia

Type of Administrative-territorial Unit	Average Number of Inhabitants per Unit	Average Number of Settlements per Unit	Number of Units
Urban and rural communities	2,777	1.1	918
Yerevan district communities	104,058	—	12
Regions (not including Yerevan)	254,950	100.0	10

Figure 6A.1
Administrative Map of Armenia



Annex 6.3

Major Laws on Public Administration and Local Government

- Electoral Code (adopted 17 February 1999, amended 23 March 1999)
- Law on Local Self-Government (adopted 22 July 1996, amended 18 July 1997, 9 January 1998 and 7 March 2000)
- Law on the Budget System in the Republic of Armenia (21 July 1997, amended 30 December 1997, 8 May 1998, 6 November 1999, 7 March 2000 and 3 November 2000)
- Law on Local Duties and Fees (adopted 9 January 1998)
- Law on Financial Equalization (adopted 23 December 1998, amended 7 March 2000)
- Law on the Administrative-Territorial Division of the Republic of Armenia (adopted 4 December 1995, amended 30 June 1996)
- Law on the Privatization of State, Public and Community Housing Resources (adopted 29 June 1993, amended 8 June 1998)
- Law on the Procedure for Transfer of Lands from the Reserve Fund Considered State Property in the Administrative Territories of Rural Communities (adopted 24 December 1998)
- Law on the Privatization of Public Property (13 January 1998)
- Law on Condominiums (adopted 1 June 1996, amended 6 May 1998)
- Law on Urban Development (adopted 26 May 1998)
- Law on Education (adopted 8 May 1999)
- Civil Code of the Republic of Armenia (adopted 28 July, 1998)
- Presidential Decree on Public Administration in the Marzer of the Republic of Armenia (6 May 1997, amended 20 January 1998, 7 July 1998, 6 November 1998, 28 September 2000)
- Presidential Decree on Public Administration in the City of Yerevan (6 May 1997, amended 20 January 1998, 7 July 1998, 6 November 1998, 17 November 1998, 28 September 2000)

Annex 6.4

Responsibilities of Administrative Tiers

Table 6A.4
Specific Functions of Government Tiers in Armenia

Functions	Municipalities (Individually or in Partnership)	Central or State Territorial Administration
I. EDUCATION		
1. Pre-school	X	
2. Primary		X
3. Secondary		X
4. Technical		X
5. Higher		X
6. Specialized	X	
II. SOCIAL WELFARE		
1. Nurseries	X	
2. Kindergartens	X	
3. Welfare homes		X
4. Personal services for elderly and handicapped		X
5. Special services (for homeless, families in crisis, etc.)		X
6. Social housing	X	
III. HEALTH SERVICES		
1. Primary health care	X	X
2. Health protection		X
3. Hospitals		X
4. Public health	X	X

Table 6A.4 (continued)
Specific Functions of Government Tiers in Armenia

Functions	Municipalities (Individually or in Partnership)	Central or State Territorial Administration
IV. CULTURE, LEISURE, SPORTS		
1. Theaters	X	X
2. Museums	X	X
3. Libraries	X	X
4. Parks	X	
5. Sports, leisure	X	
6. Maintaining buildings for cultural events	X	
V. ECONOMIC SERVICES		
1. Water supply	X	
2. Sewage	X	
3. Electricity		X
4. Gas		X
5. District heating	X	
VI. ENVIRONMENT, PUBLIC SANITATION		
1. Waste collection	X	
2. Waste disposal	X	
3. Street cleansing	X	
4. Cemeteries	X	X
5. Environmental protection	X	X
VII. TRAFFIC, TRANSPORT		
1. Roads	X	X
2. Public lighting	X	X
3. Public transport	X	X
VIII. URBAN DEVELOPMENT		
1. Town planning	X	
2. Regional/spatial planning		X
3. Local economic development	X	X
4. Tourism		X

Table 6A.4 (continued)
Specific Functions of Government Tiers in Armenia

Functions	Municipalities (Individually or in Partnership)	Central or State Territorial Administration
IX. GENERAL ADMINISTRATION		
1. Authoritative functions (licenses, etc.)	X	X
2. Other state administrative matters (electoral register, etc.)	X	X
3. Local police		X
4. Fire brigades		X
5. Civil defense	X	X
6. Consumer protection		X

Notes

- ¹ Nagorni-Karabakh was a self-governing region in Azerbaijan at that time.
- ² National Statistical Service of the Republic of Armenia.
- ³ National Statistical Service of the Republic of Armenia.
- ⁴ Strasbourg, 1 March 2000, GG/BUR (6) 139.
- ⁵ Strasbourg, 23 November 1999, CG/BUR(6)85.
- ⁶ Central Electoral Commission of the Republic of Armenia.
- ⁷ The Russians and Jews operate schools; the Yezdies, Russians, Ukrainians and Kurds publish newspapers; and the Yezdies and Kurds broadcast over the radio.
- ⁸ National Statistical Service of the Republic of Armenia.
- ⁹ Ministry of Finance and Economy.
- ¹⁰ Ministry of Finance and Economy.
- ¹¹ Ministry of Finance and Economy.

Chapter 7

Local Government in Azerbaijan

by

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Developing New Rules in the Old Environment

Local Government in Azerbaijan

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Local Government in Azerbaijan

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1. Overview of Local Government Reform

Since independence, the Republic of Azerbaijan has pursued the establishment of a legal state and civil society as a main strategic objective. Most major legislation incorporates this principle, from the Constitutional Act on the Independence of the Republic of Azerbaijan (adopted 18 October 1991) to the Constitution itself (adopted 12 November 1995).

One of the most urgent tasks faced by the country in the ongoing process of democratization is the foundation of a system of local self-government. No precedent for a comprehensive system of local self-government can be found in Azeri history, although different elements have existed at various points. Under the Soviet Union, local government was exercised solely through local soviets and executive committees as part of state administration.

The newly adopted Constitution of Azerbaijan, effective from 27 November 1995, is the primary basis for the establishment of local government. Not only does the Constitution uphold decentralization of state authority, it specifically enumerates standards of local self-governance. The fourth section of the Constitution, also called the “Transition Provisions,” addresses the issue of local self-government in particular detail. Article 6 of the Provisions annulled the authority of the local soviets, while article 7 stipulates that laws on local self-government be introduced and municipal elections held within a period of two years.

The institution of local self-government in Azerbaijan emerged only at the end of 1999, rather than the deadline of 1997 cited in the Constitution. The official explanation for the delay was that the population was not ready and that there was a lack of appropriate experience in the field. In the view of independent experts, however, the delay was instead due to the reluctance of the former local authorities to transfer functions and relinquish the centralized system of control.

In 1995, *Milli Mejlis* (Parliament) created a standing commission on local self-government to prepare a package of relevant laws. This task remains uncompleted, although the commission has recently developed and submitted a number of draft laws on local self-government.

The campaign to establish municipalities truly began after July 1999, when the Law on Municipal Elections and the Law on the Status of Municipalities were passed. The first municipal elections were held on 12 December 1999, and the newly elected local governments commenced activity in January 2000.

According to the Constitution, local government in Azerbaijan is exercised both through local bodies of state administration and through municipal governments. Local bodies of state administration are regulated by the Constitutional Provision on Local Executive Authority and municipal governments by relevant laws, and legislation in both these areas continues to be developed. In general, the constitutional provisions on local self-government and the legislation on municipalities comply with principles stated in the European Charter of Local Self-government.

2. Legal and Constitutional Basis

2.1 Constitutional Basis of Local Government

The fourth section of the Constitution addresses major issues of local self-government, such as the legal status of municipalities, types of local self-government bodies, their basic powers and their relationships to other official entities. The Constitution does not explicitly declare whether the concept of municipalities is founded on the principle of decentralization of state authority or on the principle of local autonomy. However, closer analysis of the main provisions on the division of power indicates that decentralization is the dominant concept. Consequently, many municipal bodies are in fact former agencies of state administration, both central and local.

Article 142 of the Constitution stipulates that municipal councils are elected. According to Article 144, local councils perform the following functions:

- adopt municipal legislation;
- elect the council chairman and deputies;
- establish standing and temporary commissions;
- establish local taxes and duties;
- adopt the local budget and report on budget performance;
- manage and dispose of municipal property;
- adopt and implement programs for social protection and development, local economic development and the local environment.

Article 144 also stipulates that local councils may be vested with additional powers. Article 146 of the Constitution specifies guarantees of local autonomy such as judicial protection and compensation for additional expenses incurred by local governments due to state government decisions. According to article 150, municipalities may adopt statutory acts within their competence and in accordance

with legislation. Compliance with these acts is mandatory for citizens and legal entities residing or working in the territory of the relevant municipality.

2.2 Legal Basis of Local Government

The Law on Municipal Elections and Law on the Status of Municipalities were the first to be adopted in the field of local government. The Law on Municipal Elections sets forth general principles, rules governing electoral commissions, procedures for drawing up voter lists and eligibility requirements for candidates. The Law on the Status of Municipalities regulates the role and structure of municipal bodies and outlines state guarantees of legal and financial autonomy. The law pays special attention to the adoption and execution of municipal programs concerning social protection, social and economic development and the local environment. It also contains articles addressing municipal bodies and officials, forms of citizen participation, the economic foundations of municipalities, municipal property and the local budget.

The other normative legal document to address municipal government is the Model Municipal Charter. This document specifies common issues to be incorporated in all municipal charters, such as territorial boundaries, municipal assemblies, standing and temporary council commissions, executive bodies and administrative procedures.

The Law on Municipal Service regulates the activities of municipal employees, their rights, duties, labor conditions and social benefits, and outlines the structure of the executive apparatus and the organization of municipal service. The Law on Local Referenda defines the issues that may be decided by local referendum and establishes procedures for organizing referenda, publishing the results and enacting them into law.

The foundations of municipal finance are established by a triad of laws: the Law on the Transfer of Assets to Municipalities, the Law on Municipal Finance and the Law on Municipal Territory and Lands. Standards for determining municipal property and transferring it to municipal ownership are established by the Law on the Transfer of Assets. The Law on Municipal Finance defines principles of local finance, the basis for the local budget and the division of powers between the local council and local executive bodies. This law also regulates legal issues concerning the adoption, implementation and monitoring of the local budget. The Law on Municipal Territory and Lands, together with the list of all municipalities in Azerbaijan and their territories, defines municipal boundaries. According to this law, the State Land Committee and the local branch of state administration draw up documents for urban planning and construction which clearly indicate municipal territories and land to be transferred to municipalities. These documents are then made available to local governments. Other laws also regulate issues of municipal property, such as the Law on Land Reform, in which article 7 is wholly devoted to the issue of municipal lands. However, it must be noted that this law was adopted in 1996, prior to the establishment of municipal governments.

The foregoing legislation constitutes the legal basis for local self-government; in addition to these, other laws have been passed by Parliament and await presidential approval before taking effect. These laws include the Law on Local Council Members, the Law on Standing and Temporary Commissions, the Law on Association, Division, Liquidations and Joint Activities of Municipalities and the Provision on Municipal Coordination Boards. At present, the parliamentary commission on local self-government is in the process of drafting further legislation in this field. A number of laws devoted to municipal government were passed in the fall session of 2000, but information on specific issues covered by these laws is not yet available.

The role of local bodies of state administration remains imperfectly regulated by legislation. The Provision on Local Executive Authority is the primary law in this area, addressing local state administration activity, the structure of local state administration bodies and eligibility requirements for local administration heads.

Analysis of Azeri legislation reveals that local government reforms in Azerbaijan are based on decentralization of state authority. Currently existing legislation offers genuine opportunities for independence to self-government bodies at all levels, and there is a general tendency to transfer even more powers to municipalities.

2.3 Territorial Structure

As declared in its Constitution, the Republic of Azerbaijan is a unitary state. Other than the Nakhichevan Autonomous Republic (NAR), there are no independent states within the republic. The former Upper Karabakh autonomous region was formally abolished by the Supreme Board of the Republic on 26 November 1991. Since this decision was never recognized by the Armenian population of Upper Karabakh, the conflict escalated into war between Armenia and Azerbaijan. As a result, Upper Karabakh and neighboring areas, roughly twenty percent of Azeri territory, are still occupied by Armenian military forces. A cease-fire has been in effect since 1994.

The legal status of the NAR is defined in chapter 8 of the Constitution. Article 134 declares the NAR to be an independent state within the Republic of Azerbaijan and an integral component of the republic. The constitution, legislation and decisions adopted by the Parliament or Cabinet of Ministers of the NAR may not contradict the Azeri Constitution, legislation, presidential decrees or decisions of the Azeri Cabinet of Ministers, all of which are effective on NAR territory.

The government of the NAR is structured according to the principle of division of powers. Legislative powers are vested in the NAR Parliament, executive powers in the NAR Cabinet of Ministers and judicial authority in the courts of the NAR. Each of these government entities are independent from one another in decision-making issues within their competence, as stipulated in the Constitution and legislation.

According to Article 138 of the Azerbaijan Constitution, the NAR Parliament determines the following issues: elections to the NAR Parliament, taxes, the path of economic development within the NAR, social security, environmental protection, tourism, public health, science and culture. The Parliament also appoints the prime minister of the NAR, approves the organizational structure of the Cabinet of Ministers, approves the budget and adopts economic and social programs.

The president of Azerbaijan assigns heads of local state administration in the NAR upon nomination by the chairman of the NAR Parliament, the highest ranking official within the NAR.

The administrative-territorial division of Azerbaijan has essentially been retained from the Soviet era and consists of villages, settlements, regions and cities. These units were the basis for determining municipal territories in the Law on Municipal Territories and Lands. According to the Law on the Status of Municipalities, the local population must be consulted when municipal boundaries are drawn up or altered. Altogether, 2,673 municipalities have been created, with over twenty-two thousand elected officials.

Municipalities are established in villages, settlements or cities, rather than on a regional basis. Each municipality acts as an independent juridical entity, with neither horizontal nor vertical subordination. Cities may be divided into administrative-territorial units, in which case each unit comprises a separate municipality. Only two cities are divided into districts; these are Baku, the capital, and Ganja, the second largest city in the republic. In these cities, district or settlement bodies of local executive authority are subordinate to the city executive authority. No statutory document has yet been adopted on the legal status of these two cities, although the issue has been discussed at the state level.

3. Local Politics, Decision Making

3.1 Public Participation in Decision Making

Local self-government provides ample opportunity for citizens to be involved in the creation of local policies. Local government activity in Azerbaijan is based on resolutions adopted by local citizens or by elective bodies of local self-government. Citizens may participate in local government through a variety of forms, including referenda, assemblies and proposing municipal resolutions.

The municipal government may hold a referendum on any issue within its competence at its own initiative or at the request of at least ten percent of eligible voters in that territory. These referenda are financed from local budgets. When a referendum is to be held, the municipality issues a resolution announcing the date of the referendum, the issue at stake and the order of financing. This resolution must be publicized in the local mass media within three days. All citizens with the right to vote in that territory may take part in the referendum, which is held between thirty and sixty days after it is

announced. The municipality then enacts the results into municipal legislation. Other issues concerning electoral procedures, such as undue influence of voters or falsification of results, are defined in accordance with national legislation. Local referenda may not be held within three months from the official announcement of a state of emergency or martial law or while they remain in force. A second referendum on the same issue may not be held within one year of the publication of results from the first.

Citizens may also participate in local decision making through public assemblies. According to the Law on the Status of Municipalities, public assemblies have the power to adopt resolutions only in municipalities with fewer than five hundred inhabitants. These assemblies have due authority provided that at least twenty-five percent of all resident citizens over eighteen are in attendance. In these assemblies, citizens have the right to express their opinions on local issues, to initiate proposals, to express the collective opinion and to adopt, amend or dissolve the municipal charter.

The local population may also initiate municipal decisions. Such proposals must be discussed in open council session with the participation of citizen representatives, and their results should be officially announced.

3.2 Internal Structure of Local Government Decision Making

Local councils play a central role in the local decision-making process. The chairman, commissions and heads of municipal agencies are empowered to decide upon local issues within the framework of their authority, although local councils should approve major decisions. Local council sessions must be convened at least once per month by the chairman or at the request of either one-third of all council members or at least ten percent of the local population. Decisions passed in council sessions are valid if a majority of council members are present and are effective on the territory of the given municipality.

The local council passes municipal regulations, establishes local taxes and duties, adopts the local budget, reports on its performance and approves local programs for social protection, social and economic development and environmental protection, among others. Specific programs are designed by standing commissions and submitted to the local council for discussion. Decisions related to local taxes must be passed by a majority of two-thirds of all council members; all other decisions are adopted by a simple majority vote. Council sessions are transparent and open to all citizens residing in the municipality.

In its opening session, the local council elects a chairman from among its members by a simple majority vote through either open or secret ballot. The chairman both acts as the head of the executive apparatus and manages local council activity. According to legislation and municipal charter, the chairman issues orders and instructions, signs municipal resolutions, appoints heads of municipal agencies based on local council decisions and manages the implementation of local council decisions.

Councils may also create standing and temporary commissions to focus on particular areas of activity. Commission members are typically council members, although they may also choose to invite outside experts to participate. These commissions are generally established for the following purposes:

- to develop programs for social protection and development, local ecology, economic development and local services and submit them for discussion to council sessions and to the public;
- to discuss local issues and prepare information, draft resolutions and other materials for discussion at council sessions;
- to prepare proposals for the municipality and its executive apparatus;
- to assist in implementing and monitoring the performance of the voters' will.

Commission activity and decision-making procedures are defined in the Law on Standing and Temporary Commissions. Commissions are responsible to the local council and must report to them regularly.

The executive branch is charged with implementing local council decisions and consists of the municipality chairman and other municipal agencies established by legislation or municipal charter. In order to fulfill its obligations, the executive apparatus may adopt appropriate decisions within the framework of its authority. Heads of municipal divisions may issue orders, instructions or other documents of an administrative nature, as defined by the municipal charter.

3.3 System of Local Elections

Local elections are held according to the Law on Municipal Elections. Although political parties initially proposed a mixed majority and proportional system, it was finally decided to hold elections by a relative majority system in multi-mandate territories. This decision remains somewhat controversial among voters.

The first municipal elections in Azerbaijan were held on 12 December 1999. Altogether, local councils were elected in fifty-one cities, eight city districts, 123 settlements and 2,409 rural municipalities. Official elections were not held in Upper Karabakh and the neighboring occupied territories. Instead, internally displaced citizens from these areas took part in the municipal elections in their temporary residences. Although the Armenian community of Upper Karabakh held local elections in 1998, the government of Azerbaijan holds these elections to be illegal and consequently has not recognized the results.

Local councils are constituted through free, general, direct and equal elections. All citizens over the age of eighteen are eligible to vote, while those over the age of twenty-one are eligible to run for office. Candidates may be nominated by citizens, registered political parties or voter initiative groups. Although candidates are required to gather voters' signatures in support of their candidature, the number of required signatures is reasonable. Certain groups may not run for office: these include state administration officials, judges, law enforcement officers, religious officials, military officers and convicts.

The number of council members is determined by population according to the following scale:

Table 7.1
Size of Local Council According to Population

Population	Number of Council Members
0–500	5
500–1,000	7
1,000–5,000	9
5,000–10,000	11
10,000–20,000	13
20,000–50,000	15
50,000–100,000	17
100,000–300,000	19

The Central Electoral Commission (CEC) of Azerbaijan creates regional electoral commissions to organize elections for all municipalities within that region. These commissions establish polling stations and local electoral commissions in the appropriate municipal territories. Territorial and local electoral commissions are formed of representatives who are nominated by local branches of public associations and political parties or by voter assemblies in the given territory.

Elections are considered valid if over twenty-five percent of registered voters have participated. Upon the closing of the polls, official reports on the election results and statistics are compiled at polling stations and transferred to the regional electoral commissions. Based on local electoral commission reports, the regional electoral commissions must determine the outcome of the elections no later than two days hence. Within twenty days of the election, the CEC announces the results of municipal elections nationwide. The newly elected councils are then certified within five days by the regional electoral commissions.

Political parties actively participated in local elections, even though they were not held according to the proportional system. The law allows regional branches of political parties to field a list of candidates according to the number of council seats. Altogether, fifty-one percent of all nominated candidates (about eighteen thousand representatives) and forty-seven percent of elected candidates represented a total of twenty-six political parties. Of the elected candidates representing political parties, seven percent are members of opposition parties.

3.4 Relationship between Elected and Appointed Local Government Bodies

According to legislation, elected and appointed municipal bodies operate autonomously within their spheres of competence. When implementing local policies and adopting programs, elected bodies are not dependent on any local state administration authority. By law, the state guarantees local elected officials the unobstructed exercise of their authority and protection of their rights and dignity.

In relation to the local council, the executive branch of the municipality has similar freedom of action within its framework of authority. Although it is subordinate to the local council, established by local council decision and must report to the local council, this does not limit municipal employees' rights and freedom of activities. Based on local council decisions, the executive branch may establish institutions and enterprises and monitor their operation. These organizations have legal status and function according to legislation, municipal charter and municipal resolutions. According to law, municipal employees are not under direct subordination to the elected municipality bodies and may not be dismissed upon the expiration of the council mandate.

3.5 Local Government Associations

Municipal bodies may form associations in order to render mutual assistance, jointly solve social, economic and cultural issues, more effectively exercise their rights, promote their interests and coordinate their activities. Procedures for founding and operating municipal associations are regulated by the Law on the Status of Municipalities and the Provision on Municipal Coordination Boards. According to item 1 of the provision, coordination boards on local self-government are forums created in order to discuss issues within municipal competence; to develop methods for the joint solution of common, regional, district and urban problems; to analyze and disseminate best practices and experiences; to coordinate issues of joint municipal and state activity; and to prepare proposals on harmonizing the local self-government system. In addition to coordination boards, elected officials, municipal employees and other individuals in the field of local government may also create public associations, according to legislation.

Participation in coordination boards is voluntary and a given municipality may simultaneously belong to district, regional and republic coordination boards. A board consists of municipal representatives and selects a chairman, vice-presidents and a secretary from its members. Outside individuals may be invited by the chairman to participate in board activities or submit proposals to the board. These may be representatives from municipalities, from legislative, executive or judicial bodies, from scientific and educational establishments or from local government related public associations. By legislation, coordination boards must be registered by the state and may not exercise municipal powers.

At present, seventeen city districts of Baku have united to form a coordination board. In addition, the newly established Center of Municipal Reforms in Azerbaijan brings together municipalities from different regions. No other local government associations of municipalities, elected officials or municipal employees currently operate in Azerbaijan.

3.6 Territorial Branches of State Administration

The legal status of local state administration in Azerbaijan is determined by the Provision on Local Executive Authority, adopted 16 June 1999. According to legislation, the president of Azerbaijan establishes territorial branches of state administration in regions, cities and city districts and appoints a head to manage its operation. These heads in turn designate local administrations in the villages and settlements situated within their territory. Heads of local state administration carry out executive duties in regions, cities and city districts; ensure rights and freedoms of citizens; further the economic, social and cultural development of the given territory; and coordinate the activities of municipalities and territorial divisions of state administration.

Heads of local administration perform the following duties:

- carry out orders of the president of Azerbaijan and, in the Nakhichevan Autonomous Republic, those of high NAR officials;
- implement state programs authorized by the president of Azerbaijan as well as local programs;
- establish and dissolve local state administration departments, services, enterprises and organizations; appoint and dismiss their heads; and annul any documents that run counter to existing legislation;
- organize elections, national referenda and public discussion as established by legislation;
- submit issues and proposals concerning local development to the appropriate executive bodies;
- execute other duties as established by the legislation.

The head of local administration has the right to adopt statutory decisions on issues within the framework of his or her authority, provided that they do not contradict existing legislation. Compliance with these decisions is mandatory on the given territory. The head also defines the structure of the local apparatus as stipulated by the provision. Local administration expenses are financed from the state budget.

3.7 Relationship between Local Governments and Territorial Branches of State Administration

Relations between the municipalities and local state administration are only vaguely described in current Azeri legislation. In principle, municipalities and local bodies of state administration should carry out their activities autonomously, on equal terms. However, there are no explicit standards for the division of authority in current legislation; the topic is not even mentioned in the Constitution. Clarification of the resulting ambiguity has become essential.

According to Professor Ismailov, Director of the Center for Civil Society, this ambiguity is not accidental; the purpose of the provisions relating to municipal-state relations was to re-establish the old communist model. According to that model, boards of people's deputies were subordinate to the respective urban or district committee of the communist party, since board officials were also party members. However,

this principle no longer holds and the divergent interests of municipal and state administration bodies will inevitably lead to dissent in the absence of a precise delineation of authority.

In the Provision on Local Executive Authority, many issues referred to municipal competence are also referred to the competence of the local state administration. In some cases, divisions of state administration even continue to manage areas delegated to municipal authority. This has already created conflict.

The case of Baku offers a typical example. According to legislation, advertising on municipal territories is a municipal responsibility. However, the already existing Department of Advertising and Information in the Baku local administration has illegally prevented the municipal budget from receiving advertising revenue. The local branch of state administration in Baku has even signed an instruction stating that advertising revenue should be diverted to the administration, not municipal, budget until the end of 2000.

Similar cases occur throughout the republic. In the district of Barda, the conflict centers around taxes. Although the Law on Municipal Finance stipulated that land and property tax should go to the municipal budget, the Barda district administration has levied a duty of a million AZM (approximately USD 250) on each municipality to be paid from these taxes to the regional tax department.

Parliament is expected to pass a law, currently under development, to address the division of authority between the municipalities and bodies of local executive authority. It is hoped that adoption of this law will finally resolve relations between municipalities and local administrations as municipalities begin to fully realize their powers.

3.8 Local Government and the NGO Sector

As public associations have expanded their activities, it became evident that a more advanced law was required (the previous law governing public association activity was the Law on Public Associations, adopted in 1992). Accordingly, on 13 June 2000, Parliament passed a Law on Non-governmental Organizations (NGOs), which took effect on 6 October 2000.

Although roughly 2,500 NGOs exist in Azerbaijan, only 1,300 of them are registered and only 150 function significantly. The majority currently operate in Baku, but NGOs recently been emerging throughout the republic. Already, a few regional NGOs have some influence in the solution of local problems.

NGO activities focus on human rights, educational projects, citizen participation, electoral awareness and legislative amendments. Subsequent to the creation of municipalities, a number of NGOs were founded to promote municipal activity. Unfortunately, these organizations are unable to render any effective assistance to municipalities under current conditions.

Although NGOs exercise some influence on public processes, they do not participate in creating local policies. This is due to the lack of skills and experience in public administration and the absence of a favorable political climate. However, relations between NGOs and local government bodies have only just begun to develop, given the short history of local self-government in Azerbaijan.

4. Functional Structure of Local Government

The functional structure of local self-government in Azerbaijan can be categorized according to the division of powers and functions. In terms of the division of powers, the local council approves the structure of an executive apparatus to implement its decisions; this may include commissions or other executive bodies. In general, the executive branch of municipal administration is subordinate to the local council. However, direct day-to-day management is performed by the council chairman, who is responsible for composing the executive apparatus.

Administrative divisions generally fall along the functional areas of programs adopted by the local council, for instance, programs to address issues of social, economic or environmental development. Heads of structural divisions carry out management functions according to the municipal charter and local legislation and report to the executive apparatus. Working relationships within administration departments are governed by contracts drawn up according to national labor legislation.

The executive office is responsible for accomplishing the following tasks:

- to prepare draft budgets, plans, programs and resolutions to submit to the municipality;
- to implement the mandates and decisions of the municipal council;
- to manage municipal property and other property transferred for municipal use;
- to perform a technical inventory of municipal property;
- other obligations as stipulated by legislation.

Internal control of municipal entities is carried out by the appropriate municipal bodies. Municipalities define the objectives, conditions and regulations governing the activities of municipal entities; regulate prices and rates of their production and services; approve their charters; appoint and dismiss their heads and review reports on their activities. Relations between municipalities and subordinate municipal entities are regulated by civil and labor legislation. Municipal bodies may also monitor other non-municipally managed enterprises operating on municipal territory, but they do not have right to place restrictions upon the economic activities of legal and physical persons, except in cases specified by law. Municipalities establish relations with other legal and physical persons on a contractual basis.

According to article 13 of the Law on Municipal Finance, municipalities also create financial structures to monitor local budget execution and its correspondence to the planned budget. Municipalities may receive financial assets from legislative and executive authorities for this purpose.

5. Public Service Provision

Under the Soviet Union, public service delivery was a responsibility of the state. Although the transition to decentralized management and a market economy created certain preconditions for the development of the private sector, the burden of public service delivery continued to fall on the state through the initial years of the independent republic. When municipalities were established, however, they became responsible for public services as well. Currently, these functions are performed by the state, municipalities and, to a limited extent, the private sector.

The state continues to take the lead in public service delivery since, unlike municipalities, it has the pre-existing structures and financial resources to do so. Most services, such as education, culture, public health services, communications, public catering and other services, are carried out by local divisions of the relevant state structures. Management and control over public service delivery are performed by central executive bodies, such as ministries, committees and the local state administration. These services are financed from the state budget.

In theory, municipalities have extensive authority in providing public services as well. According to legislation, municipalities may adopt programs of public service delivery and create municipal entities to implement them in the following areas: education, health care, culture, municipal housing and other buildings, sanitation, water supply and sewerage, local transport and communication, cemeteries and funeral services, public catering and consumer services. The executive branch of the municipality reports to the local council on the performance of these services, which must correspond to the standards determined by the state. Municipalities have complete autonomy in determining the method of public service delivery and may take local conditions into account in order to determine exemptions and other special features.

Since municipalities do not have the necessary financial resources at present, they have not yet undertaken provision of public services. However, as one example, the state has begun to transfer a number of its housing and communal services to municipalities. If municipalities continue to operate these services at an acceptable level, all housing and communal services currently managed by the state are to be transferred to municipalities.

Certain public services may also be delivered by the private sector (local, joint and foreign organizations) on a contractual basis. Private companies may engage in any public service where not explicitly prohibited, provided that they meet standards established by the state. The role of the private sector is substantially increasing in this field, especially in public health care, education, transport, communication, trade and public catering. This is an undoubtedly positive trend, which leads to increased quality of public services at reduced cost. However, in the absence of quality control, certain negative phenomena emerge, such as inconsistency or division of services.

It must be noted that in-depth analysis of public service delivery by the state, municipalities and the private sector is difficult, as the area remains underdeveloped and lacks a normal level of competition.

6. Local Finance, Local Property

Independent finances and discretion over their use are essential to smoothly functioning local self-government. Article 3 of the Law on Municipal Finance establishes the fundamental principles of municipal finance: self-government, autonomy, transparency and the balance of local and national interests. Specific issues of municipal finance are regulated by the Constitution, the Law on Municipal Finance, the Law on the State Budget and the Law on Banking.

Municipal finances are comprised of local budgetary and non-budgetary funds, municipal property, municipal lands and profit from production, services and other economic activities.

Municipalities independently draft, adopt, implement and monitor local budgets, which are entirely separate from the state budget. Current legislation prohibits state bodies from intervening in municipal budget activity, except in cases stipulated by the law. This radical separation between the state and municipal budgets means that the state does bear any responsibility for local budget obligations. However, according to article 6 of the Law on Municipal Finance, the state undertakes the following guarantees of local financial autonomy:

- to create conditions for the development of industry through national investment and monetary policies;
- to allot additional funds to cover local budget deficits when the state budget permits; to allocate grants and subventions from the state budget if local social and economic development programs cannot be financed by local budget resources;
- to transfer funding to municipalities commensurate with the transfer of any additional legislative or executive responsibilities;
- to allocate resources in compensation for any losses or increased expenditures incurred by local budgets due to state decisions.

In turn, municipalities must report to the government statistical bodies on local budget implementation, as stipulated by law.

Municipalities have not yet exercised the above-mentioned guarantees, as they were only recently adopted and there are no programs in place to implement them. However, in 2000, the state allocated AZM 1.5 million to each municipality from the state budget to solve initial problems. According to official information for 2001, the state budget currently being drafted allocates a total of AZM 18 billion in grants to local budgets.

The absence of precise mechanisms for receiving grants, donations and subventions from the state budget has posed a problem for municipalities. So far, there is no specified method for distributing grants among municipalities or determining whether to divide them evenly or proportionately according to population or territory.

According to article 7 of the Law on Municipal Finance, the local budget is based on the following sources of income:

- land tax;
- property tax;
- tax on the use of natural resources upon building materials of local importance;
- enterprise profit tax;
- fee for advertising on public property;
- hotel tax, parking fees and other local taxes or duties stipulated by the law;
- subventions from the state budget;
- profit from privatization or the lease of municipal property
- income from lotteries or other municipal activities;
- financial aid from private entities and international organizations or funds;
- compensation from the state for expenses incurred due to state decisions.

Although several local taxes were designated as local budget revenues, it is unlikely that local incomes will increase much in the near future, due to flawed taxation laws and inefficient tax collection. Nor is it likely that other sources of income will provide a significant addition to municipal budgets.

The local council adopts decisions regarding local taxes and duties by a two-thirds majority vote. Municipalities have the authority to select the number of local taxes and duties and decide upon their rates within the list of taxes and duties enumerated in the Law on Municipal Finance. Local residents may also decide to create an ad hoc local public fund, either by local referendum or at citizens' assemblies, for the purpose of resolving local problems.

Relevant municipal agencies are responsible for tax collection. Initially, these duties were performed by state tax agencies due to the absence of the appropriate municipal structures. However, as of 3 August 2000, on the basis of contracts between municipalities and tax collection agencies, the Ministry of Taxation has decided that municipalities will independently collect land and property taxes from their citizens and transfer them to the municipal budget.

Municipalities have autonomy over budget expenditures as well as revenues. Local budget expenditures include operational expenses, maintenance of social, housing, cultural and sports establishments and maintenance of public streets, parks and squares. Local budgets may also designate funding for social protection programs, environmental programs and social and economic development programs. Local budget deficits may be partially covered by funding from the state budget.

Current legislation does not clearly define local budget procedures, referring them instead to municipal charters. However, the municipality should adhere to the general standards of budget preparation in use in Azerbaijan. The budgetary year for municipalities begins on 1 January and ends on 31 December. Municipalities approve budget implementation reports and inform the local population as determined by the municipal charter. The municipalities are responsible for monitoring local

budget implementation and may involve independent auditors at their discretion. Municipalities may dispose freely of any budget surplus.

Although the law accords broad financial powers to municipalities, they are currently only theoretical in nature. In reality, municipalities are far from able to balance the local budget based solely on own revenues.

In addition to local budget revenues, municipal property consists of the following: municipal possessions, lands, enterprises and organizations; municipal housing, and uninhabited premises; roads that are neither state nor private property; municipal establishments of education, health care, culture and sports; and other movable and immovable property. Municipalities may rent or redistribute municipal property, enter into contracts using municipal property as collateral and draw up contracts for the privatization of municipal services and factories. In the interest of local citizens, the municipality may also set conditions for the use of lands falling within municipal boundaries.

Much of the above-mentioned property was state property that is now due to be transferred to municipal ownership. However, this transfer has been delayed, with insufficient explanation. Some of this property is no longer even in the power of the state to transfer, since many of these entities were privatized before the list of state property to be transferred to municipalities was compiled. The remaining types of property to be transferred are typically unprofitable. According to Article 4 of the Law on the Transfer of Assets to Municipalities these objects are considered municipal property: municipal housing, social and cultural institutions, objects in common use of local citizens and other property.

This law also places certain restrictions on the transfer of state property. Article 4 declares that state property may only be transferred to municipal ownership at the request of the municipality and provided that conditions have been created for its utilization. The vagueness of those conditions, the absence of explicit procedures for transferring state property and the fact that this issue is referred to the appropriate state administration has created considerable confusion. As a result, property has not yet been transferred to municipalities, even though sufficient time has passed since the establishment of municipalities.

The issue of municipal land poses yet another problem for municipalities. According to the Law on Land Reform, thirty-three percent of common lands belong to the municipalities. These include all lands not privatized or retained by the state and are referred to as lands of the reserve fund. By a presidential decree on the implementation of the Law on Municipal Territory and Lands, the appropriate state administration bodies were to determine municipal lands and transfer them within two months. This was accomplished in the majority of municipalities, with the notable exception of major cities. In the cities of Baku, Ganja, Sumgayit and Mingachevir, the state administration bodies are reluctant to relinquish lands that generate high profits. In many cases, local administration heads had already illegally leased under long-term contracts many of the lands later designated for municipalities. Lands that are actually transferred to municipalities are usually unfit for use or of disputable ownership.

This situation places municipalities in a desperate situation. Since the judicial branch of government is entirely dependent on the executive branch, municipalities have no opportunity to resolve these conflicts fairly. Most local revenues specified by law are purely formal, since municipalities do not possess stable tax revenues, property to be privatized or rented or profitably functioning enterprises. For example, forty-eight municipalities in the capital city still are not able to regulate profits from advertising. In addition, the citizens themselves are incapable of paying the taxes stipulated by legislation, and non-payment of taxes is widespread.

7. Relationship between the State Administration and Local Governments

According to law, municipalities operate autonomously and separately from the system of state administration. Nonetheless, municipalities must often perform their functions in cooperation with central and local bodies of state administration.

Bodies of state administration are legally required to assist the local population in implementing local self-government and create the necessary legal, organizational and financial conditions for the foundation and development of municipalities. As an initial step, the central government passed legislation regulating municipal activity.

Municipalities and state administration must also cooperate in preparing and implementing local programs. Since issues often overlap, these bodies must take into account programs by the other, but may not directly interfere in their activities.

The legislative and executive branches of the central government may also transfer additional powers and responsibilities to local governments, provided that the requisite funds are allocated as well. In these cases, the legislative or executive authorities may supervise implementation of those responsibilities. The municipal government may also enter as a customer into a contractual relationship with state agencies in connection with certain economic activities

In economic affairs, the state is enjoined to protect municipal property and create conditions for its development. One method, as stated in the Law on the Status of Municipalities, is by distribution of subsidies, credits, and grants. If the central government passes a decision which results in increased expenditures or decreased revenues for municipalities, it must allocate funds in compensation. Also, expected local budget revenues should be taken into account during the adoption of the state budget. If a minimum amount of local budget revenue is not covered by own local revenues, then the state administration should transfer funds from the state budget to municipalities.

The state, through the Ministry of Justice, may also exercise control over compliance with the Constitution and laws of Azerbaijan by municipalities and their officials, according to Article 52 of

the Law on the Status of Municipalities. If municipal acts contradict the Constitution, legislation or ministry resolutions, they are subject to annulment by the Constitutional Court, according to article 130(5) of the Constitution. Bylaws of the Constitutional Court may not be appealed. According to law, only the president, Supreme Court, the Office of the Public Prosecutor, and the Parliament of the Nakhichevan Autonomous Republic have the right to address the Constitutional Court. The right of other entities, such as municipalities and citizens, to address the court is not stipulated by legislation.

Citizens and juridical persons residing in a given municipality may appeal municipal bylaws and activities of municipal bodies or officials. These appeals may be submitted in the district or urban court. The decision of the district court may be in the appeals court. Should the court deliver judgment mandating the annulment of a municipal decree, the municipality must abide by this decision. Failure to comply with the judgment of the court may result in criminal liability.

Within the Ministry of Justice, a division has been formed to provide legal assistance to municipalities, in order to establish close, permanent working relations between the state and municipalities. However, this division has not yet commenced activity.

Any conflicts that may emerge between municipal and state government bodies should be settled by legal proceedings. In closing, it must be noted that there has been little if any progress in municipal relations with central and local state authorities.

Local governments may collaborate with one another to achieve common goals, improve working practices and pursue common interests. Since a one-tier system of local government operates in Azerbaijan, there is no subordination between municipal governments of various levels, that is, from rural areas, settlements, districts, and cities. In cases of collaboration, each local government therefore acts autonomously.

8. Local Government Employees

Municipal service is regulated by the Law on the Status of Municipalities and the Law on Municipal Service. The personnel structure of the executive apparatus is determined according to the size of the municipal territory and local council decision, as stipulated by municipal charter. The executive office may be divided into agencies, departments or other units for different fields such as social security, social or economic development and the environment. Personnel hired to implement these programs may include agency heads and deputies, department heads and deputies, experts, inspectors and other employees.

The chairman and heads of municipal divisions are responsible for managing the municipal government's organizational affairs. Their tasks include the following:

- to organize advanced vocational training;
- to develop recommendations for the placement or transfer of municipal officers;

- to implement council resolutions;
- in the case of the chairman, to appoint heads of executive divisions.

Municipal officers possess the following rights:

- to request a written description of their duties and the conditions necessary for their fulfillment from their hiring supervisor;
- to demand information and documents from government bodies, agencies, organizations and citizens in compliance with legislation;
- to decide upon issues related to their sphere of competence;
- to establish professional unions of municipal officers;
- to pursue vocational training;
- to develop proposals to improve municipal service;
- to receive protection of their rights and privileges.

In performing their duties, municipal officers must keep in mind the following obligations:

- to execute their duties in keeping with the Constitution and legislation of Azerbaijan;
- to implement directives from municipal leadership;
- to be disciplined in their work and behavior;
- to coordinate their activities with the appropriate local bodies of state administration and seek to solve local problems jointly.

Municipal officers are full-time paid professionals of the local government and are classified in the same legal category as government officials. They may not jointly hold positions in legislative, executive or judicial bodies or use confidential information outside of their responsibilities to the local government. Salaries are determined in accordance with the organizational chart approved by the local government. Other working conditions, such as hours, vacation, retirement benefits and social security, are regulated by the appropriate labor legislation. Individual municipal governments may assign additional payment to municipal employees according to their financial capabilities. Further privileges or exemptions may also be stipulated in the municipal charter.

The head of the appropriate municipal division is responsible for the employment and dismissal of municipal personnel. According to law, the expiration of an employee's term of office may not be used as a basis for firing an employee.

Current legislation is lacking in any provisions regulating personnel recruitment by local governments, instead delegating the responsibility to determine criteria and rules of employment to the local governments themselves. Depending on the nature of the position, the local government may either hire staff on a competitive basis or simply solve the matter in keeping with the labor legislation.

Although the efficiency of government administration depends on the professionalism of their officials, municipal officials do not have the opportunities for advanced vocational training available to their counterparts in the state government. State government officials may attend vocational training

courses sponsored by the state. However, municipal employees have not been able to participate in these trainings due to lack of financial resources, and the state has done little to remedy the situation. Nor do non-governmental organizations render assistance to municipal governments in this area, beyond the distribution of a few guidebooks on methodology, although they are otherwise active in educating the population. This is due to insufficient financial support and a lack of other kinds of assistance rendered to local governments by international organizations.

9. Legal Guarantees for Local Autonomy

The Azeri state government has envisaged a system of guarantees, embodied in specific legislation, to ensure the autonomy of local governments.

The principle of local autonomy is embedded foremost in the Constitution, which defines municipal governments as independent self-governing institutions separate from the system of state administration bodies. Article 146 of the Constitution grants judicial protection to municipalities and guarantees that additional municipal expenditures caused by state decisions shall be reimbursed. Article 13 of the Constitution acknowledges municipal property as a legal category of property and guarantees its protection, the most important legal provision on the economic independence of municipalities.

Guarantees of local autonomy may also be found in other national legislation. Article 14 of the Law on the Status of Municipalities unambiguously states that local governments and their subordinate bodies are not incorporated in the system of state government bodies and state government bodies or officials may not intervene in municipal government affairs. Municipal governments are to be established as self-governing bodies in all districts, regardless of population size or the existence of municipal property in the given territory. That is, citizens in a territory without municipal property may not be prevented from exercising their right to local self-government on those grounds. Local governments are completely independent in passing and implementing resolutions that are binding for all persons and legal entities within their territory. Non-compliance with municipal government decisions results in judicial liability.

Legislation also provides specific guarantees of financial autonomy. The state government is obliged to protect municipal property and ensure the budgetary independence of local governments. The government may ensure compliance of local budgets with state standards by allocating the necessary funds to local budgets. If the government passes a resolution that results in increased local expenditures, it must immediately determine a sum to be transferred to the municipality in compensation. In managing municipal property, local governments have complete autonomy.

Municipal officials are also protected by law. The government guarantees that local government officers shall not be obstructed in the performance of their duties and undertakes to protect the rights and dignity of elected municipal officials. The conditions for dismissing municipal officers are

explicitly detailed in law. According to article 21 of the Law on the Status of Municipalities, a councilor's term of office may be prematurely terminated only in the following instances:

- if a court conviction is in force against the member;
- if the member must undergo medical treatment;
- if the court has judged a member not to be responsible for his or her actions;
- if the member terminates his or her citizenship, becomes a citizen of a foreign state or makes a similar commitment to a foreign government;
- if the member is deceased or declared dead or missing by the court.

According to the article 22 of the same law, municipal government officers may only be dismissed from office in the following cases:

- if it is discovered that electoral procedures were violated;
- if they submit a written resignation;
- if they fail to fulfill the legal requirements for the position;
- if they are appointed to a position in a legislative, executive or judicial body;
- if they have been declared medically incompetent to fulfill official duties for more than four months;
- if they fail to attend local government personnel meetings without due cause for a period of time stipulated in the municipal charter.

Judicial protection of municipalities is also guaranteed by law. Citizens, local governments, municipal agencies and officials may appeal against actions of state government agencies or other entities that violate the rights of local self-government. In the absence of a special court devoted to issues of local self-government, these claims are generally submitted to district and city courts. Economic disputes between municipal governments and other legal entities are settled in economic courts.

Legislation may impose certain restrictions on local governments' rights only in case of threat to the constitutional regime or national security and for a set period of time. Current legislation does not permit the dissolution of local self-governments prior to the expiration of the designated term. When individual council members are dismissed from office in the specific cases mentioned above, the municipal electoral commission must submit a request to the Central Electoral Commission to hold new elections within three months.

10. Next Steps in the Transition Process

Municipal governments were instituted in a period of wide-ranging political reform in Azerbaijan and therefore entered their existence on somewhat uncertain foundations. The resulting potential for problems has only been confirmed by time. Although municipal governments have been created, they are not significantly active and have little opportunity to become more so. This is reflected in public perception: the majority of citizens believe that local self-governing institutions will not be

able to fulfill their obligations under current conditions. If municipal governments in Azerbaijan are to become viable, certain factors currently impeding their development must be eliminated.

The lack of properly structured state power is the primary obstacle to normally functioning municipal government. Despite the division of powers stipulated in the Constitution, the legislative and judiciary branches remain virtually subordinate to the executive branch. Under these circumstances, Parliament is not in a position to adopt legislation that empowers municipal governments to act independently, that is, potentially counter to state administration interests. Similarly, the judicial branch cannot provide adequate legal protection when municipal rights are violated by the state administration. A true balance of powers must therefore be instituted at the national level before municipal autonomy can be realized.

Furthermore, the role and powers of municipalities in the national political system are imprecisely defined in legislation. This confusion seriously hinders the passage of necessary legislation on local government. Even if these laws were passed, they would not necessarily be effective. Supremacy of law does not always hold true in Azerbaijan, and many laws are ultimately purely formal.

Indifference on the part of the state government is yet another barrier to progress. Measures taken by the state are often unsystematic and ineffective since state officials lack a clear concept of local government. In addition, no government body responsible for local government issues has yet been created. However, this problem is under discussion, and the Office of the President and the Parliament are expected to create internal divisions to coordinate local governments' relations with the central government. This possibility gives rise to hope that the government will begin to render significant assistance to municipal governments.

The lack of finances is also a key source of difficulty for local governments. The central government often does not allocate due subventions or delays the transfer of property to municipal ownership. In general, current conditions do not allow local governments to carry out free economic activities. In order to endow municipalities with financial independence, the state must provide for the financial and economic demands of municipalities in the state budget and transfer a number of profitable state enterprises to municipalities or allocate subsidies for municipalities to create their own enterprises.

Finally, free and universal municipal elections are one of the most important prerequisites for local autonomy. The municipal elections held on 12 December 1999 were largely formal, as the majority of elected municipal officers were in fact candidates backed by the existing executive authorities and are therefore unable to act independently.

If the system of local governance in Azerbaijan is to meet international standards, these issues demand resolution. Several initiatives have recently been submitted to central authorities to hasten solutions to these problems. Both the Coordinating Council of Municipal Governments, which operates out of Baku, and the Center of Municipal Reforms have sponsored similar proposals. Support from both local government associations and the population at large have propelled these issues into prominent debate in the mass media, giving rise to the hope that the government will take serious steps in this direction.

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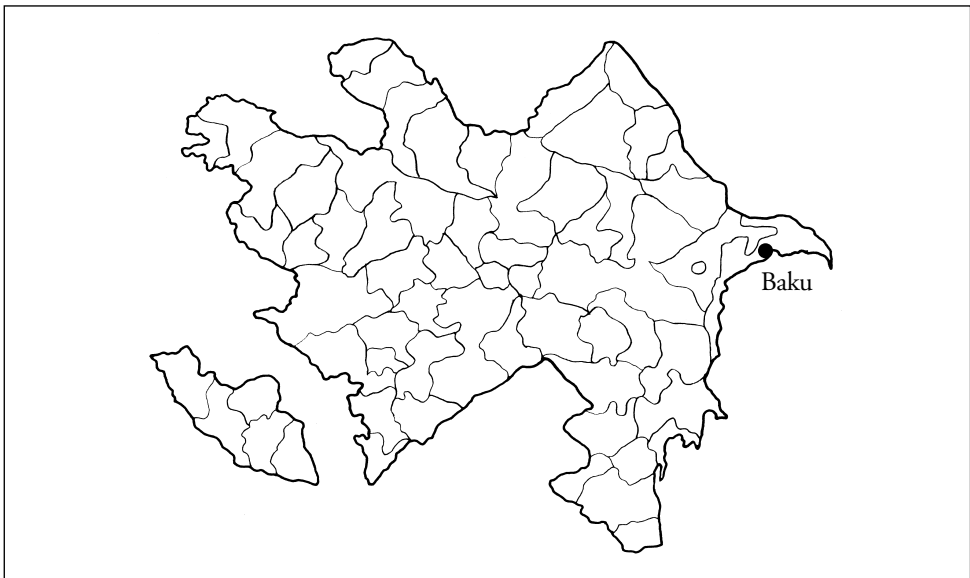
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Annex 7.1

Major General Indicators (1999)

Size of territory	86,600 square kilometers
Population	8,016,200
Pensioners	1,176,000
School-age children	1,848,300
Birth rate	1.1 percent
Population density	92.6 people per square kilometer
Public debt (foreign)	USD 336,200,000
Unemployment rate	1.2 percent
Inflation rate	91.5 percent

Figure 7A.1
Administrative Map of Azerbaijan



Annex 7.2

Major Laws on Public Administration and Local Government

- Constitution of the Republic of Azerbaijan
- Law on Presidential Elections
- Law on Parliamentary Elections
- Law on the State Budget
- Law on State Debt
- Law on the State Taxation Service
- Law on the Armed Forces
- Law on the Border Guards
- Law on the National Bank of Azerbaijan
- Law on the Status of Members of Parliament
- Law on the Judiciary System
- Provision on Local Executive Authority
- Law on the Status of Municipalities
- Law on Municipal Elections
- Model Municipal Charter
- Law on Municipal Finance
- Law on Municipal Territories and Lands
- Law on the Transfer of Assets to Municipalities
- Law on Municipal Service
- Law on Local Referenda

Annex 7.3

Responsibilities of Administrative Tiers

Table 7A.1
Specific Functions of Government Tiers in Azerbaijan*

Functions	Municipalities (individually or in partnership)	District and City Administrations	Central or State Territorial Administration
I. EDUCATION			
1. Pre-school	X		X
2. Primary	X		X
3. Secondary	X		X
4. Technical			X
II. SOCIAL WELFARE			
1. Nurseries	X		X
2. Kindergartens	X		X
3. Welfare homes			
4. Personal services for the elderly and handicapped	X	X	
III. HEALTH SERVICES			
1. First aid	X		X
2. Heath services	X	X	X
3. Hospitals	X		X
4. Public health			
IV. CULTURE, LEISURE, SPORTS			
1. Theaters	X		X
2. Museums	X		X
3. Libraries	X		X
4. Parks	X	X	X
5. Sports, leisure	X	X	X
6. Maintaining buildings for cultural events	X	X	X

Table 7A.1 (continued)
Specific Functions of Government Tiers in Azerbaijan*

Functions	Municipalities (individually or in partnership)	District and City Administrations	Central or State Territorial Administration
V. ECONOMIC SERVICES			
1. Water supply	X	X	X
2. Sewage	X	X	
3. Electricity	X		X
4. Gas	X		X
5. District heating	X	X	
VI. ENVIRONMENT, PUBLIC SANITATION			
1. Waste collection	X	X	
2. Waste disposal	X	X	
3. Street cleaning	X	X	
4. Cemeteries	X	X	
5. Environmental protection	X	X	X
VII. URBAN DEVELOPMENT			
1. Town planning	X		X
2. Regional construction			X
3. Local economic development	X		X
4. Tourism	X		X
VIII. GENERAL ADMINISTRATION			
1. Authorization functions (licenses, etc.)			
2. Other state administrative matters (electoral register, etc.)	X	X	
3. Local police			X
4. Fire brigades			X
5. Civil defense			X
6. Consumer protection	X	X	X

* As may be seen in table 7A.1, the majority of local public services fall under the competence of both state and municipal structures. However, the scope of powers exercised by the state

and municipal structures still does not reflect modern standards. In addition, the table reflects the range of powers delegated to local government by legislation; in reality, most local governments have failed to fulfill these responsibilities.

Chapter 8



Local Government
in Kazakhstan

by

Meruert Makhmutova

Developing New Rules in the Old Environment

Local Government in Kazakhstan

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Local Government in Kazakhstan

Meruert Makhmutova

1. Major General Indicators

The Republic of Kazakhstan is located in the middle of the Eurasian landmass. Extending over a territory of 2,725,000 square kilometers, it is the second largest republic of the former Soviet Union and the ninth largest country in the world. The republic borders Russia to the north and northeast, China to the southeast, and Turkmenistan, Uzbekistan and Kyrgyzstan to the south.

According to a census taken in 1999, Kazakhstan has 14,953,000 inhabitants, fifty-six percent of whom live in urban areas. Since 1991, the population has decreased by almost 1,500,000 people, due to the social and economic crisis, which has produced migration and lower fertility rates. The average population density is 5.5 people per square kilometer. Kazakhs compose the majority of the population (53.4 percent), although Russians account for a significant minority (thirty percent). The former capital, Almaty, remains a financial, business and cultural center with a population of 1,130,000. Astana, the new capital, has a population of 319,000 and is growing rapidly. Kazakh is the official language, but is used co-extensively with Russian.

In Kazakhstan, there are fourteen *oblasts* (regions), two cities with special status, eighty-four cities, thirty-nine of which are of national and oblast subordination; 160 *raions* (districts); ten city districts; two hundred towns and 2,150 rural counties. More detailed information on the administrative-territorial division and population of Kazakhstan may be found in annex 8.2.

Administrative-territorial division is the organizational, legal, social and economic basis for the system of local government. The administrative-territorial structure in Kazakhstan is distinguished by its traditional division into administrative units of equal status. According to legislation, all raion, city and oblast administrations (*akimats*) have equal powers regardless of their economic potential, population or size. Exceptions to this rule are Almaty and Astana, whose representative and executive bodies are assigned broader powers by specific laws addressing the status of these cities.

After the capital was moved from Almaty to Astana, the government adopted a Law on the Special Status of Astana City (1 July 1998), which stipulated financial, economic and social incentives to ensure future development of the city. The same year also saw the passage of a Decree on the Status of the Capital City of the Republic of Kazakhstan. In addition, the Law on Establishing Special

Economic Zones (SEZ) in Astana had previously been passed on 9 October 1996. This law envisaged a special legal regime of taxation and customs regulation, but was subsequently abolished on 1 January 2001. Shortly thereafter, on 15 January 2001, the Law on the Budget System was amended to incorporate special procedures for formulating the Astana city budget.

Kazakhstan is divided into the following tiers of local government:

- Third (oblast) tier, which includes the local state administrations, that is, the executive and representative bodies in fourteen oblasts and two cities, Almaty and Astana;
- Second (raion) tier, which includes the local state administrations, that is, the executive and representative bodies in 160 raions and seventy-nine cities of raion status;
- First (rural) tier, which includes the local administrations, that is, executive bodies in towns, villages (*auls*) and rural counties.

1.1 Overview of Social and Economic Reforms

Since the declaration of independence in December 1991, the economic, political and social structure of Kazakhstan has experienced considerable change. (Major social and economic indices from 1991 to 2000 are listed in annex 8.1).

Until the introduction of the national currency, the country was completely dependent on the social, economic and political transformations in Russia. In particular, the single currency environment meant that monetary, crediting and budgetary policies were unavoidably dictated by the Central Bank of Russia. With the launch of the Kazakh *tenge* (KZT) in November 1993, the government was able to initiate an independent macroeconomic policy.

In 1994, the Kazakh government adopted an anti-crisis program for the purpose of promoting macroeconomic stability and institutional transformation. At that point, the main focus was on developing a legal and regulatory base for economic reform. Between 1995 and 1998, the government undertook additional measures to create conditions for a market economy. Key documents included a medium-term program for further reform of the banking system and programs for step-by-step transfer of social and economic organizations to local budgets, for developing the securities' market, for promoting employment growth, for developing small and medium businesses, for supporting entrepreneurial activity and for privatizing and restructuring entities in state ownership.

The practice of establishing special economic zones became widespread, as did the transfer of enterprises into trust management by foreign companies. These companies consequently obtained preferential rights to privatize these enterprises. Management of state funds was cardinaly reformed and the taxation system was modernized. Due to mass privatization, the share of the private sector in the national GDP grew from twenty percent in 1994 to fifty-five percent in 1997.

Implementation of these anti-crisis programs created the organizational, legal and economic prerequisites for a transition to market economy. However, reforms were often contradictory to one another and faced many obstacles. Although they produced positive change in the economy and society, they also generated negative consequences related to market transformation.

The country managed to achieve macroeconomic stabilization and in 1996, for the first time in five years, GDP grew by 0.5 percent compared to the previous year. This trend strengthened in 1997 as GDP increased by 1.7 percent and inflation declined to 11.3 percent. In comparison to 1991, however, the level of GDP had decreased by almost half and the living standards of the overwhelming majority of the population had deteriorated dramatically.

Nor was economic growth stable. Due to the impact of the financial crises in Russia and Southeast Asia, the level of GDP decreased by 2.5 percent by the end of 1998. Kazakhstan pursued a policy of supporting the overstated tenge rate at a time when national currencies were devalued in virtually all the CIS countries, its main trade partners. This damaged the competitiveness of Kazakh goods in both foreign and domestic markets, resulting in a further fall in production.

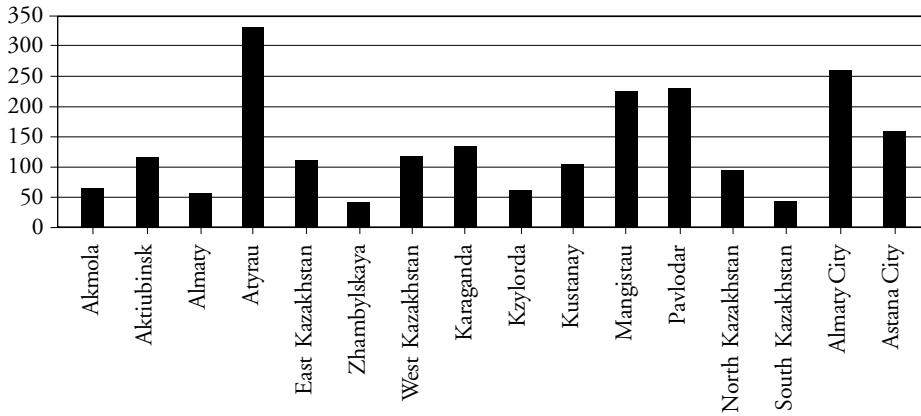
In 1999, the Kazakh government made the decision to float the *tenge* and enact a twofold budget sequester, thereby achieving macroeconomic stability, a key precondition for revitalizing the real economic sector. In 1999, per capita GDP was KZT 152,610.70, or USD 1,049.90. In 2000 the production volume increased by 114.6 percent compared to 1999. As of 1 January 2000, the rate of inflation stood at 9.8 percent and total national debt was approximately USD 4.5 billion, or USD 307 per capita.

At the beginning of 2000, there were 2,626,000 senior citizens in Kazakhstan; 3,376,800 students in state and private schools; 8,597,000 citizens of working age; and 6,105,000 employed in the economy. At that time, the minimum pension was KZT 3,000, an amount twelve percent lower than the living wage.¹ This was since increased to KZT 4,000 in 2001.

Poverty and unemployment remain urgent problems due to the steep decline in living standards throughout the transition period. From 1991, when the Law on Minimal Consumer Budget was revoked, until 1999, when the Law on the Living Wage was passed, legislation lacked a regulatory definition of the living wage. In 1999 the real income of the population was only ten percent of the 1991 level. Low salaries, pensions and benefits placed the majority of the population on the brink of survival. In 2000, the official unemployment figure was 231,400 people, or 3.7 percent of the economically active population. However, the actual unemployment level, calculated according to ILO methodology and taking into account self-employed individuals, approximated thirty percent.

Regional differences, which had always existed in Kazakhstan, became still more acute during the transition process. Due to mixed results of the reform process, the social and economic disparities among regions have widened, as shown in figure 8.1.

Figure 8.1
Per Capita GAV (Gross Added Value) by Oblast, 1999
[KZT thousands]



Per capita GAV is above average in Almaty city and Atrrau, Mangistau and Pavlodar oblasts. These are industrially developed regions, rich in strategic resources. GAV production in Atrrau oblast alone exceeds the combined levels of Akmola, Almaty, Zhambylskaya, Kyzylorda and South Kazakhstan oblasts.

Towns, medium-sized cities, remote rural areas and ecologically affected territories require special attention. The economies of most towns and medium cities that developed around industrial objects (Tekeli, Zhetikar, Zhanatas, Karatau and others) are in deep crisis and need active government support. The major problems facing towns include the decline in production and living standards, the growth of unemployment and continuing migration, especially of qualified specialists. In light of these difficulties, local executive bodies are not equipped to lead their towns out of crisis independently. Almost all agricultural raions fall into the category of areas in crisis. Unfortunately, programs to support small towns are fragmentary, selective and short-term.

These issues may be resolved if the government is able to maintain stable growth. However, a steadily growing national economy and politically stable society cannot be established without first equalizing inter-regional differences, overcoming crisis phenomena and addressing the development lag in certain territories. In order to facilitate sustainable, long-term economic development—a key goal of state policy—the resource and production potential of the regions must be utilized more rationally and thoroughly. The Kazakh government has passed a vast quantity of laws and resolutions over the last ten years to regulate the social and economic development of regions. The content of this legal base exhibits a transition from direct government management to more flexible mechanisms for government regulation of local economy.

Legislation aimed at promoting the real rights and responsibilities of local governments should both strengthen regional authority and increase regional responsibility for the implementation of economic reform.

2. Legal and Constitutional Basis

The process of local government reform in the former Soviet Union began in April 1990, with the passage of the Law on General Principles of Local Self-government and Local Economy.

This law laid the foundations for the future reform of local government in Kazakhstan. On 15 December 1990, the Law on Property in the Kazakh SSR was adopted. According to this law, property was subject to decentralization and could be classified as one of three categories: federal, republic or local. Local property referred to communal assets which local councils could own, use and dispose of on behalf of the given administrative-territorial unit. In addition, the councils of subordinate territories obtained the right to own, use and dispose of assets in state ownership.

On 15 February 1991, the Law on Local Self-government and Local Councils in the Kazakh SSR was passed. This law determined the material and financial basis of government and specifically addressed the level of self-government in the following sections. The law established the supremacy of representative bodies and assigned the chairman of the executive committee to the position of local council chairman. It also established extra-judicial procedures to review and resolve disputes between councils of different tiers. Higher-level councils were vested with the authority to review and solve these issues, even though the same law provided for contractual relations and delegation of powers by the mutual consent of the councils.

However, this law did not differentiate between local public administration and local self-government. Local public administration was structured according to a uniform system of state power. Local bodies of the state authority, including village and rural county councils were formed through local elections and recognized as local self-governments. These representative bodies in turn established local executive bodies.

Amendments to the Law on Local Self-government and Local Councils of Kazakh SSR for the Transition Period were passed on 13 January 1992. The new law substituted the principle of “differentiation between the functions and powers of representative and executive bodies” for the previously stated principle of “supremacy of representative bodies.”

Interestingly enough, the Supreme Council adopted the Law on the Suspension of the Validity of Some Constitution Norms during the Transition Period on the very same day. These norms were related to structural changes in local governments and allowed the gradual differentiation of council and executive body functions. The law introduced an institution of undivided authority, with the

head of local administration accountable to the president or head of oblast administration and controllable by the respective council.

The law particularly underscored the point that local councils “did not have the right to review issues related to the competence of heads of administration,” and heads of local administration were no longer “entitled to review the issues in the competence of the respective local councils.”

On February 7, 1992 the president signed a Decree on Improving the Organization and Activities of Public Administration Bodies under the Conditions of Economic Reform. This decree established for the first time a uniform structure of executive administration from the president to heads of local administration and stipulated the responsibilities of the Cabinet of Ministers in the strategic supervision of all executive power.

In the period between 1991 and 1993, local councils and newly established local administrations vied with each other on many issues of local importance, often duplicating each other’s powers. Consequently, heads of local administrations (*akims*) began to acquire more powers, while full-fledged institutions of local self-government were absent. In the end, the introduction of administration heads restored the vertical structure of executive power.

On 28 January 1993, the Supreme Council passed the first Constitution of the independent Republic of Kazakhstan, which preserved local representative bodies and even declared their right to make independent decisions within their competence.

Immediately prior to dissolving itself, the Supreme Council adopted the Law on Local Representative and Executive Bodies (19 December 1993), which designated a completely new model of self-government. First, the concepts of “state administration bodies” and “executive bodies formed by the councils” disappeared entirely. Second, representative bodies (*maslikhats*) no longer created local executive bodies and the head of local administration represented the president, not local citizens. Third, representative bodies were formed at the oblast and raion levels only, not in rural settlements (*auls*). These representative bodies were no longer called local self-governments, though they were considered to represent the population and entitled to express and implement the will of local inhabitants with due consideration of national interests. Fourth, the law replaced the concept of “local self-government” with that of an “assembly of representatives of the citizens of a town or rural county.” Nonetheless, the citizen assembly is the body that exercises government powers in rural areas. This is only confirmed by the fact that the heads of rural administration establish the representation quota for the assembly, convene the assembly at their own initiative or by the initiative of at least one third of the members of the previous assembly and chair assembly sessions. The law also establishes that assembly decisions within its competence are binding for all inhabitants residing on the respective territory.

In essence, this law narrowed the concept of local self-government to the village level and then stripped it of real meaning. Higher authorities, that is, raion, city and oblast maslikhats, remain

agencies of public administration, despite the fact that they are called local representative bodies. According to this law, oblast maslikhats became responsible for approving provisions on the bodies of territorial self-government within their oblasts. This article was taken directly from the Law of Kazakh SSR on Local Self-government prior to its amendment.

The Constitution of the Republic of Kazakhstan, adopted on 30 August 1995, established the general principles and directions of public administration reform. According to the Constitution, the Republic of Kazakhstan is a unitary state, a principle which determines its organizational structure. The nation is governed by the president (article 2) and a bicameral Parliament composed of the Senate and the *Majilis* (article 50). The government heads the system of executive bodies and administers their activities (article 64). The structure of public administration is shown on Figure 8.1.

The Constitution also recognized the rights of local self-government (article 89) as well as local government (article 85). Bodies of local public administration include local representative bodies (oblast, raion and city maslikhats) and local executive bodies (oblast, raion and city akimats and rural akims). Maslikhats express the will of the inhabitants in the respective administrative-territorial units with due consideration of national interests, determine measures for its implementation and control their realization (article 86). They are elected by inhabitants of the respective administrative-territorial unit through general, equal and direct vote by secret ballot for a term of four years. The number of maslikhat members is determined by the Central Electoral Commission of Kazakhstan within the following limits: up to fifty in the maslikhats of oblasts, Astana and Almaty; up to thirty in city maslikhats; and up to twenty-five in raion maslikhats.

According to article 87 of the Constitution, the akim of the administrative-territorial unit heads the local executive authorities and represents the president and government of the republic.

In closing, the Constitution stipulated that current legislation must be made to conform to constitutional provisions within a two-year period. It was thus imperative to pass the Law on Local Public Administration and the Law on Local Self-government. However, draft laws remained under discussion in Parliament for five years, creating a legislative gap with regard to the regulation of local public administration and self-government issues.

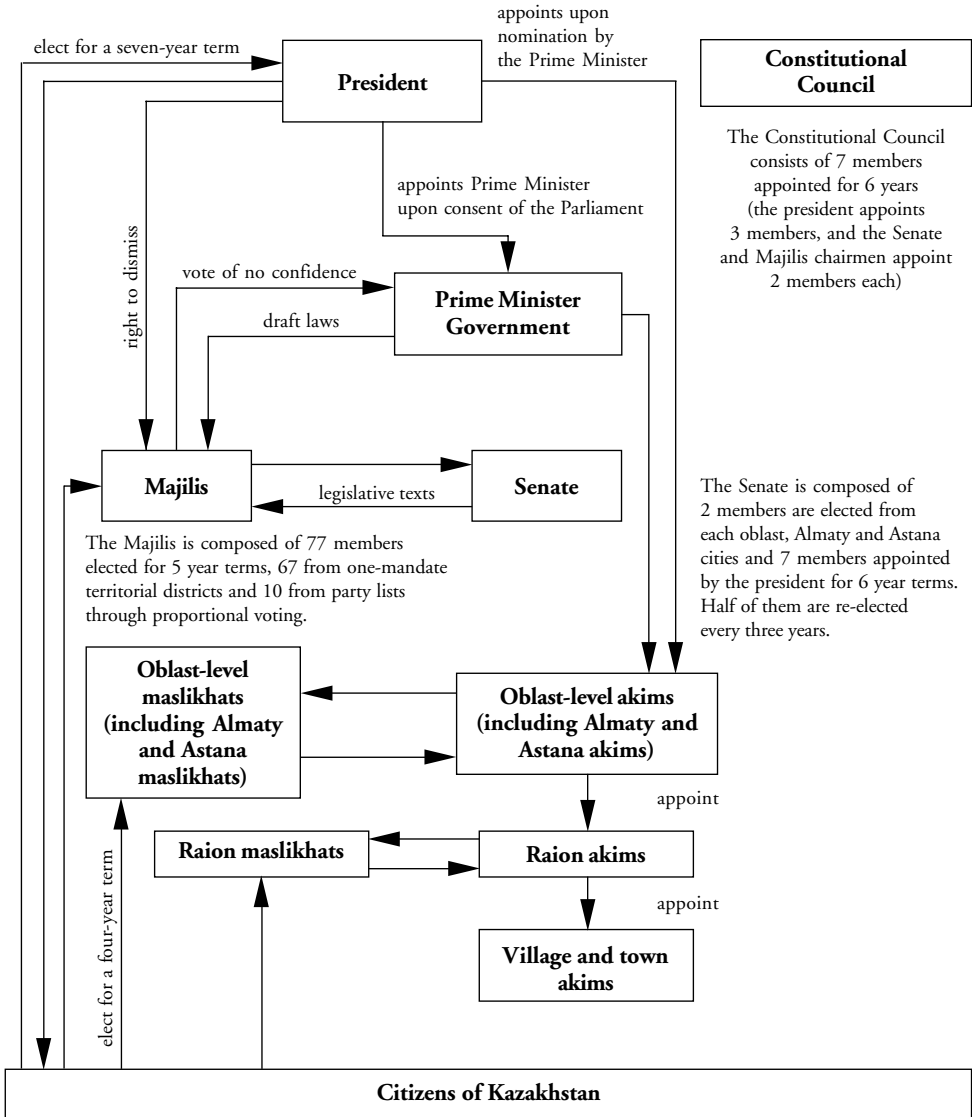
The Law on Local Public Administration in Kazakhstan was finally passed in January 2001, outlining the following basic concepts:

Local public administration is defined as activities carried out by local representative and executive bodies in order to implement or develop state policy on local territory within their competence as determined by legislation.

The local executive branch, or akimat, is headed by oblast-level akims (including akims of Almaty and Astana cities) or raion-level akims (including akims in cities of oblast subordination), who implement local public administration on the respective territory within their competence. Akims represent the

president and government of Kazakhstan and head the local executive body. They are responsible for realizing state policy within local territory, for coordinating territorial divisions of central administration agencies and for administering executive bodies funded from the local budgets. Furthermore, the akim is also responsible for economic and social development in the given territory.

Figure 8.2
Structure of Public Administration in Kazakhstan



The local representative body, or maslikhat, is elected by the inhabitants of the oblast or raion. This body expresses the will of the citizens, determines measures to realize this will and controls their implementation. Villages and small towns do not possess maslikhats.

This law also enumerates the major obligations and limits applying to local representative and executive bodies. They may not make decisions that contradict national foreign, internal, financial and investment policies; they must support the interests of national security in Kazakhstan; they must adhere to established national standards for activities of national importance; and they must observe the rights and legal interests of citizens. Maslikhats and akimats are prohibited from making decisions that impede the creation of uniform labor, capital and financial markets and the free exchange of goods and services within Kazakhstan. Territorial development plans passed by maslikhats or akimats should correspond to national strategic development plans.

In addition, the Laws on the Status of the Capital City of Kazakhstan and on the Special Status of Almaty City grant further powers to those local executive bodies.

3. Local Politics, Decision Making

3.1 Public Participation in Decision Making

Citizens exercise their right to participate in the local decision making process through maslikhat elections. Citizens over eighteen years old have the right to vote. Citizens over twenty may run for election to maslikhats at all levels, but are prohibited from being a member of more than one maslikhat at a time (article 86, item 3 of the Constitution). As members of the maslikhat, they express the will of local inhabitants with due consideration of national interests (article 20 of the Law on Local Public Administration). Public participation in the elections is voluntary.

The Constitution of the Republic of Kazakhstan stipulates for national referenda as a form of direct democracy. Article 3, item 2 specifies that people exercise their power through national referenda, while article 33, items 2 and 3 stipulate the right of citizens to participate in national referenda. The law does not envisage local referenda.

Kazakh legislation proclaims the right of citizens to participate in issues of state administration directly and indirectly through representatives. Citizens may appeal individually or collectively to their public administration bodies and local self-governments. Article 87 of the Constitution even grants local inhabitants the right to impeach the akim through the local maslikhat. However, this is not so easily done in practice and thus far there have been no such instances in Kazakhstan.

Also, citizens may propose issues to be discussed in maslikhat sessions or by its standing commissions, either to their representatives in meetings with their constituency or to local self-government bodies

and agencies. Citizens may submit inquiries or appeals to the local executive bodies and agencies located in the territory of the respective maslikhat on issues within its competence.

The role of citizens in decision making is primarily exercised in maslikhat elections. Candidates may be nominated by the managing bodies of national or local community associations. Citizens may also nominate themselves.

Community associations may nominate only one candidate per electoral district. The decision to nominate candidates to a maslikhat is passed by the majority vote of all members of a local community association or its managing body. The candidate does not necessarily have to be a member of the community association. In addition, citizen assemblies with at least fifty eligible members residing within rural or urban communities have the right to nominate candidates to local self-governments.

Parties may also participate in the local decision making process. Maslikhat members are entitled to establish associations within the maslikhat, in the form of political factions (article 21 of the Law on Local Public Administration). These groups must number at least five maslikhat members and be registered at the maslikhat session. The organization of their activities and various powers are determined by maslikhat regulations.

In recent years, public hearings have been used to facilitate citizen involvement in the decision making process. In May 1999, Pavlodar oblast held the first public hearing of a local budget in Kazakhstan,² enabling its citizens to comment on changes to be made to the draft budget awaiting passage by the akimat and maslikhat. The cities of Atyrau and Uralsk hold public hearings to discuss changes to tariffs for communal services.³ The methodology behind such hearings has been introduced by USAID/ICMA, who are currently implementing a four-year project on the Development of Local Governments in Kazakhstan, launched in 1998.

Article 13 of the Law on Local Public Administration currently determines that standing commissions may organize public hearings to discuss key issues of public importance within the commission's jurisdiction, either at their own initiative or by decision of the maslikhat. These hearings may take the form of commission meetings which have been expanded to include maslikhat members, representatives of executive bodies, local self-governments, organizations, mass media and inhabitants. The procedures for public hearings at commission meetings is determined by maslikhat regulations.

According to current legislation, there are no obstacles to the establishment of voluntary associations. Nonetheless, no local government associations have yet been registered in Kazakhstan. A Coordination Council⁴ of secretaries from oblast, Almaty and Astana maslikhats has been established and took part in the discussion and amendment of the draft Law on Public Administration. However, this council has not been registered. An Association of Civil Servants is in the process of being established.

According to the Law on Local Public Administration, “local self-governed communities can found local community associations according to established procedures in order to coordinate their activities and more actively participate in regional policy. However, these associations do not possess the powers of local self-government bodies.”

Some oblast centers have condominium associations that protect the rights and interests of inhabitants and ensure that the housing stock is properly maintained. One such organization in Ust-Kamenogorsk began a project on “Determining the Institutional Status of and Local Taxation Policy towards Condominium Associations” with the financial support of the Soros Foundation. They were able to organize a broad discussion of existing problems involving condominium association heads, inhabitants, representatives of public administration and agencies which deliver communal services. It is planned to create an efficient model of condominium associations within the system of local self-government.

Because Kazakhstan is home to representatives of over one hundred nationalities, the Assembly of Nationalities in Kazakhstan and its regional offices were established to deal with multi-national issues. Some forty cultural centers (Russian, German, Ukrainian, Polish, Tatar, Azeri and others) exist throughout the country.

There are roughly 1,400 non-governmental organizations (NGOs) in Kazakhstan. Some are large, active organizations, especially in the field of ecology, due to the scale of ecological problems facing Kazakhstan. However, it cannot be said that NGOs have any significant impact on local decision making or that akims cooperate with them closely. It is possible that their importance will increase with the development of public hearings.

3.2 Methods of Appointing or Electing Akims

Amendments entered in the Constitution in 1998 stipulate that akims in oblasts, Almaty and Astana are appointed by the president upon nomination by the prime minister, and may be dismissed by the president. Their mandate terminates when a new president takes office, although they continue to perform their duties until new akims are appointed. Akims of other administrative-territorial units are either appointed or elected according to procedures determined by the president. The constitutional amendments thus introduced the legal basis for elected akims for the first time. This option is not yet widely in use; to date, only Shamalghan rural district, the home district of the current president, has elected an akim.

Until recently, all akims of lower-level governments have been appointed by superior akims: the akims of Almaty and Astana cities appointed akims in their city districts; oblast akims appointed akims in raions and cities of oblast subordination; and raion akims appointed akims to villages and towns.

Table 8.1
Status of Akims in Villages, Towns and Cities

Akim of village or town	****
Akim of city of raion subordination	****
Akim of city of oblast subordination	****
Akim of city, capital city or city of central subordination	****
Akim heading the corresponding mashlikat	—

* elected by the mashlikat

** elected by the mashlikat upon proposal of the state administration

*** elected by inhabitants

**** appointed by the head of the state or heads of superior administrations

***** simultaneously acts as mashlikat chairman

The Law on Local Public Administration passed in January 2001 reflects the constitutional provisions and procedures to appoint akims in oblasts, Almaty and Astana remain unchanged. Similarly, as set forth in the constitutional amendments, lower-level akims are appointed or elected according to procedures determined by the president. So once again, the law referred to an opportunity to elect heads of executive bodies. Exactly how this opportunity should be realized—through direct elections of akims by the inhabitants of the respective administrative-territorial units, indirect elections by mashlikhats or appointment by mashlikhats—will probably be specified soon.

3.3 Relationships between Elected and Appointed Local Government Bodies

The Constitution stipulates the mechanisms governing interactions and interdependence between the akim and mashlikhat. For instance, article 87, item 5 establishes that the mashlikhat “has the right to pass a vote of no confidence in the akim by a majority of two-thirds of all members and to request his or her dismissal from office from the president or superior akim.” The vote of no confidence may be passed after the mashlikhat twice fails to approve the akim’s reports on the implementation of plans, the local budget or economic and social development programs for the territory.

Article 88 of the Constitution determines that draft mashlikhat decisions on the reduction of local budget revenues or increase of local budget expenditures can be submitted for review only with a positive resolution by the akim.

According to the Law on Public Administration, oblast-level akimats develop regional social and economic development programs and oblast budgets and report on their implementation. The akimat submits these documents for approval by the mashlikhat, along with the structure of the local

administration. The maslikhat exercises control over the implementation of plans, economic and social development programs and local budgets. Maslikhat members are entitled to present inquiries or appeals on issues within its competence to local executive bodies or organizations located on its territory. They may request to hear reports from local executive officials or representatives of organizations located on its territory on issues within its competence. They may also participate in akimat sessions. The akimat and officials of organizations or territorial offices of central state administration financed from the local budget are obliged to provide the required information to standing maslikhat commissions within their competence and according to established procedures.

The akimat staff is approved at oblast level maslikhat sessions. Maslikhats review reports from heads of executive bodies and may submit requests to law enforcement bodies in order to call government officials or organizations to account for their failure to implement maslikhat decisions.

The akimat develops programs to support employment and reduce poverty, submits them to the maslikhat for approval and subsequently oversees their implementation. The akimat also establishes a list of staff for consultative and deliberative bodies responsible for intersectoral issues and presents it to the maslikhat for approval.

Oblast-level akimats are accountable to their corresponding maslikhat for performance of their functions, according to article 27, item 3 of the Law on Local Public Administration. Akimats of raions and cities of oblast subordination are likewise accountable to the raion or city maslikhat (article 31, item 3).

3.4 Internal Structure of Local Government Decision Making

The maslikhat makes decisions within its competence (article 7 of the Law on Local Public Administration). Draft maslikhat resolutions on the reduction of local budget revenues or increase of local budget expenditures can be submitted for review only by positive resolution of the akim. Maslikhat decisions on the rights, freedoms and duties of citizens shall be officially published according to legally established procedures and are binding in the respective territory. Maslikhat decisions that are of intersectoral importance, obligatory for all inhabitants or related to the rights, freedoms and duties of citizens are subject to registration with territorial offices of the Ministry of Justice, according to legally established procedures.

Although there is no vertical hierarchy for maslikhats, decisions of superior maslikhats are strictly compulsory for lower ones. Maslikhat decisions that contradict the Kazakh Constitution or legislation can be revoked by court or by the maslikhat itself.

The akimat issues resolutions signed by the akim, who is empowered to make regulatory or legal decisions and issue instructions on administrative, operational and individual issues. Acts of akimats and akims within their competence are mandatory throughout the local territory (article 37 of the

Law on Local Public Administration), although they can be suspended by the public prosecutor. Any acts concerning the rights, freedoms and duties of citizens are subject to official publication in newspapers and other periodicals as determined by the maslikhat or akim, unless they contain state secrets or other legally protected confidential information

Akimat or akim acts that are of intersectoral importance, obligatory for all inhabitants or related to the rights, freedoms and duties of citizens are subject to registration with territorial offices of the Ministry of Justice, according to legally established procedures. The effect of akimat or akim resolutions may be cancelled or suspended in full or in part by the president, the government of Kazakhstan, court decision, a superior akimat or akim or the akimat and akim themselves.

Regulatory legal acts of local representative and executive bodies take effect upon being signed by authorized persons.

At the recent workshop of secretaries of oblast, Almaty and Astana maslikhats, the Minister of Justice stated that, "The quality of the locally adopted regulations leaves much to be desired. Fifteen to twenty percent of raion-level decisions are not registered. Every third or fourth act is returned without registration and one can only guess how many illegally passed decisions are effective in our republic. All losses caused by illegal decisions have to be covered by the state budget after being cancelled by the court."⁵

3.5 System of Elections

The system of elections is governed by the Constitutional Law on Elections. According to this law, elections of the president, members of the Majilis and maslikhats are based on general, equal and direct vote by secret ballot. Senators are elected through indirect vote by secret ballot, by a group of electors which includes members of all relevant maslikhats.

The Majilis consists of seventy-seven members, sixty-seven of whom are elected in one-mandate electoral districts, established according to administrative-territorial divisions with approximately equal populations. The remaining ten members are elected nationwide based on party lists, according to a system of proportional representation.

For the first time, political parties were involved in the most recent national elections, which were held on 10 October 1999 and 24 October 1999. Out of seventy-seven members elected to the Majilis,⁶ forty-three were nominated by political parties, eight by trade unions and public associations and twenty-six were self-declared. Pro-government parties—the *Otan*, Civil and Agrarian parties—received eighty percent of Parliament seats.

Maslikhat elections are held only in one-mandate districts and do not involve party lists. In addition, electoral legislation specifies elections for local self-governments, should they be established. Candidates for local self-governments should be capable citizens of at least eighteen years of age, and may be

nominated by rural or urban citizen assemblies or by the candidates themselves. Candidates are considered to have won the election if they obtain a relative majority of votes. However, these norms are not in use due to the absence of any self-government institutions per se.

Members of Central Electoral Commission (CEC) are elected or dismissed from office by the Majilis upon nomination by the president. The CEC establishes and administers oblast electoral commissions based on proposals of oblast-level akims. Lower territorial electoral commissions are formed by the decision of superior territorial electoral commissions on the proposal of the respective akim.

Public associations have the right to nominate maslikhat candidates. Alternatively, candidates may nominate themselves by submitting an application to the corresponding electoral commission. No other pledge or collection of signatures is required to support self-nomination. Candidates for maslikhats may be released from their employment, military service or military training. They cannot be fired, transferred to other positions without their consent, sent on business trips or sent to military camp.

Individuals called to account for corruption-related violations in the preceding year may not register as candidates. Nor may individuals who have outstanding convictions or who have received official reprimands from the courts for deliberate violations in the preceding year.

Maslikhat elections are financed from the national budget. Elections may not be financed by international organizations, international public associations, foreign legal entities or individuals without Kazakh citizenship. All direct or indirect participation of these parties in funding elections is prohibited, as are voluntary contributions from state bodies and organizations, charity funds, religious associations or any legal entities with foreign investment in their authorized capital stock.

Akims determine electoral precincts in order to hold elections and calculate votes in coordination with the district electoral commissions. These precincts are created with consideration of the following conditions:

- No constituency should have more than three thousand voters;
- The boundaries of administrative-territorial units should be observed;
- Boundaries of electoral districts should not overlap boundaries of electoral precincts.

Authorized representatives of each candidate may be present at each electoral precinct, as well as one representative each from mass media organizations, public associations, foreign states and international organizations.

Members of electoral commissions or representatives of public associations may appeal violations of electoral legislation or other issues related to the elections. These appeals are submitted to the courts or to the public prosecutor's office, which must review them within five days. Appeals received five days prior to the elections, up to the day of elections itself, must be reviewed immediately. Should a candidate or political party violate legal requirements, they receive a warning. If these violations continue, the electoral commission strikes the registration of the candidate or party list.

In general, the electoral system in Kazakhstan is not entirely democratic. Authorities have the opportunity to “correct” election results through using government-controlled media, manipulating public opinion in rural areas, placing obstacles in the path of “undesirable” candidates and providing advantages to preferred ones. Several experts were surveyed after they had assessed the results of the most recent elections. Sixty-five percent responded that the numerous violations during the elections were primarily preconditioned by the desire of local authorities to hinder opposition candidates; 62.5 percent attributed them to the authorities’ habit of regulating all public processes according to their will; 32.5 percent ascribed them to flaws in current electoral legislation; and 32.5 percent credited the low level of democracy in Kazakh society.⁷

The last elections confirmed a pattern first observed in Kazakhstan during the referenda of 1995. One expert observed that “Almaty appears to be the most critically disposed, while it is the most socially safe region; on the contrary, the poorest regions unconditionally support the authorities. Obviously, this difference is explained by a higher degree of community control over the elections.”⁸

4. Functional Structure of Local Government

The organizational structure of public administration is detailed above in figure 8.2.

4.1 Local Maslikhats

4.1.1 *Maslikhat Functions*

The major functions of local councils are specified in the Constitution and further detailed in the Law on Local Public Administration. Maslikhat responsibilities include the following:

- to approve plans, local economic and social development programs and local budgets, including cost estimates for the maintenance of districts within cities of central subordination, towns, villages and rural counties;
- to approve programs for environmental protection and management of natural resources; to approve expenditures on environmental protection and rehabilitation and solve other issues on environmental protection according to legislation;
- to approve the management structure of the administrative-territorial unit, upon submission by the akim;
- to solve issues of local administrative-territorial organization within its competence and determine the boundaries of local community organizations;
- to coordinate the staff of a respective akimat upon proposal by the akim;
- to discuss reports from heads of executive bodies or request law enforcement bodies to call officials of state agencies or organizations to account for their failure to fulfill maslikhat decisions;

- to exercise their powers according to the legislation of Kazakhstan to ensure the rights and legal interests of the citizens;
- to approve regulations and courses of disciplinary action for their violation, in accordance with the Administrative Violations Code of Kazakhstan;
- to control the implementation of plans, local economic and social development programs and the local budget;
- to establish standing commissions and other bodies and review their reports; to solve other issues related to the organization of maslikhat activities;
- to approve programs to support employment and reduce poverty;
- to approve the staff of consultative and deliberative akimat bodies on intersectoral issues, upon nomination by the akim;
- to regulate land relationships in accordance with the land legislation of Kazakhstan;
- to facilitate observance of the Constitution, national legislation, presidential and government decrees and legal acts of central and local governments.

Maslikhats have the right to pass compulsory regulations, the violation of which is subject to administrative action. The new Administrative Code adopted on 30 January 2001 lists the following such regulations: rules of maintenance and protection for newly planted trees (article 300); veterinary legislation (article 310); rules for keeping cats and dogs (article 311); municipal improvement in cities and settlements and the destruction of city infrastructure objects (article 387); violation of an emergency regime (article 362); and actions that provoke violation of the public order under emergency conditions (article 362).

Maslikhats of oblasts, cities of republican subordination and the capital city may propose to amend the urban planning scheme in oblasts; draft the urban plan of the oblast capital, city of republican subordination or capital city; and endorse plans submitted by their subordinate administrations for urban planning of cities and raions within their particular territorial competence.

Raion maslikhats approve the urban plans for the cities, towns and auls located on the territory of the respective raion.

Maslikhats of oblasts, cities of republican subordination and the capital city have the right to decide on local borrowing, upon proposal by the akimat and in accordance with the legislation.

4.1.2 Structure of Maslikhat Activities

The maslikhat exercises its authorities in maslikhat sessions, convened at least four times a year, through its standing commissions and other bodies and through its session chairman, members and secretary.

The maslikhat elects and dismisses the session chairman and secretary and reviews their reports; establishes standing commissions and other bodies; elects and dismisses commission chairmen and

reviews their reports; determines expenditures to maintain its activities; approves the acts of the audit commission; approves the structure of the maslikhat office; and determines expenditures on maintenance, material and technical supplies in accordance with the legally established staff and funding limits.

The chairman of the electoral commission opens the first session of the maslikhat and acts as chair until the election of the maslikhat session chairman. Decisions are made by majority vote. Sessions are typically open, although the decision to hold a closed session may be proposed by the chairman or a third of the members present and approved by the vote of a majority of the members present. Session chairmen may invite heads of local executive bodies, managers or officials of local organizations to the maslikhat session to provide information on issues within maslikhat competence. Attendance is obligatory in these cases.

The maslikhat creates no more than seven standing commissions for the duration of its mandate and determines their staff. The session chairmen and members of standing commissions are elected by the maslikhat from among its members. These commissions are accountable to the maslikhat and should report on their activities at least once per annum.

Standing commissions may draw up conclusions on issues within their competence and submit them to the maslikhat session for review. They may present reports related to their specific duties at maslikhat sessions and, within their competence, propose that the maslikhat hear reports from the heads of local executive bodies.

The audit commission plays an important role in the organization of maslikhat activities. This commission is elected in order to control implementation of the local budget and may include individuals outside the maslikhat. On the basis of audit results, the audit commission drafts a certificate and provides it to the maslikhat and akimat for their information.

The maslikhat and secretary are entitled to set up interim commissions to prepare issues within maslikhat competence for review at maslikhat sessions. The composition of these commissions, their tasks, term of office and rights are determined by the maslikhat upon their establishment. Interim commissions make resolutions within their competence. Participation in the work of interim commission is unpaid.

Chairmen of maslikhat sessions are elected by the maslikhat from its members by open vote at a preceding session and exercise their duties freely. In case of his or her absence, these functions are performed by the maslikhat secretary. Maslikhat members may not be elected session chairman more than twice per calendar year.

The maslikhat secretary plays a key role, overseeing daily maslikhat operations. The secretary occupies a full-time position. He or she is elected by the maslikhat from among its members for the duration of its term of office and may also be dismissed by the maslikhat session. The secretary prepares issues to be discussed at the maslikhat sessions and makes any other necessary arrangements; supports

members in the performance of their duties; provides them with all necessary information; and handles issues concerning the release of members from their regular jobs in order to allow them to participate in the maslikhat sessions, standing commissions and other bodies. The secretary controls the review of member inquiries and appeals, supervises the operations of the maslikhat office and appoints and dismisses its staff. The secretary regularly provides the maslikhat with information on appeals from voters and measures taken in response; organizes cooperation between the maslikhat and local self-governments; coordinates activities of the standing commissions and other member groups; and represents the maslikhat in its relations with state bodies, organizations, local self-governments and public associations. The secretary issues instructions within his competence, ensures that maslikhat resolutions are published and determines measures to control their implementation.

The maslikhat secretary cannot be a member of any standing commissions. In the absence of the secretary, the chairman of maslikhat sessions may temporarily assign his or her powers to the chairman of one of the standing commissions.

A small office may be established to support maslikhat functions. Its structure and staff depend on the level, nature and volume of its duties. According to article 25 of the Law on Local Public Administration, the maslikhat office provides organizational, legal, material, technical and other support to the maslikhat and its bodies and otherwise assists its members in the performance of their duties. The maslikhat office is a governmental body funded through the local budget. The minimum number of public servants in the office is three; the maximum is determined according to the size of the maslikhat by a ratio of one official to seven maslikhat members.

Civil servants in maslikhats perform their duties in accordance with the Law on Civil Service and retain their positions after the term of maslikhat expires or is terminated prematurely.

4.2 Local Administration

4.2.1 Local Administration at the Oblast Level

Oblast-level akimats, including akimats of cities of central subordination, form part of the uniform system of state administration. The akimat is created and headed by the akim and consists of deputies, the chief of staff and heads of local budgetary institutions. Akims themselves are appointed by the president upon nomination by the prime minister. They represent the interests of their oblast or city in interactions with government agencies, organizations and citizens. They coordinate activities of lower-level akimats and akims and cooperate with the local self-governments through lower-level akims. The akim appoints and dismisses the following officials:

- deputy akims, in coordination with the authorized superior government bodies. The maximum number of deputies is determined by the government of Kazakhstan;
- the chief of the akim's office and the heads of its structural divisions;

- heads of executive bodies financed from the oblast-level budget, excluding military positions, positions in uniformed services or other special ranks. The heads of divisions of interior services funded from the local budgets are appointed and dismissed in accordance with Kazakh legislation.

Akims are empowered to license business activities in cases specified by legislation and according to legally established procedures. Akims also organize measures to ensure compliance with legislation on universal military service, civil defense, mobilization preparations and mobilization itself. Akims take part in signing contracts for the privatization, lease or sale of enterprises, deposits and other state-owned assets and exercise control over their implementation, together with the authorized state agency.

In oblast-level governments, as well as raions or cities of oblast subordination, the office of the akim provides information, analytical, organizational, legal, material and technical support. The office of the akim is a state institution funded through the local budget and is established, dissolved or reorganized by the akim. If the akim should be dismissed from office, Kazakh legislation regulates the employment of the civil servants within the akim's office as well as terms for appointing a new akim.

Territorial agencies of the central state administration are structural divisions which perform central administration functions within the administrative-territorial unit. Heads of territorial agencies funded from the national budget are appointed directly by the head of the central agency, without coordination with the akim. This measure is intended to increase the responsibility of central government members for regional staff policy.

The akim establishes, dissolves and reorganizes executive bodies funded through local budgets and determines the scope and organization of their activities.

An approximate list of the divisions, directorates and departments in oblasts, Almaty and Astana has been drafted and approved by the national government. Based on this list, akims develop corresponding administration structures. Figure 8A.1 in annex 8.2 provides an example of an oblast administration structure submitted by the akim to the maslikhat for approval.⁹

Oblast executive bodies include the office of the akim, the archives and the departments of public administration, health care, land use, industry, trade and business development, local economy, transport and communications, local property, culture, medical services, education, agriculture, social protection, labor, tourism and sports, finance, economy, interior affairs and the administrative department of the akim.

Territorial divisions of central administration include the department of the Committee for National Security; committees on state property and privatization, on the regulation of natural monopolies and the protection of competition, on land resource management and on taxes; and the departments of migration and demography, customs, protection of environmental resources, information and public relations, treasury, tax police, forestry, justice, environmental protection, emergencies, statistics and agriculture.

In accordance with legislation, the akim may decide whether to pursue disciplinary action for administrative violations by heads of local budgetary institutions or lower-level akims. Penalties may also be imposed on employees of the interior services funded from local budgets in accordance with the legislation.

The oblast level is responsible to the president and government of Kazakhstan for issues within his competence and within the jurisdiction of the oblast-level akimat. Akims may delegate some of their authorities to lower-level akims.

4.2.2 Local Administration at the Raion Level

Raion-level akims, including akims in cities of oblast subordination, head the raion or city akimat, which they constitute from deputy akims, the head of the raion akim's office and heads of local executive bodies. Akimat members may also include heads of territorial divisions of oblast-funded bodies in coordination with the heads of their superior institutions. Heads of territorial agencies of the central administration may also participate in akimat activities and possess a deliberative vote. Raion-level akimats are accountable to their corresponding maslikhat for performance of their functions.

Raion-level akimats are also accountable to the president, government and oblast akim for exercise of the powers conferred on them upon their appointment as well as other responsibilities derived from their subordinated territories. The structure of a raion-level administration should be approved by the oblast akim (figure 8A.2 provides a sample organizational chart of a raion akimat). Raion administration bodies may include the office of the raion akim; a department of the interior, a department of education and directorates for communal economy, agriculture, social policy, finance and economy. Akims in raions or cities of raion subordination develop their administrative structures and submit them for the approval to raion maslikhats.

4.2.3 Local Administration at the Sub-raion Level

The following levels of government—city districts in cities of central subordination, cities of raion subordination, towns, villages and rural counties—do not possess akimats. Instead, the akims of these territorial units are responsible for reviewing the appeals, applications and complaints of local inhabitants; for undertaking measures to protect the rights and freedoms of local citizens; and for ensuring the collection of taxes and other obligatory fees. In addition, akims estimate overhead costs for their offices, including expenditures for maintaining the administrative-territorial unit, and submit these cost estimates for approval to their corresponding maslikhat.

The akim ensures compliance with the Constitution and laws of Kazakhstan by citizens and legal entities; regulates land relationships within his or her competence; organizes construction and repair of housing stock; oversees the operation and maintenance of roads; supports the establishment of peasants' farms and the development of entrepreneurial activities; ensures compliance with legislation on universal military service and civil defense; organizes notary services; registers acts of civil status according to legally established procedures; arranges for the preservation of historical and cultural

heritage; submits proposals to superior bodies on assistance to socially vulnerable population groups; facilitates the development of local social infrastructure; organizes public transportation and regulates traffic; and cooperates with local self-government bodies.

These akims are accountable to superior akims and the maslikhats of raions, cities, cities of republican subordination and the capital city for issues within their competence. They are appointed or elected according to procedures determined by the president of Kazakhstan.

4.3 Local Administration in Cities with Special Status

In 1998, the Kazakh government passed the Law on the Status of the Capital City of Kazakhstan and the Law on the Special Status of Almaty City. These laws established the legal, organizational, political and economic basis for the functioning of the two cities and granted additional powers to their maslikhats and akimats.

Article 3 of the Law on the Status of Capital City outlines the powers of the Astana city akim and maslikhat. The law confers additional powers on the executive bodies which underscore the special legal status of the capital and its representative and executive bodies. These include the power to develop measures for ecological safety and control their implementation. In addition, the local administration is responsible for providing government bodies or diplomatic representative offices with land for their construction needs or with other locally owned buildings, structures or facilities in accordance with legally established procedures.

Until recently, a free economic zone (FEZ) was effective in Astana. The FEZ Administrative Council, headed by a chairman appointed and dismissed by the president, was responsible for administrative issues throughout the territory of the FEZ. However, throughout the lifetime of the FEZ, there were no council chairmen that could function alongside the akims. FEZ were created within city or raion boundaries. The Astana city akim was also chairman of the FEZ Administrative Council, and the Administrative Council itself was a special executive body within the administrative-territorial unit, appointed and dismissed by the president, with very little relevance to the local or oblast akims. Its specific responsibilities included registering economic objects within its territory, opening representative offices outside FEZ territory, forming and allocating FEZ financial funds, attracting domestic and foreign investment and regulating relationships between economic entities. All decisions of the Administrative Council made within its competence were binding for legal and physical entities located in FEZ territory.

The Astana city maslikhat approves the city budget, budget execution reports and social and economic development programs, taking into consideration the particular functions of the capital city as well as the structure of the city administration. These powers are essentially the same as the legally established powers for other maslikhats of this level. Local property forms the economic basis for the implementation of capital city functions.

The Almaty city maslikhat determines fines and procedures for administrative violations committed on the territory of Almaty. In addition, the maslikhat establishes fees and regulations for the use of Almaty city symbols by legal and physical entities in their brand names and trademarks, approves the register of historical and cultural monuments of local importance in coordination with the state organization on the protection of historical and cultural heritage; and approves regulation of the migration process within its territory.

The Almaty city akimat approves the list of local property not assigned to communal legal entities; owns, uses and disposes of the state share of economic entities registered in Almaty, excluding legal entities determined by the government; privatizes local property according to legally established procedures; issues licenses to public catering enterprises, casinos, bookmakers, fuel stations, tourist agencies, local lotteries and organizations that provide disinfecting services. The Almaty city akimat also licenses medical practices, veterinary activities, motor transportation for passengers or cargo and activities which attract a foreign labor force or export the local labor force. In addition, the akimat authorizes institutions of secondary and specialized education to issue diplomas for certain professions in accordance with government established procedures. The above list of functions contains a great number of central government responsibilities that have been delegated to the Almaty city akimat.

4.4 Control, Audit and Supervision of Local Governments

The president exercises presidential control directly or through his administration and appoints akims in oblasts, Almaty and Astana upon nomination by the prime minister. The president has more compelling authority over akims than does the government, as confirmed by his constitutional right to dismiss akims at his discretion (article 87, item 4 of the Constitution).

Logically, akims should be accountable to the government, as the local executive branch is a component in the uniform system of executive power. However, akims are also required to report to the president and fulfill presidential orders. This creates a situation in which dual subordination replaces a clear hierarchy and responsibility to the president prevails.

Even though the president is empowered to exercise control over akims, he has neither the resources nor the time to supervise all akim activities and may not dismiss them without due grounds. State inspectors are assigned to oblasts but are not able to control the performance of all akims in oblasts and rural areas as well. This creates a situation in which akims may avoid responsibility to either president or government. Akims should report to the government, which in turn should report to the president.

Kazakh legislation does not envisage any parliamentary control over local government activities. Upon the proposal of the attorney general, the Senate has the right to terminate the authority of a maslikhat before the expiration of its mandate. The central government controls compliance with legislation within its constitutional powers. The Ministry of Justice and its territorial offices register

local government acts. Central bodies perform sectoral control over subordinate divisions of local executive bodies. In accordance with the vertical hierarchy governing executive bodies, control is exercised from the top down.

Maslikhats are not bound by vertical subordination. Nevertheless, the administrative-territorial structure means that oblast maslikhats can implement their policy through city maslikhats as well as their own subordinate structures. Decisions of a superior maslikhat are binding for lower-level maslikhats, provided that they do not contradict legislation. However, the superior maslikhat may not interfere in the competence of the lower-level body. Even if the lower maslikhat adopts an illegal decision, it may only be cancelled through legally established court procedures, not by the superior maslikhat.

Maslikhat standing commissions do not possess any control functions. The law stipulates their right “to propose that the maslikhat hear reports from local executive bodies at the maslikhat session.” These hearings, however, do not encompass sanctions.

Maslikhats and akimats exercise general control on the local territory. Akims ensure implementation of national policy together with the interests and development needs of oblasts, cities and raions.

The constitutional model of local government in Kazakhstan dictates the preservation of centralized control over representative bodies by akims. Although administrative control is justified in itself, there should be specific forms and methods for its exercise. If the local executive body must simultaneously make decisions on local issues and organize their implementation as well as control the general situation within the territory, overall efficiency will suffer due to the absence of any division of labor.

The Office of the Public Prosecutor oversees the uniform application of laws, presidential decrees and other regulatory or legal acts. It may conduct inspections by request of the president or in response to appeals, complaints or other information about legal violations. Investigations may be initiated due to the direct disclosure of violations or by request of a superior public prosecutor. There is no rule mandating that a copy of all decisions must be sent to the public prosecutor’s office for control.

In order to fulfill its tasks, the Office of the Public Prosecutor undertakes measures to uncover and eliminate any violations of legislation and may appeal against legal acts contradictory to the Constitution or legislation.

It would be an exaggeration to say that local governments are controlled on a systematic basis; rather, control is often simultaneously performed by several institutions.

5. Public Service Provision

5.1 Distribution of Functions

Economic crises over the past five years have forced the scale of public services to decrease significantly. The current distribution of functions between the central and local governments is described in brief in table 8A.5 in annex 8.4 and presented in more detail below.

The Law on the Budget System distributes duties, programs and sub-programs between the national and local budgets, but does not specify the distribution of functions between oblast and raion budgets. Instead, the law outlines general approaches according to which responsibilities are divided between oblast, raion and cities of oblast subordination, taking into account specific local conditions. Since 1 January 1998, non-budgetary funds have been cancelled and their revenues included in the national budget. A social tax replaced the previous compulsory deductions from those funds. In September 1998, the Law on the Budget System was amended to itemize and distribute programs and sub-programs financed from the national and local budgets.

Local programs and sub-programs are financed from the local budgets. These tasks include:

1. Expenditures for the maintenance of local government bodies, whose tasks include
 - maintenance of public order and security;
 - education and health care;
 - social protection and the provision of legally established benefits to certain population groups;
 - housing and local economy, water supply and engineering infrastructure;
 - culture, tourism, sports, maintenance of the local media and leisure facilities;
 - agrarian reform, land reform, support for farmers and pest control;
 - the preservation of local ecology and the rational management of nature;
 - development of small and medium businesses;
 - support for other programs planned in the budget for the coming fiscal year, including loan service expenditures;
 - prevention of natural and technological accidents or emergencies;
 - support of employment;
 - construction, maintenance and repair of local roads;
2. Repayable loans from the local budget, generally through state-owned banks, to implement short-, medium- and long-term national and regional programs;
3. Redemption of local debt and payment of interest on loans.

The national budget finances national programs and sub-programs, which include:

1. National expenditures on the maintenance of national, international and representative bodies as well as other expenditure on general government services and funding of programs and sub-programs;

2. Repayable loans from the national budget, generally through state-owned banks, to implement short-, medium- and long-term national programs;
3. Redemption of state debt.

This distribution of expenditures and tasks corresponds to accepted practice in most countries and is based upon correct principles. The major challenge currently facing local governments is the ever-increasing gap between their expanding social and economic functions and the minimal financial opportunities available for their implementation.

Education

In the sphere of education, the distribution of functions between the center and regions has changed. The share of local governments in the total education budget rose from sixty-six percent in 1990, to seventy-five percent in 1995, to eighty-nine percent in 1999. The central government is responsible for higher education and specialized types of primary and secondary education, such as military schools, schools for gifted children and the continuing training of civil servants. Local governments are responsible for primary, secondary, vocational and specialized secondary education as well as the training of local government personnel. Local budgets allocate approximately eighty percent of their expenditures for this purpose. Kindergartens are primarily maintained at the expense of organizations and through fees paid by parents. Only a small number are supported by raion budgets.

Private kindergartens, schools and educational institutions have already appeared, as has the opportunity to take out loans for university education.

Administrative control over education has been completely transferred to local governments. They are empowered to solve financial issues, organize education and appoint school principals, who then select the rest of the staff. The Ministry of Education and Science authorizes the activities of universities and specialized secondary education institutions, exercises control over these institutions and retains the right to revoke their licenses.

Social Protection

The system of social insurance and its funding has also undergone changes in recent years. In 1998, the Pension Fund, the Social Insurance Fund and the Employment Fund were dissolved and their revenues consolidated in the state budget. Prior to 1997, a uniform pension system existed in Kazakhstan, but has since been reformed in favor of a "personalized pension system," in which individuals accumulate contributions throughout their working life. Currently, the government is responsible for pensions paid under the former system, for special state privileges to certain categories of people and for special state benefits to the veterans of World War II and victims of Chernobyl or Stalinist repression. Social assistance to the needy and unemployed was delegated to local governments and performed from local budgets. According to Government Resolution No. 1036 on the Approval of Temporary Rules of Targeted Social Assistance Provision (22 July 1999), oblast akims determine the amount of social assistance and distribute it in the form of benefits for families with children, for the birth of a child, for burials or for the unemployed. Households receive targeted social assistance if their average per

capita income falls below an established minimum. Government bodies in raions of oblast subordination are responsible for implementing budget programs as employment, unemployment benefits, child benefits and social assistance for burial.

Health Care

The Medical Insurance Fund was established in 1996 and subsequently dissolved and incorporated into the state budget. The government limits its participation to financing national public health programs, such as the centralized purchase of vaccines; preventing and responding to dangerous infections such as AIDS and tuberculosis; collecting the supply of blood; and sanitary and epidemiological monitoring. In addition, the national budget finances the maintenance of special hospitals and institutions of medical research.

Local budgets finance general and specialized local hospitals, TB clinics, diagnostic centers, hospitals and outpatient clinics for veterans of World War II. Local governments are also responsible for preventing and combating dangerous infections at the local level. Local governments should allocate as much funding as possible for primary health care in the rural areas.

State funding for health services is minimal, whether at the national or local level. Patients are expected to bring syringes, medicines and dressing materials to the hospitals themselves. Most services are provided by private medical institutions.

Culture, Sports and Leisure

The national budget funds the maintenance of national museums, theaters, historical and cultural monuments; the organization of cultural events for children at the national level; and the production of national films. Local governments provide subsidies to local organizations to organize cultural events and leisure activities; preserve local historical and cultural values; maintain local museums, zoos, stadiums and entertainment complexes; and organize local sporting events for children.

Economic Services

The government is responsible for improving water resource management, for investment in the water supply and sewerage infrastructure and for the use of inter-state water economic objects. Local governments operate, maintain and provide subsidies for this infrastructure.

Environment and Public Sanitation

From January 2001, local budgets will receive all payments and fines for environment pollution, whereas previously they had received up to fifty percent. These means are allocated for the solution of environmental protection issues at the local level.

The government is responsible for developing and implementing environmental protection programs on a national scale, rehabilitating the environment in areas of natural disaster, protecting natural objects of interregional importance and fulfilling the country's international obligations with respect to environmental protection.

Public sanitation and epidemiological stations are now included in the structure of city and raion governments and are funded from the respective local budgets. Local governments are responsible for the overall condition of cities and raions. In large cities, like Almaty and Astana, they may invest in infrastructure by constructing waste processing plants and similar actions. Condominium associations are responsible for waste collection and disposal as well as street cleaning. Associated costs are paid by inhabitants and private enterprises.

Urban Development

The central government creates programs to develop small cities and underdeveloped rural areas. Local governments formulate programs for regional development and plans for general local construction; erect local objects and social or cultural facilities; issue permits for building local networks or structures; and organize the construction of communication, transport and engineering infrastructure.

General Administration

Licenses are issued by the relevant ministries. Local governments issue licenses to businesses, regulate land relationships and issue permits for building local networks or structures.

City and raion executive bodies oversee the maintenance of public order and security. Various bodies of the department of the interior have been transferred to their authority and are now financed from city and raion budgets.

Local budgets fund protection against fires, which falls under the jurisdiction of city and raion governments. Local executive bodies manage the enlistment campaign for fire brigades, also financed from city and raion budgets.

Amendments to the Law on the Budget System in 1998 and 1999 specified issues of execution and control over the many programs divided between different levels of public administration and determined their sources of funding. As a result, local governments were vested with the responsibility for financing programs of direct local importance.

5.2 Trends in Public Service Provision

Traditional local administration functions include environmental protection, public sanitation, fire protection, maintenance of public order, local libraries, water supply and sewerage.

Some alternative forms of service delivery have appeared, such as external contractors, concessions and private companies. As mentioned above, educational services are offered by the private sector as well as by central and local governments. Many private schools, institutions and universities have emerged in recent years. In addition, private medical practices provide a broad range of health care services. The private sector is also involved in organizing cultural events, leisure and sports activities. In cities, private companies actively work with local government companies in the sphere of public

transportation. When tenders for public purchases are announced, private companies participate as well as state-owned companies.

Central and local governments are jointly responsible for social security, economic development, law enforcement and regional planning.

In recent years, many state companies or joint stock companies have been established by ministries, institutions and local executive bodies. These enterprises possess control, administrative and licensing functions and provide paid services that had previously been performed by the state. A recent inquiry at the Attorney General's Office found that over 1,700 such enterprises now exist in Kazakhstan.¹⁰ This form of service delivery is neither competitive nor funded from the budget; instead, these specially established enterprises have a guaranteed monopoly in licensing, certification, audit and other control functions. To reduce the potential for corruption, it is planned to remove state regulation over issues that can be solved on a competitive basis and instead allow the market to regulate these services.

6. Local Finance, Local Property

The current Law on the Budget System, adopted in 1999, regulates all financial relations in the process of forming budgets at different levels. According to article 3 of the law, national and local budgets are independent of one another and together comprise the consolidated national budget.

6.1 Local Budget Process

Article 18 of the Law on the Budget System establishes procedures for developing, discussing and approving local budgets. According to amendments made on 15 January 2001, oblast-level akims establish budget commissions and determine their tasks and working schedule in order to draft the local budget. Local executive bodies create a list of officials in charge of local budget programs in accordance with the local administration structure approved by the maslikhat.

Budget commissions at the oblast level review and draft proposals for coordination with the Ministry of Finance on the following indices:

- accounts receivable in the oblast-level budget;
- maximum permissible debt for the oblast-level administration by the end of fiscal year;
- expenditures for repayment of debt and debt servicing.

These budget commissions forecast basic indices for the local budget and submit them to the akim. These must consider the following parameters: indicative national plans for social and economic development, forecast indices from the Ministry of Finance, subventions from the national budget

to local budgets, budget deductions allocated to the national budget, regional development programs and the redistribution of revenues between oblast and raion or city budgets.

Local administrations of oblasts, Astana and Almaty then draft their local budgets, taking into account the proposals of the budget commission, and submit them to the Ministry of Finance by September 1. They must also inform raion and city akims of predicted raion and city budget revenues. Raion and city akims create their own budget commissions.

After the Law on the Annual Budget takes effect, oblast-level akims have two weeks to adjust their previously drafted budget forecasts and submit them to their corresponding maslikhats for review. According to the Law on the Budget System, local budgets are passed by maslikhat decision no later than two weeks after their submission.

The decision passed by the maslikhat must contain the following items: revenues, expenditures, crediting, the budget deficit and sources for its financing, norms for the distribution of revenues between the oblast and raion or city budgets, the size of the reserve fund, a list of local budget programs that are not subject to sequestration and other items. The budget itself is presented as an annex to the maslikhat decision, which is drafted in strict accordance with the budget structure established by the Law on the Budget System and uniform budget classifications. Expenditures and crediting of local budgets are approved at the program level.

The most recent changes to the Law on the Budget System, effective from January 2001, are intended to strengthen the role of maslikhats in the process of budget clarification. Previously, akims often made changes to the approved local budget, which were formally approved by maslikhats only after the fact. The revised law now states that “local executive bodies cannot finance additional budget programs envisaged in the process of local budget clarification until adoption of the relevant decision by the maslikhat” (article 18.1, item 3 on “Procedures to Clarify Local Budgets”).

The revenue base of local budgets is formed from the top down, and the decision making process follows a similar pattern. Local governments have little influence on budget revenues and expenditures, which are in fact determined by the Ministry of Finance. The ministry calculates control figures, based on which it establishes the amount of subventions and deductions for the regions. Local budgets are approved only after the approval of the national budget, when the amount of subventions and deductions is made known.

6.2 Revenues

According to the Law on Taxes and Other Obligatory Payments to the Budget, adopted in 1995, taxes are divided into national and local taxes. The law established the following five national taxes:

- income tax on legal and physical entities;
- VAT;

- excise taxes;
- fees for registering the issue of securities;
- special fees and taxes on the use of mineral resources.

In addition, the law established the following six local taxes:

- land tax;
- property tax on legal and physical entities;
- tax on means of transport;
- fees for registering physical entities engaged in entrepreneurial activity ;
- fees for engaging in certain types of business;
- fees from auction sales.

National taxes and fees were regulatory sources of the Kazakh national budget. The deducted amounts were entered in the revenues of national and local budgets according to procedures established by the Law on the Annual Budget. Local taxes and duties were fixed revenue sources for local budgets, while the distribution of taxes between budgets of different levels was reviewed annually.

This system was effective from 1995 to 1999. In 1999, this procedure was changed and the previous division of taxes into national and local taxes, stipulated by the Law on Taxes and Other Obligatory Payments to the Budget, was made invalid. As of 1 April 1999, the Law on the Budget System lists the allocation of taxes and duties to the central and local budgets, rather than the Law on the Annual Budget.

According to Article 11 of the Law on the Budget System, local budget revenues include the following:

1. Taxes, duties and other obligatory payments to the local budget:
 - fifty percent of income tax on legal entities, excluding income tax on legal entities registered as taxpayers in Astana city;
 - fifty percent of VAT on manufactured goods or services provided by entities registered as taxpayers in Astana city;
 - fifty percent of the excise tax on alcoholic beverages;
 - excise tax on gambling;
 - excise tax on retail sales of gasoline and diesel fuel;
 - personal income tax;
 - social tax;
 - property tax on legal and physical entities;
 - land tax;
 - tax on means of transportation;
 - allocations to local budgets from state budget revenues from inter-state contracts concluded by the government of Kazakhstan;
 - fee for the registration of physical entities engaged in entrepreneurial activity;
 - fee for the permit to engage in certain types of business;

- fee for the state registration of legal entities;
 - fees from auction sales;
 - fee for the right to sell goods in markets;
 - fee paid by legal or physical entities for using symbols of Almaty city in their brand names, signs or trademarks;
 - water fee;
 - fee for use of the forests.
2. Non-tax earnings:
- dividends from shares owned by the local government;
 - share in profits from local government owned companies;
 - earnings from state lotteries held by maslikhat decision;
 - interest on loans from the local budget;
 - proceeds from the sale of property owned by local budgetary institutions;
 - income from services provided by local budgetary institutions;
 - income from the lease of local property;
 - proceeds from public purchases organized by local budgetary institutions;
 - income from the lease of land;
 - fine for pollution;
 - fee for registering real estate rights and transactions;
 - state duty;
 - administrative fines and sanctions imposed by the local government;
3. Revenues from capital transactions:
- proceeds from the privatization of local property;
 - proceeds from the sale of land;
 - income from the sale of grain purchased for internal consumption;
 - transfers from higher budgets;
 - repayment of the principal on loans extended from the local budget.

The amendments of 1999 introduced a key change by establishing uniform norms for all oblasts that specified permanent revenues from regulated taxes, replacing the previous system of establishing individual norms for each regulated tax. This measure was intended to promote the predictability of local budget revenues. However, its effect was to increase the inequality in tax collections among oblasts, due to their varying tax potential. For instance, the average share of taxes in local budget revenues nationwide was seventy-eight percent. However, taxes accounted for only forty-three percent of local budget revenues in South Kazakhstan oblast, in contrast to Atyrau oblast, where they accounted for ninety-eight percent of local budget revenues.

In 2000, the most important source for local budgets was the social tax, which comprised twenty-nine percent of local budget revenues, followed by the income tax on legal entities (twenty-two percent) and personal income tax (16.5 percent).

As shown in table 8.2, local budget revenues have risen since 1999. This increase is due to changes in the mechanisms of inter-budgetary regulation: as a result, most taxes were first entered in local budgets and only afterwards redistributed through subventions and deductions.

Table 8.2
Share of State Subventions in Local Budget Revenues, 1998–2000

	1998		1999		2000*	
	[KZT million]	[% of the State Budget]	[KZT million]	[% of the State Budget]	[KZT million]	[% of the State Budget]
Local budgets excluding state subsidies	111,288	29.2	185,588	46.5	271,734	45.4
Local budgets including state subsidies	151,624	39.8	217,575	54.6	313,648	52.4
State budget subsidies to local budgets	40,336	10.6	31,987	8.1	41,914	7.0

* not taking the calculating period into account

6.3 Local Taxes and Fees

Taxes that were previously termed local taxes in the Law on Taxes and Other Obligatory Payments to the Budget—property tax on legal and physical entities, land tax and transport tax—are no longer called local taxes, even though they are entered in local budgets as before. Their share in local budget revenues is around fourteen percent. Local fees are insignificant, accounting for some 1.5 percent of local budget revenues.

Local budgets in Kazakhstan may not independently establish tax rates or determine the tax base, with the exception of the land tax. Depending on the location, water supply and production conditions of a given plot of land, local representative bodies can establish tax rates within a range of twenty percent (article 109 of the Law on Taxes and Other Payments to the Budget). Also, as mentioned above, the Almaty city maslikhat has the special right to establish procedures and fees for the use of Almaty symbols by legal and physical entities in their company names, service signs and trademarks. Otherwise, local governments possess almost no control over taxation on their territories.

6.4 Expenditures

Social expenditures dominate the structure of local budget expenditures, but oblasts have varying capabilities in this regard.

In 1997 and 1998, most oblasts allocated roughly eighty percent of all expenditures to education, health care, social security and culture. Education consumed approximately forty percent of all local budget expenditures. In 1997, the average local budget expenditures on health care amounted to 20.1 percent, falling to 11.8 percent in 1998. Expenditures varied greatly among oblasts. In 1998, average social security expenditures in the country rose by 15.8 percent compared to 1997. Culture and art received the least funding, only slightly exceeding three percent.

With the introduction of modified inter-budgetary regulations in 1999, the structure of local budget expenditures was altered. This primarily affected those oblasts which contributed most to the national budget. The new system of tax distribution increased their revenues, but their entire budget surplus was withdrawn to support more vulnerable oblasts. This led to the decrease of expenditures on social needs, although absolute figures did not change significantly.

On average, local budgets spent almost seventy percent of total expenditures on social needs in 1999 and almost sixty percent in 2000. In the same period, they allocated approximately thirty percent to education, eighteen percent to health care, nine percent to social security and insurance and four percent to culture. The small increase of spending on culture is a special case, since 2000 was officially declared the year to support culture.

In 1997, the share of local budget expenditures in the state budget structure was almost thirty percent of total expenditures. Due to the new mechanisms of inter-budgetary regulation, local budget expenditures grew to 34.4 percent of state expenditures in 1998, 45.9 percent in 1999 and 50.8 percent in 2000 (see table 8.5).

This is due to the replenishment of the state budget, which allowed them to repay previously accumulated debts, primarily for social payments. By 1 July 1999, local budget debt amounted to 33.7 billion KZT. This was partially reduced by the end of 1999, a trend more regularly continued in 2000.

According to a government established schedule to liquidate budget accounts payable for 2000 to 2003, the national debt was reduced by 7.5 billion KZT in 2000. Local budget debts were reduced even more significantly, to 2.4 billion KZT. The remaining debt is due to be repaid in the coming three years. These payments are planned in the 2001 budget and will be incorporated in the following annual budgets.

Table 8.3
Structure of Local Budget Expenditures by Region, 1997–1998 [percent]

Oblasts	Local Budget Expenditures				1997				1998			
	Local Budget Expenditures	Service Expenditures	Of which:			Local Budget Expenditures	Service Expenditures	Of which:				
			Educa-tion	Health Care	Social Security and In-surance			Culture and Art	Educa-tion	Health Care	Social Security and In-surance	Culture and Art
Akmola	100	53.2	24.7	16.6	8.8	3.1	100	86.3	37.4	15.4	29.2	4.3
Aktiubinsk	100	74.1	49.4	11.9	13.7	3.6	100	83.0	46.0	10.5	22.2	4.3
Almaty	100	87.1	48.6	22.6	13.1	2.8	100	88.8	37.7	18.6	30.2	2.3
Ayrau	100	70.6	44.0	13.3	9.6	3.7	100	81.3	40.2	9.0	28.2	3.9
East Kazakhstan	100	79.4	40.0	22.5	13.7	3.2	100	82.1	36.4	10.9	30.6	4.2
Zhambylskaya	100	84.3	49.6	19.9	12.0	2.8	100	88.3	35.4	13.6	37.4	1.9
West Kazakhstan	100	81.9	43.1	23.2	11.9	3.7	100	84.7	37.7	10.4	32.3	4.3
Karaganda	100	76.1	40.4	19.8	11.8	4.1	100	86.0	36.2	12.8	27.1	4.5
Kzylorda	100	83.5	31.9	22.0	26.9	2.7	100	77.0	26.1	8.2	40.0	2.7
Kustanay	100	75.0	44.6	20.6	7.0	2.8	100	75.8	39.7	10.5	21.9	3.7
Mangistau	100	88.0	44.4	21.7	10.6	4.1	100	84.3	40.1	13.9	26.3	4.0
Pavlodar	100	81.0	45.8	18.7	12.6	3.9	100	80.1	41.9	7.7	25.9	4.6
North Kazakhstan	100	82.0	43.5	21.7	14.3	2.5	100	85.1	40.3	14.0	28.3	2.5
South Kazakhstan	100	78.0	45.9	17.1	12.4	2.6	100	82.5	38.4	9.9	31.1	3.1
Almaty City	100	82.2	40.2	24.7	15.3	2.0	100	78.4	29.1	16.0	30.9	2.4
Astana City	0		0	0	0	0	100	27.2	7.9	3.9	11.8	3.6
Total	100	77.7	41.5	20.1	13.0	3.1	100	79.0	35.0	11.8	28.8	3.4

Table 8.4
Structure of Local Budget Expenditures by Region, 1999–2000 [percent]

Oblasts	Local Budget Expenditures	1999				Local Budget Expenditures	2000					
		Service Expenditures	Of which:				Service Expenditures	Of which:				
			Educa-tion	Health Care	Social Security and In-surance			Culture and Art	Educa-tion	Health Care	Social Security and In-surance	Culture and Art
Akmola	100	78.6	39.8	24.1	10.5	4.2	100	75.7	35.5	24.8	10.1	5.3
Aktiubinsk	100	70.5	40.5	14.9	11.7	3.4	100	66.3	32.0	14.0	15.4	4.9
Almaty	100	83.8	53.1	19.1	8.6	2.5	100	77.4	51.0	16.2	6.1	4.1
Atyrau	100	37.7	18.1	9.8	6.8	3.0	100	28.2	10.8	11.2	2.5	3.7
East Kazakhstan	100	62.0	29.8	19.4	9.7	3.1	100	48.4	22.6	15.9	6.6	3.3
Zhambylskaya	100	86.3	46.4	24.8	12.6	2.5	100	80.4	41.8	23.5	11.7	3.4
West Kazakhstan	100	86.2	43.8	26.0	12.1	4.3	100	77.1	38.8	21.4	11.8	5.1
Karaganda	100	62.9	31.3	18.0	10.0	3.6	100	53.2	23.8	16.4	8.5	4.5
Kyzylorda	100	84.3	36.3	27.8	16.7	4.1	100	69.5	28.3	26.8	9.6	4.8
Kustanay	100	77.8	41.3	23.1	9.2	4.2	100	65.3	31.8	20.5	7.8	5.2
Mangistau	100	44.2	20.7	13.5	7.9	2.1	100	38.9	16.7	12.9	5.0	4.3
Pavlodar	100	56.3	30.1	15.3	7.6	3.4	100	64.0	31.3	17.7	10.1	4.9
North Kazakhstan	100	80.4	40.6	25.9	11.0	2.9	100	74.4	39.1	23.0	8.7	3.6
South Kazakhstan	100	84.4	48.5	21.8	10.1	4.0	100	81.1	40.1	23.8	8.9	9.0
Almaty City	100	34.0	14.2	12.7	5.5	1.6	100	27.2	10.7	10.0	3.9	2.6
Astana City	100	42.0	18.0	5.5	3.1	15.4	100	20.6	7.4	6.6	2.8	3.8
Total	100	66.9	34.5	18.9	9.5	4.0	100	59.2	28.8	17.8	8.1	4.5

Table 8.5
Relative Size of Central and Local Expenditures

	1997		1998		1999		2000*	
	[KZT million]	[%]	[KZT million]	[%]	[KZT million]	[%]	[KZT million]	[%]
State budget expenditures	471,335	100	453,298	100	468,423	100	595,792	100
Local budget expenditures	143,178	30.4	156,150	34.4	214,974	45.9	302,421	50.8

* preliminary data

Table 8.6
Central and Local Budget Expenditures [percent]

	1994	1995	1996	1997	1998	1999	2000
Central government expenditures as a percentage of GDP	10.4	14.8	10.0	20.9*	19.5*	17.4	15.0
Central government expenditures as a percentage of the consolidated budget	56.0	56.6	60.8	74.2	74.5	70.1	65.5
Regional government expenditures as a percentage of the consolidated budget	44.0	43.4	39.2	30.4	34.4	45.9	50.8

* including extra-budgetary funds

Table 8.7
Financial Status of Local Governments [percent]

	1994	1999
Share of central government expenditures in GDP	10.4	17.4
Share of central government expenditures in the consolidated budget	56	70.1
Share of regional government expenditures in the consolidated budget	44	45.9
Share of raion governments in the consolidated budget*	n/a	n/a
Share of local government expenditures in the consolidated budget*	n/a	n/a

* It is not possible to present information in these rows since the Ministry of Finance provides data only for national and oblast budgets. Although oblast budgets distribute funds to raion budgets, this data is not provided. Towns and villages do not have own budgets, only cost estimates entered in raion budgets.

6.5 Mechanisms for Inter-budgetary Regulation

As noted above, 1999 introduced a change in the mechanisms for inter-governmental budget regulation. Budget surpluses are deducted from oblasts which perform well and allocated in the form of subventions to oblasts which cannot cover their needs through legally assigned revenues.

The methodology to determine the amount of budget deductions in 1999–2001 was approved by Resolution No. 529 of the government of Kazakhstan (4 May 1999). According to this resolution, the norm of expenditures, established through standard methodology for all oblasts, should be subtracted from estimated local income, giving the sum of the deduction. Unfortunately, since revenues tend to be overestimated and expenditures underestimated, the figure for deductions is often overstated.

Both donor and recipient oblasts have criticized the existing system of deductions from local budgets and subventions from the national budget. This methodology neither draws on economically sound norms nor stimulates efficient local spending. The sheer size of local transfers—over thirty percent of total revenues—curtails the incentive for local governments to enlarge budget revenues or increase collection of taxes or other payments. In fact, the size of subventions depends on the accrual of budget deductions. Budget deductions themselves are approved in absolute figures and are in practice strict directive plans.

Table 8.8 shows that donor and recipient oblasts are the same every year, with exception of East Kazakhstan and West Kazakhstan. Donor oblasts include the oblasts of Aktiubinsk, Atyrau, East Kazakhstan, Karaganda, Kustanay, Mangistau, Pavlodar, North Kazakhstan and the city of Almaty. Recipient oblasts include Akmola, Almaty, Zhambylskaya, West Kazakhstan, Kyzylorda, South Kazakhstan and the city of Astana (not listed in the table since the Free Economic Zone was in effect until 1 January 2001).

By year-end, many oblasts accumulate sizeable accounts payable on salaries, child benefits and local payments, due to overstated forecast revenues and understated expenditures.

Kazakhstan has no regional experience in using investment funds. The creation of FEZ in 1996 was one attempt to develop regions. Although four such zones successfully operated, they were later dissolved since FEZ tax privileges effectively equaled the usual subventions.

Local governments must try to implement their resolutions while lacking sufficient funds, since all financial and tax issues are decided by the central government.

Table 8.8
Subventions and Deductions by Region (deductions in parentheses)

Oblast	Local Budget Revenues in 1999	Subventions and Deductions in 1999	Subventions and Deductions in 2000	Subventions and Deductions in 2001
Akmola	3,380,900	3,266,134	3,129,123	2,992,112
Aktiubinsk	7,823,043	(1,645,768)	(1,244,872)	(843,975)
Almaty	6,827,196	6,047,347	6,774,942	7,502,537
Atyrau	11,915,498	(6,765,916)	(6,759,055)	(6,752,194)
East Kazakhstan	16,892,364	282,452	(511,135)	(1,304,723)
Zhambylskaya	5,375,442	2,346,787	3,007,704	3,668,620
West Kazakhstan	6,357,050	344,089	121,168	(101,752)
Karaganda	18,891,654	(4,384,315)	(4,424,305)	(4,464,294)
Kzylorda	5,320,323	3,252,699	2,374,553	1,496,408
Kustanay	10,682,341	(362,519)	(324,675)	(286,832)
Mangistau	8,655,787	(4,844,265)	(4,887,851)	(4,931,437)
Pavlodar	12,737,289	(3,740,322)	(4,049,525)	(4,931,437)
North Kazakhstan	6,900,300	3,815,267	3,729,353	3,643,439
South Kazakhstan	8,104,256	6,117,011	7,591,439	9,065,866
Almaty City	29,147,371	(16,161,844)	(16,960,027)	(17,758,211)
Total	159,010,814	(12,433,163)	(12,433,163)	(12,433,163)

6.6 Local Government Borrowing Practices

Local governments in Kazakhstan have the right to borrow. In order to reduce risk, legislation stipulates that borrowed funds may only be used to finance regional investment programs or the budget deficit. To borrow funds, local governments may issue state securities or conclude borrowing agreements. Quotas for annual local borrowing and total local debt are fixed by the Law on the Annual Budget. The Law on the Budget System and the Law on State and State-guaranteed Borrowing and Debt, adopted in 1999, determine the main regulations, accounting rules and limits governing local government borrowing. For instance, annual borrowing should not exceed ten percent, and total debt should not exceed twenty-five percent of local budget revenues in a given fiscal year. Debt-servicing costs for the local executive body should not exceed ten percent of annual local

budget revenues. The Ministry of Finance calculates the borrowing quota for local administrations and recommends a permissible amount of debt. According to the laws regulating the borrowing process, the state government does not back these loans or otherwise guarantee repayment of local government debts.

The market for municipal securities in Kazakhstan is a fledgling one. Beginning in 1999, Mangistau and Atyrau oblasts, Almaty and Astana cities issued bonds to implement several regional investment projects. Currently there is no legislative or regulatory base to govern the issue and circulation of municipal securities. Thus, the government adopted special resolutions on a case by case basis, such as the resolutions on Temporary Procedures for Issuing Bonds by the Local Executive Body of Almaty, Temporary Rules for Issuing, Placing, Circulating and Repaying Municipal Bonds of the Executive Body of Astana City and so forth. Local bonds are used as a tool to finance capital expenditures in the oblast budget. Transparency of the budget, its revenues and expenditures is a key precondition for attracting investment loans.

6.7 Local Budget Execution

Local executive bodies oversee budget implementation in their respective administrative-territorial units. They must submit an annual report on local budget execution to maslikhats no later than 1 July of the following year, together with an explanatory note and annexes. The annual report on local budget implementation should be submitted according to the approved local budget divisions. Territorial agencies of the Treasury Department perform servicing of local budgets.

Raion and city executive bodies submit monthly reports on budget execution to oblast executive bodies by the first of the month. Oblast-level administrations in turn submit monthly reports to the Ministry of Finance, following the same procedures. Local executive bodies also publish quarterly reports on local budget execution in the media. Neither budget assessment nor monitoring of local budget execution is performed.

Although maslikhat audit commissions exercise control over local budget execution, their members often lack the required skills to carry out high-quality control.

6.8 Local Property

The Government Resolution on State Property Restructuring (1996) created the legal basis for establishing local government property. In April 1999, the division of state property into national and local government property began. The government approved the list of state shares in companies of national or local government ownership. The national government retained state shares in national companies, large objects to be privatized and some other important objects for economic development. Social institutions such as schools and kindergartens were transferred to local ownership, as was all

infrastructure of regional importance, such as energy, gas and heat supply. As a result, over eighty percent of all state enterprises became local government property. Data on local enterprises transferred to local executive bodies has not been published in statistical reference books.

Local administrations in Almaty and Astana, oblasts, raions and cities of oblast subordination have established departments and directorates for management of local property. As representatives of the local administration, akims hold the state share in property and authorize departments as their representatives in owning, using and disposing of these assets. By order of the akim, these departments may transfer the state share in holdings into trust management for reasons of profit.

7. Relationship between the State Administration and Local Governments

Local executive bodies are an integral part of the uniform system of public administration in Kazakhstan. This system follows a strict vertical hierarchy in which lower akims are subordinate to the higher ones and oblast-level akims report directly to the president and the government.

The Constitution differentiates between the functions and powers of the central and local governments in general terms, while further legislation specifically delineates powers of the central government, central agencies and local executive bodies. Central executive bodies, such as ministries and state committees, are based on sectoral and functional principles; some of them have divisions within local administrations. The distribution of authorities between central and local governments is a rather tangled issue in Kazakhstan. Suffice it to say that the draft Law on Local Public Administration was under debate for six years, a period of time that saw three changes in government. When finally adopted, it outlined the legal differentiation between the central executive body, central government agencies and local executive bodies.

The law distinguishes between categories such as “executive body funded from the local budget,” bodies “authorized to perform certain functions of local public administration” and “territorial divisions of the central executive body.” The latter is the structural division of a central executive body, performs functions of the central executive body in the local territory and is funded from the national budget.

Oblast-level akims may call to account subordinate akims or heads of local budgetary institutions in accordance with the legislation. Courses of disciplinary action against employees of the bodies of the interior funded from the local budget are performed in accordance with the Law on the Bodies of the Interior.

Oblast-level akims are entitled to report to heads of central executive bodies on their territorial division’s compliance with legislation, acts of the president or central government and acts of the oblast akim

or akimat. If these defects are not corrected, then the akim may submit this information to the president and the government of Kazakhstan.

Raion-level akims may report to the oblast akim on the performance of territorial divisions of central executive bodies or local budgetary institutions with regard to their compliance with the Constitution, legislation and acts of the president or government of Kazakhstan.

Oblast-level akims may delegate some authorities to subordinate raion or city akims, who may in turn delegate authorities to lower-level akims. Current legislation specifies the relationships between the central and oblast governments in detail, but does not regulate the relationships between oblast and raion governments or clearly differentiate between their functions.

Local representative bodies are not incorporated in a vertical system of representative bodies linked to Parliament. Nor are maslikhats strongly linked to one another, although decisions of higher-level maslikhats are binding for lower-level ones.

8. Status of Civil Servants

The passage of the Law on Civil Service in January 2000 launched a new stage in civil service reform. By dividing civil servants into political and administrative employees, this law tackled a thorny problem in civil service, that is, the custom of replacing a staff of *apparatchiks* every time a new chief executive took office.

Political civil servants include ministers and their deputies at the central government level; akims and their deputies at the oblast level; and akims in cities, raions, villages and counties. The president determines grounds for dismissing political civil servants as well as the relevant procedures.

All other positions in the executive branch are considered administrative. These employees, who comprise ninety-six to ninety-seven percent of all civil servants, are now protected by law from unjustified dismissals resulting from a change in government. The law also guarantees employment to administrative civil servants if a government body is reorganized or liquidated. In addition, it provides a thorough explanation of grounds and procedures for disciplinary action, including the dismissal of administrative employees.

The current model of civil service divides government posts into categories in order to make the classifications conform to the acting governing structure. According to the list, administrative employees are grouped in the categories A, B, C, D, and E, where A represents the president's staff, B represents employees in Parliament, the judiciary branch, the prosecutor's office and the government, C represents the staff of ministries, departments and other governmental agencies, D represents the staff in local bodies of the judiciary branch, prosecutor's office and government and E represents the staff of local

executive bodies.¹¹ The registry of civil posts was introduced to unify and reduce the tiers of administration.

The president appoints heads of the central executive bodies and oblast-level akims and approves their deputies upon nomination by the prime minister. Higher-level akims appoint deputy akims at the oblast-level and akims in cities, raions and city districts in coordination with the president and prime minister or with their authorized representatives. Deputy akims of oblasts, akims of cities and raions may be dismissed only after coordination with the chief of staff of the president and the government. Administrative civil servants at the local level belong to categories D and E.

Table 8.9
Status of Civil Servants

Name of the Law on Civil or Municipal Service	Municipal Employees	Civil Servants
Law on Civil Service as of 1999	—	*

In order to enter and be promoted in administrative service, the prospective civil servant must go through a competitive process designed to allow citizens equal access to civil service. The Civil Service Agency or the government body requiring personnel announces an open or closed tender in the official national mass media in both Kazakh and Russian. All citizens of the country may participate in the open tender, but only administrative employees may participate in the closed tender.

The Civil Service Agency implements a uniform state policy on civil service. The agency develops and realizes state programs to increase efficiency, formulates and approves standard requirements for different categories of employees, monitors the status of state personnel and creates proposals to improve the system of remuneration. In addition, the agency coordinates the training and skill development of civil servants by various state bodies, controls their compliance with legislation on civil service, determines procedures for hiring personnel on a competitive basis and controls the hiring process. The agency reviews complaints from civil servants on the actions and decisions of state bodies or officials and may turn to court if the laws on civil service are violated.

The law establishes mechanisms to control the professional quality of government employees through assessments conducted every three years. The assessment commission pronounces the employee fit for service or recommends his or her dismissal. Either result is announced at all government bodies. The commission may also recommend further training to increase the employee's professional skills. The Methodological Recommendations of the Civil Service Agency stipulates that civil servants must increase their skills once every three years. The government concept for the training of civil servants, approved by government resolution on 13 November 2000, suggests that funds be allocated from the central and local budgets for this purpose.

Training of qualified specialists on public administration is performed by the Civil Service Academy, whose students make up the personnel reserve of the presidential administration and national government. This institution was established by presidential resolution in 1994 as the Higher National School of Public Administration for training top administrative officials.¹² Currently, there are ten regional institutions operating in oblast capitals to train and re-train mid-level government officials.

9. Legal Guarantees for Local Autonomy

Legislation on local state administration is based on the Constitution and consists of the Law on Local Public Administration and other legal acts (article 2 of the Law on Local Public Administration). Article 85 of the Constitution determines that local state administration is performed by local representative and executive bodies, which are jointly responsible for the state of affairs in the local territory.

Maslikhat competencies are established by the Constitution (article 86, item 4), while their rights and duties are specified by law. Maslikhats have the right to make independent decisions on issues within their competence. Thus, maslikhats of any level can make decisions that do not contradict applicable legislation without any coordination with or further approval from higher institutions of representative or executive power. Maslikhats may independently determine the methods of preparation, adoption and implementation of their acts. Another guarantee of maslikhat autonomy is their right to determine the goals, objectives and content of their decisions on an independent basis. No institutions have the right to instruct a maslikhat on any issues or on the content of pending decisions. According to article 88, item 3 of the Constitution, maslikhat decisions that contradict the Constitution or legislation of Kazakhstan can be voided only by court.

One guarantee for the autonomy of local executive bodies is a provision in the Law on the Budget System (article 18, item 5) which states that “interference of the government, central executive bodies or local executive bodies in the process of drafting and implementing oblast or raion level budgets is not allowed except for cases envisaged by this law.”

According to the Constitution (article 87, item 5), a maslikhat’s authority may only be prematurely terminated by the Senate for reasons specified by law and according to established procedures or by a maslikhat resolution to dissolve itself. Article 23 of the Law on Local Public Administration establishes the following grounds for which the Senate can prematurely terminate the maslikhat’s authority upon the proposal of the attorney general:

- if the maslikhat violates the Constitution two or more times by adopting decisions that were recognized as unlawful by the court;
- if a newly elected maslikhat does not determine its structure or form necessary bodies within thirty days of its opening session;
- if the respective administrative-territorial unit has been reorganized or dissolved;

- if a maslikhat passes a decision to dissolve itself through secret ballot by a majority of two-thirds of all members;
- in case of insurmountable disagreement with the akimat, expressed through repeated failure to approve the local budget or economic and social programs for territorial development;
- in case of insurmountable disagreement with the akim, expressed through repeated failure to approve the structure of local administration.

In the article immediately following, the law stipulates that a maslikhat may pass a vote of no confidence in the akim if the maslikhat twice fails to approve reports submitted by the akim on the implementation of local budgets, plans and social or economic programs for territorial development. The law thus establishes the right of maslikhats to pass a vote of no confidence as a right that is impossible to exercise. The very order of the two articles serves to quell any rebellious tendencies by maslikhats.

Legal guarantees for local self-governments are also set forth in the Constitution (article 89), but no institutions of local self-government have yet been formed.

10. Next Steps in the Transition Process

Kazakhstan currently faces the dual challenge of overcoming the social crisis caused by reforms and leading the republic on a path to sustainable development. To do so, it is necessary to achieve sustainable, long-term economic growth and social and political stability as well as preserve the ecological balance. It is also necessary to consolidate society and reach a reasonable compromise between vastly different ideas about social development. The strong centralization of power inherited from the Soviet Union still prevails. Local representative bodies have played only a token role, while akims appointed from the top retain the bulk of power.

In light of these problems, measures must be taken to bring administrative bodies closer to the people. Redistribution of power from the center to the regions, or decentralization of public administration, is a key issue. A recent survey asked officials in the presidential administration and prime minister's office the question "how do you understand decentralization of power?" Of respondents, 78.6 percent answered independent budget planning by local governments, 73.3 percent mentioned the election of akims; and seventy percent said increasing the importance of the maslikhat.

It is now apparent that local governments must have true independence in the solution of local issues under market conditions. In addition, they should be accountable to local inhabitants; since akims of all levels have been appointed from the top, they have only been accountable to the officials who appointed them.

Foreign models of local self-government suggest that local authorities should be accountable to local voters through democratic procedures. The main argument in favor of developing local self-governance

is that a strong system of local self-government enables greater responsiveness to citizens' needs, which vary widely from region to region.

Reforming public administration and creating the legal basis for decentralization is still in process, as reformers search for the most effective mechanisms.

The progress of decentralization remains somewhat weak and unstable due to low public support; these concepts were introduced from outside by international organizations, rather than originating from within society. Kazakhstan does not yet have the kind of civil society that perceives the distribution of power between the center and regions as an opportunity to limit arbitrariness by the state, protect rights and freedoms and create broader participation in society. The only sign that these ideas are gaining support are the increasingly visible efforts of certain regional elites.

Amendments to the Constitution and the Law on Local Public Administration open the possibility to elect as well as appoint akims of raions, cities of oblast subordination, towns and villages—an important first step towards the election of akims. It is also one that leaves room for interpretation, since the law does not specify whether local inhabitants or local representative bodies are to elect the akims. Obviously, elections will not be held universally, but will first be introduced in regions and settlements with relatively stable social, economic and political conditions. The next steps are likely to involve the passage of laws to specify mechanisms for electing akims. The first such elections have been scheduled for the fall of 2001.

It is more difficult to predict when the governing powers will be ready to create a system of modern self-government in Kazakhstan. Although the Law on Local Self-government has not yet been adopted, a draft has been published in the media for general discussion. The draft law envisages that local self-government will be organized at sub-raion levels, in villages, rural counties and cities of raion subordination as well as within quarters and micro-districts in cities of oblast and national subordination. Local self-governments will be elected. The main body is the *kenes*, to be selected by the local inhabitants in settlements with over one thousand people. If the settlement has a population of under one thousand, then *kenes* functions are to be performed by a citizen assembly. According to the authors of the draft law, the executive body of local self-government is the *zhamiyat*, which will be headed by a *zhetekshi* elected by inhabitants. The main local community document will be a statute developed by an initiative group and adopted by the vote of the inhabitants.

The creation of local self-government requires a clear delineation of powers. Although the draft law states that local self-governments will “solve issues of local importance independently and at their discretion,” it does not explain what is meant by “issues of local importance.” Nor does the draft Law on Local Public Administration differentiate between the authorities of the local self-government and local government, making it rather difficult to estimate how these relationships will be organized.

Many issues must still be clarified: how local self-governments will be established and function in cities, how akims and local self-governments will interact in villages and rural counties, who will

decide on dismissing village akims and transferring their functions to the local self-governments and at which stage they will do so.

The absence in the draft law of any real financial base for local self-government operations is a significant obstacle. Local self-governments are planned at the level of towns and villages, which do not have local budgets. Instead, the draft stipulates for the allocation of subventions from local budgets to local self-governments. During discussion of the draft law, the Ministry of Finance repeatedly underscored that, according to the Law on the Budget System, subventions can only be allocated from oblast budgets to raion or subordinate city budgets and that there are no budgets at sub-raion levels. For this reason, the ministry insists on the exclusion of this provision.¹³

According to the draft law, the state shall transfer local government property into the ownership of local communities within one year as determined by the government. However, the Ministry of Finance objected that local government property cannot be owned by local self-governments, only consigned to their management.

Thus, the only sources of revenue remaining for local self-governments are the opportunity to establish commercial enterprises and independently tax inhabitants. The establishment of commercial enterprises is a rather dubious option, as local self-governments would then be entering into unfair competition with the private sector, ousting private companies. Tax collection would also create problems if the local self-government simultaneously owns enterprises and acts as a regulatory body. The last option, independent taxation of inhabitants, does not stand up to any criticism, since inhabitants of villages and towns have the lowest income in the country.

How then are these small local self-governments, deprived of own resources, to solve issues “of local importance?” Local self-government cannot exist without real financial potential. If there is to be any point in introducing local government, it is necessary to make changes in the Law on the Budget System, which determines the place of local self-government budgets in the budgetary system.

Some other proposals also deserve attention. During debate over the draft Law on Local Public Administration, the role and position of maslikhats occasioned most discussion. One proposal expressed by the famous lawyer G. Sapargaliyev is of particular interest: “On the one hand, maslikhats are representative bodies, and on the other hand they are bodies of local public administration. If the maslikhats are representative bodies, then they can be recognized as local self-governments at the level of raions and cities. The law determines maslikhats as the bodies of public administration, but they have neither administration objects nor administrators.”

The authors of the draft Law on Local Self-government have the steadfast vision that local self-government should concentrate only on issues of local importance and be absolutely detached from the local administration. However, the state cannot be indifferent to issues of local importance. All these problems require careful assessment and balanced solution. To do so, it may eventually be necessary to make changes and amendments to the Law on Local Public Administration.

Annex 8.1

Major General Indicators

Table 8A.1
Major General Indicators in the Republic of Kazakhstan, 1991–2000

	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
Population [thousands]	16,405	16,439.1	16,380.1	16,145.8	15,816.2	15,578.2	15,334.4	15,073.0	14,953.1	14,843.7
Average number of people employed in the economy [thousands]	7,480	7,355.8	6,926.3	6,581.8	6,551.5	6,518.9	6,472.3	6,127.6	6,105.4	*
GDP (1991–1992) [RUR million] (1993–2000) [KZT billion]	85,863.1	1,217,689	29.4	423.5	1,014.2	1,415.7	1,672.1	1,733.3	2,016.5	2,596.0
GDP [USD million]	n/a	n/a	1,1426.4	11,840.8	16,645.0	21,041.0	22,172.0	22140	16,854.4	18,264.7
Per capita GDP [USD]	n/a	n/a	693	730	1,068.4	1,350.7	1,445.9	1,468.8	1,049.9	1,230.5
Average annual exchange rate [USD]	n/a	n/a	2.6	35.7	60.93	67.29	75.42	78.29	119.64	142.1
Foreign debt [USD million]	0	111	356	3,240	3,431	4,201	5,946	7,589	7,532	*
Official unemployment rate [% of the economically active population]	0.05	0.4	0.6	1.1	2.1	4.2	3.8	3.7	3.9	3.7
Consumer price index (December to December of the previous year)	190.9	1,614.8	2,265.0	1,258.3	160.3	128.7	111.2	101.9	117.8	109.8

* data has not yet been calculated

Annex 8.2

Populations, Settlements and Administrative Units

Table 8A.2
Administrative-Territorial Units in Kazakhstan, 2001

	Regions	Cities		Counties		Settlements	
		Total	Cities of Oblast Subordination	Town	Villages	Towns	Villages
Republic of Kazakhstan	160	84	39	173	2103	200	7863
Akmola	17	10	2	12	221	14	751
Aktiubinsk	12	7	1	3	121	3	468
Almaty	16	10	3	14	234	15	811
Atyrau	7	1	1	14	56	15	189
East Kazakhstan	15	10	6	27	225	30	870
Zhambylskaya	10	4	1	8	81	12	367
West Kazakhstan	12	2	1	1	154	4	512
Karaganda	9	11	9	39	168	39	556
Kustanay	16	5	4	5	203	13	799
Kzylorda	7	3	1	12	87	12	269
Mangistau	4	3	2	8	25	8	48
Pavlodar	10	3	3	8	166	8	516
North Kazakhstan	13	5	1	3	189	5	774
South Kazakhstan	12	8	4	13	173	13	933
Astana City*	—	1	—	6	—	9	—
Almaty City*	—	1	—	—	—	—	—

* The cities of Almaty and Astana have special status.

Table 8A.3
Settlements by Population Size Categories

Population Size Category	Number of Settlements	Percentage of Settlements	Number of Inhabitants	Percentage of Total Population
0–1,000	5,725	71.8	2,022,026	13.5
1,000–2,000	1,309	16.4	1,804,258	12.1
2,000–5,000	626	7.9	1,787,423	11.9
5,000–10,000	201	2.5	1,690,520	11.3
10,000–50,000	81	1.0	1,841,663	12.3
50,000–100,000	7	0.1	509,483	3.4
100,000–1,000,000	18	0.2	4,168,397	27.9
1,000,000+	1	0.1	1,129,356	7.6
Total	7,968	100.0	14,953,126	100.0

Table 8A.4
General Characteristics of Administrative-territorial Units

	Population	Estimated Number of Political Employees in Local Public Administration**	Number of Administrative Employees in Local Public Administration
Rep. of Kazakhstan	14,953,126	3,009	63,595
Akmola	836,271	252	4,238
Aktiubinsk	682,558	146	3,243
Almaty	1,558,534	282	4,600
Atyrau	440,286	93	1,858
East Kazakhstan	1,531,024	285	5,379
Zhambylskaya	988,840	116	3,537
West Kazakhstan	616,800	176	2,754
Karaganda	1,410,218	234	5,595
Kustanay	1,017,729	302	4,558
Kzylorda	596,215	121	2,603
Mangistau	314,669	46	1,504
Pavlodar	806,983	193	3,765
North Kazakhstan	725,980	215	3,933
South Kazakhstan	1,978,339	225	5,377
Astana City	319,324	37	1,529
Almaty City	1,129,356	14	3,233

Figure 8A.1
Structure of Administration in Pavlodar Oblast

Attachment 1
To the decision of oblast akim
As of «___» _____ 1999, No. _____

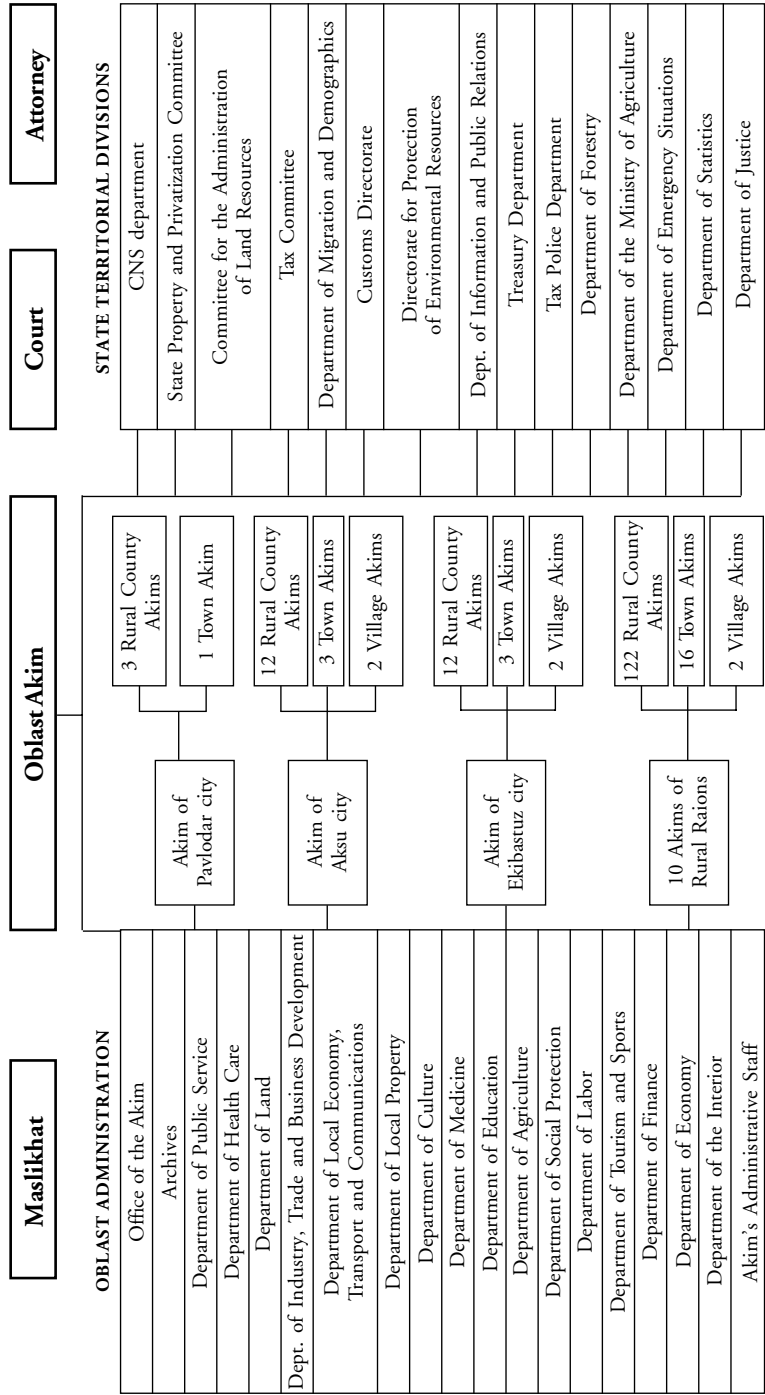


Figure 8A.2
Sample Structure of a Raion Administration

Attachment 1

For the decision of the oblast akim

As of «___» _____ 2000, No. _____

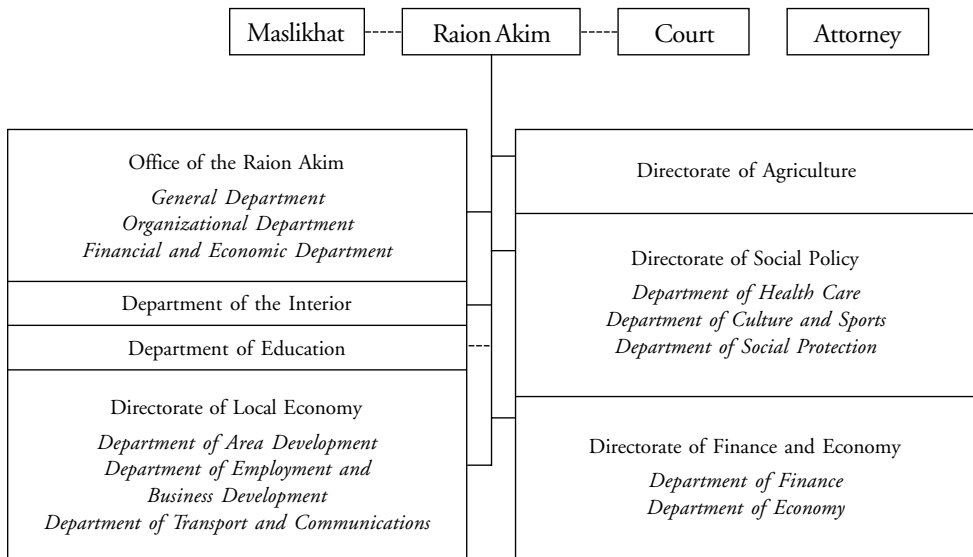
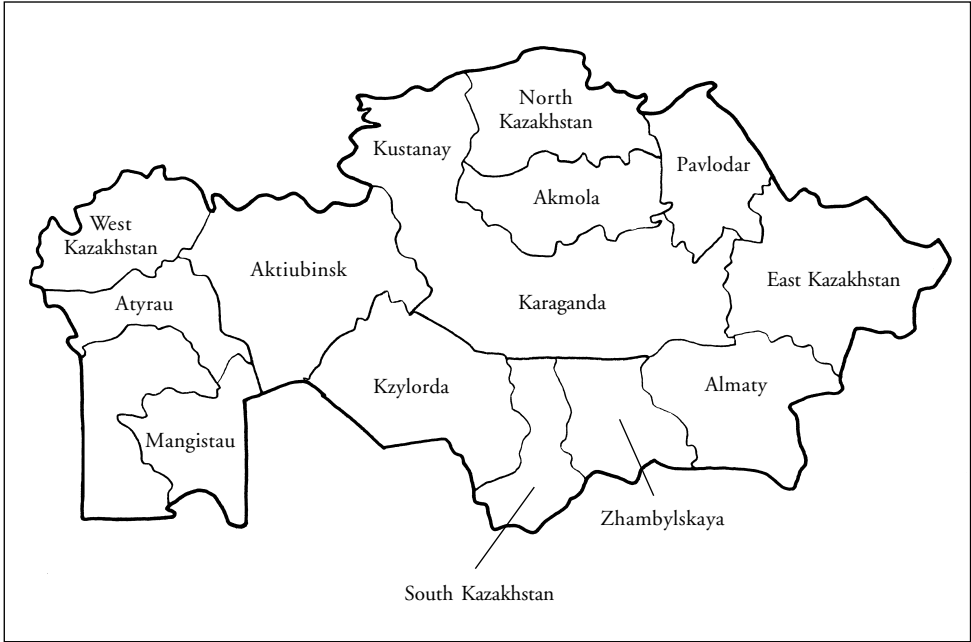


Figure 8A.3
Administrative Map of Kazakhstan



Annex 8.3

Major Laws on Public Administration and Local Government

- Constitutional Law on the State Independence of the Republic of Kazakhstan (adopted 8 December 1991). *Vedomosti (Bulletin) of the Supreme Council of Kazakhstan* 51 (1991): 622.
- Constitution of Kazakhstan (adopted 30 August 1995, amended 7 October 1998). *Vedomosti of Parliament* No. 4 (1996): 217.
- Law on Administrative-territorial Composition of Kazakhstan (adopted 8 December 1993, amended 19 December 95). *Vedomosti of the Supreme Council of Kazakhstan* 23–24 (1993): 507.
- Constitutional Law on Elections in Kazakhstan (Law No. 2464 adopted 28 September 1995, amended 19 June 1997 according to Law No.133-1; amended 8 May 1998 according to Law No. 222-1; amended 6 November 1998; amended 6 May 1999 according to Law No. 375-1; amended 28 June 1999 according to Law No. 407-1). *Vedomosti of Parliament* 17–18 (1995): 114.
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- Constitutional Law No. 2737 on the Constitutional Council of Kazakhstan (adopted 29 December 1995). *Vedomosti of Parliament* 24 (1995): 173.
- Law on Public Associations (adopted 31 May 1996). *Vedomosti of Parliament* 8–9. (1996): 234.
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- Presidential Decrees on Special Economic Zones in Kazakhstan (adopted 26 January 1996)
- Law on the Budget System in Kazakhstan (adopted 1 April 1999)
- Law on Public Service (adopted 23 July 1999)
- Law on Status of the Capital City of Kazakhstan (adopted 20 May 1998).
- Law on Special Status of Almaty City (adopted 1 July 1998)
- Law on Local Public Administration (adopted 23 January 2001)
- Program for Privatization and Increasing Efficiency of State Property Management for 1999–2000. Government Resolution No. 683 (adopted 1 June 1999), amended by Government Resolution No. 1127 (adopted 11 August 1999)
- Law on Non-profit Organizations (adopted 16 January 2001)

Annex 8.4

Responsibilities of Administrative Tiers

Table 8.A5
Specific Functions of Government Tiers in Kazakhstan

Functions	Raion and Oblast Administrations	Central Administration
I. EDUCATION		
1. Pre-school	X	
2. Primary	X	
3. Secondary	X	National Olympics, state support to schools for gifted children
4. Vocational	X	
5. Specialized secondary	X	Training of personnel for law enforcement bodies, Ministry of Defense, etc.
6. Higher		X
7. Refresher training for professionals	X	X
II. SOCIAL WELFARE		
1. Nurseries	X, insignificantly	
2. Kindergartens	X, insignificantly	
3. Welfare homes	Orphanages	
4. Services for aged and disabled people	Housing subsidies to low-income people; social assistance for the burial of employed people and material assistance to bury the unemployed.	
5. Special services (for homeless, families in crisis, etc.)	1. Support to families with children; assistance to children of enlisted men; support to children living with AIDS;	

Table 8.A5 (continued)
Specific Functions of Government Tiers in Kazakhstan

Functions	Raion and Oblast Administrations	Central Administration
	2. Assistance to unemployed mothers with four or more children under seven; 3. Material assistance to citizens registered as unemployed; 4. Assistance to the disabled children who are raised and educated at home.	
6. State housing stock	Distribute housing stock	
III. HEALTH SERVICES		
1. Primary health care	Provision of primary medical care;	
2. Health protection	Local medical centers; prevention of and response to dangerous infections at the local level;	Rehabilitation of children, centralized purchase of vaccines; prevention of and response to dangerous infections;
3. Hospitals	Hospitals, outpatient clinics, specialized hospitals at the local level; hospitals and clinics for the veterans of WWII	A broad spectrum of hospitals
4. Public health	TB clinics	Collection of blood donations at the national level, sanitation and epidemiological monitoring; TB program
5. Other, in particular:	Provision of inpatient assistance including specialized medical care at the local level	Forensic expertise

Table 8.A5 (continued)
Specific Functions of Government Tiers in Kazakhstan

Functions	Raion and Oblast Administrations	Central Administration
IV. CULTURE, LEISURE, SPORTS		
1. Theaters	Local subsidies to organizations that organize cultural and leisure activities	The same at the national level
2. Museums	Preservation of historical and cultural values at the local level	The same at the national level
3. Libraries	Local subsidies to organizations for cultural activities	The same at the national level
4. Parks	Local subsidies to organizations for cultural and leisure activities	The same at the national level
5. Sports, leisure	Organization of sports activities at the local level	Financing of sports at a high level of achievements; state bonuses
6. Maintaining buildings for cultural events	Administrative expenses	
V. ECONOMIC SERVICES		
1. Water supply	Construction and maintenance of water pipes	Improvement of water resources management and rehabilitation of the water reserves, operation of international waterworks; plans for uniform use of water safety measures, register of the water supply reserves.
2. Sewage	Construction and maintenance of sewage disposal plants	
3. Electricity	Maintains the construction of new electric power lines	Capital investments
4. Gas		
5. District heating		

Table 8.A5 (continued)
Specific Functions of Government Tiers in Kazakhstan

Functions	Raion and Oblast Administrations	Central Administration
VI. ENVIRONMENT, PUBLIC SANITATION	Local environment problems, sanitary epidemiological stations	Organization of environmental protection at the national level
1. Waste collection	X	
2. Waste disposal	X	
3. Street cleansing	X	
4. Cemeteries	Allocate cemetery plots	
5. Environmental protection	Local environment problems; Organize ecological expertise	Organization of environmental protection at the national level
VII. URBAN DEVELOPMENT		
1. Town planning	Draft the general land development plans; serve as clients for the construction of communal, social and cultural objects; issue permits for the construction of communal infrastructure and facilities; organize construction of objects for communication, transport and engineering infrastructure;	
2. Regional/spatial planning	Design the administrative region development plans and general development plans for raion centers	Co-finance certain projects
3. Local economic development	Prepare the scheme for raion planning in oblasts; organize public transportation; maintain roads	Co-finance certain projects
4. Tourism	Operate and maintain roads	Tourism development programs

Table 8.A5 (continued)
Specific Functions of Government Tiers in Kazakhstan

Functions	Raion and Oblast Administrations	Central Administration
VIII. GENERAL ADMINISTRATION		
1. Authoritative functions (licenses etc.)	Issue licenses for business activities, regulate land relationships; issue permits for the construction of communal networks and facilities	Specific ministries are responsible for licensing
2. Other state administrative issues (electoral register, etc.)	Electoral districts are formed to organize elections and calculate votes in the cities and raions by the decisions of respective akims and in coordination with county electoral commissions.	Central electoral commission
3. Local police	Bodies of the interior funded from the local budgets	
4. Fire brigades	Fire brigades funded from the local budgets	The same at the national level
5. Civil defense	Organization of activities on civil defense issues	The same at the national level
6. Consumer rights protection		

Notes

- ¹ Statistics Agency of the Republic of Kazakhstan, *Kazakhstan and CIS Countries* 1 (2000): 41.
- ² “Public Budget Hearing,” *Municipal Administration* (June 1999).
- ³ *Municipal Administration* (June 2000): 7.
- ⁴ “Seminar of Maslikhat Secretaries from Oblasts, Almaty and Astana,” *Municipal Administration* 16, (May 2000): 4.
- ⁵ *Municipal Administration* 17 (June 2000): 3.
- ⁶ Delovaya Nedelia, “Elections to the Parliament of Kazakhstan on October 10 and 24, 1999,” *Final Report of HRD OSCE* 6 (2000): 14.
- ⁷ K. Yezhenova et al., “Elections to Representative Bodies: Expectations and Reality,” *Panorama* 41 (1999): 2.
- ⁸ N. Drozd, “Concentration of the “Protest Electorate” is Highest in Successful Almaty (The Poorest Regions Unconditionally Support Authorities),” *Panorama* 41 (1999): 3.
- ⁹ Presented by the authorities of Pavlodar oblast.
- ¹⁰ J. Djandosova, “Administrative Reform and Corruption Problems,” *Al-Pari* 6 (2000): 69.
- ¹¹ A. Baimenov, “Reform Does Not Accept Stereotypes,” *Kazakhstanskaya Pravda* 43 (22 February 2000): 1–3.
- ¹² Presidential Resolution No. 1845 on the Establishment of the Higher National School of Public Administration (HNSPA) (29 August 1994).
- ¹³ This point was emphasized in the course of discussion on the draft law by B. Zhamishev, first vice prime minister of finance and by N. Korzhova, vice prime minister of finance.

Chapter 9



Local Government
in Uzbekistan

by

Kuatbay Bektemirov

&

Eduard Rahimov

Developing New Rules in the Old Environment

Local Government in Uzbekistan

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Local Government in Uzbekistan

Kuatbay Bektemirov & Eduard Rahimov

1. Major General Indicators

The Republic of Uzbekistan has been a sovereign state since September 1991. Located in the middle of Central Asia, Uzbekistan occupies most of the area between the Amu-Darya and Syr-Darya rivers, a total of 448,900 square kilometers. As of the beginning of 2000, Uzbekistan had a total of 24,487,700 inhabitants, 61.6 percent of whom live in rural areas. The average life expectancy is 67.8 years. Uzbeks account for seventy-seven percent of the population and Russians for six percent, while other ethnic groups such as the Tajiks, Kazakhs and Kara-Kalpaks comprise the remaining seventeen percent. In terms of religious faith, eighty-eight percent are Muslim (primarily Sunni), nine percent are Orthodox Christians and three percent are of other faiths. There were 4,992,000 government sector employees as of the first half of 1999, of which 119,000 were employees of public administration agencies.

The vast majority of urban settlements (74.3 percent) have populations of five thousand to fifty thousand people. The capital city, Taskent, has over two million inhabitants, while eleven other cities have populations exceeding one hundred thousand. Of rural districts, or *raions*, 79.3 percent have populations of fifty thousand to two hundred fifty thousand inhabitants. Rural districts have an average population of 235,500 and an average number of 72.2 settlements per district.

The Republic of Uzbekistan consists of the Republic of Karakalpakstan, twelve *oblasts*, or regions, 120 cities, 113 towns, 164 raions and 11,844 rural settlements. The most densely populated regions are Andizhan, with 506.3 people per square kilometer; Fergana, with 365.7 people per square kilometer; and Namanghan, with 236.4 people per square kilometer. The city of Tashkent also has a relatively high population density (150.7), as do the regions of Khorezm (203), Samarkand (158.8) and Syr-Darya (127.9). The desert areas of the Navoi regions are the most sparsely inhabited, with seven inhabitants per square kilometer overall, a number which diminishes to 4.1 in rural areas. Similarly, the Republic of Karakalpakstan has only 8.9 inhabitants per square kilometer overall and 4.6 in rural areas.

The system of public administration in Uzbekistan is comprised of two tiers, central and local. Local governments are subdivided into regional, district and city administrations. In addition, community self-governments also operate locally, although they are not part of the central public administration system.

2. Legal and Constitutional Basis

2.1 Overview of Local Government Reform

Since independence, Uzbekistan has laid down entirely new foundations for the national state, dismantling the previous administrative system. Many former political and economic government structures were thus dissolved to pave the way for an Uzbek state governed by democratic principles.

The adoption of the Constitution of the Republic of Uzbekistan on 8 December 1992 created the basis for the developing legislative framework of a sovereign Uzbekistan. Section 4 of the Constitution defines the state and administrative-territorial structure of Uzbekistan, while article 11 establishes the division of powers—legislative, executive and judicial—on which the government is based.

In 1994, the first elections were held according to the new electoral system. Representatives were elected both to Parliament (*Oliy Majlis*) and to the local councils. The unicameral *Oliy Majlis* (literally “Supreme Council” in Uzbek) is the highest legislative body in the Republic of Uzbekistan. It is currently composed of 250 deputies elected for a term of five years through multi-party elections in local districts.

The office of the president of the Republic of Uzbekistan, introduced in 1990, is the central position in public administration and the keystone in the national political system. According to article 89 of the Constitution, the president possesses both chief executive authority and the powers of head of the state. Therefore, the president of the country simultaneously performs the office of Chairman of the Cabinet of Ministers of the Republic of Uzbekistan, the highest executive body.

The system of local government has been established according to the Law on Local Public Administration, adopted on 2 September 1993. Local government activities are specified in the seven chapters and twenty articles of the law. Article 1 states that the local representative authorities at the regional, district and city levels are the local councils, whose full name in Uzbek is “Councils of People’s Deputies.” According to article 99 of the Uzbekistan Constitution, local councils at all levels are headed by a chairman, or *hokim* (hokim is translated as deputy ruler). Regional, district and city hokims also act as the head of the local executive branch, or *hokimiyat*.

Establishing a new system of local government according to constitutionally defined principles marked the final step in the process of government reform in Uzbekistan. Local government powers are shared between local divisions of state administration and the local self-government, which itself is comprised of the local council and the hokimiyat. The institution of the hokim is the core of the new system, combining executive and representative functions.

The general distribution of authority between the central and local governments is defined in the Constitution. At the macroeconomic level, the central government has the authority to establish

uniform tax, loan and monetary policy (articles 122 and 123), relevant powers assigned to the President and the Cabinet of Ministers and special powers belonging to the *Zhokargy Kenes* (Karakalpak for “Supreme Council”) and the Council of Ministers of the Republic of Karakalpakstan. Other aspects of central government authority are addressed in the Law on Land Cadastre, the Law on Ownership, the Law on Denationalization and Privatization, the Law on Banks and Banking Activities and the Law on Natural Resources.

The new structure of executive power differs from previous ones in that the executive branch does not possess planning or distribution powers, and is only responsible for coordinating and regulating economic policies. Central government bodies are charged with maintaining the overall balance between supply and demand for goods and services. Socio-economic development at the local level is regulated on a case-by-case basis in addition to national and regional programs targeted at specific socio-economic issues. Administration and coordination of regional development is performed jointly by these bodies:

1. The Office of the President, which coordinates decisions on local development through its Department of Socio-economic Policy;
2. The Cabinet of Ministers, whose Information and Analysis Department is responsible for the consolidation and development of relevant government resolutions and monitors their implementation. This department has territorial offices in regions, Taskent and the Republic of Karakalpakstan;
3. The Ministry of Macroeconomics and Statistics. Its territorial offices are responsible for analyzing the current status of socio-economic development and formulating annual and long-term development programs for territories;
4. The Central Bank, Ministry of Finance, Committee for State Property Management and Support of Entrepreneurial Activities, Ministry of Agriculture and Water Resources, Ministry of Labor, Ministry of Social Welfare, State Committee for the Protection of Nature and the State Committee for Construction and Architecture. All of these agencies participate in the resolution of specific issues related to local development through the activities of their territorial offices;
5. Local administrations. The Cabinet of Ministers of the Republic of Karakalpakstan and hokimiyats of regions, districts and cities directly oversee the development of their territories.

2.2 Legal Basis of Community Self-government

Local government in Uzbekistan is supplemented by self-governing community organizations. The Law on Community Self-government, adopted in 1993 and subsequently revised in 1999, defines community self-government as “independent activity by citizens, guaranteed by the Constitution and the Laws of the Republic of Uzbekistan, for the purpose of resolving issues of local importance according to their own interests and history, as well as to national traditions, spiritual values and local customs.”

Community self-governments exist throughout Uzbekistan, based on the principle of decentralization. Different types of territorial units engaging in self-government activities include villages, *kishblaks*,

auls and mahallas. According to article 10 of the Law on Naming Administrative-territorial Units, the term “village” refers to localities with over two thousand inhabitants which are located in the vicinity of industrial or construction enterprises, railway stations or other important objects.

Kishlak is the Uzbek name for rural settlement. Its equivalent in Kara-Kalpak, Kazakh or Tatar is aul, a term which refers to compact enclaves composed primarily of these ethnic groups. A kishlak or aul may comprise many neighboring localities and is represented by an assembly of its citizens. Localities are grouped together under a given rural assembly using the criterion of convenience for local inhabitants. Government bodies establish or abolish villages, kishlaks and auls, and modify their territories or names with due regard for the opinion of the relevant self-governments.

Mahalla is an Arabic word meaning “local community” and refers to a community of people residing in a specific territory. Mahallas may vary in size from 150 to 1500 families. In cities, mahallas are generally established by the residents of a particular residential quarter or suburb. According to article 5 of the amended Law on Community Self-government Bodies, local governments may establish, abolish, merge or divide mahallas and modify mahalla borders upon the initiative of the mahalla self-government.

Citizens exercise their constitutional right to self-governance through citizen assemblies. These assemblies, attended by resident citizens over the age of eighteen, are the highest body of community self-government and are entitled to represent the interests of its inhabitants and make decisions on their behalf, which are effective on the respective territory.

According to article 7 of the Law on Community Self-government, bodies of community self-government include citizen assemblies of villages, kishlaks and auls, as well as those of mahallas within cities, villages, kishlaks or auls. An assembly council (*kengash*) is created to implement the decisions of the citizen assembly and to carry out daily self-government activities between sessions. This council is comprised of the chairman of the citizens’ assembly, various advisors, chairmen of assembly commissions and the executive secretary.

Community self-governments are non-governmental organizations, separate from the system of central government. They enjoy the rights of legal entities, possess unique official seals and are subject to registration with local government bodies. The guiding principles of the self-governments are democracy, humanism, openness, social justice and local autonomy.

According to article 3 of the Law on Local Public Administration and article 6 of the Law on Community Self-government, central government bodies should create the necessary conditions for the development of community self-governments without interfering in their affairs and assist citizens in the execution of their right to self-governance. However, this provision is rarely fulfilled; in practice, community self-governments have thus far had limited independence.

2.3 The Mahalla as a Form of Community Self-government

Today, the term “mahalla” is used uniformly in Uzbekistan to refer to a neighborhood community. In the East, the neighborhood community as a unit of social life dates back to ancient times. Mahalla, in both its historic and modern meanings, represents a clearly defined socio-demographic, cultural and spiritual entity, as well as an administrative-territorial one, in which people are united by traditions, customs and human, business and legal relationships. For centuries, these territorial entities have shaped the creation of rules of human coexistence, public opinion, ideological systems and outlooks within their boundaries.

Mahallas have received powerful support from the central government since the early stages of Uzbek independence. The state considers their welfare to be essential for the stability of the republic. In his book, *Uzbekistan: National Independence, Economy, Politics, and Ideology*, President Karimov emphasizes that “an important feature of our society is that it is based on the idea of collectivism, the unity of communal interests and the priority of public opinion. Therefore, mahallas play a major part in democratizing society and realizing its main principles, foremost that of social justice. Today, there is no other entity more knowledgeable about the real financial situation of local families and their spiritual and cultural interests. Mahallas are the fairest and most credible mechanisms for social support of the population and should become a reliable support and an effective instrument of reform in our society.”

In the Soviet era, mahallas existed alongside former government bodies such as local village councils. Today, mahallas have assumed their functions and are developing into bodies of local self-governance. Their recently acquired formal status as an important component of the state is reflected in the Regulation on Mahalla Committees in Cities, Villages and Kishlaks. In 1997, Uzbekistan had roughly ten thousand mahallas. Some mahallas have been established even within large city apartment blocks.

In view of new government objectives, the administrative structure of the mahalla has been clearly defined. A general assembly of household representatives elects a committee, or *kengash*, to head the mahalla. Committee members may also include elders elected for their experience in organizational work. This committee elects a chairman, officially titled chairman of the mahalla assembly, but more commonly known as the *aqsaqal*, a deputy chairman (*muovin*) and a secretary (*kotib*). Specific mahalla commissions are founded for improving living conditions, organizing ceremonial events, maintaining public order, housing stock and finances and overseeing issues concerning women, youths, war and veterans. In rural areas, several mahalla committees may combine to form one citizen assembly.

The social status of mahalla chairmen has changed notably. Many chairmen have extensive experience with administration in Soviet institutions, schools and universities, although inhabitants ultimately elect those who are familiar with popular customs and traditions. The prestige of the mahalla administration overall has significantly increased over recent years and the offices of chairman and secretary are now paid positions. In a further move to promote mahalla administration activity, a Presidential Decree on Support to Community Self-governments, adopted 23 April 1998, raised the salaries of both chairman and secretary and assigned a full retirement pension to chairmen.

In the years since independence, mahallas have accumulated substantial experience in resolving social, economic and other local issues. Many of them are now actively involved in the implementation of the large-scale government programs for revitalizing society and improving the quality of life. They also create material and spiritual conditions fostering individual initiative. Mahallas have gained experience in this area, as shown by the examples of Beruni mahalla in the Sabir Rahimov district of Tashkent, Yoshlik mahalla in the city of Djizak and Ulugbek kishlak mahalla in the Samarkand district.

Mahalla committees have also materially increased their financial capabilities. The government now permits them to engage in economic activity and establish industrial enterprises, canteens, shops or other facilities which contribute a share of their profits to mahalla funds. In addition, hokimiyats provide some financial support to mahallas, typically allocating one percent of the sale value of real-estate. It is also community custom that those who are better off share their wealth with their neighbors and citizens accordingly provide material assistance to the community. Traditionally, these acts are performed on a voluntary basis and are not widely publicized.

The tradition of community-based assistance acquired new forms and content once the government shifted its aims from universal social protection to support for the most vulnerable population groups. In a decision unprecedented elsewhere in the world, mahallas were charged with the distribution of certain government funds. This was designed to target social assistance more accurately, since mahallas are best placed to discern those in need of assistance, as well as to reduce administrative expenses.

For example, a special mahalla commission pays benefits to unemployed mothers of children under two, according to the Presidential Decree on the Increase of Material Support for Children, adopted in December 1996. Assistance to families with children is the largest social program in terms of both expenditures and beneficiaries, accounting for 6.3 percent of all national budget expenditures in 1998.

In January 1999, a Presidential Decree on Increasing the Role of Community Self-governments in Providing Targeted Social Assistance appointed community self-governments to oversee timely payment for public utilities. Part of these funds is then transferred to the mahalla to subsidize public services for low-income families. This role has considerably improved the prestige of mahalla committees. However, it must be noted that the excessive expansion of responsibilities frequently leads to bureaucratization of mahalla committee activity and thus distracts them from their main traditional functions.

2.4 Territories with Special Status

The Republic of Karakalpakstan is the only territorial autonomy with special status in Uzbekistan. Formerly the Karakalpak ASSR, it was renamed in 1992. As of 1 January 2000, Karakalpakstan had a population of over 1.5 million people in an area of 165,000 square kilometers. According to article 70 of the Uzbek Constitution, the Republic of Karakalpakstan is part of the Republic of Uzbekistan and its sovereignty is protected by the Republic of Uzbekistan.

According to the Constitution of Karakalpakstan, adopted on 9 April 1993, the highest representative state body with legislative authority is the *Zhokargy Kenes*. Its exclusive powers include the adoption and amendment of the Constitution and laws of Karakalpakstan.

The Uzbek Constitution also states that the Karakalpak Constitution may not contradict the Uzbek Constitution and that the laws of Uzbekistan are also mandatory and binding on the territory of Karakalpakstan. Article 75 of the Uzbek Constitution stipulates that relations between Uzbekistan and Karakalpakstan are regulated by their bilateral agreements.

In general, Karakalpak laws are virtually identical to the equivalent Uzbek laws, with only minor changes. For example, according to article 99 of the Karakalpak Constitution, bodies of self-governance in villages, auls, as well as city *makan-kenes'es* (mahallas) are citizen assemblies. Local self-government powers, procedures and elections are regulated by the Karakalpak Law on Community Self-government, very similar to the Uzbek law of the same name. This is true for the Law on Local Public Administration and many others. Thus, the system of local self-governance in Karakalpakstan does not differ greatly from the rest of the nation.

Tashkent, the political, economic, administrative, academic and cultural center of Uzbekistan, is another administrative-territorial unit with special status. As the capital city of the country, it is the largest city directly subordinate to the republic. As of 1 January 2000, it had a population of 2,135,500. Although there is no specific law on the status of the capital city, Tashkent has an administrative structure unlike other cities in that its hokim, like regional hokims, is appointed directly by the president, as stipulated in both the Constitution and Law on Local Public Administration. In addition, Tashkent is divided into eleven administrative districts, each with their own hokim and hokimiyat, which are in turn divided into several mahallas.

3. Local Politics, Decision Making

3.1 Public Participation in Decision Making

Popular traditions have been used as a basis for reforming the system of self-governance. These include several traditionally Eastern features such as paternalism, continuity, the power of moral example, esteem for elders and an orientation toward family values. These principles, rooted in the community and deeply embedded in both individual and collective psychology, remain relevant and adaptable to the new socio-economic reality.

Citizen assemblies arguably represent a traditional form of public participation in the decision making process. Citizen assemblies resolve local social issues and make proposals to government authorities regarding specific decisions. The new version of the Law on Community Self-government has also expanded opportunities for their participation in decision making. For instance, they will be

able to more efficiently control the local execution of law and review reports from heads of enterprises located in community territory on issues of environmental protection and land improvement.

According to the Constitution, the most important issues regarding the state and society are subject to public discussion and referendum. Consequently, a public referendum was held on 26 March 1995, to determine the timing of the presidential elections. A new public referendum will decide whether to introduce a bicameral parliament in 2004. There is no law on local referenda, as local referenda and public hearings are not widely popular.

Although local referenda are infrequent, representative and executive bodies acknowledge the importance of public opinion, making it a priority to review citizen appeals and often taking the opinion of citizens and NGOs into account when making decisions. The hokim holds regular office hours open to citizens who wish to make complaints or proposals. Local council members also review citizen requests in meetings with their constituencies and take specific local measures in response. The establishment of the Ombudsman's office and its regional offices has created yet another mode for citizen participation.

3.2 Internal Structure of Local Government Decision Making

Regional, district and city council members are elected by the residents of the respective territory. Councils conduct their activities through council sessions, which are convened by the hokim at least twice per year. In addition, they may be convened at the initiative of two thirds of the members. Council members shall be notified of the hokim's decision to open a session at least seven days beforehand. The sessions are chaired by the hokim or, in his or her absence, by a council member appointed by either the hokim or the council. The secretary is elected from the council members for the duration of the session. The session has due authority provided that at least two thirds of total members are in attendance.

Local council decisions are approved by a majority of council members through open vote or secret ballot. Special commissions are established to prepare issues to be submitted to the session, to control the execution of council decisions and to implement the legal acts of Uzbekistan.

The local council has authority over issues related to the activities of the local executive branch. The hokim and deputy hokims are appointed and dismissed with council approval. In addition, the council reviews general legislation, approves the budget and reviews reports from the hokim and the local administration on implementation of council decisions.

The local council establishes the rates of local taxes, duties and fees and may determine exemptions in compliance with the applicable legislation. It also decides upon issues related to the protection of citizens' rights, social and economic development, environmental protection and administrative matters, and may resolve other issues within its competence.

The hokim is empowered to make decisions and issue instructions. He or she is responsible for planning, funding and managing local property. The hokim also coordinates the activities of community self-governments and enterprises of different forms of ownership which provide construction, transport, roads, telecommunications and trade, communal, social or cultural services. In addition, the hokim is responsible for administering social protection, law enforcement and protection of human rights and freedoms. In cases specifically envisaged by the law, the hokim's decisions shall be approved by the local council. If any of the hokim's decisions contradict legislation, the council is empowered to annul them.

Local council legislation and hokim decisions adopted within their competence are binding for all citizens, officials and enterprises located in the given territory. These acts enter into force at the date of signing, unless the act itself stipulates otherwise.

3.3 Methods of Election or Appointment to Government Positions

According to the Constitution, the president has the power to appoint or dismiss the first deputy and deputies of the Prime Minister and members of the Cabinet of Ministers, subject to approval by the Oliy Majlis. The president also appoints and dismisses the hokims of regions and Tashkent, subject to approval by the corresponding councils. As a rule, candidates are promoted from the personnel reserve currently under formation by the administrative and human resource divisions of the state administration.

Regional hokims in turn appoint district and city hokim, subject to approval by the district or city council. City hokims appoint hokims to city districts upon the approval of the city council, and district hokims appoint hokims to cities of district subordination upon approval by the raion council. The latter are also considered to be the district hokim's first deputies; other deputies are also appointed or dismissed by hokims at all levels subject to the approval of their respective council.

According to article 80 of the Karakalpak Constitution, the chairman of the Supreme Council (Zhokargy Kenes) is the highest government official in Karakalpakstan. Elected from the members of the Supreme Council, the chairman may serve a maximum of two terms in office. The Council of Ministers of Karakalpakstan is the highest body of state administration in the autonomous republic. The Council of Ministers is headed by a chairman who is nominated by the chairman of the Supreme Council and appointed by the Supreme Council in coordination with the President of Uzbekistan. Raion and city hokims of Karakalpakstan are appointed and dismissed by the chairman of the Supreme Council upon nomination by the chairman of the Council of Ministers and are subsequently approved by the corresponding local council.

The personnel policy of the Uzbek government is designed to ensure the regular rotation of public servants in both central and local governments in order to promote industriousness and prevent corruption. It is no secret that family, neighborhood and clan connections play an important role in

staff promotion. However, these are gradually becoming less reliable guarantees for obtaining prestigious government posts and privileged community status. Under the new political and economic conditions, entrepreneurial qualifications, skills and initiative are increasingly valued over family and political connections.

3.4 System of Local Elections

All citizens over eighteen years old are eligible to vote and run for office, with the exception of those who are imprisoned or declared incompetent by court. Presidential, parliamentary and local council elections are regulated by the Law on Presidential Elections, the Law on Elections to the Oliy Majlis and the Law on Elections to Regional, District and City Councils, amended on 26 December 1997 and 19 August 1999. Elections have been held twice in Uzbekistan since independence. Unlike elections held under the old regime, these were organized on a competitive, multi-party basis. The most recent elections to Parliament and local councils were held in December 1999 and the most recent presidential elections on 9 January 2000.

Although the Constitution has laid the legal foundations for the functioning of a multi-party system, the new political system of the republic is still under development. According to article 34, citizens have the right to form political parties, trade unions and other public associations. Currently, there are five registered political parties. Political parties may nominate their parliamentary candidate if they have been registered at the Ministry of Justice at least six months prior to elections and have gathered fifty thousand signatures. However, no more than ten percent of the fifty thousand signatures may come from any one region, including Tashkent and the Republic of Karakalpakstan. Political parties may nominate up to 250 candidates for Parliament, a total of one candidate from each electoral district.

In the 1999 elections, unlike previous elections, citizens were granted the right to nominate their own candidates. Citizens may form an initiative group of at least one hundred voters in a given electoral district to nominate a candidate. Local governments also nominate their own candidates, usually the local hokim. Local administration officials, members of government and employees in the Office of the Public Prosecutor may run for office, but must resign their posts if elected. Hokims are permitted to both perform their office and enjoy membership in the Oliy Majlis, as it is not yet a professional parliament, convening only for two to three days, four times per year, in order to adopt laws drafted by its committees and commissions.

It should be noted that candidacy requirements are not equal, since local government sponsored candidates are not required to gather signatures in their support, unlike candidates from political parties or citizen initiative groups. In addition, pre-election meetings of candidates and their constituencies may only be organized by the electoral commission and held in its presence of its members, who are usually influenced by local governments. There is evidence of hokimiyats pressuring certain candidates and generally interfering in the election process, all of which is to the detriment of truly democratic elections.

In the 1999 elections to the Oliy Majlis, the results were as follows: forty-eight seats were won by the People's Democratic Party of Uzbekistan (PDPU); thirty-four by the People's Democratic Party *Fidokorlar* (The Selfless); twenty by the *Vatan Tarakkiyoti* Party ("Motherland Progress"); eleven by the Social Democratic Party *Adolath* ("Justice"); ten by the Democratic Party *Milliy Tiklanish* ("National Rebirth"); 110 by local governments; and sixteen by voter initiative groups.

To some extent, political diversity at the local council level is reflected by the parliamentary elections. Analysis of these elections reveals the dynamics of growth among the different political powers and their popularity. For instance, most council seats at the regional, district and city levels had frequently been occupied by representatives of local governments and members of the PDPU, the former communist party. Today, the *Fidokorlar* Party is also widely represented in the local councils, although the popularity of other parties at the local level is still rather low, demonstrating how gradually this traditional Eastern society is moving towards a democratic system. According to the Law on Community Self-governments, citizens' assemblies may submit proposals to local councils on the nomination of candidates to Parliament, regional councils and the Tashkent council and decide upon the nomination of candidates to district and city councils.

In 1993, the first elections of chairmen (aqsaqals) and council members of citizen assemblies were held, following the adoption of the Law on Community Self-government. Elections of citizen assemblies and their officials may be held by secret or open ballot, provided that all citizen voting rights are upheld. During the preparation for elections, local agencies of the central government must assess and recommend the candidates. These agencies organize public opinion polls on candidates, evaluate their professional, organizational and moral qualities, and analyze the previous work record of assembly chairmen. The role of political parties in this process is still insignificant.

In November 1998, citizen assemblies were organized nationwide to hold the elections for community chairmen. Seventy percent of the adult population participated, a total of 8.4 million people. In many places, citizens voiced their dissatisfaction with ineffective or indifferent self-government heads, refusing to re-elect eighteen percent of chairmen for a second term. Among council members, forty-seven percent were not returned to office. In total, 7,574 chairmen were elected. Of these, 65.5 percent had received higher education and over half of them are under the age of fifty. A total of 446 women were elected as chairmen and over 14,000 as council members. On average, ten council members and one chairman were elected per self-government. Among council members, 42.2 percent have received higher education. Of both chairmen and councilors, 372 individuals have a scientific degree.

3.5 Relationship between Elected and Appointed Local Government Bodies

The Constitution assigns specific powers to the Parliament, the president, Cabinet of Ministers, Supreme Court and other courts of the Republic. The principle of division of powers was subsequently elaborated in further legislation, such as the Law on the Oliy Majlis, the Law on the Cabinet of Ministers and the Law on the Courts. It should be noted that even with the attempts to specify the

functions of each branch of power, their “solidarization” still remains an important goal. This does not dictate a uniform approach to all government activities; in contrast, it refers to coordinated effort rather than unification along party lines. Coordination of activities between all government bodies is necessary for the strength of the institution as a whole.

An objective analysis of the laws and activities of representative and executive powers reveals that hokimiyats ultimately possess the upper hand in their relationships with local councils. On one hand, council approval is necessary for their appointment to office and councils may monitor hokim activities by reviewing their reports in local council sessions. However, the extent to which hokims are truly accountable to the council remains unclear. The actual role of local councils in the system of local state administration is rather limited, while hokims have real political, legal, organizational, staff, material and financial advantages. As long as the same individual heads both branches of power, the principle of undivided authority prevails over those of democracy.

3.6 Functional Autonomy in Decision Making

According to article 103 of the Constitution, regional, district and city hokims exercise their powers on the principle of undivided authority and are personally responsible for the decisions and activities of government bodies subordinate to them. The hokims’ decisions are binding for all enterprises, institutions, organizations, officials and inhabitants in the respective territory, provided they are made on issues within their competence.

Decisions of the higher levels of government are obligatory for lower ones. The hokim must comply with legislation of Uzbekistan, implement Oliy Majlis resolutions, presidential decrees, instructions of the Cabinet of Ministers or higher hokims and execute local council decisions within the territory of the local government. The hokim may also annul decisions of lower level governments if they contradict the Constitution or other legislation.

3.7 Ethnic Issues, Multicultural Government

Representatives of over one hundred nationalities live in Uzbekistan. Of these, Uzbeks are the most numerous. According to article 4 of the Constitution, all citizens have the same rights and freedoms and are equal under the law regardless of gender, race, language, belief or social origin. The state language is Uzbek, except in the Republic of Karakalpakstan, which uses both Karakalpak and Uzbek as official state languages. The Constitution guarantees respect for the languages, customs and traditions of national and ethnic groups living in Uzbekistan and ensures conditions for their continued development. Many ethnic groups have the opportunity to maintain their unique cultural identities by practicing their national traditions, establishing associations or cultural institutions and exchanging information or providing education in their native languages.

Uzbek legislation does not indicate special privileges for any ethnic groups with regard to participating in public administration. The rights of representation and participation in political life are regulated by common legislation, which treats all citizens equally. This equal status is borne out by the ethnic composition of candidates in the most recent elections. Of all registered candidates for Parliament approximately eighty-nine percent were Uzbek; 5.1 percent Karakalpak; 2.1 percent Tajik; 1.6 percent Russian; 1.3 percent Kazakh and 1.1 percent representatives of other ethnic groups.

3.8 Local Government Associations

According to article 4 of the Law on Local Public Administration, local councils and hokims of different cities or districts are authorized to undertake joint measures in their mutual interest, such as setting up joint ventures, business associations or other contractual forms of inter-governmental cooperation. Local governments cooperate on a voluntary basis, in the spirit of solidarity. They may organize funds and establish joint structures to perform common duties. They may also unite to form associations or alliances in order to regulate and represent the interests of a larger territory. The status of these associations is defined by the type of organization.

Local governments may also cooperate to improve local self-government and service delivery, form partnerships with foreign municipalities and work together with local offices of international organizations. According to article 17 of the Law on Community Self-governments, a national council of aqsqaqs and oblast, district and city coordination councils on self-government issues may be established to coordinate local self-government activities.

The national non-profit Mahalla Foundation was established to provide state support to preserve historical and spiritual values, to promote folk customs and traditions, to disseminate cultural and educational activities among mahallas and to encourage further social and economic development. The foundation distributes funds to organize different events and publishes the *Mahalla* newspaper. Major foundation activities are directed at:

- improving the activities of local mahalla committees nationwide;
- improving social protection of low income families, disabled people and children in the local territory;
- promoting concepts of humanism, mercy, mutual understanding and good neighborly relations.

Counterpart Consortium, an international NGO, is currently implementing a program to support the mahalla initiative and strengthen cooperation between NGOs and local self-government in the Republic of Karakalpakstan and the Bukhara and Ferghana regions. The program's main objectives include:

- increasing the participation of mahallas in NGOs activities on the grounds that they are recognized representatives of public opinion and partners of the local communities;
- encouraging the transformation of mahalla committees and other administrative structures in order to establish efficient two-way communication between citizens and the state;
- establishing sustainable interaction between mahalla committees and NGOs within the framework of social partnership.

4. Functional Structure of Local Government

4.1 Local Government Functions

Local government activities are regulated by the Law on Local Public Administration. Major local council functions are the following:

- to approve the local budget and report on its execution;
- to approve long-term social, economic and land development programs and plans for regions, districts or cities;
- to establish tax privileges or exemptions on local taxes, duties and fees;
- to approve the appointment or dismissal of hokims or deputy hokims and review reports on their activities;
- to review reports from heads of divisions, departments and other structural units of the executive branch;
- to approve and amend regulations concerning the local council and provisions on council commissions;
- to establish or dissolve local council commissions and review reports on their activities;
- to certify local council members or dismiss them from office before the end of their term;
- to review and decide upon council member initiatives.

Major functions of the local hokim functions are:

- to supervise economic, social and cultural activities in the region, district or city;
- to develop and maintain social and economic development programs;
- to mobilize territorial and inter-sectoral resources to promote efficiency in production and the solution of social issues;
- to submit local social and economic development programs to the local council for approval;
- to submit major components of the local budget and budget execution to the local council for review;
- to continue privatization and destatization efforts at the local level;
- to promote foreign and inter-regional economic relations;
- to provide for the enforcement of law, order and security;
- to supervise local communal services;
- to ensure protection of the environment.

Both internal and external bodies perform control, audit and supervision functions over local governments. Internal control is the responsibility of the representative branch, and is performed by the hokim, the budget and finance commission and the accountant. The hokim monitors operations of all department heads and local administration employees, while the budget and finance commission monitors changes in budget revenues. The control and audit department of the Ministry of Finance and its local government divisions monitor local government assets.

State regulatory bodies are charged with overseeing the implementation of approved programs and their timely performance. In addition, they monitor the application of economic legislation and the observance of the rights and guarantees for businesses. These functions are fulfilled by special control bodies of the executive branch of government and the court system, primarily by the economic courts.

According to the Law on Community Self-government, citizen assemblies in villages, kishlaks, auls and mahallas are usually responsible for the following functions:

- electing a chairman and committee, electing commission members and commission chairs for main areas of assembly activity and reviewing their reports on a quarterly basis;
- electing an audit and administrative commission;
- approving the action plan and expenditures of the community self-government as well as measures to improve local sanitary conditions;
- exercising control within the community over the implementation of national legislation as well as community government decisions;
- sending representatives to district election committees for presidential, parliamentary and local council elections;
- reviewing reports from the heads of district, city and regional hokimiyats on issues within the competence of community self-governments. Minutes of the citizen assemblies on these reports are sent to the regional or Tashkent hokimiyats, which then register them and control the fulfillment of citizens' applications;
- forming own local self-government funds and owning, managing and disposing of local government property;
- organizing control over expenditures;
- organizing voluntary financial collections from residents to improve public places or to assist low-income families to repair their housing;
- deciding upon the contractual use of resources belonging to enterprises or organizations located on the respective territory to improve them, plant trees and gardens or organize sanitary purification;
- deciding upon the voluntary pooling of funds from legal entities and individuals for the development of local social infrastructure;
- sending representatives to the district commission on distributing plots of land.

In addition, city mahalla meetings address issues concerning benefits to needy families with children and ensure the targeted and efficient use of state funds. Citizen assemblies in villages, kishlaks and auls support the meetings of the mahallas in their territories and review their reports on the use of centrally allocated funds. The kengash of the citizens' assembly has the following responsibilities:

- to assign and distribute benefits to unemployed mothers with children under two years old from state budget funds according to established procedures;
- to support regular medical care for single senior citizens who require permanent care, using funds allocated by the state;
- to facilitate employment opportunities for local inhabitants, for example, by organizing home-based jobs.

More and more often, community self-governments are undertaking initiatives and engaging in entrepreneurial activity by opening small private companies, joint ventures, commercial shops and cooperatives to produce consumer goods or by establishing subsidiary farms to raise cattle and poultry or cultivate crops. For instance, the meeting of Mahalla Number 34 of Bukhara opened a custom tailor shop in its territory, thus providing dozens of women with jobs. In addition, they have established a shoemaker's workshop, a barber shop, a tearoom, a greenhouse and a bakery.

4.2 Distribution of Powers among Government Tiers

Government reform has proceeded according to the stated principle that "the state is the major reformer," adopted as the Uzbek national model. Accordingly, in the initial stage of reforms, the state concentrated major authorities, including central executive power, in its own hands. Currently, reform is characterized by a combination of central and local regulation, since it is necessary to coordinate both regional and national interests to implement social, economic, budgetary and taxation policies. The key objective now is to achieve a balance of central and regional interests and codify them in legislation. In order to do this, the government must make two key changes. First, it must differentiate between the functions and authority of different levels of government. Equally importantly, it must provide all local government tiers with sufficient funding to carry out their assigned tasks.

Powers of regional, district and city councils and hokimiyats are all addressed by the Law on Local Public Administration; however, the law fails to specify clearly their functions and authority. Consequently, former administrative methods have been preserved at the local level, in a manner often contradicting the general strategic approach to reforms. In order to clarify the rights and responsibilities of local government in solving social and economic issues, legislation on the administrative-territorial structure must be modified as follows. The number of tiers that supervise regions, districts and cities should be reduced, the organizational structure of the territorial government should be simplified and the number of organizations or enterprises subordinated to the local governments should be increased.

According to legislation, hokims are authorized to make decisions on daily operations and the use of state-owned property within their territory. Hokims exercise control over the efficient location of production and social facilities, environmental protection, the rational use of natural and human resources and state-owned objects.

Regional, city and district administrations are financed from the state budget of Uzbekistan. The structure of an administration and its departments depends on the size of local government. Small administrations are organized according to functional principles, whereas large administrations establish special divisions to address specific issues. Regional administrations are subdivided into various structural units such as directorates, departments, agencies and divisions. At the oblast level, directorates are subdivided into departments and groups, with directorates on economy, culture, education, health care, social security, justice, communal services and others. In addition, these administrations have a secretariat, an accounts department, a human resource department and an economic department.

Local governments are usually subordinated to higher level governments in carrying out their administrative functions. Most administrative decisions on district and regional public service delivery are made from above, following a hierarchy of power starting at the ministry, followed by the chief regional division, followed by the city or district department. The minister designates heads of regional divisions in coordination with the regional hokim. The regional division head in turn appoints heads of territorial departments in coordination with the district or city hokim.

Local government employees are classified as either elected or appointed officials. Hokims, deputy hokims, committees and commissions are appointed from the members of the local council. These officials then establish the local executive bodies within the administration. The city hokim drafts a list of staff for the hokimiyat in coordination with the regional hokim and within budget limits approved by the local council. The higher executive body determines the organizational structure of the hokimiyat according to the model presented in figure 9A.1.

The Law on Community Self-government regulates citizen assembly activities. The kengash has a support office determined by the assembly. The chairman of the assembly is elected for a two and a half-year term in coordination with the hokim of the respective district or city. The executive secretary and other employees are hired upon the chairman's nomination and paid from either community government or local budget funds.

5. Public Service Provision

5.1 Distribution of Functions

As shown in annex 9.4, the system of public service provision is based on the principles of centralization and deconcentration. Budgetary organizations such as educational, health care or cultural institutions are doubly subordinated both to local governments and to their respective ministries. Local governments generally provide services in the fields of schooling, health care, social security, culture and leisure, communal services and land improvement.

According to article 41 of the Constitution, every citizen of Uzbekistan has the right to free education. Schools are supervised by the state, meaning that the central government has the authority to open, reorganize and close educational institutions. However, local hokimiyats regulate and maintain secondary schools. School principals are employed or dismissed by the Ministry of Public Education in coordination with the respective hokim.

Local self-government functions are mainly concentrated in the provision of social services and the distribution of benefits to low-income inhabitants. In general, the state establishes, reorganizes or dismantles the social service divisions of local self-governments and regulates their activities. Local governments also analyze data on inhabitants, organize their registration and determine the amount of assistance to be provided.

All citizens of Uzbekistan have the right to adequate health care. Free health care includes basic medical services, such as outpatient services and first aid. Local governments supervise primary health care institutions, clinics, hospitals, outpatient centers and some other medical institutions in addition to managing public health within the territory.

In the cultural sphere, local governments administer libraries, museums, cinemas, theaters and other institutions in their territory. As long as institutions are subordinated to different central, regional and oblast bodies, local governments will be responsible only for those considered to be of local importance or those that they established themselves. However, these institutions may only be reorganized or closed in coordination with the Ministry of Culture.

Economic responsibilities of local governments include communal services such as water, gas, electricity, heat supply, waste management and maintenance of engineering structures. These services may be provided by state-owned, joint, municipal, private or other types of companies. Hokimiyats also sponsor transport and construction projects, administer construction works and maintain local roads.

5.2 Trends in Public Service Provision

In order to build civil society and democracy in Uzbekistan, the government is implementing a long-term strategy of political, economic and social development. It envisages the creation of a social order in which a strong central government will focus its efforts on the major functions of national importance, such as defense, security, law and order, foreign policy, currency, financial and taxation policies, the adoption of legislation and the pursuit of strategic goals. Other issues are to be gradually transferred from the central to the local level.

Based on this concept of statehood, central administration powers are slowly being assigned to local governments. Resolutions of the Cabinet of Ministers have dissolved the ministries of local industry, communal economy and communal services and transferred their enterprises to the supervision of regional hokimiyats. While the state continues to monitor the performance of the production process, it has handed over branches of industry as well as some social services to local governments.

Local community self-governments have acquired the authority to establish, reorganize and liquidate small service enterprises. The state actively stimulates the establishment of economic relations and cooperation zones, through various programs such as the mahalla enterprise, all of which play an important role in creating relationships between local governments and businessmen. In the past three years, 174 such zones were created in the country, affecting 409 collectives, small and private enterprises, workshops and shops and creating 6,500 jobs. The establishment of economic zones in the Uzbek regions is a promising development, as they contribute to the stabilization of economy by supplying local markets with different consumer products. At the same time, the proximity of these enterprises to residences allows mothers to work at home, giving them the opportunity to earn a steady salary while raising their children, which promotes the general well-being of the population.

The chairmen of the citizen assembly encourages inhabitants to participate voluntarily in improving local surroundings by planting greenery, maintaining housing, outdoor structures, yards and parks and constructing and maintaining playgrounds, sports fields, roads, bridges, streets, sidewalks, historical or cultural monuments, communal facilities and cemeteries. To finance these functions, the community uses resources allocated by the district or city hokimiyat in addition to own resources.

The chairman of the citizen assembly also registers civil status acts such as birth, death, marriage, divorce and paternity certificates. If there is no notary in the settlement, chairmen are authorized to certify wills or proxies (excluding proxies to drive and dispose of vehicles), to undertake measures to protect inherited property, to certify the authenticity of copies or excerpts of official documents (excluding copies of education certificates) and to certify the originality of signatures on the documents.

Due to the reduction in GNP, state funding of public services, including health care, diminished throughout the period of transition. Nevertheless, several innovative educational institutions have recently been created. A total of 240 lyciums and 136 gymnasiums have been built, the number of specialized schools has grown by six percent and the number of higher educational institutions has increased by thirty percent since 1991. Secondary education is available to most children, though there is a trend towards decreased attendance. The scope of major service provision to the inhabitants is detailed in table 9.1.

Table 9.1
Provision of Major Social Services by Region, 1999

Regions	Secondary Schools	Hospital Beds per 1000 people	Housing [m ² /person]	Availability of Natural Gas [%]
Republic of Karakalpakstan	62.3	48.2	14.1	87.6
City of Tashkent	81.4	80.2	17.3	97.0
Andizhan	73.0	65.4	10.0	62.6
Bukhara	85.1	48.5	12.9	85.3
Djizak	68.8	50.4	13.4	71.8
Kashka-Darya	71.7	47.9	12.9	55.0
Navoi	75.6	47.1	14.0	67.4
Namangan	76.8	60.0	11.1	56.2
Samarkand	72.4	57.3	13.8	84.8
Surhan-Darya	71.3	41.8	11.9	57.7
Syr-Darya	79.7	65.7	13.1	84.3
Tashkent	71.9	49.5	13.3	79.5
Ferghana	78.5	63.3	12.7	75.0
Khoresm	79.0	50.2	17.9	90.5
National average	74.8	56.3	13.4	72.9

5.3 Civic and Private Sector Role in Service Delivery

Local governments facilitate the establishment of enterprises, institutions and organizations of different forms of ownership engaged in public service delivery within the territory. Hokimiyats register enterprises, facilitate joint ventures with foreign investors and conclude agreements on the sale and purchase of products for territorial development or for use by inhabitants. Local governments may also agree to accept services or payments in kind in lieu of profit tax.

Of the various kinds of enterprises, local governments clearly have the most control over municipal companies and organizations. The hokim approves provisions on municipal enterprises, institutions and organizations and appoints their heads if so stipulated by the company charter. These organizations are mainly financed from the local budget.

Though public services are primarily provided by budget-funded organizations, the private sector also plays a role. Legislation does not restrict privatization in this sphere. For example, hokimiyats issue tenders for city transport routes to private companies and most passengers use private transport services. In addition, local communal service associations are being created to replace former housing maintenance offices (ZhEKs). Relations between local divisions of the state government and non-municipally owned organizations are governed by contract. Local governments of large cities may also establish associations and form partnerships with private companies. In cases such as these, private companies may receive advantages such as the use of land at lower prices, tax privileges and other benefits that the local government may choose to grant, depending on the importance of the service provided. However, it should be noted that tax and other privileges may be granted only for taxes and fees assigned to the respective local budget.

In order to create a market for medical services and thereby increase their quality, the government has encouraged the development of paid health care. By 1999, fifty-nine private, self-financing hospitals were already functioning, with a total of fifteen thousand beds. About three thousand doctors are licensed to practice medicine privately. Alongside these positive developments, however, there are many unresolved problems, such as the supply of medicines and the need to reduce morbidity in rural areas.

Most small companies operating on the territory of local self-governments are private. Their owners provide services to mahalla residents and manage operations according to mahalla regulations. Local self-governments are entitled to use the social and economic potential of enterprises located in their territory in the interests of the resident and of local development. Accordingly, they may grant permission to enterprises to use natural resources in the local territory if this furthers local interests. In order to maintain comprehensive development, local governments may do the following:

- coordinate the participation of enterprises and organizations in local development;
- pool the resources of enterprises, organizations, citizens and local budgets on a voluntary basis to build, repair and maintain facilities of production and social infrastructure;

- conclude agreements with non-municipally owned enterprises on cooperation for the social and economic development of the territory, for the production of consumer goods and for the provision of services.

6. Local Finances, Local Property

6.1 Budget and Finance System

According to article 122 of the Constitution, Uzbekistan has an independent financial and monetary system. At the head of Uzbekistan's banking system is the Central Bank. The banking system is regulated by the Law on the Central Bank (1995) and the Law on Banks and Banking (1996). Uzbekistan also has a Banking and Finance Academy and thirty-three commercial banks with some eight hundred subsidiaries and divisions. However, no municipal banks currently exist.

The national budget is comprised of the national budget, the budget of the Karakalpak Republic and local budgets. The national budget consolidates national funds earmarked for specific purposes. The draft Law on the Budgetary System is under discussion and there is no special law on local public finances. The key principles of the budgetary system are a unified system of budget classification, a clear budgetary process and documented budget accounting; conformity of the budget structure to the administrative-territorial structure of Uzbekistan; correlation of budgets at different levels; a balanced national budget; itemized planning of public revenues by specific sources and expenditures; and national budget expenditures within the limits of the approved budgetary allocations.

Over the past few years, Uzbekistan has managed to achieve a growth in GDP and the consolidated national budget. The national budget includes central government expenditures, while the local budgets include expenditures of the regional governments, district and city governments as well as community self-governments. Central and regional government expenditures are stable relative to GDP and the consolidated national budget, while local community self-government expenditures have dramatically increased (see table 9.2). Social assistance programs funded through the local budget include assistance to low-income families, families with children under sixteen and single mothers with children under two. These programs have been administered by community self-governments since 1994, 1997 and 1998, respectively. Funding for these programs is established centrally as part of consolidated budget expenditures, reflected in the local budget and transferred to the community self-governments. Specific funds for these programs are distributed by local self-governments in compliance with fixed regulations. As of 2001, community government expenditures are to be itemized separately in the national budget.

National budget funds are redistributed among budgets of different levels by assigning subventions and subsidies to lower-level budgets, granting budgetary loans, and channeling budgetary funds to the higher or lower-level budget through mutual settlement schemes created during budget

implementation. Local budgets enjoy no financial autonomy and are strongly dependent on the center. The budgetary subventions and subsidies are allotted within the limits of the approved budgets. There is no special law regulating subventions, which are granted to underdeveloped regions according to need. Standards for their allocation are subject to change on an annual basis. In 1999, for example, subventions accounted for 35.9 percent of local budget revenues in Karakalpakstan, 29.6 percent in Djizak, 23.6 percent in Samarkand, 17.3 percent in Namangan, 16.4 percent in Syr-Darya, 14.4 percent in Andizhan and 11.2 percent in Surkhan-Darya. No other regions received subventions in 1999.

Table 9.2
Correlation of Consolidated National Budget Components

	1996	1997	1998	1999
Central government expenditures as a percentage of GDP	17.0	14.0	16.8	14.7
Central government expenditures as a percentage of the consolidated budget	46.6	43.6	48.8	45.9
Regional government expenditures as a percentage of the consolidated budget	53.4	56.4	51.2	54.2
Community self-government expenditures as a percentage of consolidated budget	0.47	4.9	6.3	6.7

Table 9.3
Share of State Subventions in Local Budget Revenues, 1997–1999

	1997		1998		1999	
	[UZS million]	[%]	[UZS million]	[%]	[UZS million]	[%]
Local budget revenues including state subventions	168,326	70.1	239,725	74.2	340,574	76.6
Local budget revenues excluding state subventions	136,704	57.0	186,406	57.7	304,578	68.5
State subventions to local budgets	31,622	13.1	53,319	16.5	35,996	8.1
Other sources of revenue	71,651	29.9	83,642	25.8	103,839	23.4
Total revenues	239,977	100	323,367	100	444,413	100

6.2 Revenues

Regional funds are comprised of budgetary funds, extra-budgetary funds, special funds, credit, subventions and subsidies. Local budget revenues are formed of:

- local taxes, duties and fees as well as obligatory payments and other non-tax revenues assigned to local budgets;
- national taxes, duties, fees, obligatory payments and other national revenues channeled to local budgets;
- revenues from the allocation or utilization of public property in compliance with legally established standards;
- funds acquired by the government through succession or gift as prescribed by the legislation;
- budgetary subventions, subsidies and loans from higher-level budgets;
- donations from legal entities, individuals and foreign states.

By decision of the Cabinet of Ministers, the Ministry of Finance may increase the share of national budget revenues designated for local budgets in order to fund specific expenditures itemized in the local budget.

Local governments may also form extra-budgetary funds out of voluntary donations from citizens, organizations and enterprises as well as other extra-budgetary resources. Taxes and other payments that are to be entered to the budget may not be used for this purpose. Extra-budgetary funds are kept in special accounts, not be withdrawn except by decision of the appropriate local council or hokim.

Extra-budgetary funds at the regional and national level include territorial development funds, environmental funds and the social assistance fund for low-income groups. Drastic changes in the economic situation quite often require rapid administrative response, especially when finances need to be redistributed. Thus, extra-budgetary funds are managed by the executive branch—unlike budgetary funds, which are regulated by local council—since the executive branch is able to act with greater speed and efficiency. The extra-budgetary fund may be used to:

- influence the manufacturing process by funding, subsidizing and crediting enterprises;
- implement environmental protection measures funded by specifically designated sources and fines for environmental pollution;
- provide social services through providing benefits and pensions and subsidize or fund the general social infrastructure.

The Karakalpak Republic provides one example of local budget structure. Since implementation of local budgets follows a standard accounting format, the structure of local budgets is the same throughout Uzbekistan, though the numbers vary. In Karakalpakstan, VAT forms the major part of revenues (15.29 percent), followed by corporate income tax (9.92 percent) and personal income tax (9.27 percent). Since the republic is located at the epicenter of the Aral environmental crisis, it is notably behind other regions in terms of socio-economic development. Therefore, Karakalpakstan has been provided with all possible support from the national government, including subventions amounting to over thirty-five percent of the Karakalpak local budget.

6.3 Expenditures

Local budget expenditures, including those of the Karakalpak Republic, are made within the limits of the approved allocations in the form of:

- current expenditures of public organizations funded through local budgets;
- current budgetary transfers;
- capital expenditures for the acquisition and repair of fixed assets, capital for public need, the acquisition of land and other intangible assets for public needs.

Again using the Karakalpak Republic as an example, the largest part of its local budget expenditures in 1999 went to the social and cultural sphere (49.89 percent). Since the personnel training program is a national government priority, over thirty-six percent of the local budget is invested in education. Other important areas of budget funding include health care (12.17 percent), social assistance for low-income citizens (10.45 percent) and public capital investment (14.97 percent).

6.4 Local Budget Process

As part of the national budgetary system, local budgets are firmly tied to the state budget. Local governments exercise only nominal authority over local budget resources; in practice, local budget planning is centralized, with local revenues and expenditures defined by the Ministry of Finance. Budget policy is frequently aimed at limiting regional independence and supporting vulnerable regions at the expense of stronger ones. Nonetheless, these policies still preserve a sectoral-specific bias in allocating production facilities and other factors contributing to underdevelopment in the poorer regions. In addition, wide disparities in the per capita budgetary funds distributed among regions create unequal access to basic social services (see Annex 9.3).

Regional budgets do not set aside funds to develop the local economy so as to generate local tax revenues. Regional hokims are generally uninterested in the issue, although opportunities exist for organizing facilities to manufacture consumer goods, building materials and art industries. These facilities could improve the supply of these goods to the local population as well as contribute to local budgets. However, upon their establishment, the tax rates for funds distributed to local budgets under the regulated budgetary articles would be immediately applied to these enterprises or industries. There are no long-term standards for the allocation of funds from the regulated tax items. The dependence of local governments upon central bureaucracy is thus entrenched in the local budget structure.

Local budgets mainly consist of funding from the national budget and local tax revenues. Central funding distributed to regions includes:

- funding through national investment programs earmarked for social and cultural events, social protection, administrative costs and maintenance;
- allocations from national taxes and revenues according to standards established by the government;
- subventions allocated from the national budget.

The process of formulating national and local budgets is as follows. According to the terms set by the Cabinet of Ministers, the Ministry of Finance issues an annual request to local governments to draft their budgets for the coming year and file requests for allocations from national targeted funds. This is sent to regional hokims, the Tashkent hokim and the Karakalpak Cabinet of Ministers. Upon receipt of this request, these administrations have three days to decide upon drafting procedures. Within three days of making their decisions, the financial bodies of these administrations likewise request their subordinate local governments to draft budgets and file requests for budgetary allocations. The request form for budgetary allocations and procedures for compiling the necessary documentation are provided by the Uzbek Ministry of Finance.

The deadline for submitting a request for budgetary allocations in the coming year is 1 June of the current year. The financial departments of district and city hokimiyats must then submit their draft budgets to higher financial bodies by 25 June. Regional hokimiyats, the Karakalpak Council of Ministers and the Tashkent administration must submit their draft budgets to the Ministry of Finance by 1 June. Finally, the national budget for the coming year is drafted by the Ministry of Finance by 1 October.

The draft national budget contains the following items:

- 1) revenues and expenditures of the national budget;
- 2) standards for allocating shares from national tax revenue to local budgets, the amount of local budget revenues, including budgetary subventions and subsidies, and total local budget expenditures;
- 3) the amount of petty cash provided for in local budgets;
- 4) the amount of the reserve fund of the Uzbek Cabinet of Ministers and reserve funds of local budgets, the ceiling for the national deficit and sources for its financing.

The Uzbek Ministry of Finance must draft a budget message together with various ministries and organizations and submit it to the Cabinet of Ministers by 1 October. This message contains:

- 1) a summary of national socio-economic development and estimated figures for the current year;
- 2) a budget implementation report for the previous year and the forecast of budget implementation for the current year;
- 3) key macroeconomic indicators on which the draft budget is based;
- 4) an outline of the proposed national budgetary and tax policies for next year;
- 5) data on the status of national debts, foreign and internal, as well as debt-related expenditures;
- 6) the draft budget for the coming fiscal year.

The Cabinet presents the budget message by 1 November to the National Parliament, which approves the national budget. Within two weeks, local budgets are adopted by regional councils, the Tashkent council and the Karakalpak Parliament in compliance with the national budget. City and district budgets are passed by the appropriate local councils one week later. Budgets of city districts and cities of raion jurisdiction are adopted by the city or district council, respectively.

Within one week of adopting the national budget, the Ministry of Finance notifies the Karakalpak Cabinet and regional and Tashkent city hokims of their total budget revenues and expenditures, subventions, subsidies and other budgetary indicators. Within the same period of time, the State Committees for Taxation and Customs are also notified of the estimated amounts of national budget revenues. Within in one week of adopting the local budget, local financial authorities notify local tax bodies of the approved amounts of revenue for the Karakalpak Republic and local budgets. They must also notify any organizations funded through the local budgets of their allocated funding.

Local administrations are not authorized to take steps that reduce revenues or increase the expenditures of the national budget, if the deficit passes over the established limit as a result. During budget implementation, the council may pass a decision bringing about a reduction of specific types of budget revenues only if there is a corresponding increase in other revenues or reduction in expenditures. If council legislation produces decreased expenditures or increased revenues in the local budget, then the council retains the resulting surplus.

The Uzbek Ministry of Finance and local financial bodies are jointly responsible for executing the national and local budgets within the established parameters. While executing control over the implementation of the national budget, the Ministry of Finance and its local divisions review data on budget implementation at different levels, collect information from the tax and customs authorities on the receipt of funds by budgets of different levels, request the recipients of budgetary funds to provide information on the receipt and spending of budgetary allocations and, as prescribed by legislation, obtain information from banks on the movement of budgetary funds. The Cabinet reviews national budget implementation reports from the Ministry of Finance on a quarterly basis.

Recipients of local budget funds report to local financial bodies on the use of those allocations over an accounting period established by the Ministry of Finance. The financial bodies in districts and cities report on local budget implementation of the city and district budgets over the accounting period to the appropriate hokims and higher financial bodies. The Karakalpak Ministry of Finance, Tashkent and regional financial bodies report on the implementation of their budgets over the accounting period to the Karakalpak Cabinet and the appropriate hokimiyats, respectively, as well as to the Uzbek Ministry of Finance. The Karakalpak Cabinet and hokims of regions, Tashkent, districts and cities review and approve of reports on budget implementation and present them to the Karakalpak Parliament and the appropriate local councils, respectively.

The local tax divisions provide monthly reports to the local financial departments on the receipt of taxes, duties and other obligatory payments by the budget over the accounting period. The Uzbek Ministry of Finance reports on the execution of the national budget over the accounting year to the Uzbek Cabinet by 1 May of the following year. The Cabinet subsequently presents a budget execution report to Parliament for review and approval by 15 May of the year following the accounting one.

6.5 Tax System, Local Taxes

Uzbekistan has a unified tax system in which the National Parliament has the sole authority to establish taxes. The Tax Code (1 January 1998) is the primary document regulating the taxation of individuals and legal entities. The tax system consists of national and local taxes and duties. Local budget revenues are comprised of fixed and regulated revenue articles. Regulated budget articles include national taxes such as income tax on legal entities; personal income tax; VAT; excise tax; tax on subsoil assets; environmental tax; and the tax on water resources. In 1999, Parliament established a tax rate of fifteen to forty-five percent on income; thirty-three percent on profit; and twenty percent for VAT.

National taxes are distributed among the national and local budgets according to standards reviewed annually by the Cabinet and based on proposals drafted by the Ministry of Finance. The range in regulated rates for local budget taxes is more than wide enough. For instance, the VAT allocated to local governments ranges from 18.6 percent in the region of Tashkent to 21.1 percent in Tashkent itself to one hundred percent in the regions of Karakalpakstan, Djizak, Navoi and Surkhan-Darya. Similarly, revenues from the excise tax in 1999 ranged from ten percent in Ferghana to one hundred percent in Karakalpakstan, Andizhan, Djizak, Navoi, Surkhan-Darya and Syr-Darya. The enterprise profit tax was thirty percent in Tashkent, thirty-five percent in Ferghana, and one hundred percent in others of the above-mentioned regions.

In addition to the regulated revenues articles as described above, the local budget is comprised of fixed revenues such as local taxes and fees. According to current legislation, local taxes include property tax, land tax, advertising tax and motor vehicles sales tax. Local fees include the fees for trading licenses (such as fees for goods-specific licenses), fees to register as a legal entity or individual engaged in entrepreneurial activities, fees for motor transport parking and fees for urban and rural development activities.

Property and land taxes are collected nationally; however, their specific tax rates are defined by local legislation unless otherwise provided by national legislation. Since 1998, a unified land tax has been introduced for agricultural enterprises. This tax is payable on an annual basis according to year-end results at rates defined according to parameters measuring the quality of the land. Thirty percent of this tax goes to the central budget, while the remaining seventy percent goes to the local budget. The remaining local taxes and duties are introduced by local councils. Other tax rates (except for the property tax, whose rate has been fixed at four percent by the tax code) are subject to annual review by the Cabinet of Ministers.

Although local taxes represent a small portion of local budget revenues, their importance is not limited to the role of a revenue source for the budget, as they also serve to control distributional relations. Since taxable items include land plots, property, vehicles and other items, taxation helps account for these items and monitor their purchase and utilization.

Although the amended Law on Bankruptcy was approved on 28 August 1998, it does not apply to enterprises, institutions and organizations funded from the national budget. In case of a temporary gap between revenues and expenditures of budgets of different levels over the financial year, budgetary loans may be issued out of the relevant budgets. The limits and procedures for allocating budgetary loans are established by the Ministry of Finance. Overall, local budget expenditures account for a larger share than the national budget expenditures in the total volume of the national budget.

Table 9.4
**Relative Size of Local Budget Expenditures and Central Government Expenditures,
1996–1999**

	1996		1997		1998		1999	
	[UZS billion]	[%]	[UZS billion]	[%]	[UZS billion]	[%]	[UZS billion]	[%]
National budget expenditures	94.7	46.6	138.2	43.6	228.6	48.8	301.8	45.9
Local budget expenditures	108.6	53.4	179.0	56.4	240.1	51.2	356.9	54.2
Total national budget	203.3	100.0	307.2	100.0	486.7	100.0	658.7	100.0

Analysis of the current system of local financial and fiscal management reveals the following negative trends:

- There is a failure to comply with the principle of guaranteed minimum per capita budget allocations to regions (see table 9A.1);
- The size of local budgets does not meet the needs for local economic development in those regions with the largest concentration of natural economic potential: Tashkent, Kashka-Darya, Samarkand, Navoi and the densely populated regions of the Ferghana valley;
- The system of determining budget revenues and expenditures does not correspond with the scale and efficiency of manufacturing. Seventy percent of regions cannot balance their budgets, hindering normal economic development and the functioning of the social sphere, particularly health, education and cultural facilities;
- Standards for allocating funds to local budgets are reviewed annually and do not take full account of the regional situation and its peculiarities;
- Long-term standards have not been developed for allocating funds to maintain social facilities, in contradiction to the principles of local self-governance and democratization;
- Subventions are generally determined on a subjective basis and do not develop the structure of regional production. Rather than being targeted, subventions are generally issued to the underdeveloped regions, which then use them inefficiently.

- Since regions are divided into donor and recipient regions, the wealthy regions tend to exert pressure upon the central government, which is illegal in a democratized government;
- The various extra-budgetary funds are used inefficiently by regions; they are structured according to a sectoral approach and lack coordination or control by national and local administrations;
- The low technical level and deteriorated condition of municipal property and facilities necessitates increasing expenditures for maintenance, appreciation and the low quality of goods and services.

6.6 Legal Forms of Ownership

In the process of economic reform in Uzbekistan, there was no abrupt transition from public and collective forms of ownership, such as farm cooperatives, to private forms. Rather, it was decided that a solid legal framework and favorable socio-economic conditions for privatization must first be established. The adoption of the Property Law in 1990 marked the first step towards legalizing a diversity of forms of ownership. However, most provisions of this law have since become outdated and require significant revision.

Other legislation regulating property ownership includes the Uzbek Civil Code, which took effect on 1 March 1997. According to article 164 of the Civil Code, the right to ownership is the right of an individual to own, use and dispose of property at his or her own discretion and in his or her interest. Individuals have the right to demand the elimination of any infringement on their right to ownership regardless of who is responsible. Article 213 of the Civil Code outlines a concept of public property which includes both national and municipal property.

In Uzbekistan, the land, subsoil assets, water and air space, animal and vegetable life are the exclusive property of the state, by article 214 of the Civil Code. The purchase or sale of natural assets is not allowed by legislation.

The issue of land ownership is central to the agricultural economy and, since sixty percent of the population is rural, decisive for the entire Uzbek economy. Because of the particular climate conditions in Uzbekistan, most land suitable for cultivation must be irrigated. The nature of precipitation, the soils and the unequal distribution of water resources all render individual farming difficult, calling instead for the organized efforts of large communities. Since the purchase and sale of land would disable the unified irrigation system, it was decided to retain land in public ownership. Market relations in rural areas are based on lifelong, inherited ownership of land plots together with the right to utilize them (article 165 of the Civil Code, article 5 of the Law on Peasants' Enterprises, article 10 of the Law on Land). However, plots with trading facilities may be sold on a competitive basis, according to a presidential decree issued on 21 January 1994.

In addition to natural assets, other property and enterprises are publicly owned due to strategic considerations or their value as institutions of historical and cultural heritage. The Parliamentary

Resolution on Issues of Denationalization and Privatization of Some Enterprises and Property, issued 31 August 1995, lists items that are not subject to denationalization, privatization or buy-out and transfer to private property. It also defines property and enterprises which may be denationalized and privatized by Cabinet decision.

According to article 214 of the Civil Code, national property is managed by Parliament, the president and the Cabinet of Ministers or agencies that they authorize. Presently, the State Committee for Public Property Management and Support for Entrepreneurial Activity has government authority to perform these tasks, as specified in the Cabinet Resolution of 29 March 1994.

According to article 215 of the Civil Code, municipal property includes assets belonging to the local administrations, local budget funds, municipal housing stock, communal service enterprises and facilities for education, culture and health care. Regional property may also consist of local engineering infrastructure; enterprises and organizations established or purchased from regional funds (including sharing arrangements) or transferred from other sources; and securities and financial assets. District and city property includes assets of the respective local council, budget funds, extra-budgetary funds and earmarked funds.

The Law on Local Public Administration, among other legislation, regulates management of local property as well as assets of higher-level governments that have been transferred to the management of local authorities. Assets in the ownership of regions, cities and districts are managed by the appropriate local councils and hokims. Legal entities may also be licensed to manage nationally or municipally owned assets. City or district hokims have the authority, following established procedures and local standards, to lease or allot land plots for the use of citizens or public enterprises as well as to terminate the right of these entities to hold these plots and confiscate the land. The decisions are subject to approval by the appropriate local council.

Consequently, municipal property is legally recognized as the wealth, or share in national assets, belonging to the local population and should serve its interests. Local governments have authority over the establishment, acquisition, utilization and lease of municipal assets. The particular municipal assets of a specific territorial unit are determined by the characteristics of its socio-economic development, its size and other factors. Due to the lack of reliable statistics, it is not possible to detail here the number of assets in municipal ownership or enterprises controlled by the local governments.

Although the creation of municipal property is closely related to the process of privatization, local government bodies, particularly in cities of district jurisdiction, have no significant influence upon privatization processes and are therefore deprived of the opportunity to protect local interests in this field. Local governments have the right to pursue small scale local privatization programs, but this is relatively insignificant and pertains only to a short list of assets including distribution, public catering and service facilities.

7. Relationship between the State Administration and Local Government

Uzbekistan has an established presidential form of administration, with all central power concentrated in the hands of the president. The Office of the President and the Cabinet of Ministers exercise control over compliance with presidential decrees and cabinet resolutions. Local administrative powers are exercised by local representative and executive bodies. Local councils and hokimiyats are responsible for ensuring social and economic development in their territories and compliance with the Constitution, laws, acts of Oliy Majlis, the president and government of Uzbekistan.

The nature of relationships between different tiers of government varies between the executive and representative branches. The executive branch is characterized by a centralized hierarchy and strict vertical subordination. District and city hokims represent the regional hokim, who in turn represents the president. Hence, regional hokimiyats have authority over district ones and district hokimiyats over rural and city governments.

Local representative bodies are not so closely related to the national legislative body, the Oliy Majlis. Nor is there subordination between councils; for instance, city and district councils are independent of regional ones. Representative bodies operate through sessions and standing and provisional commissions and may organize public hearings. They have the right to question council members, whereas executive bodies are based on the principle of undivided authority.

There is a recognized need for the phased decentralization of administrative authority in Uzbekistan. Some central government authorities are gradually being transferred to regions and local governments. At the same time, the central government is attempting to preserve efficiency of government operations in general. In addition, local divisions of central government are to increase the role of local governments by delegating additional competencies and functions.

Current Uzbek legislation specifies the accountability of hokims on issues related to local council jurisdiction. Local councils and hokims have the right to demand that decisions of the other be annulled if they contradict legislation. However, such cases are quite rare in practice. Mutual understanding between the local councils and hokims is considered to be decisive and their cooperation the basis of efficiency and stability. Forms of cooperation include informing each other about their activities, on the current situation and on the progress of implementing decisions.

It is essential to analyze the status of relations between branches of power in different districts and cities and their joint response to the misunderstandings which occasionally occur. Once again, this requires clear legal regulation of the relationships between the branches and tiers of power. Inspectorates and committees of constitutional supervision at the regional level currently exercise control over the appropriateness of local government decisions.

Despite their ever increasing role, in practice local governments are only able to manage their daily administration and economic functions partially from their allocated funds. Their responsibility to support comprehensive local development is not backed by real ownership rights over regional property or actual management of funds or material, technical and natural resources. Their hands are tied by their lack of authority to solve strategic development issues, such as establishing an efficient branch structure and determining the direction and priorities of local social development.

The imperfect territorial administration of the economy is mainly the result of centralized government. Territorial administration is characterized by direct influence in the form of centralized capital investments from the national budget or ministerial funds. Rarely are these investments effective for the transformation of territories. Budget funds are nominally distributed by regions, but are in fact distributed among ministries. Since local taxes form a small share of revenues, local budgets are dependent on central decisions.

The most important task facing the government is the improvement of the middle tier of local government. Regional governments technically possess the necessary instruments by law to influence social and economic processes while taking into consideration their specific conditions. However, this distribution of authorities is not reflected by current realities. Local divisions of different ministries and state committees function based on sectoral subordination and their central offices do not always coordinate with local governments. Though most local government functions are legally established, they are not clearly specified for different tiers.

Currently, interaction between different levels of government follows long established rules, both unwritten and official, which dictate strict vertical subordination. The regulatory role of the state is only increasing, not diminishing, with the development of democracy. It is necessary to clarify the legal relationships between hokimiyats and local councils, between administrations of different tiers and between local governments and enterprises. Direct interference in the activities of local governments would consequently be replaced with a legal framework for cooperation.

8. Local Government Employees

The Constitution of Uzbekistan proclaims the right of each citizen to work, equal employment opportunity and just labor conditions. Currently there is no special law regarding the public service system and status of government employees. Labor relations are regulated by the Labor Code of Uzbekistan, adopted on 21 December 1995, and other legislation. The legal basis for the activities of local government officials is established in the Law on Local Public Administration. According to this law, the hokim, deputy hokims and other local government officials are prohibited from occupying any other paid position while in office.

A model hokimiyat organizational chart is shown in figure 9A.1. The first deputy and other deputy hokims in districts and cities are appointed by the hokim in coordination with higher government

bodies. As a rule, they are selected from the members of the local council. Hokim and hokimiyat departments are responsible for the employment and training of local government staff. Employees are hired through open competition. Government employee salaries are based on norms established by the government for budget organizations. The government periodically establishes a minimum salary, which is used as the baseline for salary calculation. Factors that determine monthly salary include the staff list, the professional grade and the category of employee, all of which depend on the level of education, experience and other qualifications. Full-time employees have the right to paid vacation. The length of working hours, paid vacation and other social guarantees are established by law. Political considerations do not prevail with regard to government officials. The office of regional, district or city hokimiyat provides organizational, technical and other support to the activities of a respective local council.

Government employees are assessed every three to five years. Additional assessments may be conducted in certain circumstances, such as the need to restructure or downsize staff. For purposes of assessment, the employees must complete official forms, which are currently under development. In addition, an assessment commission established by a higher level of government may question the employees on politics, the economy, legislation and other subjects. At the conclusion of this process, the commission may assign one of three grades: positive, negative or conditional. If positive, the employee continues work as usual; if negative, the commission may request his or her dismissal; if conditional, the employee undergoes a probation period, typically three to six months, at the end of which a final performance review is conducted. Government employees are expected to upgrade their qualifications regularly. They may receive training at the Academy of Public Administration, under the auspices of the Office of the President, as well as at a number of other educational institutions.

9. Legal Guarantees for Local Autonomy

According to article 7 of the Constitution, the authority of the state is exercised exclusively by the bodies authorized in legislation. Appropriation of unauthorized powers, the establishment or termination of government body activities in contradiction to constitutional procedures or the creation of new or parallel structures all violate the Constitution and are subject to legal accountability. The consent of Parliament is required for creating or dissolving regions, districts or cities and for any amendment to the boundaries of the Republic of Karakalpakstan, regions or the city of Tashkent.

The Constitution of Karakalpakstan contains special features pertinent to local autonomy. According to article 73 of the Uzbek Constitution, the Republic of Karakalpakstan independently decides on issues of its internal administrative-territorial composition. It also has the right to secede from the Republic of Uzbekistan through a general referendum of Karakalpak citizens. Mutual relations between Uzbekistan and Karakalpakstan are regulated by memoranda and bilateral agreements, while disputes between the two are to be resolved through arbitration.

According to article 93 of the Constitution of Uzbekistan, the president is the guarantor of human rights and freedoms and the laws of Uzbekistan. Other legal guarantees and mechanisms to protect local autonomy have not been established. According to the Constitution, regional, district or city hokims exercise their authorities on the principle of undivided authority for a five-year term. However, this mandate may be extended or prematurely terminated based on performance. Hokims bear personal responsibility for the decisions and activities of the bodies which they head.

In times of crisis due to the poor performance or abuse of power by the regional government, such as a decline in regional social and economic indices or a shortage of food or services, the central government can suspend local administration activities. In this case, the local council convenes in an extraordinary session at which the president of Uzbekistan proposes the dismissal of the current hokim and nominates a replacement for the council's approval. Recently such sessions have been held in the regions of Ferghana, Kashka-Darya and Surkhan-Darya. Typically, the hokim is said to be leaving "due to the transfer to another position." The president also has the right to dismiss district and city hokims from office if they violate the Constitution or national legislation or if their acts discredit the honor and dignity of their position. Thus far there have been no cases of presidential dismissal, although some district and city hokims have been dismissed by higher levels of government.

The activities of the hokim may be appealed in the court by citizens, institutions or organizations. The Attorney General of Uzbekistan, appointed by the president, is responsible for control over clear and uniform compliance to legislation nationwide. The Attorney General appoints regional, district and city attorneys to monitor the legality of activities in all government structures, including hokimiyats. Hokim decisions which contradict the Constitution, legislation, presidential and government decrees, or which are otherwise appealed by the attorney shall be reviewed by the hokim or annulled by either the superior hokim or the Cabinet of Ministers.

Disputes between organizations or enterprises of different forms of ownership arising over economic or management-related issues shall be resolved by the Supreme Economic Court and other economic courts. However, no such court proceedings between the administrations of different levels have yet taken place in Uzbekistan.

10. Next Steps in the Transition Process

The establishment of efficient central and local government bodies in Uzbekistan is still in progress. Problems remaining to be addressed in the existing structure of local administration include the following:

- There is no systematic approach or clear differentiation of central and local government functions;
- There is no clear coordination between central and local governments in addressing urgent social and economic regional issues;

- Due to limited financial and material resources, local administrations lack the ability to influence the social and economic situation or make independent decisions about their activities in international markets or on broadening their export potential;
- The organizational mechanism for the integration of regions has not yet been established;
- There is no system for the rational placement of industrial enterprises at the national or regional levels;
- The system of dual subordination and the organizational structure of territorial governments need to be reviewed in light of new goals such as administrative decentralization and liberalization.

Local government functions must be expanded and sufficient local autonomy granted before further reforms can be fully implemented. Broader rights and opportunities correspondingly mean more responsibility to the state and society for decision making and implementation in all spheres of regional life. In order to provide adequate authority and opportunities for local governments to actively influence the process of market transformation, the following steps should be taken:

- to develop a concept for gradually transferring certain central government authorities to local self-governments and NGOs;
- to formulate an action program to implement the concept “from a strong state to a strong civil society;”
- to implement budgetary reform that clearly differentiates budget authorities between the center and the regions;
- to adopt a Law on Budget Composition which establishes democratic procedures for developing national and local budgets;
- to significantly increase the role of local budgets in the consolidated national budget so that it corresponds to the distribution of functions between the two.

Improving government activities at every tier is one of the most important and comprehensive issues facing Uzbekistan. This will determine the character of citizen-state relations, the successful performance of government functions and the fulfillment of urgent tasks of social and economic development throughout the country. In addition, serious legislative efforts are required to restore the balance of powers between different branches. The current balance of power is heavily weighted in favor of the executive branch, which negates the principle of equilibrium and mutual control. It is necessary to improve legislation on local government to strengthen the role of local councils and expand their control functions. Although local government should undoubtedly be based on a strong local executive branch, this does not require that local representative bodies be weak. A strong, united local government is needed, one which utilizes both branches.

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Glossary of Uzbek Terms

- Aul* — The equivalent of kishlak, or rural settlement, in Kazakh, Karakalpak or Tatar.
- Aqsaqal* — Chairman of the mahalla self-government.
- Hokim* — The chairman of the local council and head of local administration.
- Hokimiyat* — The executive branch of local governments.
- Kengash* — Committee elected to head the mahalla self-government.
- Kishlak* — A rural settlement which may include many neighboring localities and is represented by an assembly of its citizens.
- Kotib* — Secretary of the mahalla self-government.

- Mahalla* — A community of people residing in a localized area; these may range from 150 to 1,500 families.
- Makan-kenes'es* — City mahallas in the Republic of Karakalpakstan.
- Muovin* — Deputy chairman of the mahalla self-government.
- Oliy Majlis* — “Supreme Council,” or Parliament, the highest legislative body in Uzbekistan.
- Zhokargy Kenes* — The Supreme Council of the Republic of Karakalpakstan.

Annex 9.1

Major General Indicators

Size of territory	448,900 square kilometers
Population (1 January 2000)	24,487,700
Pensioners	1,735,000
School-age children	9,714,000
Population density	54.5 people per square kilometer
Major ethnic divisions:	
Uzbeks	77 percent
Russians	6 percent
Tajiks	5 percent
Kazakhs	4 percent
Karakalpaks	2 percent
Per capita GDP (1998)	USD 2,053
Public debt as a percentage of GDP (1999)	0.6 percent
Unemployment rate (registered)	0.5 percent
Average monthly average inflation (according to Consumer Price Index)	1.9 percent
Exchange rate (19 January 1999)	1USD = 110.95 Uzbek sums [UZS]

Annex 9.2

Population, Settlements and Administrative Tiers

Table 9A.1
Per Capita Social and Economic Indicators by Region, 1999 [thousand UZS]

Regions	Share of National Budget	GDP Production	Industrial Production	Production of Consumer Goods	Agri-cultural Production	Retail Trade Turnover	Service Industry
Republic of Karakalpakstan	9.3	51.9	18.2	14.3	18.1	24.2	3.4
Andizhan	9.6	71.9	59.5	43.9	39.8	54.2	6.4
Bukhara	16.4	99.3	54.9	33.7	47.3	36.1	7.4
Djizak	6.6	60.1	13.1	6.8	44.2	19.7	4.0
Kashka-Darya	10.4	63.2	45.0	15.2	31.7	30.9	3.6
Navoi	23.3	100.8	157.4	16.4	37.3	37.5	6.0
Namangan	8.0	50.7	22.7	16.6	28.9	31.8	3.6
Samarkand	8.3	63.6	33.8	36.2	36.7	39.8	5.2
Surkhan-Darya	7.6	57.1	19.8	12.5	37.0	25.5	3.9
Syr-Darya	13.2	77.0	26.4	19.7	47.0	33.0	3.0
Tashkent	13.3	81.4	64.1	25.7	41.6	45.0	6.2
Ferghana	14.7	79.9	57.0	27.0	32.5	60.9	4.7
Khoresm	12.5	80.9	32.6	24.8	55.0	32.9	6.5
City of Tashkent	34.8	142.6	86.8	51.4	—	136.6	25.8
National average	13.3	84.2	53.6	26.9	34.2	47.2	7.9
Standard deviation	5.3	2.8	12.0	7.6	3.0	6.9	8.6

Table 9A.2

Urban Settlements by Population Size Categories in Uzbekistan (1 January 2000)

Population Size Category	Number of Settlements	Percentage of Settlements	Number of Inhabitants	Percentage of Total Population
0–3,000	11	4.7	21,200	0.2
3,000–5,000	18	7.7	75,500	0.8
5,000–10,000	47	20.2	349,500	3.8
10,000–20,000	72	30.9	1,000,400	10.9
20,000–50,000	54	23.2	1,540,200	16.8
50,000–100,000	14	6.0	866,400	9.5
100,000–250,000	13	5.6	2,095,200	22.9
250,000–500,000	3	1.3	1,081,600	11.8
1,000,000+	1	0.4	2,135,500	23.3
Total	233	100.0	9,165,500	100.0

Table 9A.3

Rural Settlements by Population Size Categories in Uzbekistan (1 January 2000)

Population Size Category	Number of Rural Districts	[%]	Population Size	[%]
0–3,000	—	—	—	—
3,000–5,000	1	0.6	3,800	0.0
5,000–10,000	1	0.6	6,300	0.0
10,000–20,000	4	2.4	63,500	0.4
20,000–50,000	28	17.1	952,500	6.3
50,000–100,000	59	36.0	4,594,600	30.5
100,000–250,000	71	43.3	9,455,500	62.7
Total	164	100.0	15,076,200	100.0

Table 9A.4
Administrative-territorial Structure in Uzbekistan

Local and Regional Governments	Average Number of Inhabitants per Unit	Average Number of Settlements per Unit
First tier (cities, towns and village)	39,500	1
Second tier (districts)	148,800	10.3
Third tier (regions and the Republic of Karakalpakstan)	1,743,400	120.6

Figure 9A.1
Sample Structure of a Rural Hokimiyat

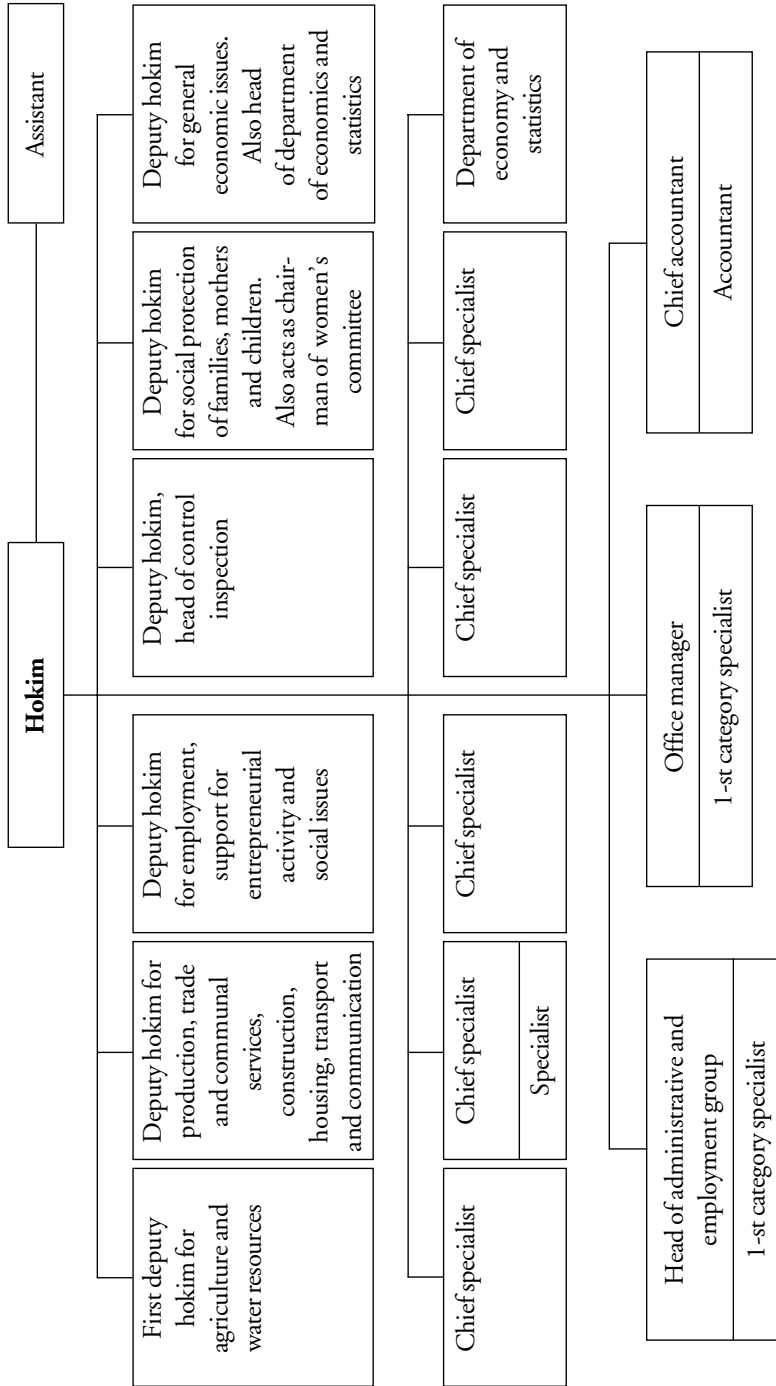
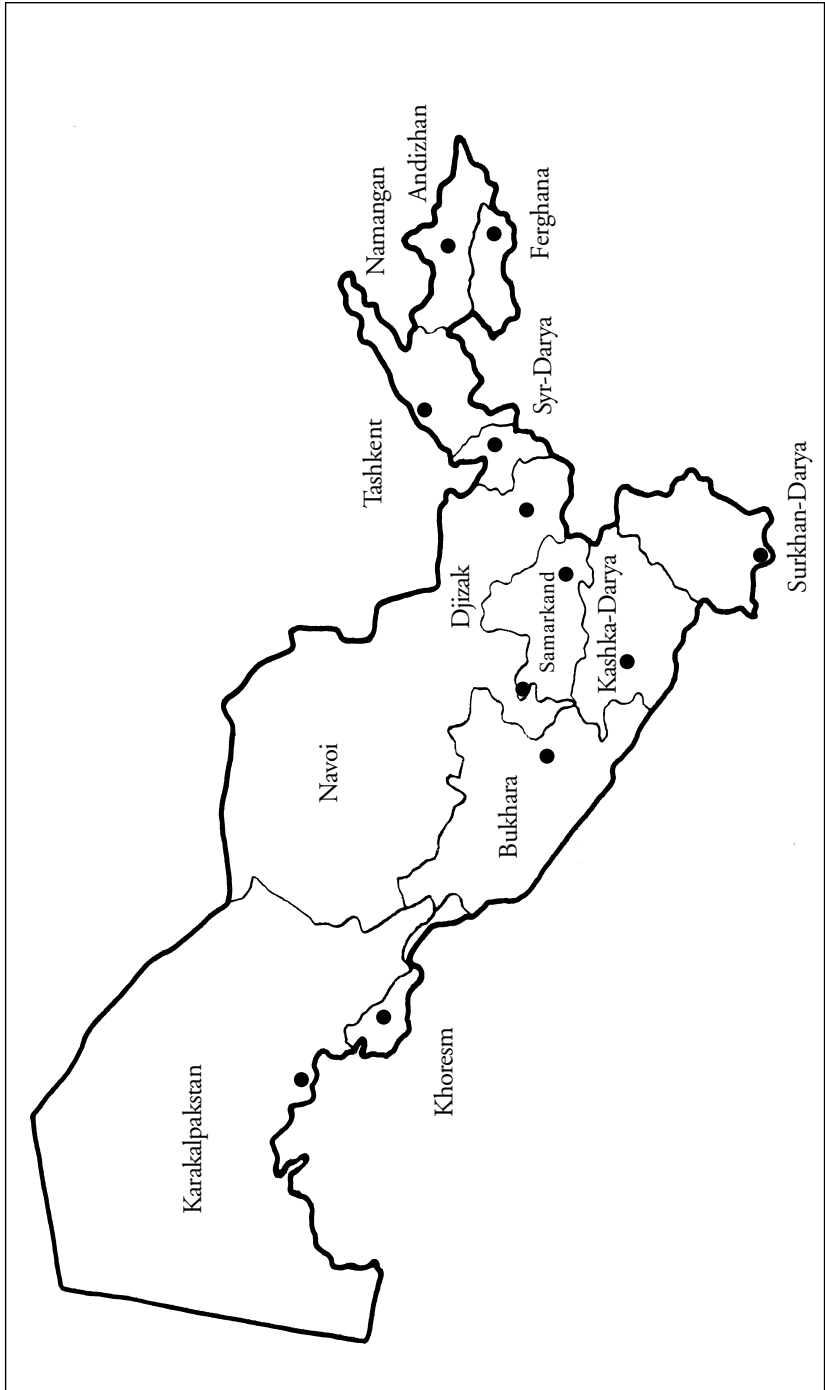


Figure 9A.2
Administrative Map of Uzbekistan



Annex 9.3

Major Laws on Public Administration and Local Government

The following laws are listed in the order of adoption:

- Constitution of the Republic of Uzbekistan (8 December 1992). Tashkent, Uzbekistan, 1992: p. 48.
- Constitution of the Republic of Karakalpakstan (adopted 9 April 1993, amended in 1995 and 1997). Nukus, Karakalpakstan, 1998: p. 63.
- Law on the Cabinet of Ministers of Uzbekistan (May 6, 1993), *Vedomosti* (bulletin) of the Supreme Council of Uzbekistan No. 5, 1993: p. 202.
- Law on Ownership in Uzbekistan (7 May 7 1993), *Vedomosti* of the Supreme Council of Uzbekistan No. 8, 1993: p. 235.
- Law on Local Taxes and Duties (7 May 1993), *Vedomosti* of the Supreme Council of Uzbekistan No. 5: p. 227.
- Law on Local Public Administration (2 September 1993), *Vedomosti* of the Supreme Council of Uzbekistan No. 9, 1993: p. 320.
- Provision on Mahalla Committees in the Cities, Towns and Kishlaks of Uzbekistan. Tashkent, 1993.
- Civil Code of Uzbekistan (effective 1 March 1997)
- Law on Presidential Elections (amended by subsequent laws passed on 26 December 1997 and 19 August 1999)
- Law on Elections to the Oliy Majlis of Uzbekistan (amended by subsequent laws passed on 26 December 1997 and 19 August 1999)
- Law on Elections to Regional, District and City Councils (amended by subsequent laws passed on 26 December 1997 and 19 August 1999)
- Law of the Republic of Karakalpakstan on the Council of Ministers of Karakalpakstan (29 January 1998)
- Law on Community Self-governments (14 April 1999)

Annex 9.4

Responsibilities of Administrative Tiers

Table 9A.5
Specific Functions of Government Tiers in Uzbekistan

Functions	District and City Administration	Regional Administration	Central Administration	Remarks
I. EDUCATION				
1. Pre-school				
2. Elementary	X			
3. Secondary	X			
4. Technical		X	X	
5. Refresher courses for teachers		X	X	
II. SOCIAL WELFARE				
1. Nurseries	X			
2. Kindergartens	X			
3. Welfare homes	X	X		
4. Services for elder and disables people	X	X		Also self-governments
5. Special services (for families in crisis, homeless, etc.)	X			Also self-governments
6. State housing			X	
III. HEALTH SERVICES				
1. Primary health care	X	X		
2. Health protection	X	X	X	Also privately
3. Hospitals	X	X	X	Special hospitals
4. Public health system			X	

Table 9A.5 (continued)
Specific Functions of Government Tiers in Uzbekistan

Functions	District and City Administration	Regional Administration	Central Administration	Remarks
IV. CULTURE, LEISURE, SPORTS				
1. Theaters	X	X	X	State theaters
2. Museums	X	X	X	State museums
3. Libraries	X	X	X	State libraries
4. Parks	X			
5. Sports, leisure	X	X	X	
6. Maintaining buildings for cultural events		X		Also by self- governments
7. Monuments protection	X	X	X	
V. ECONOMIC SERVICES				
1. Water supply	X	X		
2. Sewage	X	X		
3. Electricity	X	X		
4. Gas	X	X		
5. District heating	X			
VI. ENVIRONMENT, PUBLIC SANITATION				
1. Waste collection	X			
2. Waste disposal	X			
3. Streets cleaning	X			
4. Cemeteries	X			
5. Environment protection	X	X	X	Particularly relevant in the Aral Sea region

Table 9A.5 (continued)
Specific Functions of Government Tiers in Uzbekistan

Functions	District and City Administration	Regional Administration	Central Administration	Remarks
VII. URBAN DEVELOPMENT				
1. Town planning	X	X		
2. Regional/spatial planning		X	X	
3. Local economic development	X	X		Also self-governments
4. Tourism	X	X	X	
5. Roads	X	X	X	Of state importance
VIII. GENERAL ADMINISTRATION				
1. Authoritative functions	X	X	X	
2. Other state administrative matters	X	X	X	
3. Local police	X	X	X	
4. Fire brigades	X	X		
5. Civil defense	X	X	X	
6. Consumer rights protection		X	X	

Chapter 10



Local Government
in the Kyrgyz Republic

by

Emil Alymkulov

&

Marat Kulatov

Developing New Rules in the Old Environment

Local Government in The Kyrgyz Republic

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Local Government in the Kyrgyz Republic

Emil Alymkulov & Marat Kulatov

1. Major General Indicators

Kyrgyzstan, or the Kyrgyz Republic, is located in northeastern Central Asia, along the Tjan-Shan Mountains and the Pamir-Alay mountain ridge. The Kyrgyz Republic borders on the Republic of Kazakhstan to the north, on China to the east and south, and on the Republics of Uzbekistan and Tajikistan to the west. Its area totals 199,900 square kilometers, 5.1 percent of which is forested, 4.3 percent water, 53.9 percent agricultural land and 36.7 percent other types of land. Approximately ninety percent of the republic is mountainous, with altitudes of over 1,500 meters above sea level.

Kyrgyzstan is a unitary state and consists of the capital city, Bishkek, and seven *oblasts*, Ysyk-Kol, Naryn, Osh, Jalal-Abad, Batken, Talas and Chuy. These are divided into a total of forty *raions* and four capital city districts.

According to the first national census, conducted in 1999, the Kyrgyz Republic has a population of 4,851,000, one-third of which is urban and two-thirds of which is rural. Altogether, 787,800 citizens reside in Bishkek. The Chuy valley, with its urban center of Bishkek, and the Fergana valley, with the cities of Osh and Jalal-Abad, comprise the two most densely populated areas

2. Legal and Constitutional Basis

2.1 Brief History of Local Government Reform

In 1990, the Kyrgyz Republic declared its sovereignty, initiating the process of independence from the Soviet Union. At that time, local self-government took the form of local soviets of people's deputies at various levels, which were representative bodies of a purely formal nature.

Political and economic reforms in Kyrgyzstan throughout the 1990s were marked by qualities specific to many post-Soviet countries. One was the tendency to issue statements that were politically driven, primarily for effect. Another factor, typical of the Asian republics in particular, was the high concentration of power, both official and unofficial.

One of the first decrees of independent Kyrgyzstan was the Law on Local Self-government and Local Public Administration, adopted 19 April 1991, which transferred local government powers to local councils. This law dismantled the former pyramid of national representative power, which placed the Supreme Soviet at the top, followed by local councils at various levels. Local councils, however, were incapable of maintaining the necessary balance between local and national interests. In the initial phase of reform, it was not possible to establish an executive branch of local government and thus enhance the role of municipal governments.

The experience of many countries has demonstrated the need for intermediate forms of government in transition periods to combine principles of local self-government and mechanisms of centralized administrative regulation. Consequently, the Kyrgyz government adopted a change in strategy. On 4 March 1992, it passed an amended Law on Local Self-government and Local Public Administration, which was based on a dual approach to local government. The law introduced a system in which forms of self-government include the “local council and bodies of territorial self-government, as well as local referenda, citizen assemblies and other forms of direct democracy.” Alongside these bodies, local state administrations operate as institutions of “executive authority on the relevant territory.”

Thus, the new system of local government was structured according to the division of functions and powers between local representative and executive bodies and based on the principle of undivided authority exercised by the head of local state administration. The principle of local self-government was subsequently codified in article 7 of the Constitution (1993): “Local self-government in the Kyrgyz Republic is exercised by local communities, which govern affairs of local importance according to the law and at their own initiative.”

The course of practical reform was determined by a series of presidential decrees, a peculiar feature of Kyrgyz government. According to the Constitution and national legislation, the president has the right to issue decrees and orders within his competence, which are part of the system of legal norms and obligatory throughout the Kyrgyz Republic. Together, the Law on Local Self-government and Local Public Administration, national government decisions for its implementation and presidential decrees constitute the legal framework for local self-government.

In accordance with the principles expressed in the European Charter of Local Self-government, the Kyrgyz Republic has followed an axiom drawn from global experience: namely, that specific local issues are best solved directly by residents or by their elected and executive agencies, provided that they are possessed of available resources and real government powers. CIS nations (including Kyrgyzstan) are currently searching for their own methods to develop state systems. Consequently, the Inter-Parliamentary Assembly of the CIS nations passed a Declaration on Principles of Local Self-government in 1994, followed by the pilot Law on General Principles of Local Self-government in 1997.

Systematic reform of local self-government was initiated in 1994 with the goal of restructuring authorities in local settlements along municipal lines. The Presidential Decree on the Reform of Local

Self-government in the Kyrgyz Republic (18 August 1994) recognized reform of local self-government as a major goal of internal policy. Due to the size of the task and the time needed for its fulfillment, the decree stipulated two stages of implementation. First, local self-governments would be reformed at the village (*ail*), town and city levels; second, research would be conducted on the possible introduction of self-government in raions and oblasts.

A presidential decree, issued on 22 August 1994, established a special Commission on Local Self-government Reform, chaired by the prime minister. This commission developed provisions on principles of local self-government organization, approved by presidential decree on 22 September 1994. This document was the first to officially define the local community and its members, as well as the organizational, legal, financial and economic foundations of local self-government.

The decree also established a functional system of local councils (*kenesh*). Council elections in first-tier local governments, raions and oblasts, are specified in other presidential decrees. Based on these provisions, the number of members in representative bodies in all local self-governments nationwide was reduced by two-thirds. In October 1994, elections were held for local councils in village, settlements and cities, followed in February 1995 by elections to raion and oblast councils. A total of 6,971 deputies were elected to local councils of all levels.

Article 7 of the Constitution established that “national authorities and local self-government are separate.” Nonetheless, many issues at the local level pertain to both local administration and local self-governments and it has proven difficult to distinguish whether they are of national or local importance. A further obstacle to local self-governments is the absence of a legal framework determining local government property rights. The Constitution provides no definition of community property, while the Law on Local Self-government and Local Public Administration assigned local state administrations, not local self-governments, the authority to manage local enterprises. Thus, national legislation declared the right to self-government without providing the newly emerging institutions with real powers.

On 10 February 1996, a national referendum was held to decide on constitutional amendments that would provide local self-government bodies with ownership rights over local property as well as transfer certain state powers. Upon adoption of the amendments, the Constitution expressed the following new principles governing the relationship between local state administration and local self-governments:

- Article 7 replaces the principle of separation of powers with the principle of delineating functions of national government and local self-government;
- A provision was added to article 94, according to which “local self-governments should report to national agencies with respect to their delegated powers.”

In March 1996, the Office of the President was restructured to include a new department on local self-government issues. According to the presidential decree of 20 March 1996, which stipulated measures to increase the role and responsibility of heads of local state administrations and local self-

governments, local self-governments for the first time were granted the right to perform the following state functions:

- certifying land resources and objects of social infrastructure;
- mobilizing inhabitants for relief and restoration programs;
- protecting public order;
- creating extra-budgetary funds to solve essential issues of local importance.

The presidential decree of 20 April 1996 abolished village committees. Villages and settlements began to set up local councils and their executive bodies, the *aiyl okmotu* (rural executive committee). The next step was certifying objects of social infrastructure in settlements and land resources.

The first results of certification revealed that over 150,000 objects of social infrastructure were located in cities. Although some of these were to be transferred to local government ownership, most of the commercially attractive objects had already been privatized, meaning that community property was formed primarily of objects requiring significant investment for maintenance

Article 92 of the amended Constitution proclaims the key right of local self-governments to “possess, use and dispose of community property.” Following another national referendum on constitutional amendments, held on 17 October 1998, community property was recognized as a constitutional form of ownership, along with national, private and other forms of ownership.

The presidential decree of 2 August 1999 approved the Concept for Developing Local Self-government from 1999 to 2001, which lays out the following problems related to the reforms:

- As a result of the reform, local administrations have assumed a more important role in local communities, which has consequently overshadowed that of local councils;
- Self-governments and public organizations in local communities perform their functions inefficiently. Local councils do not delegate their powers to public, street and house committees, which would stimulate productivity;
- Local councils lack professionalism. Office procedures and control over the implementation of council decisions are of low quality at all territorial levels.

This concept shifts the emphasis toward strengthening local council authority and introduces the principle of self-sufficiency to municipal entities. A state commission to support local self-government reform was established by presidential decree. Its primary goal is to analyze the interaction between executive agencies and local self-governments and develop suggestions to strengthen the organizational, legal, financial and economic framework for local self-government. One outcome of this activity was the installment of a Minister of Local Self-government and Regional Development by the end of 2000. Also established by presidential decree, this position is intended to ensure close interaction between the central and local governments and protect local self-government interests at the national level. Interestingly enough, the individual appointed to this position was the Chairman of the State Register, the state agency that registers real estate rights, who also heads the Commission on Support for Local Self-government Reform.

2.2 Interim Results of Local Government Reform

The progress of local self-government reform in the Kyrgyz Republic is beset by difficulties, confirming that the Kyrgyz government lacked a clear concept for realization from the outset. An uneven and sometimes inconsistent legislative process only supports this conclusion.

In summary, it is necessary to highlight some characteristic features of the reform process:

- 1) The legal framework for developing self-government in Kyrgyzstan is the result of activity by bodies representing all branches and levels of government. After its initial passage in 1991, the Law on Local Self-government and Local Public Administration was amended eight times in different areas. During the same period, the president signed over thirty decrees and twenty government decisions which were targeted at regulating reform of the organizational, legal, financial and economic framework for local self-government. Among these, documents particularly worthy of note include the Program of National Support for Local Self-government and its Bodies, Main Guidelines for Developing Local Self-government Reform in Oblasts, Raions and Cities from 1997 to 1998 and the Concept for Developing Local Self-government from 1999 to 2001.
- 2) There is no complete set of normative legal acts based on a uniform understanding of the nature, content and forms of national policy on the decentralization of government and the introduction of new relations between the center and regions. There is no set limit on the powers to be redistributed in favor of local self-governments, nor is there an official register of functions by territory.
- 3) The ambiguous delineation of powers and responsibilities among bodies of different branches and levels of government poses another major problem. Central ministries and agencies define procedural and documentary forms of reporting. In some cases, these bodies issue documents which are departmental in form, but nonetheless carry the weight of law, for example, instructions from the Ministry of Finance.
- 4) Local self-government in Kyrgyzstan operates at the village level. There is little or no understanding of local self-government as an institution of public authority and the major component of a civil society.

Nevertheless, due to administrative and legislative efforts as well as individual projects, the outlines of the original national model of territorial self-government have emerged in the Kyrgyz Republic in recent years. Reform of self-government is most complicated as it not only concerns the interests of the population, but is also a key element in the search for an optimal mode of government overall.

3. Local Politics, Decision Making

3.1 Political Parties and the NGO Sector

Clearly, the influence of democratization on the system of self-government should be reviewed in the context of general political processes in the Kyrgyz Republic.

Political parties are not a widespread form of political organization in Kyrgyzstan. By the end of 1999, there were thirty registered parties, compared to two in 1991. A public association could be registered as a political party if it had over five hundred members (the new Law on Political Parties, adopted in 1999, reduces this membership requirement to ten). The largest political parties include the Republican Party of Kyrgyzstan “*Adilet*” (Justice), with thirty-five thousand members; the Party of the Disadvantaged, with thirty-two thousand members; and the Communist Party of Kyrgyzstan, with twenty-five thousand members. However, the political influence of even the largest parties is insignificant. According to surveys conducted in October 1999, thirty-three percent of respondents were at a loss to name even one party representing their interests and forty-five percent answered that none of the existing parties represented their interests. The overall weakness of political parties in Kyrgyzstan is due to the lack of citizen interest in this form of representation, since it provides no practical advantages in the political struggle compared to informal citizen associations.

Kyrgyzstan is a multinational country, so citizens congregate according to national cultural traditions as well as democratic interests. Thus, several public associations are based on ethnicity. In these difficult economic conditions, this kind of association draws upon specific national customs and mentalities to strengthen communities and promote forms of mutual assistance.

Public associations are not supported by an adequate legal framework. By the end of 1999, the concept of public associations was interpreted rather broadly to include political parties; trade unions; women’s, youths’, veterans’ and creative unions; ethnic groups, funds and associations; and other citizen entities.

By 1999, there were roughly two thousand such organizations registered in the republic, fifty percent of which were based in the capital city. The significant growth in the number of NGOs has occurred due to the activities of inhabitants in rural areas and small cities, such as credit unions, specialized associations of water users and others.

3.2 System of Local Elections

The system of elections for local councils was modified with the introduction of the new Election Code in April 1999. The elections of village and city councils on 17 October 1999 and the elections of raion and oblast councils on 20 February 2000 applied a completely new electoral system which

utilized multi-mandate electoral districts, a relative majority system using a single ballot, the participation of political parties and the presence of observers.

The Election Code stipulates that candidates eligible to run for local council seats must be citizens of the Kyrgyz Republic over twenty years of age, who have resided at least two years in the respective territory. Voter assemblies may nominate candidates. Political parties and electoral blocks have the right to nominate candidates in each electoral district. In addition, candidates may nominate themselves by submitting a written application with the statement of their intention to run for office.

Village or rural elections may be held in up to seven single-mandate electoral districts; raion and city council elections in up to ten multi-mandate districts; and oblast and Bishkek council elections in up to twenty multi-mandate districts.

Local councils are composed according to the following scale: thirty to forty-five members in oblasts and Bishkek, fifteen to thirty members in raions and cities of oblast subordination, eleven to twenty-one members in cities of raion subordination and nine to nineteen members in villages and settlements.

Candidates are elected if they receive a relative majority of votes from participating citizens. Election results are published in the media by the oblast and Bishkek electoral commissions within seven days of the elections. Within three calendar days of publication, the district electoral commissions must register the elected deputies and issue certificates.

Table 10.1
Number of Local Council Members by Oblast

Oblasts	Oblast Councils	Raion Councils	City Councils	Town Councils	Village and Rural Councils	Total
Osh	35	183	68	20	1,164	1,470
Jalal-Abad	45	220	118	124	977	1,484
Batken	31	85	40	69	453	678
Chuy	35	219	55	54	1,216	1,579
Naryn	35	138	21	25	816	1,035
Talass	31	94	27	9	487	648
Ysyk-Kol	45	142	64	47	848	1,146
City of Bishkek	—	—	36	13	—	49
Total	257	1,081	429	361	5,961	8,089

SOURCE: Central Commission on Elections and Referenda

In the elections of October 1999 and February 2000, 527 local councils were elected at all levels, with a total of 8,089 members.

Although, for the first time, the law allowed nomination by party lists or lists of electoral blocks, this opportunity was not realized. This is not surprising since, according to the official procedures of the Central Commission on Election and Referenda for forming electoral blocks, the registration and nomination of candidates by electoral blocks would have been approved only on 9 November 1999. In the end, party lists were not utilized during local council elections.

Based on the official data of the Central Electoral Commission, election results according to party were as follows:

- The National Party *Adilet* won 418 seats;
- The Party of Unity won twenty-two seats;
- The Communist Party won twenty seats;
- Party *Ar-Namys* (“Dignity”) won four seats;
- Other parties and public associations won sixty-three seats.

In general, political parties perceived the local council elections primarily as an opportunity to rehearse and improve their campaigning techniques. The introduction of a mixed proportional and majority system, including party lists, for elections to the *Zhogorku Kenesh* (Parliament) greatly stimulated activity among political parties. Parties played an active role in the elections to the Legislative Assembly of the bicameral Parliament in February and March 2000. The Legislative Assembly consists of sixty seats, fifteen of which are allocated to representatives of political parties which receive more than five percent of the vote. Altogether, five parties surpassed the required minimum, with the Communist Party winning the largest number of seats (five).

The new Election Code also established the institution of public observers in the election process in Kyrgyzstan. Twenty-nine international observers and two thousand independent local observers, representing both NGOs and candidates, took part in monitoring local council elections.

3.3 Forms of Direct Democracy

According to the Law on Local Self-government and Local Public Administration, forms of direct democracy include local referenda; citizen assemblies, *kurultais* and other forums to discuss issues of public life; elections of representative bodies; and mechanisms of local control over local self-government.

The local council has the exclusive power to announce and implement local referenda. The local referendum is conceived as a method of citizen decision making through a general vote on major issues of community importance. However, since the Law on Referenda (adopted 28 June 1991) determines procedures for national referenda only, there is no legal framework or practice for holding

local referenda. Thus, the right to local referenda is of declarative nature only, whereas four national referenda were held in the period between 1994 and 1998.

Another form of direct democracy is the village assembly, or *kurultai*. This forum is used to encourage collective decisions on major local issues such as adopting or amending the charter of a local community (*ail miyzamy*) or establishing community property and its management. To initiate a *kurultai*, individuals in a local community should collect signatures from at least ten percent of community members.

In May 2001, the Presidential Decree on Increasing the Role of Kurultais in the Management of Local Affairs attempted to give new impetus to the development of a long-forgotten institution of community self-government. Currently, within four months of being elected head of local self-government or appointed as head of the raion or city administration, the mayor or *akim* is obliged to develop a draft program for social and economic development and social protection for their term in office. After the local council grants preliminary approval to the program, the draft is distributed in the local community and submitted for consideration through a *kurultai* called for this purpose. Upon approval by the *kurultai*, the draft program is passed by the local council, taking immediate effect. Two years following, the raion *akim* or city mayor should report to another *kurultai* on the progress of its implementation. If the *kurultai* finds the progress to be unsatisfactory, it recommends that the local council pass a vote of no confidence in the *akim* and submit it to the president. If the *kurultai* finds the progress to be satisfactory, the raion *akim* or city mayor continues with his or her activity for the four-year term, but remains obliged to report to *kurultai*. In case of exceptionally good results, the *kurultai* can advise the local council to petition the president to extend the head's authority for a further four years.

This mechanism is to be introduced to the system of village and settlement self-government. This relationship between local state administrations and councils is intended to bring the system of government closer to the people and to place programs and decisions under public control.

Kurultais weigh issues relevant to the local community, including the following:

- adopting or amending the local community charter;
- formulating and executing the local budget and managing the extra-budgetary funds of the local community;
- considering draft programs for local social and economic development and the social protection of local inhabitants;
- reviewing reports from heads of local self-government in villages, settlements and cities, as well as heads of local state administrations on the implementation of *kurultai* decisions.

Kurultai decisions are regarded as recommendations and are submitted for consideration at local council session, where they may approved by a vote of two-thirds of all council members. *Kurultai* meetings are held at least once every two years and are open to the mass media. These meetings are organized and held at the expense of the local budget.

Nonetheless, some experts are of the opinion that the introduction of kurultais reduces the influence of the local council and minimizes opportunities for representative bodies to influence heads of executive-administrative bodies of local self-government.

3.4 Forms of Community Self-government

In addition to the forms of direct democracy mentioned above, the Law on Local Self-government and Local Public Administration specifies other kinds of community self-government that act as bodies of representative democracy. These include councils and committees created in small districts, housing complexes, apartment blocks, streets, quarters, settlements and *ails* as well as other entities established by inhabitants based on local conditions and traditions. The decisions of these types of community self-government are regarded as recommendations.

To maintain public order and prevent crime on community territory, general assemblies of the community can form voluntary squads, called *kyrk choro* (literally, forty warriors).

The “people’s” judicial body is the *aksakal* court (“aksakal” means elder in Kyrgyz). Aksakal courts are established according to the traditions and customs of the Kyrgyz people and have the right to make decisions based on the moral and ethical standards of the people, provided that they do not contradict the laws of the Kyrgyz Republic. Aksakal courts may also include younger persons who are respected by local citizens. Aksakal courts are elected in the place of residence by general citizen assemblies through open ballot for a four-year term. Court decisions carry the legal weight of recommendations. However, if a decision is not fulfilled voluntarily, the appropriate territorial court may order it to be executed by the bailiff.

The 1997 Law on Condominium Associations defines a condominium association as a non-commercial organization created by inhabitants in order to maintain, operate and manage condominium buildings. By 2000, there were approximately two hundred condominium associations throughout the republic. The growth in these organizations was caused by the mass privatization of housing, as responsibility for the operation of existing housing was transferred from the local state administrations to proprietors. New forms of management have taken hold more easily in the south, where local communities have stronger corporate traditions of joint participation. As a result, there are seventy condominium associations in Jalal-Abad oblast and thirty in Osh. Condominium associations cooperate on a contractual basis with the appropriate local government agencies. In order to exchange experience and interact more effectively with local self-governments, three regional associations of condominium owners have been established in Chuy, Osh and Jalal-Abad oblasts. Local authorities render organizational, technical and material support to condominium associations on a contractual basis, provide support to groups of citizens wishing to set up condominium associations and otherwise encourage their establishment.

By 1999, initiative groups had established the following entities in local communities throughout Kyrgyzstan: 431 public councils, 359 residential area committees, 1,569 house committees, 1,055

aksakal courts, 823 councils of veterans, 878 women's organizations, 649 youth organizations and 965 voluntary squads for the maintenance of public order.

Kyrgyz legislation does not provide a strong framework for the activities of community self-government or public organizations. Usually these entities report to the citizen assemblies that elected them or to the local council at which they are registered. In practice, community self-government entities often become another type of institution subordinated to local raion administrations.

To promote the activities of community self-government entities and increase their role in resolving everyday issues within the local community, the president signed a Decree on Increasing the Role of Bodies of Community Self-government. According to this decree, the government, together with the Commission on Local Self-government Reform and the Congress of Local Communities, was assigned the task of preparing and adopting regulations on:

- types of community self-government in the Kyrgyz Republic;
- issues of community development that must first be coordinated with bodies of community self-government;
- measures to increase material and moral support and stimulate active participation by citizens and employees in bodies of community self-government.

The national government wishes to reinstate annual assemblies of community self-government employees to generate broader citizen participation in the discussion of local issues.

3.5 Ethnic Issues, Multicultural Government

Kyrgyzstan is a multi-ethnic state. Any such nation can only be strong if its national minorities thrive and enjoy equal rights with the title nation. According to data from the Assembly of the People of Kyrgyzstan, there are twenty-six national and cultural societies. The largest ethnic groups populating the Kyrgyz Republic include Kyrgyz (61.6 percent), Russians (14.4 percent) and Uzbeks (14.4 percent).

The population of the capital city, Bishkek, falls along to the following ethnic divisions: Kyrgyz (37.13 percent), Russians (45.33 percent), Ukrainians (4.06 percent), Tatars (2.45 percent), Uigurs (2.06 percent) and others.

According to the 1989 Law on State Language, the national state language is Kyrgyz. However, central government offices conduct their affairs in both Kyrgyz and Russian. The Russian language newspaper *Vecherniy Bishkek* has the largest circulation in Bishkek and Russian television channels are viewed by eighty percent of the television audience. Government sessions are held in Russian, army commands are given in Russian and the Kyrgyz Internet functions in Russian as well.

The Law on the Official Language, passed in May 2000, granted Russian the status of an official language in the Kyrgyz Republic; previously, it had been regarded as the language of inter-ethnic

communication. This law will significantly influence cities and raions with Russian-speaking populations, such as Bishkek and Chuy oblast, in particular by suspending mass migration.

Russian, as the common language of the various resident nationalities in post-Soviet countries, plays a key role in integrating the multi-ethnic republic. The increased attention to the Russian language in the Kyrgyz Republic suggests that this role will be preserved in the further development of society.

In rural areas, the state language is the working language for local self-government bodies. The Constitution guarantees the preservation, equal rights, free development and use of Russian and all other languages used by inhabitants of the republic. Localities with a high concentration of ethnic groups may use the language of the prevailing ethnicity.

3.6 Local Government Associations

The Law on Local Self-government and Local Public Administration stipulates the right of villages, settlements and cities to establish associations in order to more efficiently exercise their rights and promote their interests. In October 1996, the Association of Local Self-governments was established. During its existence, this association accomplished a great deal by participating in the adoption of important legal norms related to local self-government, by initiating activities to establish community property and by providing technical assistance. In 1997, by decision of a national forum of local communities, the association was converted into a non-governmental organization, the Congress of Local Communities.

In March 1998, the Congress obtained legal status as a public association. According to its charter, the Congress is a voluntary association of village, settlement and city communities, their territorial associations, public organizations and other forms of joint activity by local communities. Decisions of the Congress may be taken as recommendations by local authorities.

In particular, the Congress focuses its activity on developing the legal framework for local self-government. The Congress also participates in promoting local self-government initiatives and coordinating international technical assistance programs for government decentralization and municipal development. Experts feel, however, that the Congress does not reflect current realities, since it was established according to principles of the former Soviet hierarchy.

In August 2000, the Association of Cities in Kyrgyzstan was created to integrate efforts for improving city self-governments, to promote economic cooperation and to create conditions for the free development of cities. The association elects its management on a rotating basis for a one-year term. Its aim is to act as spokesman for cities in the ongoing democratization of government and strengthen their legal and material resources.

4. Functional Structure of Local Government

According to the Law on Local Self-government and Local Public Administration, local self-governments and local state administrations carry out activities based on the division of functions and powers of representative, executive and regulatory bodies.

The Kyrgyz Republic contains the following territorial tiers of local government:

- *first tier, village or rural level*: local councils in villages, towns and cities of raion subordination;
- *second tier, raion level*: local councils and local state administrations in raions and cities of oblast subordination;
- *third tier, oblast level*: local councils and local state administrations in oblasts and the city of Bishkek.

4.1 Local Councils

The system of representative self-government bodies in Kyrgyz Republic is comprised of councils at each tier of local government, in oblasts, raions, cities of district and raion subordination, towns and villages. Local councils operate through sessions, which are convened as necessary, but at least once yearly. The local council session is declared competent when at least two-thirds of all council members are present. Local council sessions in oblasts and raion elect a secretariat from among its members by open vote, while local councils in cities of raion subordination, towns and villages elect a secretary. Local council members perform their duties while continuing their principal employment.

Local sessions are competent to decide on the following issues:

- electing and dismissing the council chairman and his or her deputies;
- approving rules governing local council procedures and establishing commissions;
- reviewing reports from the council chairman and commissions and considering inquiries submitted by council members;
- approving social and economic development plans and social protection programs;
- approving the budget and budget execution reports;
- adopting a vote of no confidence in the head of the local state administration.

The local council employs three to five specialists on a contractual basis to provide logistical support for council activities, council commissions and council members and develop necessary materials.

Local council sessions consider and resolve issues within their competence through free discussion among all members. Local council members may not use their mandate to accomplish goals outside of their representative duties. Members report to their constituency and are accountable to them through the institution of voters' demands. A council member may not concurrently occupy any of

the following government posts: head or deputy head of local administration, head of local administration or self-government department, prosecutor or judge. Nor may council members belong to more than one local council.

Local council members may establish groups of three or more persons through mutual consent. Local government staff provides assistance to registered council groups, coordinates their activities and reviews information on their undertakings.

Local council commissions perform the following tasks:

- to prepare issues related to the economic, social and cultural development of the corresponding territory and submit them to the council for consideration;
- to submit proposals to the council on developing local infrastructure for production;
- to give preliminary consideration to draft plans for territorial economic development, the draft budget and reports on their implementation and prepare their comments in writing;
- to exercise other powers assigned to them by local council procedures.

Standing commissions are formed from council members. Commissions may invite scientists, specialists, professionals and other individuals to participate in commission activities. Other council members have the right to sit in on commission meetings and possess a deliberative vote.

The council chairman, as head of the self-government, convenes council sessions, organizes council activity, oversees implementation of council decisions and coordinates commissions activities. The council chairman has organizational powers and represents the council in relations with public bodies, associations and individuals. The chairman is accountable to the council and reports at least once per year. The council chairman may be dismissed from office by the vote of two-thirds of all council members.

The village or rural council chairman is the head of local self-government at the first tier of government. In addition to being accountable to the council, these chairmen are also accountable to the head of raion administration for their executive and regulatory functions. Village and rural council chairmen perform organizational functions and represent the council in relations with public bodies, associations and individuals.

Local council chairmen at the first tier of local government exercise executive and regulatory functions on the corresponding territory as well as powers of the local state administration. In addition, they perform the following tasks:

- to exercise control over compliance with the passport system and register passports as provided by law;
- to issue certificates on marital status, property, identification and other documents and carry out civil registration
- to appoint guardians and custodians for children, the elderly and the disabled, among others, and supervise the fulfillment of their duties.

Village or rural chairmen may be dismissed by a vote of two-thirds of all local council members, either at the initiative of the council or upon the proposal of the head of raion administration.

4.2 Local Council Functions

At the oblast and raion levels, the council chairman represents the local territory in relations with public bodies, courts and public associations and has the right to conclude contracts or agreements. As declared by law, raion and oblast councils independently regulate local issues as stipulated by law, based on the principle of autonomy in financial and legal decision making.

The following tasks fall within the competence of raion and oblast councils:

- approving programs for social and economic development and social protection and exercising control over their implementation;
- approving the local budget and budget execution reports, as well reviewing information on the use of extra-budgetary funds;
- developing proposals on the separation of public and municipal property;
- vetoing decisions of heads of state administration if they exceed their authority;
- appealing decisions of local self-government bodies to superior government bodies and in court;
- passing a vote of no confidence in the head of local state administration by a vote of two-thirds of total council members;
- revoking ungrounded or unlawful decisions taken by the head of territorial self-government.

4.3 Local Administration

The local administration is the state executive and regulatory body at the oblast, raion or city levels. The head of local state administration implements policies of the president and government in regions.

The local administration performs the following functions within the respective territory:

- formulates the draft local budget and draft programs for local social and economic development, submits them to the corresponding council for approval, organizes their implementation and determines the application of administrative sanctions on business entities of all types of ownership;
- exercises control over compliance with environmental protection acts by enterprises, organizations and institutions and monitors the use of land and natural resources, sanitation standards and health care regulations;
- suspends the construction or functioning of production units, if these activities proceed without the approval of the corresponding state administration;
- develops and implements measures to ensure employment and the social protection of low-income populations;

- maintains law and public order;
- borrow and lends on contractual basis;
- issues securities, organizes lotteries, extends local loans and balances territorial accounts in order to mobilize additional financial resources from the state budget and other sources.

The head of local public administration and his or her deputies may not be members of the corresponding local council or the Assembly of National Representatives. The head performs executive and regulatory functions and oversees the general management of local state administration bodies and structural divisions as well as local budgetary institutions. The head manages the resources of the local state administration, decides on the allocation of land plots, manages municipally owned enterprises and represents the territory in relations with higher government bodies. The head must report to the local council on the current situation of the territory at least once every two years.

The head of local public administration coordinates activities of the territorial subdivisions of state bodies and consents to the appointment of their heads. These include departments in the following areas: tax, finance, customs, internal affairs, national security, defense, justice, environmental protection, statistics, state archives, forestry, prices and antimonopoly policy, architecture and construction and state sanitation.

Public prosecutors must take into consideration the opinion of the corresponding head of local administration. In addition, the head of local administration, in agreement with central agencies, establishes territorial subdivisions and appoints heads of state veterinary control and other departments which are under their mutual supervision.

The structure of the oblast administration is submitted by the head of the oblast administration, or governor, within budgetary assignments, for approval by the national government. The structure of raion-level administrations is submitted by the raion head for approval to the oblast administration, within its budgetary assignments.

In addition to the responsibilities listed above, oblast-level administrations perform the following tasks:

- to provide economic, social and cultural services to districts and cities on a contractual basis;
- to provide financial assistance to raion-level governments in order to balance the local budget;
- to provide methodological assistance for developing programs of regional, national and cultural development as well as demographic policy;
- to ensure public order and security, as well as the legality of executive and regulatory activities.

Raion-level administrations perform these additional functions:

- to develop and implement local programs of social, economic and cultural development;
- to provide financial assistance to balance local budgets of the village level and achieve their minimum needs;
- to undertake measures to ensure the social protection of citizens;

- to provide economic, social, cultural, utility and legal services to first-tier local councils;
- to organize methodological and legal assistance to bodies of community self-government;
- to oversee the condition of institutions of public education, health care and social security;
- to develop and implement measures to maintain local roads and communication.

4.4 Local Government in Cities

Of the twenty-one cities in Kyrgyzstan, only twelve cities apply principles of self-government. One of these is Bishkek, and the remaining eleven are cities of raion subordination. This peculiarity results from the division of cities into cities of raion subordination and cities of oblast subordination (with the exception of Bishkek). In cities of oblast subordination, the local administration is equivalent to the raion-level state administration. The varying degree of self-government implemented in cities impedes the establishment of a uniform system of city administration.

Cities of Oblast Subordination. Starting in 2001, local administration reform at the city level gained new impetus. Two regulations were approved, on the Organization of Local Self-government in Cities of Oblast Subordination and on Elections of the Head of Local Self-government. In accordance with the Presidential Decree on the Organization of Local Self-government in Cities of Oblast Subordination, the cities of Osh, Jalal-Abad, Talas, Balykchy, Suliukta, Kara-Kol, Kyzyl-Kiya, Mailuu-Suu and Tash-Kumyr were granted the right to manage local affairs based on principles of local self-government and delegated public powers. Based on the offices of the city state administration, these cities established the office of the mayor as new executive and regulatory bodies of city self-government. The office of the mayor consists of a presidium, the *shaar bashkarmasy* (city executive committee) and staff.

The mayor is elected through indirect elections with the following distinctive features:

- The mayor is elected for a four year term through secret ballot by city council members;
- The president has the sole right to nominate candidates;
- The election is deemed valid with the participation of at least two-thirds of all city council members;
- The candidate wins the election with a simple majority vote;
- If the president's candidate is twice rejected, the president appoints an acting mayor and dismisses the city council.

Thus, mayoral elections in cities of oblast subordination resemble elections of the chairman of local self-government in Bishkek. In general, the former heads of city state administration have become mayors. Only in the cities of Kara-Kol, Kyzyl-Kiy and Mailuu-Suu have newcomers been elected mayor.

Cities of Raion Subordination. Seven cities of raion subordination were reorganized along the principles of local self-government, according to the Presidential Decree on the Organization of Local Self-

government in Cities of Raion Subordination, passed on 23 June 1998. Soon after, that right was granted to four other cities. The system of self-government in cities of raion subordination is comprised of:

- representative bodies, such as the city council and kurultais;
- the executive and regulatory branch of the city council, directed by the head of city self-government;
- bodies of community self-government.

City councils. The city council is the highest elected representative body of local self-government in a city. Its powers include:

- approving the city budget and programs for social and economic development in the city; consenting to the appointment of heads of city government and their deputies;
- approving the executive secretary and members of the presidium of the shaar bashkarmasy, which is subordinated to the head of the city self-government
- passing a vote of no confidence in the head of city government by a vote of two-thirds of all members;
- levying local taxes and duties and defining procedures and conditions for using land or other natural resources in accordance with national legislation;
- defining the borders for bodies of community self-government and approving their registration by the city council;
- making other decisions in compliance with legislation and the city charter.

Decisions of the city council made within its competence are obligatory for all organizations, institutions, businesses of all forms of ownership, officials and citizens in the city

Shaar Bashkarmasy. In cities of raion subordination, the executive and regulatory branch of the local self-government is the shaar bashkarmasy (executive committee), which is established by the city council.

The head of city government also heads the executive committee, which consists of the presidium, council, staff, departments, services, self-supporting organizations and other structural subdivisions. The executive secretary oversees the office proceedings of the executive committee. The city council defines the organizational chart for the executive committee and its staff, based on general standards and the city budget.

The City Presidium. The presidium is established to resolve issues of vital importance to the city and consists of five to seven persons who report to the head of city government. Members of the presidium include the head of city government, the deputy head and the executive secretary on city self-government affairs *ex officio*. The presidium meets to discuss various issues of city life at least once per month and adopts resolutions on issues falling outside the jurisdiction of the city council and kurultais. Resolutions of the presidium are passed by simple majority vote and are obligatory for all individuals and entities on city territory.

The executive committee possesses the following powers:

- to develop draft programs for social and economic development in the city and a draft local budget and submit them for approval to the city council;
- to implement council decisions;
- to maintain and renovate municipal facilities and, if necessary, mobilize the population through the tradition of *ashar* to repair facilities of vital importance to the city;
- to supervise sanitation in the city, organize the arrangement of the territory and environmental measures;
- to develop the housing fund, city transport and communications;
- to develop and implement an urban development plan, monitor compliance with construction standards and oversee the rational use of city lands;
- to attract investments and decide upon their targeted use;
- to submit proposals to the city council to levy local taxes and duties according to the law;
- to strengthen the material and technical foundations for institutions of health care, education and social security;
- to appoint guardians and custodians for children, the elderly and the disabled;
- to organize mass cultural events, protect historical and cultural monuments and organize the distribution of humanitarian aid;
- to develop and implement measures to create new jobs;
- to assist in the completion of the privatization process;
- to control the compliance of organizations, institutions and enterprises with the law and the city charter and regulate environmental protection, use of land and other natural resources;
- to organize and support aksakal courts and other voluntary organizations for the maintenance of public order;
- to exercise other powers as stipulated by law.

Head of City Government. The head of city government (*shaar bashchasy*) is the highest city official and acts as chairman of the city council, head of the executive committee and first deputy head of the raion state administration. The head of city government is accountable to the city council and kurultais on issues of self-government and to the raion and oblast heads on the exercise of delegated state powers.

The head of city government submits the draft annual budget and the program for social and economic development for approval to the city council and kurultais and reports on their execution once annually to the city council and once every two years to a city kurultai. The head of city government represents the city, engages in organizational activities, defines the structure and number of the staff of the executive committee and submits it to the city council for approval. The head of city government convenes council meetings at his or her initiative or by request of at least one-third of council members. City heads may resolve other questions in accordance with legislation, the city charter and delegated state powers.

4.5 Status of the Capital City

Local government in Bishkek, the capital of Kyrgyz Republic, is outlined by the Law on the Status of the Capital City, adopted 16 April 1994. Direct elections of heads of local self-government took place for the first time in February 1995 in the cities of Bishkek and Osh. However, no mayor was elected in Osh due to the failure of any of the candidates to collect the minimum amount of required votes. On 1 April 1996, the executive branch of local self-government in Osh was abolished and the previous system of the city state administration was reinstated.

According to the Presidential Decree on the Organization of Local Self-government in Bishkek, adopted 1 July 1999, the local state administration in Bishkek was restructured into a mayor's office, in keeping with principles of local self-government. To support this, the government passed the Provisional Regulation on the Organization of Local Self-government in Bishkek, which remains in effect, and established a state commission on the transfer of organizations and enterprises into municipal ownership. Several state-owned entities were transferred to the operational management of the Bishkek self-government.

The system of state administration and local self-government in the city of Bishkek consists of the following:

- the city council, a representative body of local self-government with thirty-six members;
- the office of mayor of Bishkek, the executive and regulatory branch of local self-government; subdivisions of the mayor's office into four administrative-territorial divisions, raion-level administrations headed by deputy mayors (*akim*);
- bodies of community self-government, such as community councils, residential quarter committees, housing block committees and others.

Maintenance of administration bodies consumes three percent of the city budget. The structure of the Bishkek local government is unique, as it incorporates elements of all three levels of local self-government and local state administration. The mayor's office includes four raion-level state administrations, whose heads are appointed by the president in consultation with the mayor. Procedures for appointing these officials are the same as those for heads of local state administrations and their deputies.

The main powers of the Bishkek city council are as following:

- developing and implementing measures for social security and providing utilities and social and cultural services to the population;
- maintaining local communications and roads as well as educational and medical institutions;
- approving rates for local taxes and duties;
- approving the city budget and reports on its execution;
- coordinating the development of general construction plans and supervising compliance with established construction standards on its territory.

The mayor, as the head of local self-government and the head of the executive branch, is the highest government official in the city and a representative of the president and government of Kyrgyzstan. In accordance with the Presidential Decree on Increasing the Role of Heads of Local State Administrations and Local Self-government (adopted 20 March 1996), heads of local self-government, including the mayor of Bishkek, have equal status to heads of oblast public administration, or governors.

In 1998, procedures for mayoral elections in Bishkek were fundamentally changed. In accordance with the Regulation on Elections of the Mayor of Bishkek, approved by presidential decree on 9 July 1998, the mayor of Bishkek is elected by members of the city council. The new procedures stipulate that mayoral candidates may only be nominated by the president. The candidate is considered elected if he or she receives a simple majority vote. If the president's candidates are rejected three times running, the president appoints a mayor and dismisses the Bishkek city council.

4.6 Local Government in Rural Areas

Head of the Aiył Okmotu. The head of the aiył okmotu, or rural executive committee, is the highest official in the territorial jurisdiction of the village or town council. The rural executive committee is accountable to the raion council chairman on issues of local self-government and to the head of raion administration for the exercise of delegated state powers.

Key functions of the rural executive committee include drafting the local budget; formulating draft programs for the social and economic development of the territory; managing municipal property and financial resources, maintaining and repairing all facilities of vital importance; and exercising control over the use of agricultural land. In addition, the committee is obliged to ensure access to education and health care, maintain law and public order and perform notary acts and civil registration.

Local councils at all levels may pass a vote of no confidence in the heads of the executive branch. To date, rural councils have impeached ten executive committee heads and removed them from office. No such cases are reported at the raion, city or oblast levels, however.

Village Headman. In order to manage local affairs in separate villages within the jurisdiction of a rural council, the council may decide to add the position of village headman (*aiyl bashchysy*) to the payroll of the executive committee. The village headman is nominated by the executive committee head and elected for a four-year term by open vote at a general assembly of village residents. The village headman answers to this general village assembly, which is convened as necessary or once per quarter. In addition, the headman may form a voluntary, unpaid executive commission of five to seven members, as defined by simple majority vote at the general assembly. The headman's functions are organizational and interpretive.

Table 10.2
Size of Aiy! Okmotu Staff According to Population Size Categories*

Position	0–5,000 Inhabitants	5,000–10,000 Inhabitants	10,000–15,000 Inhabitants	15,000+ Inhabitants
Council chairman/ head of rural council	1	1	1	1
Deputy chairman/ deputy head of rural council	—	1	1	1
Executive secretary	1	1	1	1
Chief specialist/ social protection specialist	1	1	1	2
Cleaning staff	0.5	0.5	0.5	0.5
Guard	0.5	0.5	0.5	0.5
Stoker	0.5	0.5	0.5	0.5

SOURCE: Ministry of Finance

* Staff may also include a military registration officer, a tax inspector and a land inspector.

The sphere of rural committee activity is quite extensive and includes delegated state powers. But, as seen in table 10.2 above, the committee lacks sufficient staff or organizational capacity to exercise those delegated functions. The development of rural committee capabilities through cooperation with private and public organizations has attracted rising interest by local state administrations of all levels. Changes being planned to strengthen confidence in local authorities include developing procedures for increasing the accountability of governors and akims to local councils and representatives of civil society through public hearings. They also include involving NGOs and private businesses in implementing plans for social and economic development and exercising control over local budget expenditures.

4.7 Control, Audit and Supervision of Local Governments

Internal Control. Enterprises that provide housing, utilities, water, sewage, heating, energy and other services are directly supervised or managed by local state administrations and local self-governments. In general, these enterprises are in the ownership of the local self-government.

Kyrgyz legislation does not refer to the supervisory functions of local self-governments. The chairman and commissions supervise the implementation of local council decisions. Branches and divisions of local state administration supervise organizations under local government control.

The local state administration approves the establishment or transformation of entities with economic and social importance, as well as the use of natural resources on local territory. Enterprises, organizations and institutions, regardless of ownership, are not permitted to alter their plans regarding issues stipulated by agreement with the local administration. Thus, all enterprises are obliged to come to agreement with the corresponding local state administration concerning activities that may cause environmental, demographic or other consequences.

Currently, local self-governments are only in force at the *aiyl okmotu* and rural township level and thus supervise only territorial community self-government bodies.

Public Supervision. The president, government, central ministries, central administrative agencies and higher-level local administrations exercise control over compliance with the law by local government bodies. Legislation does not stipulate procedures for the supervision of local self-government bodies, but merely establishes the general right of national supervisory bodies to request and receive necessary information.

According to Law on Local Self-government and Local Public Administration, the president and government have the right to abolish acts of the head of local state administration. Oblast heads may abolish acts of raion heads, and raion heads may abolish acts of rural council chairmen related to their executive and regulatory powers.

In addition, ministries and agencies approve internal regulations affecting local state administrations and local self-government bodies. For instance, the Ministry of Finance issues regulations regarding procedures for formulating local budgets. The Ministry of Justice monitors the legality of statutory acts approved by local state administrations or local self-government bodies and registers these acts with the state. The Accounting Chamber of the Kyrgyz Republic exercises financial and economic control through periodic audits of local government expenditures.

The Office of the Prosecutor exercises control over strict and uniform compliance with the law. These issues are then decided in court after claims or actions are filed. The oblast may suspend local self-government acts until the court reaches its decision. Likewise, the local council chairman may suspend acts of community self-government until the court makes a final decision, if those acts violate the rights, freedoms and legitimate interests of local inhabitants.

5. Public Service Provision

5.1 Decentralization of Public Services

The formation of local self-government is primarily defined by the delegation of state powers. Within the framework of decentralization, many ministry functions were transferred to state adminis-

trations at the oblast and district levels and the corresponding structures in ministries and agencies were abolished. However, central executive bodies continue to exercise control over these functions under the system of dual subordination.

Frequently, the delegation of state powers is not reflected by a similar decentralization in funding. Accordingly, public service delivery is primarily financed by the state budget and administered by territorial structures of state administration.

As noted above, local self-governments are currently functioning in rural areas, eleven cities of raion subordination and the capital city. The delegation of public functions and powers to local self-governments is proceeding very gradually. This is due to many factors: the lack of experience in self-governments, the inertia of state agencies and the complicated social and economic situation in the republic. When functions are transferred to local self-governments, they are often accompanied by instructions to perform them “jointly with the local state administration, territorial divisions of ministries and agencies.” Local self-government bodies are accountable to the corresponding state bodies for delegated functions.

5.2 Trends in Public Service Delivery

To illustrate trends in the development of public services, let us turn to the most important sectors: healthcare, education and social security.

Health Care. The Ministry of Health Care defines standards for medical services, ensures that they are followed and implements structural reforms. Starting in 1996, medical service providers have been paid from the state budget and the Mandatory Medical Insurance Fund (MMIF) and medical institutions are compensated in proportion to the number of people that they serve. In another direction of health care reform, the Group of Family Doctors (GFD) system has been established. This group, financed from MMIF and central and local budgets, treats a variety of patients and provides consultative aid. This is the first structure where payments have been made on a per capita basis. The development of GFDs has been especially effective in rural areas.

Thus, the health care sector is moving towards mixed methods of service delivery. On one hand, the state is departing from the ineffective system of fixed wages and the per capita principle will allow real control of the public through local self-government bodies in the future. However, the state retains the sole power to license these activities and exercise control over their compliance with established standards. Local self-government bodies themselves are responsible for maintaining and renovating medical institutions, such as obstetric clinics, village dispensaries and village hospitals, at the expense of the local budget.

Education. There are approximately two thousand public secondary schools and forty private schools and lyceums in Kyrgyzstan. Teachers' wages are paid from the national budget according to rates set

by the Ministry of Education. All other expenditures are covered by local budgets. In terms of higher education, approximately 160,000 students study at twenty-seven state institutions and thirteen private establishments. About thirty percent of students in state institutions of higher education study at the expense of the state. The Ministry of Education regularly certifies schools and institutions of higher education to ensure state educational standards. In 346 city schools, subjects are studied at a higher level, due to a variety of educational programs financed both by the government, which pays an additional twenty percent to teachers, and by parents, who contribute through school boards.

Similarly to the health care sector, the education sector is displaying a tendency towards decentralization and the ministry is assuming the role of coordinator rather than administrator. Local authorities in the capital city and oblast capitals are also gradually developing relations with the private sector, which is ready to respond to the growing demand for quality services. The situation is more complicated in rural areas, where the government only provides teachers' wages and local authorities lack other resources. One possible solution is instituting a system of grants to public organizations; however, this method is supported only sporadically, by international organizations.

Social Protection. State administrations and local self-governments also provide assistance to socially vulnerable segments of the population. It must be noted that if the bottom five percent of the population is defined as "poor," then about two-thirds of the population in rural areas live under the poverty line. Methods for performing the means test are constantly being improved. Village councils issue social documents for low-income families and persons, based on which regional "maps" of poverty are to be developed. Starting in 1998, the position of social worker was introduced in the structure of the village council. The social worker is responsible for the following functions in the sphere of social security and social protection in accordance with relevant legislation:

- defining the needs of the population and drawing up maps of poverty
- assistance to orphans and the disabled;
- administration of social security, i.e. pensions and social benefits.

State agencies responsible for social security, such as the Social Fund and the Ministry of Labor and Social Protection, have raion-level divisions which function under the traditional budget scheme. In another form of mixed service delivery, the State Employment Department may coordinate its work with the employment centers of town councils. In small towns in Kyrgyzstan, the problem of unemployment is especially acute. Paid public works are often organized jointly by town councils and the subdivisions of the State Employment Department.

Municipal Services. In 1996, social sphere facilities,¹ housing and utilities maintained by industrial enterprises began to be transferred to municipal ownership. Local self-government bodies are responsible for delivering the following services: maintenance and repair of roads, street lighting, waste disposal, water supply and sewerage. These services are financed by local budgets and performed by special divisions of town councils. In the capital, for instance, the city budget finances twenty-two structural divisions and twelve self-sustaining departments.

5.3 Private Sector Role in Service Delivery

Legislation on local self-government leaves open the possibility for expanding the list of issues delegated to local governments. For instance, militia precinct inspectors were transferred to village supervision, though without the corresponding financing. In general, there is no strict distinction between delegated state powers and own local government powers.

The practice of contracting with the private sector for service provision is generally more widespread in economically stable cities. However, this process is hampered by meager local budgets and the lack of a legislative basis. Local self-government bodies cannot grant preferences to encourage private businesses to provide public services, as inter-budgetary relations are not regulated. Nevertheless, the existing practice of cooperation with the non-government sector is proving to be effective.

6. Local Finance, Local Property

6.1 System of Local Finance

Local government finance is regulated by the Constitution, the Law on the Budget System, the Tax Code and orders and regulations issued by the Ministry of Finance.

The Law on the Budget System, adopted 11 June 1998, specifies the principles for local budget formation, the procedures for drafting and executing local budgets, the budget structure and the composition of revenues and expenditures.

Local budgets are independent components of the budgetary system and possess own revenues, as assigned by legislation. In 1997, a presidential decree stipulated that budgets at the first tier of local government be entered as a separate line in the central budget.

Table 10.3
Oblast Budget Expenditures

	1997		1998		1999	
	[KGS million]	[%] of Central Budget Expenditures	[KGS million]	[%] of Central Budget Expenditures	[KGS million]	[%] of Central Budget Expenditures
Oblast budget expenditures	168.4	19.8	176.4	21.0	123.9	12.0

SOURCE: Ministry of Finance

Table 10.4
Central Budget Expenditures

	1997		1998		1999	
	[KGS million]	[%]	[KGS million]	[%]	[KGS million]	[%]
GDP	30,440.0	100	34,181.4	100	45,470.0	100
Central budget expenditures	681.9	2.2	838.3	2.4	919.9	2.0

SOURCE: Ministry of Finance

6.2 Revenues

The first tier of local government is financed through the central and local budgets, as well as other sources assigned by law. Town and village budgets are drafted by the *aiyl okmotu* and submitted to the local representative authorities for approval. First-tier local self-governments have the right to determine the list of fixed revenues and levy local taxes and duties on its territory, in compliance with tax legislation.

Local budget revenues at all levels of local government consist of:

- deductions from national taxes and other revenues;
- land tax;
- tax on the lease of land;
- state duty, in amounts established by law (excluding fees set up by economic courts or the Ministry of Internal Affairs for issuing passports);
- local taxes and fees stipulated by the Tax Code;
- non-tax payments such as local duties;
- revenues from local budgetary organizations and special resources.

In developed countries, personal income and property tax are the main sources of financing for local community activity. In Kyrgyzstan, these suffice to cover only a small part of the local government's financial needs, while local budgets are responsible for the greater part of expenditures on housing and utilities.

However, this type of funding is supervised not at the municipal level but at the oblast state administration level. Deductions from national taxes and other revenues, such as fines, surcharges and other sanctions imposed by tax authorities, are transferred to local budgets of all levels in accordance with uniform rates.

Starting from 1997, it was envisioned that local budgets would receive thirty-five percent of deductions from the national profit tax, income tax and excise tax on domestic products. Parliament would

approve uniform rates for allocations from the central budget, while higher-level councils would approve allocations to subordinate local budgets. These rates would not be subject to change for a period of three years.

In practice, the higher-level administration determines the amount of deductions from national taxes to be transferred to raions and aiyl okmotu. Although revenues are assigned according to legally accepted formulas at the oblast level, there are no such transparent methods of assignment at the raion level. Instead, this process becomes dependent on political, personal and other unforeseen factors.

In addition, the Law on the Budget System prohibits the establishment of extra-budgetary funds by ministries, administrative agencies, government commissions, other central executive bodies, local state administrations, local self-government bodies and aiyl okmotu. The only exceptions are the Social Fund and extra-budgetary funds formed from voluntary contributions by individuals or legal entities.

Currently, payments for the lease of land form the main source of aiyl okmotu revenues. However, local authorities cannot fully administer these resources. Some revenues from the land tax and tax on rendering payable services to population and retail sale may be centralized at higher-level local budgets.

Table 10.5
Share of State Subsidies in Local Budget Revenues 1997–1999

	1997		1998		1999	
	[KGS million]	[%]	[KGS million]	[%]	[KGS million]	[%]
Local budget excluding state subsidies	1,048.7	20.8	1,263.6	20.1	1,350.7	17.1
Local budget including state subsidies	2,034.2	40.4	2,358.6	37.5	2,660.3	33.7
State subsidies to the local budget	985.5	19.6	1,095	17.4	1,309.6	16.6
Bank loans	—		—		—	
Other sources	—		—		—	

SOURCE: Ministry of Finance

The minimum budget needs of local communities are covered by the system of transfers between the national and local levels.

6.3 Financing of Public Services

At the local level, basic education and health care services are financed through categorized grants. These grants are calculated according to population size, taking into account the presence of disadvantaged groups and the varying costs of service provision in different environments. Grants to oblasts are assigned purely based on population size.

The fund for categorized grants for education and health care is established according to local budget needs, calculated by local financial bodies. Accordingly, the sum of categorized grants from the state budget made up 45.3 percent of total local budget expenditures in 2000.

In addition to assignments from national taxes and other revenues, the system of equalization transfers is designed to reduce differences between the tax and budget capabilities of various regions. Equalization transfers in 2000 account for 9.4 percent of total local budget expenditures.

Similarly, certain shared grants have been established to encourage local governments to attract new sources of revenue in order to replenish local budgets. These grants are allocated in the form of shared financing, and fund a percentage of local budget expenditures on certain priority goals. The list and size of these grants is reviewed annually by the Law on the State Budget.

6.4 Expenditures

Some activities for which the Kyrgyz government is also responsible are jointly funded by local budgets and grants from the state budget.

Local budgets finance activities ensuring the general level of education, health care and welfare of the population, and local state administrations and local self-government bodies bear absolute responsibility for their implementation. This category includes expenditures for:

- general public services;
- maintenance of local institutions and organizations in the fields of education, health care, social insurance, sports, television, broadcasting, publishing, housing and utilities, agriculture, water resources, forestry, fishing and hunting;
- transport;
- other activities.

Higher-level councils distribute expenditure obligations between local budgets of different levels, based on the subordination and social importance of institutions and organizations.

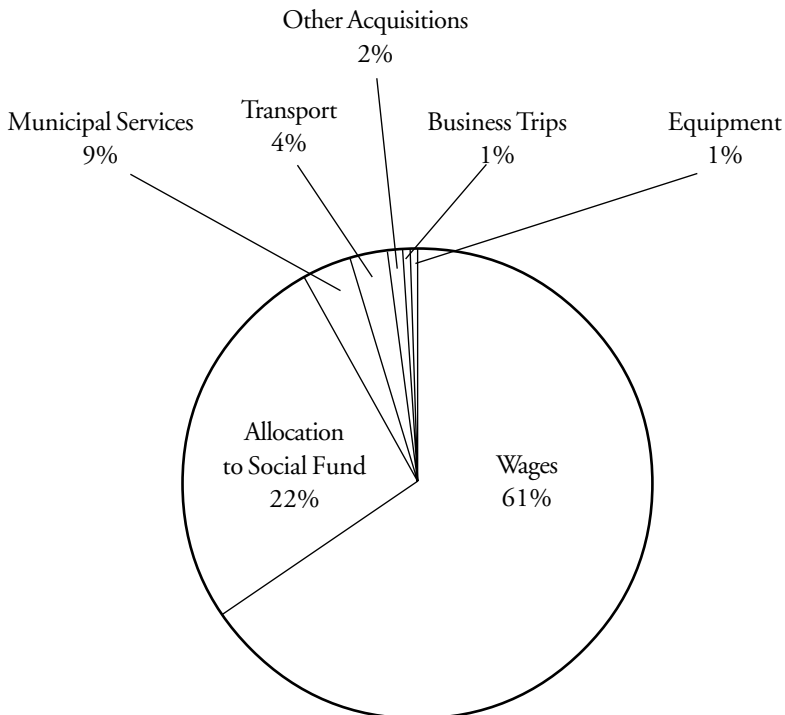
Aiyl okmotu are responsible for maintaining comprehensive schools, local hospitals, rural medical dispensaries, obstetric clinics, recreational centers, libraries, municipal facilities and paying salaries to council personnel in its territory. Teachers' wages, however, are paid from categorized grants through education departments at the raion level.

Table 10.6
Relative Size of Local Budget Expenditures and Central Government Expenditures

	1996		1997		1998		1999	
	[KGS million]	[%]	[KGS million]	[%]	[KGS million]	[%]	[KGS million]	[%]
Central government expenditures	—	—	1,061.9	49.8	1,266.8	50.4	1,507.2	52
Local budget expenditures	—	—	1,073.6	50.2	1,250.2	49.6	1,396.0	48
Total	1,873.2	100	2,135.5	100	2,517.0	100	2,903.2	100

SOURCE: Ministry of Finance

Figure 10.1
Structure of Aiyl Okmotu Expenditures



SOURCE: Congress of Local Communities

6.5 Budget Process

Financial departments in local state administrations or local self-governments prepare draft local budgets. Aiyl okmotu develop draft budgets for towns or villages based on forecast indicators and submit them to the town or village council.

Higher-level councils approve rates for allocating regulated taxes to aiyl okmotu budgets, as well as the size of categorized grants, equalization transfers and economic stimulus grants, according to the Law on the Budget System. Local self-governments are highly dependent on the central government for resources. Because of the resulting unpredictability of revenues, they are effectively prevented from developing a medium-term budget strategy.

Although legal provisions assign local self-government bodies broad rights in forming and implementing local budgets, these rights are not fully exercised. Village and town councils continue to form their budget on the “residual principle.” Oblast, district and city governments accumulate the bulk of financial resources, while local self-government budgets receive the leftovers. This outmoded “top-down” approach to forming local budgets at the village level is preserved in spite of the law, which prohibits public bodies from intruding in the local council or aiyl okmotu budget process.

A draft Law on the Financial and Budgetary Foundations of Local Self-government is currently under development. When passed, it should define the main principles governing the structure of local finances, the budget process and local self-government relations with banks, financial institutions and businesses. The draft law designates part of the budgetary surplus for strengthening the material and technical basis of local governments, increasing wages of municipal employees and other needs. Starting from 2001, Ministry of Finance has promoted a new approach to local budgets, introducing program-oriented budgeting and a new administrative classification for budget items.

6.6 Local Taxes

The Law on the Budget System grants local self-governments the right to independently determine the list of regulated funds and levy taxes and duties in accordance with the Tax Code.

The Tax Code defines the following types of taxes and duties for local self-government bodies:

- resort tax;
- advertising tax;
- tax on pets;
- fee for holding auctions, lotteries, contests or exhibitions;
- parking fee;
- fee for the use of local symbols;
- tax on transactions (commercial or commodity exchange);

- fee for waste disposal;
- tax on commercial greenhouses;
- hotel duty;
- fee for hunting and fishing;
- tourist tax on local citizens travelling abroad;
- amusement tax on video arcades, concerts and shows;
- tax on services and tax on retail sales;
- tax on unused production space;
- tax on motor vehicles.

Replenishing the local budget poses an acute problem at the village level, where only two or three out of the sixteen types of local taxes and fees can be collected. Local tax payments comprise a small portion of municipal revenues, insufficient for covering even the basic needs of local self-government. For instance, the tax on motor transport is allocated to a national fund, according to the Law on the Uniform Road Fund, and local authorities are left with no resources with which to repair their roads.

The system of local taxation is riddled with inconsistencies. Many taxes yield insignificant revenue, even though their calculation and collection requires considerable organizational and legal effort. In addition, the legislation on municipal taxation is frequently contradictory or illogical, including elements such as the double taxation of some entities, the lack of taxable entities in many municipalities, and the substitution of taxes by duties.

Taking local taxes into consideration when assigning funds from the central budget will not promote the financial autonomy of local self-governments. It may seem that evaluating local taxes is necessary for municipal establishments themselves, since they can overspend their guaranteed minimum. In fact, local taxes are included into the system of other revenues to cover minimal expenditures and are not reflected in any way in standard allocations for balancing the municipal budget.

In practice, it is impossible for local governments to utilize the method of municipal borrowing, stipulated by article 53 of the Law on the Budget System, since they lack the means to eventually settle the debt.

Credit Unions. In an experimental move, the Kyrgyz Republic created a system of credit unions to promote practices of credit, self-financing and mutual lending. This system is unparalleled in Central Asia. A credit union is a non-commercial financial intermediary established to provide assistance to its members through pooling personal savings and providing loans at acceptable interest rates. In addition, the credit union provides other financial services. At the beginning of 2001, Kyrgyzstan contained 172 credit unions. Of these, 116 are fully operational and the rest are under development. Their activities facilitate the creation of new workplaces, the development of small and medium businesses and increased agricultural output. Currently, the government of Kyrgyzstan is formulating a concept for developing regional banks, which envisages expanding the role of credit unions to act as village banks.

Table 10.7
Share of Local Budgets in Central Budget Revenues and Expenditures
[percent of corresponding item in the central budget]

	1996	1997	1998
Revenues			
Gross revenues and official transfers	41.4	41.5	38.1
Taxes	43.1	19.0	20.2
Income tax	59.0	38.9	36.2
Profit tax	45.1	34.2	42.1
VAT	47.1	—	—
Excise tax	33.3	22.5	21.5
Personal and tax	100.0	100.0	100.0
Corporate land tax	100.0	100.0	100.0
Non-tax revenues	29.7	36.3	24.8
Expenditures	36.0	31.9	32.7
Public services	17.2	19.8	17.4
Defense	2.2	1.2	1.5
Law enforcement	5.2	4.0	5.8
Education	71.7	65.8	65.4
Health care	72.4	60.4	68.5
Social protection	6.1	6.6	6.4
Housing and utilities	58.5	56.0	51.3
Culture, leisure and religion	44.8	41.6	35.8
Industry	16.6	8.5	5.5

SOURCE: Ministry of Finance

6.7 Local Property

The Presidential Decree on the Organization of Local Self-government, issued 22 September 1994, introduced the concept of municipal property and initiated its establishment.

Local self-government property is comprised of property owned by the local community and local community associations. Local self-governments control and administer municipal property, although

they may also assign it to the management of municipal enterprises or institutions, based on business principles.

The government resolutions of 30 October 1995 and 11 November 1996 defined the first state-owned facilities to be transferred to the municipal ownership of Bishkek and ayl okmotu. In accordance with the Provisional Regulation on Procedures for the Transfer of Property to Municipal Ownership, a special commission was established for this purpose.

Table 10.8
Number of Facilities Transferred to Village Councils by Oblast, 1996

	Chuy	Talas	Osh	Naryn	Ysyk-Kol	Jalal-Abad	Total
Vocational schools	—	—	—	—	—	—	—
Schools (including boarding schools and centers for children, youths, sports and music)	101	100	617	126	164	366	1,474
Health care institutions (including village hospitals, dispensaries, pharmacies, obstetric clinics)	157	121	499	118	152	238	1,285
Kindergartens and nurseries	62	28	240	33	58	74	495
Recreational centers	142	45	203	68	111	104	673
Libraries	114	67	237	132	112	155	817
Museums	4	6	13	1	6	5	35
Sports facilities	11	13	41	13	6	45	129
Cinemas and video arcades	3	1	6	1	—	—	11
Others		13	9		—	—	22
Total	594	394	1,865	492	609	987	4,941

The situation in Bishkek is somewhat different. The government transferred over three thousand facilities, but transferred them to the management of city authorities rather than municipal ownership, thus abridging the rights of the capital city. After three years, this issue still remains to be settled. So, while it may be said that there is municipal property in Bishkek, the local self-government cannot exercise the full rights of municipal ownership. In a few cases, disputes between the mayor's office and the government have reached the Higher Arbitration Court.

In 1998, sub-raion city governments became local self-governments and city council heads consequently acquired new powers. The government correspondingly determined the facilities to be transferred to municipal ownership, approved transfer procedures and defined the structure and organizational chart of city councils. However, heads of local state administrations are in no hurry to implement these decisions.

6.8 Financing Communal Structures

Traditionally, it has been difficult to resolve issues of financing for the maintenance of municipal facilities, including water supply, roads and bridges, the surrounding environment and others. These expenditures are currently financed mainly from revenue from the lease of land redistributed to municipal ownership.

Table 10.9
Number of Businesses by Oblast, 1998

Oblast	Total Number of Businesses	Businesses in Municipal Ownership [number]	Businesses in Municipal Ownership [% of total]
Jalal-Abad	3,814	431	11.3
Ysyk-Kol	2,384	248	10.4
Naryn	1,495	255	17.1
Osh	5,582	499	8.9
Batken
Talas	946	208	22.0
Chuy	4,419	243	5.5
City of Bishkek	17,455	247	1.4
Kyrgyz Republic	36,095	2,131	5.9

SOURCE: National Committee on Statistics

Public hearings on city budgets are clearly a progressive step towards increased transparency and municipal autonomy. These are aimed at increasing citizen participation which, according to the Law on Local Self-government and Local Public Administration, is a key form of exercising the rights of local self-government. Three cities held public budget hearings in 1999 and 2000. Both citizens and leaders of NGOs made proposals regarding priorities for social and economic development. The establishment of public supervisory boards is yet another measure intended to increase citizen interest in the budget process.

Inter-budgetary relations are as follows. The center approves uniform rates for allocations from national taxes to oblast budgets, as well as additional resources in the form of transfers. A fixed portion of national and regional taxes is used for forming budgets of raions, cities and ayyl okmotu. In practice, there are no procedures for obtaining the requisite financial compensation for the performance of delegated powers.

Rates for allocations from national taxes are the main instrument of control over municipal revenues. Administrative-territorial units in the republic have widely varying tax bases, making it impossible for the city of Bishkek and other raions in Chuisk to establish budget surpluses and they consequently become forced recipients. The hierarchical imbalance in the budgetary system means that the national budget provides financial aid to all regions.

7. Relationship between Different Levels of Government

7.1 Oblast, Raion and Village Levels

The current structure of government in Kyrgyzstan entails duplication of functions and the absence of control procedures over the execution of decisions. At the same time, a hierarchical system prevails for local public administration, territorial units of ministries and agencies and local self-government bodies. This significantly complicates the work of local self-government bodies and local state administrations and strengthens features of personal leadership.

Oblast Level. Government at the oblast level consists of the oblast state administration and its head, or governor. The governor is a state official of the executive branch, appointed by the president upon nomination by the prime minister and approved by the oblast council. Governors are appointed for a four-year term and may only hold office on that territory for a single term.

The Presidential Decree on Increasing the Role of Heads of Local Public Administration and Local Self-governments, adopted 20 March 1996, invests oblast governors with the following additional powers:

- to exercise public control over compliance with statutory acts of Kyrgyzstan by local administrations and local self-governments, and to suspend any law containing violations and inform the prosecutor's office;
- to submit important issues of local life for consideration to local councils;
- to mobilize labor, material, financial and other resources through the traditional method of *ashar* in order to solve pressing social, economic, environmental and other problems;
- to request necessary information or materials from territorial authorities in order to analyze various processes in the oblast;
- to participate in activities of territorial authorities and local self-government, either directly or through representatives; to be present at meetings, conferences and other forums carried out in the oblast;
- to manage state-owned shares in enterprises and organizations located in the oblast.

The governor is personally responsible for control over the legality and efficiency of local administration and local self-government activities.

The oblast administration represents the central government in the region and is responsible for regularly informing the central government on the political situation. For this purpose, a General Information Department is established to monitor events in the oblast. It is especially active during periods immediately preceding and during elections.

As head of the system of state power at the oblast level, the governor performs the following tasks:

- to control compliance with laws, presidential decrees and government resolutions and maintains public order in the region;
- to perform administrative control over activities of oblast and raion administrations;
- to implement economic and social policies developed by the central government.

Governors are essentially dependant on the central government, which must approve oblast budgets and principal decisions before governors may begin to organize activities and coordinate implementation at the oblast level. The oblast government's functions duplicate either those of the central government or of raions. Its responsibilities and powers appear to be primarily based on the personality of the oblast leader, rather than on an objective distribution of powers.

Raion Level. The raion-level government is represented by the head of the raion or city state administration, or akim, who possesses the following powers:

- to implement economic and social measures developed by the central government and implement decisions of central agencies;
- to perform various administrative functions;
- to exercise administrative control over local community activities within the given district.

Analysis of raion administration functions reveals that they duplicate the powers of both oblast administrations and local self-government bodies.

Village Level. This level is composed of local self-government bodies which are entitled to decide upon all issues of local interest. Their financial powers include the annual approval of the local budget and programs of social and economic development by the local council.

7.2 Methods of Appointing or Electing Local Self-government Heads

Council Chairmen in Oblasts and Raions. Oblast and raion councils elect a chairman at their opening session to act as head of self-government in the corresponding territory. Candidates for raion council chairmen are nominated by the oblast governor and candidates for oblast council chairmen are nominated by a representative of the president in consultation with council members.

City Mayors. The mayor is a member of the city council, appointed for a four-year term by the oblast governor upon nomination by the head of the raion administration and approved by a majority of council members. If the administration and the council do not agree on a candidate, the chairman of the oblast council appoints an acting mayor for up to six months. In extraordinary circumstances, the chairman may appoint a mayor from outside the city council. Mayors may be dismissed by oblast governor with the approval of the city council and the head of the raion administration. If the council and the oblast and raion administrations cannot agree on dismissing the mayor, the oblast governor makes the final decision.

Council Chairmen in Towns and Villages. Council chairmen in towns and village simultaneously perform the functions of local public administration and local self-government. According to the Law on Local Self-government and Local Public Administration, these chairmen are nominated by the head of the raion administration and elected by secret ballot at the council session. According to the Presidential Decree on Increasing the Role of Heads of Local State Administration and Local Self-government, the head of the aiyl okmotu is appointed by the head of the raion administration and approved by the chairman of the raion council and members of the village council. In addition, this decree stipulates that responsibilities of the head of aiyl okmotu and the chairman of the rural council may be combined in an ail where council and aiyl okmotu territories coincide. If the parties cannot agree on a candidate for such a combined position, the chairman of the oblast kenesh has the right to appoint an acting head of the village council.

The statutory acts on first-tier local self-government contain obvious inconsistencies concerning the status and functions of ail head. The same documents stipulate that heads of representative and executive bodies should be combined into one position and yet separate the functions normally performed by these offices. Due to this unclear separation of powers, rural councils are subordinated to various bodies, occasionally producing a situation when an outsider is appointed as chairman, rather than a member of the village council, and is therefore not accountable to the local council.

The creation of bodies of local self-government is clearly an internal issue to be decided by the local community. All such bodies should be accountable to the population or a representative body of local self-government. The established practices of forming local self-government and appointing heads contradict the very foundations of local self-government. This is all the more flagrant when it is the head of the representative body, not only the head of the executive body, that is appointed by the executive branch.

Recent decrees have begun to diminish these accumulated contradictions. For instance, a presidential decree adopted on 17 January 2001 approved the Provisional Regulation on Pilot Elections of Local Self-government Chairmen in Villages and Sub-raion Cities. From March to May of 2001, pilot elections were held in all oblasts, in settlements where the position of the head became vacant at the beginning of the year. Thus, the possibility for elections of both representative and executive bodies of local self-government (heads of village and city councils) was finally realized.

Although this presidential initiative received wide support, the public strongly criticized the suggested procedures for the multi-stage selection of candidates and the direct elections of the heads of village councils and city councils. In accordance with the approved regulation, eligible candidates must be Kyrgyz citizens older than twenty-five and younger than sixty; they must have received higher education or specialized secondary education; and they must have served in public administration or local self-government for at least two years. The head of local self-government is elected for a four-year term.

Pilot Election Procedures. After nomination, a list of the nominees and their backgrounds is to be submitted for consideration to the village council, whose members rank the nominees by secret ballot. The five most highly ranked nominees are approved by the village council and submitted for consideration to the raion-level administration. In case of grounded objections, the board of the raion-level administration may strike a candidate from the list. In no cases may the board leave fewer than two nominees. The village council has the right to substitute the next highly ranked candidates for candidates rejected by the board.

The raion-level administration then submits a resolution on the list of candidates to be included on the ballot to a special oblast commission on elections to aiyi okmotu. This commission includes the governor, the oblast council chairman, the oblast prosecutor, the chief of the oblast justice department and the chairman of the oblast election commission. After the commission has considered all relevant materials, the governor shall approve a list of no fewer than two and no more than five candidates. Upon fulfillment of these conditions, all further procedures will be performed by election commissions in accordance with the Code on Elections in Kyrgyz Republic.

A total of seventy-nine candidates ran for the position of village head. Twenty-one percent of these were barred from the elections due to various reasons: either they lacked the required two years of work experience in public service, they had outstanding convictions, they failed to meet the age qualification or they lacked necessary documents for registration. Only one woman was registered as a candidate, in Osh oblast. The average age of nominees was forty years old. In Chuy oblast, the special oblast commission struck two candidates from the list. None of the political parties nominated candidates for that post and only four self-nominated candidates had been registered, leaving the minimum number of two candidates.

It is too early to assess the long-term effects of the new election procedures. However, based on the results of the pilot elections, the Election Code will be amended to include a separate chapter on elections of heads of local self-government, which will exclude numerous restrictions.

Election financing remains a complicated issue. The recent elections were totally financed by the state budget, while elections of local self-government heads scheduled for the autumn of 2000 will primarily depend on the state budget as well.

7.3 Problems in the Transfer of State Powers

The concept of an effective state presupposes a state ready to acknowledge its own limitations and delegate a part of its powers to other institutions of government or civil society which are capable of realizing them more effectively. In reality, there is no such understanding of the essence or limits of delegated state powers, leading to the permanent intrusion of the state into local self-government affairs.

Since 1995, when the city of Bishkek was transferred to a system of local self-government, executive bodies have impeded the transfer of powers to local authorities in the republic. Even though two years had passed at the time of writing since the relevant presidential decree had been issued in 1997, many ministries and agencies still had not submitted their proposals to the government regarding delegation of some functions to city and rural executive committees. Other agencies, such as the Ministry of Internal Affairs, considered it inexpedient to transfer their services to municipal governments. High-ranking public officials are generally reluctant to part with their powers of governing and regulating public resources.

In the future, public powers should be delegated by the government exclusively on a contractual basis, between the administration and local self-governments. Otherwise, the principle expressed in the Constitution—that local self-governments should receive the necessary material, financial and other resources in support of their delegated powers—will remain unfulfilled.

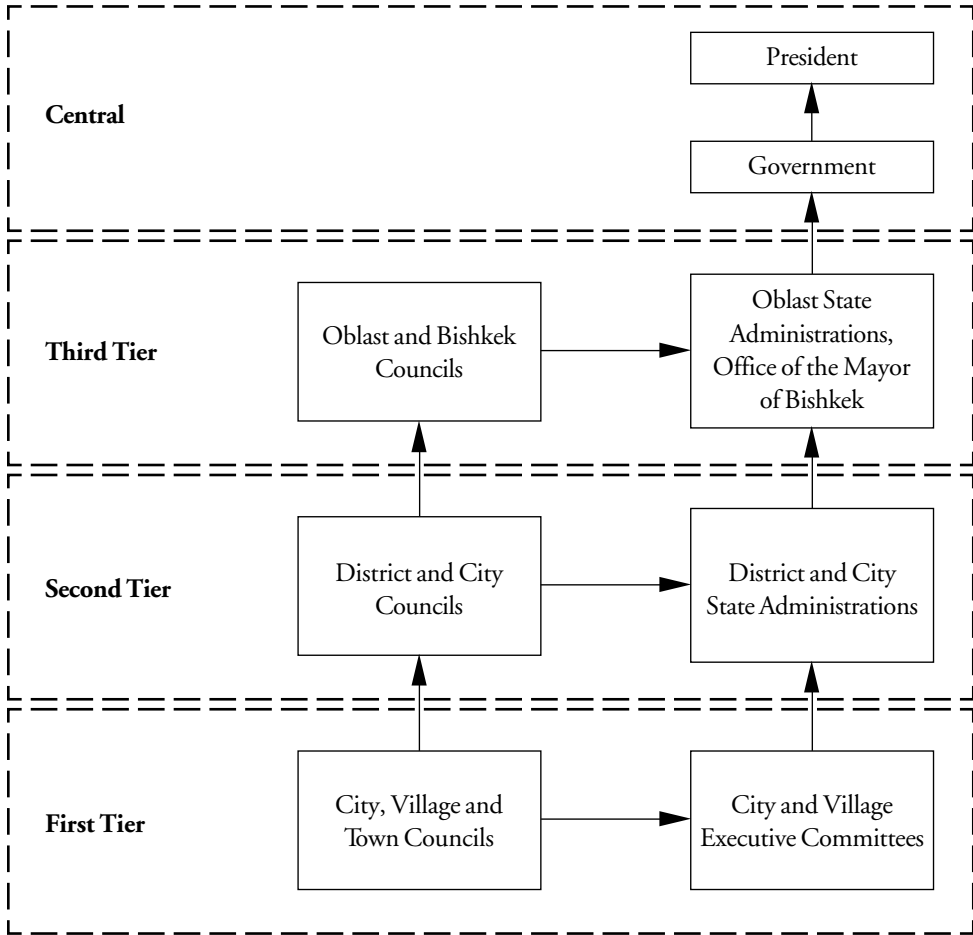
7.4 Distribution of Functions among Tiers of Government

Regional authorities depend on the central government administratively and politically, since they are not democratically elected. This is clear evidence of the lack of confidence from the center in the democratic process in regions. The practice of appointing the leadership of *aiyl okmotu*, raion and city administrations results in frequent changes in leadership, mostly ungrounded: the turnover of local government leadership was 58.8 percent in 1998–1999.

Relations between the oblast, raion and *aiyl okmotu* levels are strictly hierarchical. Disputes, if any, are resolved extra-judicially; top-down appointment procedures reflect the system of bureaucratic centralism and generate no publicity. Since these heads are appointed, there is no strict accountability to local councils.

In cases with different administrative-territorial levels of power, the local administration may only be effective if each level of government has own powers that do not duplicate those of other levels—as sometimes occurs with the oblast and district levels. At the local level, an illogical hierarchy between the state government and local self-government prevails, resulting in poorly delineated functions and dual subordination. Many experts point to the long-standing necessity of unifying the territorial power structure and approving a national registry of functions for different levels of territorial administration.

Figure 10.2
Structure of Public Administration in Kyrgyzstan

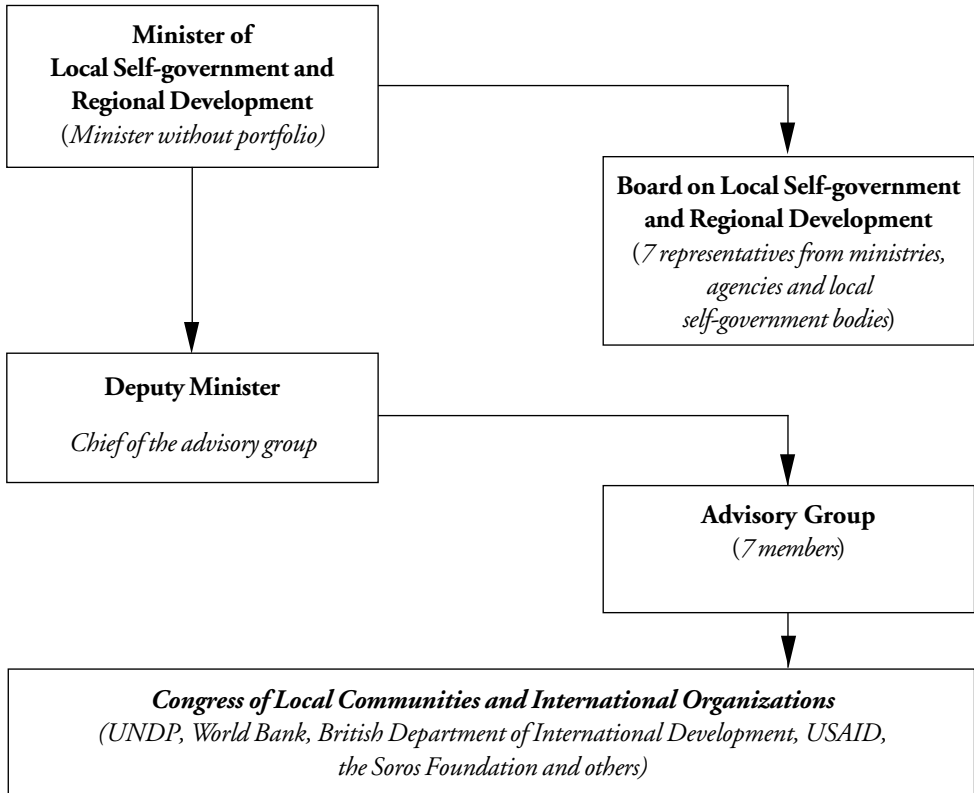


As noted above, the position of the Minister of Local Self-government and Regional Development has been introduced. In accordance with the provisional regulations approved by the government of the Kyrgyz Republic, the minister implements state policy in the sphere of government democratization and is responsible for developing an optimal system for interaction and distribution of functions between state administration and local self-government.

Since the position of minister was not accompanied by the creation of a separate ministry, a group of advisors and a board of representatives from ministries, agencies and local self-government bodies are being formed.

Figure 10.3

Structure of the Ministry of Local Self-government and Regional Development



This group of advisors will be engaged in producing and analyzing data and formulating proposals, projects and programs on developing local self-government, improving relations between local self-governments and the state and on-site control. The minister's office will be located together with the group of advisors, the Congress of Local Communities and international organizations providing assistance in the sphere of local self-government.

The minister is responsible for the following functions:

- to ensure the coordination of activities between the state and local self-government bodies in issues of democratization and local self-government, including the development of draft state and local budgets;
- to develop draft statutory acts concerning local self-government, methodological recommendations and materials on the practical implementation of methods of democratic government in local communities;

- to analyze, monitor and exercise control over the development of relations between tiers of state administration and local self-government bodies and oversee their joint activities for regional development in order to develop measures in anticipation of problems;
- to study local council activity at all levels in order to forecast and fulfill the need for organizational and legal assistance, to train council members through workshops and short-term courses and exercise control over the use of local council powers;
- to monitor and resolve disputes between local self-governments and state bodies, between representative and executive local self-government bodies and between local self-government bodies of different tiers.

Some experts feel that many problems of regional policy will be resolved more effectively when the Minister of Local Self-government and Regional Development is installed, with the appropriate support.

8. Local Government Employees

8.1 Municipal Service

The Law on Civil Service, adopted November 1999, introduced several important reforms: prohibiting civil servants from party affiliation, ensuring equal opportunity for employment in the civil service, promoting civil servants according to merit and other reforms. This law recognizes civil service as an independent and complex legal institution and laid the foundations for civil service law as a new branch of national legislation. The law also stipulates that the legal status of local self-government officials is determined by the Constitution and special laws.

Currently, Kyrgyzstan lacks both the concept of municipal service and any special statutory act to determine the legal status of municipal servants, the structure of municipal service and its procedures. However, the constitutional distribution of functions to local self-governments and the nature of local self-government activity make legislation of this nature an urgent issue.

Staff members of local councils, city and rural executive committees and other bodies of local self-government exercise their professional functions based on the Provisional Regulation on the Fundamentals of Civil Service in Kyrgyz Republic, approved by presidential decree in 1996.

Local council personnel are considered civil servants if they are vested with powers in accordance with Article 94 of the Constitution. Based on local budget capabilities, heads of self-government in oblasts and raions present the staff structure and organizational chart to the local council for approval and hire staff on a contractual basis to implement council decisions and exercise vested executive and regulatory powers. Other staff workers of local self-government are not deemed to be public servants.

The List of Civil Service Positions, approved by government resolution, classifies the positions of oblast council chairman and head of oblast administration as “highest”; the positions of first deputy chairman of the oblast council and first deputy head of the oblast administration as “major”; and the positions of city head, raion council chairman, raion-level administration head, the head of the *ayl okmotu* and their deputies as “principal.” This list determines that staff workers of the corresponding self-government bodies and local administration are considered specialists and civil servants as well.

Table 10.10
Local Government Employees, 1999

	Civil Servants	Employees Without Civil Servant Status	Technical Personnel	Total
Oblast councils	53	11	12	76
Raion councils	241	60	97	398
Village and town councils and executive committees	3,327	1,466	1,025	5,818
Oblast and raion state administration personnel	875	210	372	1,457
Total	4,496	1,747	1,506	7,749

SOURCE: National Committee on Statistics

The draft Law on Municipal Service, currently under development, will stipulate the professional basis for the constitutional distribution of powers between the state and local self-governments.

Civil service reform faces many obstacles due to the unwritten rules of the bureaucratic machinery, national traditions and established custom. Kyrgyz bureaucracy has inherited many features of Soviet public service. Positions with a greater possibility for abuse of power are more highly valued: a junior position in a government institution with auditing functions is more prestigious than a higher position in a public institution without such powers.

8.2 Personnel Training

Staffing civil service positions poses a problem, since Kyrgyzstan lacks a state personnel policy. The constant reorganization of staff and the hiring of incompetent heads in state administrations are clear proof of the absence of any system for forecasting needs, selecting personnel and training strategies.

In order to increase the knowledge, responsibility and professional skills of local self-government leadership, the first personnel certification was held at the end of 1997, in accordance with the Order of the President of Kyrgyz Republic (17 June 1997). All public officials were liable to certification from lower-ranked officials to deputy heads of state administration. Out of 529 civil servants eligible for this process, 452 persons underwent certification, and 395, or 87.3 percent, passed successfully. This process revealed that the existing personnel and structural organization of local authorities reflects neither their assigned responsibilities nor the particulars of the oblast, raion or city.

In May 2000, the state conducted another certification of local self-government leadership at the village level. The certification commission was composed of representatives of central public bodies responsible for reforming local self-government, including the Office of the President, the Office of the Prime Minister, central ministries and agencies and the Congress of Local Communities.

During the certification process, the heads of the raion administration and raion council chairmen submit references to the commission for aiyl okmotu chairmen awaiting certification, along with a document testifying whether the candidate has a criminal record. The certification commission assesses the level of knowledge, experience, professional and personal qualities of candidates through testing and interviews. If employees fail the test, they are not invited to interview and do not receive certification. The failure to receive certification is grounds for dismissal. Through the certification held in 2000, the state determined that 9.5 percent of aiyl okmotu chairmen were not professionally qualified for their positions.

A major priority for local state administrations at all levels is the continued training of the local self-government personnel and creation of a personnel reserve. With this objective in mind, workshops and trainings teach modern governing techniques under the aegis of various international donor organizations. For instance, the Congress of Local Communities is currently engaged in training specialists from aiyl okmotu and local administrations in several pilot oblasts, within the framework of a decentralization project financed by the UNDP.

At the Academy of Management, in the Office of the President, an education and methodological association has been established, specializing in public and municipal government. This association carries out advance training of personnel for local self-government bodies through short-term courses and workshops, within the framework of joint projects with international organizations. Several higher educational institutions train specialists in the sphere of municipal government. However, low salaries, the absence of material incentives and the decline in status of local self-government employment has resulted in a drain of skilled specialists from the system of local self-government.

In summary, purposeful efforts aimed at selecting and educating local self-government personnel for local self-government are not yet being implemented. With respect to leadership positions, personnel issues are still settled in private, without reference to the professional capabilities of the candidate.

9. Legal Guarantees for Local Autonomy

State Support to Local Self-governments. In accordance with the Program for State Assistance to Local Self-government, adopted by presidential decree in May 1997, all executive bodies were ordered to create conditions for the establishment and development of local self-government and to ensure sufficient material and financial resources for local communities to carry out legally established local self-government functions.

In 2000, the President established a Commission on Local Self-government Reform with broad powers. Although the commission members work on an unpaid basis, the commission has the right to investigate appeals from local community members, local self-government staff and local council members regarding unlawful acts by administrations or the misconduct of local self-government officials.

There are two opposing approaches in attempts to improve administration of local affairs. One approach is to strengthen the administrative hierarchy, justified on the grounds of reinforcing statehood; the other approach is to broaden local council powers. Local administrations currently possess the advantage over local self-governments, and their approach is gaining ground.

Even after establishing constitutional guarantees of local self-government, central authorities strive to establish direct rule, arguing that this is beneficial for the functioning of local government as well as the political system in general. In the future, this tendency may lead to the substitution of local self-government by public administration, paving the way for a Soviet type of local self-government. It is thus crucial to resolve the relationship between the state administration and local self-government bodies.

In order to ensure that local self-governments are informed of legal developments, the Presidential Decree on Providing Rural Self-governments with Statutory Acts was passed in the summer of 2001. Raion and city administrations and councils were ordered to include an item for subscriptions to published statutory acts in the expenditures section of local budgets. The government is required to develop procedures for providing local self-governments at the village level with copies of statutory acts; this includes defining the central government body responsible for the subscription and purchase of statutory acts for all first-tier local self-government bodies as well as for their regular and prompt delivery.

Legal Guarantees for Local Self-government. The relationship between local self-government bodies and central authorities is based on the constitutional principle of separation of powers. Central public authorities and their departments have no right to interfere into issues of local self-government competence. The legal basis of local self-government may be divided into two groups. The first is national legislation, or the system of statutory laws adopted by higher public authorities. This system includes the Constitution, other legislation, such as the Law on Local Self-government and Local Public Administration, presidential acts and government resolutions. The second level includes local council resolutions and community charters, which comprise a set of rules for communal life.

Decisions resulting from referenda, citizen assemblies, local councils and territorial self-government must comply with national legislation. Local councils and local state administrations do not have the right to act on issues in the competence of the other body. Local council decisions on issues within its competence are approved by simple majority of elected members and are issued in the form of resolutions. Local self-government bodies exercise their functions in the name of the local population, based on legislation.

Legal Guarantees for Elected Council Members. A local council member's authority may not be abridged, except in cases stipulated by law. Members may form factions, which function in accordance with the local council rules. Local councils and their subordinate bodies should ensure the necessary conditions for the effective exercise of authority by its members.

Local council members may request that the session hear reports on issues within local council competence from officials or institutions accountable to the local council or from other officials or institutions acting on its territory. The council member may file a request to any government institution, local self-government institution or organization, regardless of ownership, on issues related to council activities. The recipient of the request is obliged to answer orally or in writing within the period stipulated by the local council. Local council members enjoy the right of unimpeded access to government bodies, local self-government institutions and organizations on the local territory, as well as the right to meet with their heads or other officials without delay.

By instruction of the local council or council chairman, council members may take part in audits requested by the council. If violations of law are discovered, council members may apply to the relevant government body. Council members may require officials or the local militia to take immediate measures to stop violation, and if necessary, bring the violator to account. Officials failing to act when requested bear disciplinary, administrative or criminal liability under the law.

Council members fulfill their duties while continuing to perform their principal employment. Members may not be penalized for their service by being dismissed or transferred to a lower paying position without the approval of the corresponding local council. In addition, the time period spent serving as member is counted as part of their continuous length of service in their outside careers. Council members retain all rights and benefits that the workers of their enterprise, institution or organization enjoy.

Local council members do not possess legal immunity. However, law enforcement authorities are obliged to immediately take measures to protect council members and their families in case of violence or other threats in connection with their functions as council members.

Rights and Duties of Local Self-government Bodies. Local councils and raion-level administrations have the right:

- to demand the cancellation of acts of government bodies, local self-government bodies, enterprises and organizations if they violate the rights and interests of local citizens, the local council or the local state administration;

- to take measures stipulated by law to ensure public safety and order and protect public rights and interests in case of natural disaster, ecological catastrophe, epidemic or riot.

Government authorities are obliged to consider proposals by local self-government and local state administration bodies. If a bylaw issued by central executive body is counter to regional interests, the oblast governor or mayor of Bishkek has the right to request the president or government to cancel or suspend the law.

The head of local administration may be dismissed by the president upon proposal by the prime minister. The local council may pass a vote of no confidence in the head of local administration by a two-thirds majority of total members and request his or her dismissal. The president should decide upon the issue within one month of receiving the application.

Legally established rights of local self-government bodies and local state administrations cannot be infringed upon or restricted, except in cases of public necessity stipulated by law. Legal entities and individuals are liable to local self-government bodies and local state administrations for damages caused by their decisions, actions or failure to act in the interests of the local population, economy or environment. They are also liable for damages caused by non-compliance with the decisions of local self-government bodies or the local administration.

The judicial system enforces protection of the rights and legitimate interests of local self-governments and local administrations. Disputes between central authorities and local self-government bodies are resolved through conciliation commissions or in court. Thus far, there are no regulations or set practices to resolve disputes; all disputes have been resolved at the pre-trial level.

10. Next Steps in the Transition Process

Kyrgyzstan has accumulated comprehensive experience on decentralizing administration and developing local self-governments through various pilot programs. In the long run, these organizational activities should begin to yield effective results. In the long-term Complex Strategy for the Development of Kyrgyzstan through 2010, local self-government will have a special place in administration reform. Parliamentary committees have begun to discuss draft laws on local self-government and municipal property. If they are adopted by the end of 2001, as expected, this will settle many issues concerning the further development of local self-government. Draft laws on municipal service, on the financial and economic basis of local self-government and on public initiative are awaiting discussion as well.

In May 2001, a nationwide meeting of local self-government representatives, entitled “Local Self-government is the Foundation of the Kyrgyz System of Grassroots Democracy,” was held in Bishkek,

with the participation of the president. This meeting discussed and defined new prospects for the development of local self-government.

The president, government and Parliament plan to undertake the following measures:

- to implement elections of local self-government heads and officials of other territorial levels;
- to restructure cities of oblast subordination along principles of local self-government;
- to enhance the role of local councils and other local self-government bodies in administering local affairs and exercising control over the activities of executive bodies;
- to ensure actual financial decentralization through regulation of the system of inter-budgetary relations;
- to distribute administrative issues by law between central authorities, regional administrations and local self-governments;
- to conclude the delegation of administrative functions from ministries and agencies to local self-governments. The law should include a provision stipulating that functions should be transferred on a contractual basis between the local self-government in question and the government;
- to abolish some territorial subdivisions of central executive bodies for the sake of efficiency and decentralization of authority. Heads of local state administrations should be personally responsible for the social and economic development in their territory;
- to establish a system for the continuing training of civil servants, including short-term professional development courses for local state administrations and local self-governments;
- to take measures to improve budgetary relations between local and state budgets and establish the economic and financial basis of local self-government by law.

It is expected that these reforms will optimize the administrative-territorial structure in order to enhance the effectiveness of public administration. Currently, districts and oblasts maintain a dual administrative structure comprised of local administrations and local self-governments, represented by local councils.

However, local self-government reform is an issue of such importance that it should be resolved only through broad public discussion. State administrations should not be the ones to implement reform of local self-government, since they will be influenced foremost by their own interests. Rather, they should accommodate themselves by first of all reforming their own structure in accordance with democratic principles.

The main obstacle confronting local self-governments is their limited financial and economic capability. A key issue in local government reform will be the introduction of a new mechanism for inter-budgetary relations, one which provides local authorities with the incentive to increase local revenues. Local councils should be granted the authority to collect local taxes and determine revenues and expenditures. At the same time, transparency should be ensured at all levels. In addition, it is necessary to develop the real estate market, including a standard system for land appraisal, and support small and medium business development in the sphere of municipal infrastructure and service delivery.

The government should develop a program to strengthen the organizational, legal, financial and economic basis for local self-government activities. To do so, is essential to define the powers of different tiers and complete their transfer to local self-governments. In addition, the government must define procedures for calculating sufficient transfers to local self-governments to enable them to fulfill their functions and delegated powers.

This summary of the issues and prospects of local self-government in the Kyrgyz Republic cannot claim to be comprehensive; a paper of this length can only reflect key aspects of this multi-faceted process. Moreover, this process is a dynamic one, and will become more so as both civil society and government acquire more experience. The coming years will doubtless be critical for the system of local self-government in Kyrgyzstan, as proved by the recently intensified political dialogue and decisions on the issue. It is important to consider both domestic and international experience, in order to bring the existing social relations into harmony with the expectations of citizens.

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Contacts for Further Information on Local Government in the Kyrgyz Republic

Government Bodies in the Kyrgyz Republic

- Office of the President of the Kyrgyz Republic
Department of Staff Planning, Organization and State Policy in Public Administration
Commission on Support for Local Self-government Reform
- Office of the Prime Minister of the Kyrgyz Republic
Department of Staff Planning, Organization and State Policy in Public Administration
Minister on Local Self-government and Regional Development
- Ministry of Finance

- Parliament of the Kyrgyz Republic, Legislative Assembly
Committee on State Structure
Subcommittee on Local Councils and Local Self-government
- Office of the Mayor of Bishkek
Bishkek City Council
- Central Commission on Elections and Referenda
- National Committee on Statistics

Local Government Organizations in the Kyrgyz Republic

- Association of Cities in Kyrgyzstan
- Congress of Local Communities

NGOs and International Donors in the Kyrgyz Republic

- Agency on the Development of Local Self-government
(a joint project between the Bishkek mayor's office and the Soros-Kyrgyzstan Foundation)
- Coalition for Democracy and Civil Society
- Regional Association of Condominium Owners
- Soros-Kyrgyzstan Foundation
- United Nations Development Program (UNDP)
- United States Agency for International Development (USAID)
- Urban Institute

Glossary of Kyrgyz Terms

- Ail* — A rural settlement which, together with towns and towns of raion subordination, makes up the primary administrative-territorial unit in the Kyrgyz Republic.
- Ail okmotu* — The rural executive committee, or executive branch of the rural or village kenesh, which administers local community functions.
- Akim* — The head of an executive agency or local state administration at the regional level.

- Ashar* — A traditional method of social mobilization, whereby members of the community assist each other in preparing funerals, constructing houses or schools and in performing labor-intensive and lengthy works, such as cleaning irrigation systems. This method is highly efficient, since each participant understands the importance of rendering assistance to these projects.
- Citizen assembly* — A direct form of citizen participation in managing local issues through meetings of all citizens who live in a given neighborhood (such as a street, quarter, small district or village). These assemblies may issue recommendations to local authorities.
- Governor* — The head of oblast public administration and the highest state official in the oblast. The governor exercises control over activities of executive authorities and local self-governments within the oblast.
- Kenesh* — The local council, elected by local inhabitants through direct ballot for a term of five years.
- Kurultai* — A form of representative participation by local community members in issues of local importance; the community elects kurultai members to hold discussions on vital community issues, such as reports from the heads of local self-government or local state administration regarding the performance of their duties.
- Shaar bashchasy* — The head of city government and the highest government official in the city. The shaar bashchasy acts as chairman of the city council, head of the executive council and first deputy head of raion state administration.
- Shaar bashkarmasy* — The city executive council, established by the city council, which acts as the executive and regulatory branch of local self-government in cities of raion subordination.
- Zhogorku Kenesh* — The supreme legislative authority in the Kyrgyz Republic, a bicameral Parliament consisting of the standing Legislative Assembly (sixty members), and the Assembly of National Representatives (forty-five members), which convenes regularly. In the Legislative Assembly, fifteen seats belong to representatives of political parties.

Annex 10.1

Major General Indicators

Table 10A.1
Population by Gender, Age and Place of Residence, 1996–1999

	1996		1997		1998		1999	
	[Thousands]	[%]	[Thousands]	[%]	[Thousands]	[%]	[Thousands]	[%]
Gender								
Male	2,276.2	49.2	2,310.0	49.3	2,346.2	49.3	2,392.5	49.3
Female	2,348.9	50.8	2,379.7	50.7	2,413.9	50.7	2,458.2	50.7
Age								
Pensioners	544.3		546.4		540.5		539.1	
Senior citizens		9.7		9.7		9.5		9.2
School-age children (aged 7–17)	1,159.7		1,189.0		1,216.2		1,248.6	
Children aged 0–15		39.4		38.9		38.3		38.1
Place of Residence								
Rural	2,972.6	64.3	3,020.9	64.4	3,076.2	64.6	3,136.9	64.7
Urban	1,652.5	35.7	1,668.8	35.6	1,683.9	35.4	1,713.8	35.3
Total	4,625.1	100.0	4,689.7	100.0	4,760.1	100.0	4,850.7	100.0

Table 10A.2
Population Density by Region

	Area [Thousand sq. km.]	Population	Population Density [People/sq. km.]
Kyrgyz Republic	199.945	4,850,700	24
City of Bishkek	0.127	787,800	6,203
Chuy	20.189	772,200	38
Ysyk-Kol	43.144	415,500	10

Table 10A.2 (continued)
Population Density by Region

	Area [Thousand sq. km.]	Population	Population Density [People/sq. km.]
Naryn	45.202	248,700	6
Talas	11.446	200,300	17
Jalal-Abad	33.648	869,500	26
Osh	29.193	1,176,600	40
Batken	16.996	380,100	22

SOURCE: 1999 Census

Table 10A.3
Ethnic Composition of the Kyrgyz Republic*

	[%] of Total Population
Kyrgyz	64.9
Uzbeks	13.8
Russians	12.5
Dungane	1.1
Ukrainians	1.0
Uigur	1.0
Kazakhs	0.9
Tajiks	0.9
Tatars	0.9
Turks	0.7
Germans	0.4
Koreans	0.4
Azerbaijani	0.3
Belarussians	0.1
Other	1.1

SOURCE: 1999 Census

* Overall, members of over one hundred nationalities permanently reside in the Kyrgyz Republic.

Table 10A.4
Ethnic Composition by Region [percent of total population]

	Kyrgyz	Russians	Uzbeks	Ukrainians	Other
Kyrgyz Republic	64.9	12.5	13.8	1.0	7.8
City of Bishkek	55.2	33.2	1.6	2.1	10.9
Jalal-Abad	69.8	2.1	24.4	0.3	3.4
Ysyk-Kol	79.5	13.2	0.8	0.7	5.8
Naryn	98.7	0.3	0.3	0.0	0.7
Osh	63.8	1.3	31.1	0.1	9.0
Batken	74.3	2.2	14.4	0.1	9.0
Talass	88.5	4.0	0.9	0.7	5.9
Chuy	43.8	31.9	1.8	3.3	19.2

Table 10A.5
Historic Exchange Rates for the Kyrgyz Som (KGS), 1996–1999

	1996		1997		1998		1999	
	Average	At Year-end	Average	At Year-end	Average	At Year-end	Average	At Year-end
KGS/ USD	10.83	16.70	13.0	17.42	20.94	29.38	39.09	45.43

Table 10A.6
Per Capita Gross Domestic Product, 1996–1999

	1996	1997	1998	1999*
Per capita GDP under PPC (purchasing power capacity) [USD]	2,101	2,264	2,299	2,374
Per capita GDP [KGS]	5,024.1	6,494.5	7,125.6	9,933.2
GDP in current prices [KGS million]	23,399.3	30,685.7	34,181.4	48,321.1
Real GDP growth rate [% of the previous year]	107.1	109.9	102.1	103.6

* data for 1999 are estimated.

Table 10A.7
Structure of the Central Budget, 1996–1998 [percent of GDP]

	1996	1997	1998
Total revenues and received official transfers	16.8	16.6	18.1
Tax revenues	12.6	12.5	14.4
Income tax	1.2	1.1	1.2
Profit tax	1.6	1.1	1.3
Value added tax	5.3	5.6	5.8
Excise duty	1.1	1.5	2.1
Foreign trade and external transaction tax	0.8	0.8	1.1
Non-tax revenues	2.2	2.8	2.9
Revenues from transactions with capital	1.2	0.4	0.3
Received official transfers	0.9	0.6	0.6
Expenditures	22.2	21.8	21.1
General public services, defense, public order and security	5.5	5.9	5.5
Education	5.2	4.9	4.8
Health care	3.1	3.2	2.8
Social protection and insurance	3.8	3.4	2.9
Housing and utilities	1.3	0.9	1.1
Subsidizing industry branches	1.8	2.2	2.5
Budget deficit	5.4	5.2	3.0
Domestic financing	2.5	0.9	0.1
External financing	2.8	4.3	2.4

Table 10A.8
Structure of Local Budgets, 1996–1999 [million KGS]

	1996	1997	1998	1999
Total local revenues and received official transfers	1,628.4	2,113.2	2,388.5	2,828.0
Expenditures	1,873.2	2,135.5	2,386.5	2,809.4

Table 10A.9
Local Budget Revenues, 1996–1999 [percent]

	1996	1997	1998	1999
Total revenues and received official transfers	100.0	100.0	100.0	100.0
Total revenues	87.7	49.6	52.9	49.8
Current revenues	87.5	49.3	52.9	49.8
Tax revenues	78.0	34.4	41.1	37.3
Income tax	10.4	6.1	6.1	6.8
Profit tax	10.3	5.4	8.0	7.4
Value added tax	36.1	0.0	0.0	0.0
Tax on retail and services	3.5	0.0	6.3	6.6
Excise duty	5.2	4.8	6.5	8.0
Transport vehicle tax (levied on physical persons)	0.1	0.2	0.2	0.0
Land tax on natural persons	1.0	1.9	0.8	0.7
Land tax on legal entities	6.5	11.1	11.3	6.3
Non-tax revenues	9.6	14.9	11.8	12.6
Revenues from transactions with capital	0.1	0.3	0.0	0.0
Received official transfers	15.2	51.3	47.7	50.0

Table 10A.10
Local Budget Expenditures, 1996–1999 [percent]

	1996	1997	1998	1999
Expenditures	100.0	100.0	100.0	100.0
General public services				
Defense, public order and security	6.8	9.1	8.7	8.9
Education	46.8	46.6	46.1	48.2
Health care	28.3	27.6	27.6	27.5
Social protection and insurance	2.9	3.3	2.6	2.6
Housing and utilities	9.3	7.3	8.0	6.6
Recreation, culture, religious activities	3.0	2.9	2.8	3.1
Financing industry branches	3.8	2.7	1.9	2.6
Other expenditures	-0.8	0.5	2.1	0.5

Table 10A.11
Social Fund Budget, 1996–1999 [million KGS]

	1996	1997	1998	1999
Total revenues	1,868.9	2,281.6	2,583.1	3,025.8
Expenditures	1,948.3	2,289.6	2,491.8	2,957.4

Table 10A.12
Social Fund Budget, 1996–1999 [percent]

	1996	1997	1998	1999
Total revenues	100.0	100.0	100.0	100.0
Pension fund	85.6	87.0	85.5	82.8
Social insurance fund	10.8	7.5	6.1	6.2
Unemployment fund	3.6	3.8	3.9	4.4
Medical insurance fund	0.0	1.8	4.4	6.6
Expenditures	100.0	100.0	100.0	100.0
Pension fund	91.5	90.3	90.8	90.9
Social insurance fund	5.4	6.1	5.2	4.2
Unemployment fund	3.0	3.3	3.5	2.5
Medical insurance fund	0.0	0.4	1.2	2.5

Table 10A.13
National Debt, 1996–1999

	1996	1997	1998	1999
Internal debt [million Som]	4,927.6	7,663.1	5,705.9	5,322.9
The National Bank of the Kyrgyz Republic debt (principal)	2,206.5	1,940.5	—	—
Interest on credits of the National Bank of Kyrgyz Republic	1,524.5	2,064.8	—	—
State treasury bonds	1,008.7	1,476.2	1149	1,141.8
State treasury bills	186.6	351.4	418.3	165
On savings in Elbank (former Savings Bank)	—	1,389.4	1,356.8	1,316.2
On 15% bonds of the Kyrgyz Republic	1.3	—	0.2	0.2
Debt instruments, total	—	440.8	2,781.6	2,699.7
Including restructured public bond	—	440.8	2,781.6	2,699.7
External national debt [USD, million]	631.48	808.61	965.07	1148.7

Table 10A.14
Unemployment Rate, 1996–1999 [percent]

	1996	1997	1998	1999
End-of-year registered unemployment rate	4.3	3.1	3.1	2.9
End-of-year total unemployment rate	7.8	5.7	5.9	7.4

Table 10A.15
Unemployment Registration and Benefits by Region, End of 1999

	Officially Registered Unemployed Individuals [Thousands]	Individuals Receiving Unemployment Benefits [%]	Average Amount of Benefit [KGS]	[%] of Average Monthly Wage	Official Unemployment Rate [% of Economically Active Population]
Kyrgyz Republic	54.7	5.4	180	17.1	2.9
City of Bishkek	11.3	0.4	158	11.1	3.8
Chuy oblast	7.6	0.9	173	19.2	2.6
Ysyk-Kol oblast	4.8	0.4	138	7.6	3.2
Jalal-Abad oblast	11.5	1.8	190	22.4	3.5
Naryn oblast	5.1	0.3	280	34.4	8.1
Osh oblast	9.9	0.8	174	27.3	1.8
Batken oblast	4.4	0.7	174	30.2	2.9
Talas oblast	1.9	0.1	190	32.3	2.4

Table 10A.16
Inflation Rate, 1995–1999 [percent of the previous December's rate]

	1995	1996	1997	1998	1999
Consumer price index	132.1	134.8	113.0	116.8	139.9

Annex 10.2

Population, Settlements and Administrative Units

Table 10A.17
Settlements by Population Size Categories in Kyrgyzstan, 1999

Population Size Category	Number of Settlements	Percentage of Settlements	Number of Inhabitants	Percentage of Total Population
0–1,000	819	44.17	434,900	9.02
1,000–2,000	546	29.45	781,500	16.20
2,000–5,000	364	19.63	1,071,300	22.21
5,000–10,000	70	3.78	489,400	10.15
10,000–50,000	50	2.70	892,900	18.51
50,000–100,000	3	0.16	194,100	4.03
100,000–1,000,000	2	0.11	958,800	19.88
1,000,000+	—	—	—	—
Total	1,854*	100.00	4,822,900	100.00

SOURCE: 1999 Census

* The data include 1805 villages (ails), twenty-nine townships and twenty cities.

Table 10A.18
Local Self-governments by Population Size Categories in Kyrgyzstan, 1999

Aiyl Okmotu and Cities with Over 1000 Inhabitants	Number of Local Self-governments	Percentage of Local Self-governments	Number of Inhabitants	Percentage of Total Population
0–1,000	9	1.88	8,800	0.18
1,000–2,000	41	8.56	64,700	1.34
2,000–5,000	170	35.49	612,000	12.69
5,000–10,000	134	27.97	947,800	19.65
10,000–50,000	120	25.05	2,036,700	42.23
50,000–100,000	3	0.63	194,100	4.03
100,000–1,000,000	2	0.42	958,800	19.88
1,000,000+	—	—	—	—
Total	479**	100.00	4,822,900	100.00

SOURCE: 1999 Census

* Including population size of villages (ails) subordinated to city or township keneshes.

** Includes 459 village councils (aiyl okmotu) and twenty cities.

Table 10A.19
Average Population in Aiyl Okmotu by Oblast

	Number of Aiyl Okmotu	Total Inhabitants in Aiyl Okmotu	Average Number of Inhabitants per Aiyl Okmotu
Kyrgyz Republic	459	3,279,593	7,145
Batken oblast	34	336,238	9,889
Jalal-Abad oblast	76	722,196	9,503
Issyk-Kul oblast	63	298,634	4,740
Naryn oblast	58	208,840	3,601
Osh oblast	81	905,539	11,179
Talas oblast	36	167,234	4,645
Chui sk oblast	110	633,035	5,755
City of Bishkek	1	7,877	7,877

SOURCE: 1999 Census

Table 10A.20
Number of Aiył Okmotu, Ail Keneshes, Settlements, Cities and Districts by Oblast

	Number of Residents	Number of Districts	Number of Cities	Number of Townships	Number of Ail Keneshes	Number of Aiył Okmotu
Kyrgyz Republic	4,822,900	40	20	29	430	459
City of Bishkek*	762,300	—	1	1	—	1
Chuisk oblast	770,800	8	4	5	105	110
Issyk-Kul oblast	413,100	5	3	5	58	63
Naryn oblast	249,100	5	1	2	56	58
Talas oblast	199,900	4	1	1	35	36
Jalal-Abad oblast	869,300	8	5	8	68	76
Osh oblast	1,176,000	7	3	2	79	81
Batken oblast**	382,400	3	2	5	29	34

SOURCE: 1999 Census

* Excluding districts in Bishkek.

** In 2000 Bishkek was granted the status of city subordinated to district (not included in this Table).

Table 10A.21
Number of Civil Servants in State Bodies*

	1997		1998		1999	
	Total Staff	Civil Servants	Total Staff	Civil Servants	Total Staff	Civil Servants
Kyrgyz Republic	26,592	18,987	27,787	18,893	28,554	18,970
Jalal-Abad oblast	2,002	1,427	2,166	1,438	2,227	1,442
Issyk-Kul oblast	1,620	1,155	1,805	1,173	1,856	1,176
Naryn oblast	1,194	854	1,367	946	1,399	949
Osh oblast	3,289	2,401	3,181	2,344	1,723	1,274
Batken oblast	1,532	1,134
Talas oblast	2,421	1,728	2,487	1,723	2,570	1,792
Chuisk oblast	3,714	2,652	3,975	2,651	4,083	2,757
City of Bishkek	12,352	8,770	12,806	8,618	13,164	8,446

* Excluding those involved in maintenance of the public order. Changes in the 1997–1998 data are related to changes in the structure of state authorities. The 1999 data on Osh oblast excludes data on Batken oblast.

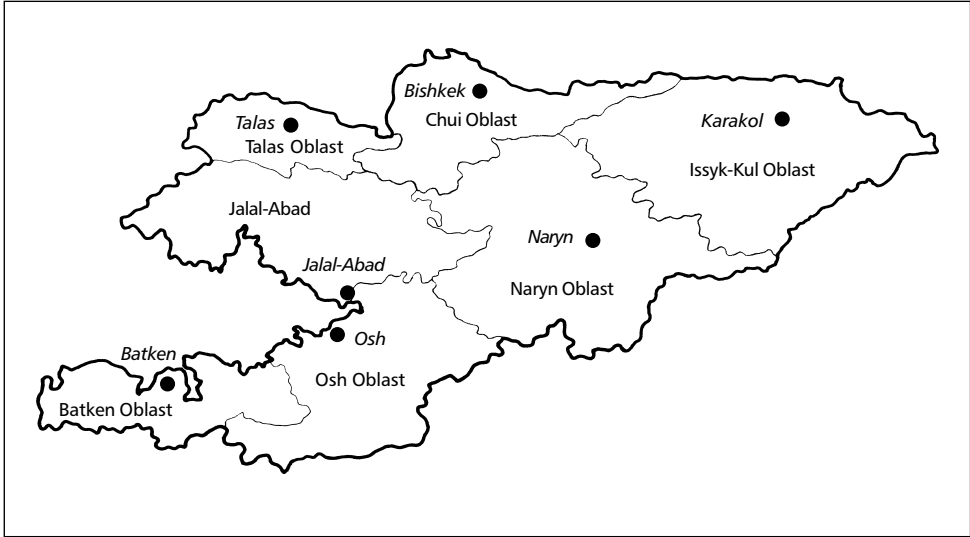
Table 10A.22
Civil Servants in Different Tiers of Local Government

Local Self-governments and Local State Administrations	Average Number of Staff	Average Number of Inhabitants
First-tier local self-governments and executive bodies	7.2	7,145
Second-tier local self-governments* and local state administrations	14.0	71,086
Third-tier local self-governments and local state administrations**	36.0	602,867

* Excluding districts in the city of Bishkek.

** Including the city of Bishkek.

Table 10A.1
Administrative Map of the Kyrgyz Republic



Annex 10.3

Major Laws on Public Administration and Local Government

Legislation on Local Self-government in the Kyrgyz Republic:

- The Constitution of the Kyrgyz Republic (adopted 1993, amended on 16 February 1996, by Law No. 1, and 21 October 1998 by Law No. 134)
- Law on Local Self-government and Local Public Administration (adopted 19 April 1991, amended on 19 December 1991, 4 March 1992, 3 July 1992, 17 December 1992, 27 May 1994 and 21 January 1998)
- Law on the Status of the Capital City (16 April 1994)
- Law on Condominium Associations (28 October 1997)
- Law on Referenda (28 June 1991)
- Law on the Budget System (11 June 1998)
- Law on Political Parties (12 June 1999)
- Law on the Status of Local Council Members (13 January 2000)

Decrees and Orders of the President of the Kyrgyz Republic:

- on the Reform of Local Self-government (adopted 18 August 1994, No. UP-188, amended on 24 October 1996, No. UP-309)
- on Approval of the Regulation on the Organization of Local Self-government (22 September 1994, No. UP-246)
- on Elections of First-Tier Local Council Members (22 September 1994, No. UP-247)
- on Priority Measures for the Organization of Local Self-government in Bishkek (4 July 1995, No. UP-171)
- on Increasing the Role of Heads of Local State Administrations and Local Self-governments (20 March 1996, No. UP-103)
- on the Further Development of Local Self-government (24 October 1996, No. UP-309)
- on Certification Procedures for Aiyyl Okmotu Chairmen (5 January 1997, No. RP-2)
- on the Program of State Assistance for Local Self-government and the Outline of Local Self-government Reform (12 May 1997, No. UP-127)
- on Certification Procedures for Municipal Servants in Bishkek (12 May 1997, No. RP-156)
- on Targets for Budget Formation in First-tier Local Self-governments and Establishing Permanent Revenue Sources (19 September 1997, No. RP-228)
- on the Organization of Local Self-government in Sub-raion Cities (23 June 1998, No. UP-200)
- on the Elections of the Mayor of Bishkek (9 July 1998, No. UP-228)
- on the Implementation of Presidential Decree No. UP-200 (23 June 1998) in the Cities of Karakol and Kok-Zhangak (adopted 31 March 1999, No. UP-90, amended 4 March 2000, No. UP-47)
- on the Further Development of Local Self-government (2 August 1999, No. UP-196)
- on Calling Elections of City, Settlement and Rural Councils (11 August 1999, No. UP-206)

- on the Implementation of Presidential Decree No. UP-200 (23 June 1998) in the City of Tökmok (2 October 1999, No. UP-244)
- on the Implementation of Presidential Decree No. UP-200 (23 June 1998) in the City of Batken (20 April 2000, No. UP-93)
- on the Regulation on the Certification of Chairmen of Aiyl Okmotu and Sub-raion Cities (4 May 2000, No. 120)
- on Certifying Chairmen of Aiyl Okmotu and Sub-raion Cities in the Second Quarter of 2000 (4 May 2000, No. 120)
- on the Commission for the Promotion of Local Self-government Development, in the Office of the President (12 May 2000, No. UP-117)
- on the Reorganization of Central Public Bodies (28 December 2000, No. 363)
- on Improving the Response of Executive and Local Self-government Bodies to Citizen Applications and Complaints (17 January 2001, No. 027)
- on Approval of the Provisional Regulation on Pilot Elections for Local Self-government Chairmen in Villages and Sub-raion Cities (17 January 2001, No. 028)
- on the Implementation of Presidential Decree No. UP-200 (23 June 1998) in the City of Isfana (26 February 2001, No. 062)
- on Amendments to Presidential Decree No. UP-103 (29 March 1996) (9 March 2001, No. 071)
- on Providing Rural Self-government with Statutory Acts (2 May 2001, No. 150)
- on Increasing the Role of Territorial Self-government Bodies (2 May 2001, No. 151)
- on Increasing the Role of Kurultais in the Management of Local Affairs (2 May 2001, No. 152)
- on the Organization of Local Self-government in Cities of Oblast Subordination (2 May 2001, No. 153)
- on the Schedule of Elections for Mayors of Cities of Oblast Subordination and the List of Representatives of the President for Nomination for Mayors of Cities of Oblast Subordination (6 June 2001, No. 180)

Resolutions of the Government of Kyrgyz Republic:

- on Local Self-government Activities in Bishkek on Resolving Problems of Individual Dwelling Areas (August 1995, No. 338)
- on the List of Facilities to be Transferred to Local Self-government of the City of Bishkek (adopted 30 October 1995, No. 460, amended 6 January 1996, 17 June 1996, 2 December 1996, 27 September 1999, 24 January 2000, 17 May 2000, 22 May 2000, 31 May 2000, 15 June 2000 and 18 August 2000)
- on the Allocation of Lands to the Local Self-government in Bishkek (17 December 1995, No. 573)
- on the Establishment of Aiyl Okmotu (24 April 1996, No. 187, amended 6 September 1999, No. 482)
- on Procedures for Transferring Utilities to Municipal Ownership (adopted November 1996, No. 531, amended February 1997, No. 84)

- on the Implementation of Presidential Decree No. UP-188 (24 October 1996) (2 December 1996, No. 569)
- on the Program of State Assistance to Local Self-governments and Guidelines for the Reform of Local Self-government at the Oblast, Raion and City Level, 1997–1998 (28 April 1997, No. 254)
- on the Implementation of Presidential Decree No. UP-200 (23 June 1998) (21 July 1998, No. 484)
- on the Transfer of Utilities into Municipal Ownership and the Structure of City Executive Committees in Sub-raion Cities (adopted 16 December 1998, No. 827, amended 3 July 2000, No. 397 and 28 August 2000, No. 533)
- on Implementation of Presidential Decree No. UP-90 (31 March 1999) (adopted 23 April 1999, No. 228, amended 19 April 2000, No. 214)
- on the Further Development of Credit Unions by Local State Administrations and Local Self-governments (13 May 1999, No. 256)
- on Implementation of Presidential Decree No. UP-196 (2 August 1999) (12 August 1999, No. 439)
- on Approval of the Action Plan on the Organizational, Legal, Financial and Economic Basis of Local Self-government (7 October 1999, No. 550)
- on the Implementation of Presidential Decree No. UP-244 (2 October 1999) (29 October 1999, No. 589)
- on Approval of the Regulation on Notary Procedures by Officials of Executive and Regulatory Bodies of Local Self-government (29 November 1999, No. 650)
- on Improving the Structure of Local Public Bodies (11 January 2000, No. 10)
- on the Structure and Staff of Oblast State Administrations (4 February 2000, No. 63)
- on Issues of Public Bodies and Government in the City of Sulyukt, Batken Oblast (24 April 2000, No. 234)
- on Transferring Utilities to Municipal Ownership in the City of Batken, Batken oblast (23 June 2000, No. 370)
- on the Delegation of Separate Powers to Local Self-government Bodies (12 September 2000, No. 563)
- on the Structure of the City Council of Isfahan, Liaylaik Raion, Batken Oblast (26 April 2001, No. 197)
- on the Draft Law on Public and Municipal Lands (27 April 2001, No. 200)
- on the Model Structure and Staff Chart for Mayoral Offices in Cities of Oblast Subordination (2 August 2001, No. 406)
- on the Activities of the Minister on Local Self-government and Regional Development (8 August 2001, No. 420)

Annex 10.4

Responsibilities of Administrative Tiers

Table 10A.23
Specific Functions of Government Tiers in the Kyrgyz Republic

Functions	City State Administrations (Cities of Oblast Subordination)	Shaar Bashkarmasy (Sub-raion Cities)	Office of the Mayor (Bishkek)	Ayl Olkмоту	Oblast and Raion State Administrations, Central Government	Notes
I. EDUCATION						
1. Pre-school	X	X	X			Also privately
2. Primary	X	X	X	X		Also privately
3. Secondary	X	X	X	X		Also privately
4. Special secondary/vocational	X	X	X			
5. Higher					X	Also privately
6. Music schools, sports schools, etc.	X	X	X			

Table 10A.23 (continued)
Specific Functions of Government Tiers in the Kyrgyz Republic

Functions	City State Administrations (Cities of Oblast Subordination)	Shaar Bashkarmasy (Sub-raion Cities)	Office of the Mayor (Bishkek)	Ayl Okmotu	Oblast and Raion State Administrations, Central Government	Notes
II. SOCIAL WELFARE						
1. Kindergartens, nurseries, and other children institutions	X	X	X			Also privately
2. Shelters (for elderly, for children, for infants)	X	X	X		X	
3. Special services (for war veterans, elderly, handicapped, homeless, families with low income, crisis centers)	X	X	X	X*		Non-government institutions may be established as well *Organization of distribution of material, pecuniary and other types of public and humanitarian aid *Lump-sum relief
III. HEALTH SERVICES						
1. First aid	X	X	X	X		*Obstetric stations, CBA, pharmacies
2. Hospitals	X	X	X	X	X	*For instance, the National Hospital or an oblast hospital
3. Pharmacies	X	X	X			Also privately

Table 10A.23 (continued)

Specific Functions of Government Tiers in the Kyrgyz Republic

Functions	City State Administrations (Cities of Oblast Subordination)	Shaar Bashkarmasy (Sub-raion Cities)	Office of the Mayor (Bishkek)	Ayl Okmotu	Oblast and Raion State Administrations, Central Government	Notes
IV. CULTURE, LEISURE, SPORTS						
1. Theaters	X	X	X		X	Also private theaters
2. Museums	X	X	X		X	May be established by NGOs as well
3. Libraries	X	X	X	X	X	
4. Parks	X	X	X			
5. Sport complexes and facilities	X	X	X	X	X	
6. Recreation centers, sport clubs, cultural centers	X	X	X	X		
7. Service centers	X	X	X			
8. Markets	X	X	X	X		Also private markets
9. Bathhouses and saunas	X	X	X	X		Also private bathhouses
10. Hotels	X	X	X			Also private hotels
V. ECONOMIC SERVICES						
1. Water supply	X	X	X	X		
2. Sewage	X	X	X			

Table 10A.23 (continued)
Specific Functions of Government Tiers in the Kyrgyz Republic

Functions	City State Administrations (Cities of Oblast Subordination)	Shaar Bashkarmasy (Sub-raion Cities)	Office of the Mayor (Bishkek)	Ayl Okmotu	Oblast and Raion State Administrations, Central Government	Notes
3. Electricity	X	X	X	X		Maintained by a state-owned enterprise and partially financed by the city budget
4. Gas	X	X	X	X		
5. Central heating	X	X	X			
VI. ENVIRONMENT, SANITATION						
1. Refuse collection	X	X	X			Self-sustaining specialized sanitary enterprise
2. Street cleaning	X	X	X			
3. Cemeteries	X	X	X			
4. Environmental protection	X	X	X	X	X	
VII. TRANSPORT AND COMMUNICATIONS						
1. Roads	X	X	X		X	Management of city roads, parking places and garages *For instance, intercity highways

Table 10A.23 (continued)

Specific Functions of Government Tiers in the Kyrgyz Republic

Functions	City State Administrations (Cities of Oblast Subordination)	Shaar Bashkarmasy (Sub-raion Cities)	Office of the Mayor (Bishkek)	Ayl/ Okmotu	Oblast and Raion State Administrations, Central Government	Notes
2. Public lighting	X	X	X			
3. Public transport	X	X	X			
VIII. DEVELOPMENT AND PLANNING						
1. City planning	X	X	X			
2. Regional/ territorial planning			X		X	
3. Local social and economic development	X	X	X	X	X	Social and economic development plans are formulated at all levels
IX. GENERAL ADMINISTRATION						
1. Licensing functions (licenses, construction permits, etc.)	X	X	X			
2. Other administrative matters	X	X	X	X	X	'Drawing up social passports and "maps of poverty," appointing guardians and custodians, keeping demographic records, residence registration, notary acts, issuance of certificates

Table 10A.23 (continued)
Specific Functions of Government Tiers in the Kyrgyz Republic

Functions	City State Administrations (Cities of Oblast Subordination)	Shaar Bashkarmasy (Sub-raion Cities)	Office of the Mayor (Bishkek)	Ayl Okmotu	Oblast and Raion State Administrations, Central Government	Notes
3. Militia	X	X	X	X	X	
4. Fire department	X	X	X			
5. Civil defense	X	X	X	X	X	
6. Consumer protection			X	X		May also be established by NGOs

Note

- ¹ Social sphere facilities were defined as 1) services or functions provided both to the enterprise employees and other persons, 2) actual property that is used for service delivery, and 3) personnel, administration and responsibility for service delivery.

Chapter 11



Local Government
in Tajikistan

by

Mamadsho Ilolov

&

Mirodasen Khudoiyev

Developing New Rules in the Old Environment

Local Government in Tajikistan

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Local Government in Tajikistan

Mamadsho Ilolov & Mirodasen Khudoiyev

1. Major General Indicators

The Republic of Tajikistan is situated in southeastern Central Asia, bordering on the People's Republic of China, the Islamic State of Afghanistan, Kyrgyzstan and Uzbekistan. The country declared its independence on 9 September 1991 and approved the Constitution of the Republic of Tajikistan in November 1994. According to the Constitution, Tajikistan is governed through a presidential system of power. The president of Tajikistan simultaneously acts as chairman of the government and appoints the prime minister as well as other members of government, who are consequently approved by Parliament. E. S. Rakhmonov is currently serving as president, after winning the national elections in both 1994 and 1999.

Tajikistan consists of the Gorno-Badakhshan Autonomous Region (GBAR), the regions of Leninabad (recently renamed Sogdian) and Khatlon, the capital city of Dushanbe and thirteen districts (*raions*) directly subordinate to the central government. The largest political parties include the People's Democratic Party of Tajikistan, the Communist Party of Tajikistan, the Islamic Party for the Rebirth of Tajikistan, the Socialist Party of Tajikistan and the Party of Justice (*Adolatkoh*).

Tajikistan is a mountainous country, with over half of its land area situated three thousand meters above sea level. Ethnic groups include Tajiks, Uzbeks, Russians and Kyrgyz. Major general indicators and an administrative map of Republic of Tajikistan may be found in annex 11.1 and annex 11.2.

2. Legal and Constitutional Basis

2.1 Brief History of Local Government Reform

The Law on Local Self-government and Local Finance, passed on 23 February 1991 by the Supreme Soviet of the Tajik Soviet Socialist Republic, initiated the establishment of local self-government and the revision of the administrative-territorial structure according to principles of decentralization. The resulting organization of local government was thus based on Soviet legal traditions. Upon the declaration of independence and the adoption of the Constitution of the Republic of Tajikistan, it became necessary to institute a new legal framework. Accordingly, in December 1994, Parliament

adopted the Constitutional Law on Local Public Administration and the Law on Self-government in Towns and Villages. Further changes and amendments were passed by national referendum and added to the Constitution in September 1999.

Article 6 of the Constitution stipulates the functions of local government institutions and establishes norms for the division of power at the local government level. Major local council powers include approving local budgets and reviewing budget execution reports, determining the direction of social and economic development within the territory, setting local taxes and fees and managing communal property.

The heads of the regional, city or district state administration (*khukumat*) simultaneously wield executive authority and act as local council chairmen. These heads are appointed and dismissed by the president and presented to their respective councils for approval.

The current system of governance emerged only after a period of turmoil in Tajikistan's recent political history. Immediately following independence, the country was drawn into civil war by the various factions vying for power. A major source of conflict was the disparity between the poorly developed regions in the south and those in the north, which had continued under the Soviet era. The invasion of neighboring Afghanistan in 1979 by the Soviet Army exacerbated the situation further, giving the opposing forces access to a vast supply of arms, often unregistered. Civil war continued in southern Tajikistan from 1992 until 1994, when the Tajik government and the United Tajik Opposition agreed upon a cease-fire. Negotiations, which took place under the auspices of the United Nations, were difficult and prolonged, stretching over a three-year period. Russia and Iran, among others, participated as guarantor countries. The General Agreement on Restoration of Peace and National Consent in Tajikistan was finally signed on 27 July 1997 in Moscow by the President of Tajikistan, E. S. Rakhmonov, and the leader of the United Tajik Opposition, S. A. Nuri.

An annex to the agreement contained the Provision on a Commission for National Reconciliation to address the political, legal, military and civil issues arising from the conflict and to develop solutions. This commission guided the reintegration of opposition military units into the national army, the return of refugees to their homes and the incorporation of opposition representatives into the government of Tajikistan. In addition, the commission also drafted constitutional amendments, based on which the president later submitted a draft law to Parliament. These amendments were subsequently passed by a national referendum held on 27 September 1999.

According to the Constitution, the Republic of Tajikistan possesses a bicameral Parliament, composed of a lower house, the *Majlisi Namoyandagon* (Assembly of Representatives), which acts on a permanent and professional basis, and an upper house, the *Majlisi Milli* (National Assembly), which is convened at least twice a year. In December 1999, Parliament passed two new laws, a Law on Parliamentary Elections and a Law on Local Council Elections.

Elections to the Assembly of Representatives and local council elections were held on 26 February 2000. Elections to the upper house of Parliament were held one month later, on 23 March 2000.

The Assembly of Representatives was elected on the basis of universal, equal and direct suffrage through secret ballot. The National Assembly is constituted differently. Three fourths of its members are elected indirectly through secret ballot at local council meetings of the GBAR and its cities and districts, the regions and their cities and districts, Dushanbe and its districts and the cities and districts of national subordination. The three oblasts and the city of Dushanbe, which has oblast status, all have equal numbers of representatives, regardless of population size. The remaining fourth of the National Assembly is appointed by the President. In addition, former presidents of Tajikistan have membership for life in the National Assembly, although they have the option to decline the privilege.

These elections were the first multi-party elections to be held in Tajikistan. A total of six political parties participated, including the Democratic Party, the Communist Party, the People's Democratic Party, the Party of Justice, the Islamic Rebirth Party and the Socialist Party. The following parties qualified for seats in the Assembly of Representatives by surpassing a required minimum of five percent of the vote: the People's Democratic Party of Tajikistan, which won fifteen seats; the Communist Party of Tajikistan, which won five seats; and the Islamic Rebirth Party, which won two seats. These parties then competed in single mandate electoral districts for the remaining forty-one seats in the Assembly of Representatives.

These steps towards political stabilization contribute to economic, cultural and social development, as well as to the progress of both democracy and decentralization in Tajikistan. Further reforms are expected in the near future, including the separation of the functions and positions of local council chairmen and heads of local administration.

2.2 Legal Basis of Local Government

Local government institutions derive their legal basis from the Constitution, the Law on Local Public Administration and the Law on Local Self-government in Villages and Towns.

According to legislation, local governments have a real financial base. The Constitution grants local governments the right to develop and implement their own budgets and to establish local fees, taxes and duties. In addition, the Law on Local Public Administration allocates income tax to local budgets, to be utilized for the social needs of the territory in keeping with the Law on Social Insurance.

The Law on Local Public Administration defines the governing principles and functions of local self-government in Tajikistan. According to this law, local self-governments are institutions of legislative and executive authority elected by the citizens of a given administrative territory. These institutions freely and independently govern the community, serving the needs of the local population in accordance with the Constitution and legislation. The main principles of local self-governance include:

- coordination of local and national interests;
- direct citizen participation in local council elections, referenda and public hearings;
- the accountability of local self-government institutions and their employees to the local population;

- legality and social justice;
- local financial autonomy.

Local governments possess own authorities in addition to those delegated by the central government, and autonomously propose initiatives, make decisions and implement activities. Any issue not previously delegated to other authorities and involving local interests are referred to the competence of the local government.

According to the Constitution, a *jamoat* is an institution of self-government in towns and villages. The framework for their authority is set forth in the Law on Local Self-government in Towns and Villages. In this law, local self-governance is described as “the system of organizing public activities to address issues of local importance autonomously and at their own discretion, directly or indirectly, in accordance with the legislation of Republic of Tajikistan. Local self-governments resolve issues within their competence directly or through their representatives.”

Jamoats are formed on a territorial basis and possess legal status and an official seal. Community property may include means of transportation, equipment and other facilities, public or social, which these governments have built, purchased or otherwise transferred to their ownership. Town or village self-government revenue sources include budget allocations from city or raion councils, voluntary donations of citizens and working collectives.

The Law on Local Self-government in Towns and Villages does not address other grassroots institutions of local self-governance that are currently active, such as *makhallia* (community) committees, micro-raion councils, housing block committees or other *kishlak* (village) organizations. These bodies operate according to their own statutes and provisions. Although legislators and lawyers are currently discussing legislation in this field, it will be a challenge to address the variety of these institutions and their activities comprehensively through one or even several laws.

2.3 Territorial Structure, Levels of Self-government

The administrative-territorial division of the country is established by Parliament and consists of three tiers of local government:

- First tier, community level: village and town governments in rural areas (*jamoaty shakhrak and dekhot*)
- Second tier, district level: administrations of cities and raions subordinated to oblasts, those of Dushanbe city districts as well as those of thirteen raions directly subordinate to the republic;
- Third tier, oblast level: administrations of Dushanbe, the GBAR and Khatlon and Leninabad oblasts, all of which are directly subordinate to the national government.

The Republic of Tajikistan is comprised of into the capital city, three oblasts (the Gorno-Badakhshan Autonomous Region (GBAR), Leninabad oblast and Khatlon oblast) and sixty-two raions. These

are in turn divided into fifty-eight rural districts as well as four Dushanbe city districts. The GBAR is subdivided into seven raions and one city, Leninabad oblast into fourteen raions and eight cities and Khatlon oblast into twenty-four raions and four cities.

In total, there are twenty-two cities, forty-seven towns, 354 villages, and 3570 settlements. Of the twenty-two cities, four are located in raions of central subordination, thirteen in oblasts and five in raions. Of the forty-seven towns, twenty of them are in Leninabad oblast, eighteen in Khatlon oblast and nine in raions of central subordination. Of the 354 villages, forty-two are in the GBAR, ninety-three in Leninabad oblast, 128 in Khatlon oblast and ninety-one in raions of central subordination.

Each oblast, raion and city has its own khukumat. Consequently, there are three oblast khukumats and one Dushanbe khukumat; fifty-eight khukumats of rural raions; sixteen khukumats of oblast and raion cities; and four Dushanbe city district khukumats. In addition, there are 401 jamoats, forty-two of which are in the GBAR, 113 in Leninabad oblast, 146 in Khatlon oblast and one hundred in raions of central subordination. Nationwide, there are eighty-two khukumats and seventy-seven local councils.

The authority to dissolve or amend administrative-territorial boundaries is vested in the upper house of Parliament.

2.4 Status of the Autonomous Region of Gorno-Badakhshan

The legal status of the Gorno-Badakhshan Autonomous Region (GBAR) is addressed in the Constitution. According to article 7, the GBAR is an integral and indivisible component of the republic. The GBAR Assembly initiates legislation within its territory and its consent is required for any alteration of GBAR territory. One of the deputy chairmen of the Tajik National Assembly is a member of the GBAR Assembly, and one of the judges of Constitutional Court is a representative of the GBAR. Other specific authorities of the GBAR and its areas of social, economic and cultural competence are determined by the Constitutional Law on the Gorno-Badakhshan Autonomous Region, adopted in November 1999.

Tajik is the official language. However, the state fosters conditions for the free use and development of the Shugnan, Rushan, Vakhani, Yazguliham, Russian and Kyrgyz languages in secondary schools and mass media within the territory.

The GBAR chairman has the right to issue and cancel licenses for private educational institutions, private clinics, medicinal spas and other medical institutions in coordination with the government of Republic of Tajikistan.

2.5 Status of the Capital City

The capital city, Dushanbe, is the only city divided into subordinate districts. Consequently, the Dushanbe council and local administration have the status of an oblast government, according to the Law on Local Public Administration. The Law on the Status of the Capital City details the organizational, legal, economic and social requirements for the performance of local government functions in the capital city. Dushanbe government institutions ensure the necessary conditions for national and international events, establish representative offices abroad, and provide for the establishment of representative offices in Dushanbe of oblasts, cities and raions as well as those of foreign partner cities.

Expenditures of the Dushanbe local government are fully compensated from the national budget through payments for services provided by the city, and through the fees paid by the embassies of foreign countries and representative offices of international organizations in Tajikistan. The city of Dushanbe leases municipally owned buildings and facilities to various Tajik government institutions, as well as to representative offices of the GBAR, oblasts and raions, as established by legislation.

2.6 Forms of Community Self-government

As noted above, legislation does not address local self-government activity below the level of villages and towns. However, grassroots organizations of community self-government are widespread and play an important role in Tajik society. These organizations, which include makhallia committees, micro-raion councils, apartment block councils, kishlak organizations in the Pamirs and local citizens associations such as *guzar* and *tabagy*, all facilitate law and order, assist in the process of democratization, protect citizens' rights and interests and exercise autonomy in solving local issues. These organizations are instrumental to the implementation of the European Charter of Self-government (15 October 1985) and the Model Legal Act of the Interparliamentary Assembly of CIS Countries on Common Principles of Local Self-government Organization (24 November 1995).

Makhallias, or community groups, have long existed in Tajikistan, founded on traditional Islamic concepts of social justice and the behavior of individuals in the community. Traditionally, makhallias are governed by a council of elders (*shura*) that helps resolve social problems and conflicts within the community. The community elects a chairman (*makhallia rais*), who consults with the elders when making decisions. The makhallia assists in organizing the major events in the lives of individuals and their participation in community life. For instance, makhallias organize *khashar*, the traditional Eastern form of mutual aid in which the community comes together to build a house or to sow or harvest crops. Makhallias also care for orphans and the elderly.

The Agha Khan Foundation has launched a program to support mountain communities, targeted at stimulating self-governments in mountain villages, through creating village-based organizations. One such organization in the Shugnan district of the GBAR, Manem, has been in existence for five

years. Its structure is transparent, consisting of a chairman (*kishlak rais*), who is elected in a general assembly of residents to act on a voluntary basis. The chairman supervises the organization of springtime fieldwork, the harvest and processing of crops and the distribution of humanitarian aid and micro-loans. A council of elders, which includes all citizens over seventy-five years of age, may summon the chairman to report on village activities. Villagers help him with his daily needs, for instance caring for his livestock. The chairman works in close cooperation with the jamoat and raion chairmen.

Although it is difficult to standardize the diverse forms of makhallia committee activities, they obviously qualify as local self-government activity. Local governments are unable to exercise full control over makhallia activities, although the makhallia chairman should be paid a salary from the local government. In Tajikistan, chairmen of raion or city local governments do not generally delegate administrative functions to makhallias, which vary greatly from community to community. However, in some raions, the makhallias cooperate closely with the state government; there have even been attempts to merge the powers of the two institutions.

The following examples illustrate different methods of cooperation between established local governments and other forms of community organization.

1. *Developing initiative: transforming the makhallia into an NGO.*

The makhallia of the Zheleznodorozhny district in Dushanbe actively participates in solving social and communal issues. When the community suffered from a shortage of cooking fuel, the makhallia decided to build a gas pipeline and turned to TASIF (Tajik Association of Social Investment Funds) for assistance with the required materials. As a result, residents now have natural gas in their homes. Spurred by this success, residents created a micro-projects committee, which has since improved the water supply system, constructed an electric main and accomplished other joint projects. This committee was established as an NGO to support low income and indigent families.

2. *Cooperation with the local government.*

In the Ganchin raion of Leninabad oblast, the khukumat has encouraged the role of jamoats and makhallia committees in organizing folk festivals and other events in order to reduce expenses for individual families. Acting in accordance with the Presidential Decree on Folk Festivals, Traditions and Customs and the Provision on the Exercise of Traditions and Customs, makhallia committees, women's councils, veterans, clergymen and elders all worked together with the public. By decision of the raion administration, a commission was established to oversee festivals, weddings, funerals and other traditional events. Similar commissions operate in all jamoats, and makhallia committees perform all related work. Due to this close cooperation between khukumats and makhallias, communities have been able to practice their traditions with significantly reduced cost to households. The raion administration has made further recommendations to strengthen the role of makhallia committees; these include establishing a paid position for the chairman of the makhallia committee; granting the makhallia committee

legal status; reviewing reports from makhallia committees at raion council sessions; publicizing the best practices of makhallias in mass media; publishing information and promotional booklets; organizing street makhallia and kishlak festivals as well as seminars, workshops and competitions; and generally promoting the best makhallia committees.

3. *Cooperation with NGOs.*

Working together with makhallias improves the targeted assistance of NGOs to vulnerable populations, as the chairman of each makhallia is best placed to understand individual situations within the community. According to Counterpart Consortium, 118 NGOs were operating in various sectors in September 1999. Of these, twenty-two NGOs focused on women and human rights issues, twenty on issues of peace and development, eighteen on children and youth and sixteen on social protection. Each of these endeavors relied upon makhallia activities. Parvin, an NGO created in 1999 to focus on women's issues, offers one such example. During the civil conflict, people in the valley, primarily women, found themselves cut off from development processes and the flow of information. Parvin's mission was to assist vulnerable populations, to develop civil initiatives to increase the standard of living, to increase awareness and to achieve social and economic independence for women. In each of these goals, Parvin has worked closely with local self-governments. The branch office in Karategin Valley organized seminars on the topic "NGO and Communities," resulting in demonstrably increased public awareness. Parvin is also planning to hold a series of educational seminars on human rights and violence against women, on civil education and on the establishment of democratic institutions. In order to address unemployment, they created an educational project to teach farming and develop entrepreneurial skills, targeted at sixty vulnerable families in the Darband district, a project which received support from the local administration and the Eurasia Foundation. The general public, especially women, is actively participating in NGO activities, and women's centers are currently being established. In addition, Parvin has supported the establishment of Djavshan, an organization for orphans and children from low-income families in the city of Rogun.

4. *Education.*

In April 2000, a national seminar on "Democracy through Makhallia Councils" was organized by the NGO Fund to Support Civil Initiatives. Participants included representatives from makhallias and local governments as well as officials from the Office of the President, Parliament and the Dushanbe city administration. Topics of discussion included the role of local governments in the protection of human rights; the role of traditional institutions and local self-government in the development of civil society and the solution of social and economic issues; and possibilities for partnership between makhallia committees and khukumats. Safargul Adylova, the chairman of a makhallia committee from the city of Kurgan-Tiube, narrated her experience of working with the city khukumat to help the needy cover expenses for public services and described the activities of her makhallia to improve yards, support the elderly, help troubled teenagers and open sports facilities. The seminar was continued in the communities, closely analyzing the activities of Nilufar, an NGO associated with a makhallia council in Varzob district.

3. Local Politics, Decision Making

According to article 6 of the Constitution, the people of Tajikistan are the sovereign source of state power, which they exercise directly and indirectly through representatives. People of Tajikistan are citizens regardless of ethnicity. No community organization, group of people or individual has the right to usurp state power.

3.1 Internal Structure of Local Government Decision Making

Local councils and chairmen of second- and third-tier local governments exercise the rights of self-government in their respective territories. Decisions of the local council and the chairman are binding upon all enterprises, institutions and organizations in the territory. In addition, local government bodies may enter into contracts with enterprises for their mutual advantage.

Local councils exercise their authority through council sessions, standing and temporary commissions and designated members, as well as through other powers assigned to council members by law.

The executive branches in the GBAR, oblasts, cities and raions are headed by chairmen. The government of Tajikistan establishes the structure and staff of the chairman's office. The activity and organization of other administrative divisions, such as directorates, committees, departments and other bodies are determined by relevant provisions approved by the central government.

Local councils are charged with the following powers:

- to approve the local budget, submitted to them by the chairman, and report on its execution;
- to report on long-term social and economic development programs and on general plans and regulations governing land development;
- to establish local taxes, fees and duties and stipulate privileges for local taxes, fees and payments allocated to the local budget according to legislation;
- to approve the appointment of the chairman and deputies, dismiss the chairman or deputies from office and review reports of their activities;
- to approve the chairman's decisions in cases stipulated by law;
- to approve or amend the council agenda and provisions on standing and other commissions;
- to establish standing and temporary commissions and review reports on their activities;
- to certify newly elected council members, terminate their powers or consent to their criminal prosecution if they violate the law;
- to review reports from the heads of directorates, committees, departments and other divisions of the local administration;
- to approve the necessary expenditures for council activities;
- to approve regulations establishing courses of disciplinary action for administrative infractions;
- to address initiatives or inquiries made by council members;

- to establish administrative and supervisory committees, a commission on juvenile delinquents and other commissions or approve them upon the recommendation of the chairman;
- to decide upon issuing local loans and bonds or holding lotteries;
- to revoke any decisions of the chairman or subordinate councils that contradict Tajik legislation.

Local councils may also resolve other local issues within its competence and in accordance with Tajik legislation. These include ensuring the rights and legal interests of citizens, social and economic development, environmental protection, the preservation of the historical and cultural heritage, organizational issues and control. The local council may also issue a vote of no confidence in the chairman and request his dismissal with a vote of two thirds of all council members by secret ballot. The president of Tajikistan must then decide upon the issue within the period of one month.

The chairman possesses the following powers:

- to organize implementation of laws and other parliamentary acts, presidential or government decrees, local council decisions and decisions of higher government bodies;
- to convene local council sessions.

The chairman may also resolve other issues within his legal competence in the following spheres:

- planning, budget, finance, accounting and management of local property;
- cooperation between enterprises, institutions, organizations and agricultural enterprises on the use of land and other natural resources, environmental protection, construction, transport, roads and telecommunications;
- oversight of communal, trade, social and cultural services;
- social protection, the enforcement of law, order and security and protection of rights and freedoms of citizens.

3.2 System of Local Elections

On 10 December 1999, Parliament adopted a Law on Local Council Elections, which took into account the new political realities created by the resolution of conflict within Tajikistan. Unlike the previous Law on Local Elections (1994), the new law provides for the free participation of political parties and community organizations in the election process.

On 26 February 2000, local council members were elected for five-year terms in the GBAR, oblasts, cities and raions. The elections were general, equal and direct, held by secret ballot on single-mandate electoral districts. All Tajik citizens over eighteen on the day of elections are eligible to vote or run for office, regardless of social status, property ownership, race, ethnic identity, gender, language, education, religious belief or occupation. Previously, only citizens over twenty-five were able to run for office. The changes introduced by the new Law on Local Council Elections thus offer young people broader opportunities for participation in political life.

The Law on Local Council Elections establishes the number of electoral districts as following: no more than seventy for the councils of oblasts, Dushanbe and the GBAR and no more than forty for city and district councils. Each electoral district may elect one representative to the council. Political parties may nominate candidates for oblast, city, raion and GBAR councils. Individuals may also declare their own candidacy, provided they have gathered at least one hundred signatures from voters of the relevant electoral district.

The following categories of citizens are prohibited from running for local council seats:

- individuals whom the court has declared incompetent, sentenced to prison or sent for compulsory medical treatment;
- individuals in active military service; soldiers, corporals or personnel of the Armed Forces; personnel of the Ministry of Security, Ministry of the Interior, Ministry of Emergencies, Presidential Guards, State Border Committee or the Committee on the Provision of Special Materials; tax officials, customs officials or members of other uniformed services of Tajikistan;
- individuals convicted of grave premeditated crimes, regardless of whether they have served their sentence or received a pardon;
- individuals under investigation for criminal activity, as well as those being prosecuted for crimes against the Constitution, against state security or other especially grave crimes. Members of the political-military opposition were amnestied and do not fall under this category.

The president declares elections no later than seventy-five days prior to the expiration of the local council mandates. The central election commission, regional election commissions and district and divisional election commissions inform citizens about election procedures and ensure uniform observance of the Law on Elections on the respective territory.

There was a high level of citizen participation in the February 2000 local elections, with over ninety-six percent of citizens voting. It must be noted, however, that these elections were held at the same time as those for the lower house of Parliament. Although political parties had the opportunity to nominate candidates, they did not enjoy much success in these elections, as over ninety percent of elected council members ran as independents. Tables 11.1 and 11.2 contain the breakdown of council members by age and level of education.

As shown in table 11.1, Dushanbe had the greatest proportion of younger council members, comprising almost one third of the local council, whereas this proportion was only 3.68 percent in Khatlon oblast.

Council members from Dushanbe city and four Dushanbe districts have the highest levels of education. The overwhelming majority of local council members are men, with women counting for fewer than thirteen percent of all local council members.

Table 11.1
Local Council Members by Age, 2000

Age	GBAR		Leninabad Oblast		Khatlon Oblast		Districts of Central Subordination		Dushanbe		Nationwide	
	Total	[%]	Total	[%]	Total	[%]	Total	[%]	Total	[%]	Total	[%]
18-40	19	5.06	167	21.67	38	3.68	165	31.55	72	32.8	461	15.78
40+	356	94.94	604	78.33	994	96.32	358	68.45	147	67.2	2,459	84.22
Total	375	100.00	771	100.00	1,032	100.00	523	100.00	219	100.00	2,920	100.00

Table 11.2
Local Council Members by Level of Education, 2000

Level of Education	GBAR		Leninabad Oblast		Khatlon Oblast		Districts of Central Subordination		Dushanbe		Nationwide	
	Total	[%]	Total	[%]	Total	[%]	Total	[%]	Total	[%]	Total	[%]
Higher education	287	76.53	667	86.52	907	87.90	414	79.16	213	97.26	2,488	85.21
Specialized education	80	21.33	58	7.52	88	8.52	51	9.75	1	0.46	278	9.52
Secondary education	8	2.14	46	5.96	37	3.58	58	11.09	5	2.28	154	5.27
Total	375	100.00	771	100.00	1,032	100.00	523	100.00	219	100.00	2,920	100

3.3 Forms of Direct Democracy

The Constitution and legislation of Tajikistan do not envisage local or regional referenda. Local governments and community governments can organize assemblies or public hearings to change the name of the territory or to merge or reduce the executive bodies. The results of these hearings or polls shall be submitted to upper house of Parliament for consideration. Some local governments also organize public hearings in order to debate concepts or determine the plans for territorial development.

3.4 Ethnic Issues, Multicultural Government

Tajikistan is a multinational and multicultural country. As of 1 January 2000, Tajiks accounted for 69.1 percent of the population, a small increase from 1989, when they accounted for sixty-eight percent of the population. Other national groups include Uzbeks (25.0 percent), Russians (2.7 percent), Kyrgyz (0.8 percent) and other nationalities (2.4 percent) The population of Dushanbe is 59.9 percent Tajik, 21.3 percent Russian and 10.7 percent Uzbek, with the remaining 7.1 percent composed of other nationalities.

Other nationalities are also represented in the composition of the Parliament (7.1 percent) and local councils. The ethnic composition of the thirty-four members of the National Assembly includes Tajiks (ninety-one percent), Russians (3.4 percent), Uzbeks (3.4 percent) and Kyrgyz (3.4 percent). Representation of national minorities is also taken into account in the oblast and city administrations. For instance, there are Uzbek deputy oblast chairmen in both Sogdian and Khatlon oblasts and a Kyrgyz deputy oblast chairman in the GBAR.

4. Functional Structure of Local Government

4.1 Local Councils

Local representative power is exercised by oblast, city and district councils elected by citizens residing in the respective territory. These councils are authorized to express and implement their will with due consideration of national interests. Local councils approve the local budget and its implementation, determine the direction of local social and economic development, set local taxes and fees, establish methods for the management and transfer of communal property, approve the appointment of chairmen and their deputies and review reports on their activities. Councils carry out their activities through council sessions, commissions and through the exercise of council member powers. Local councils may also issue a vote of no confidence in the chairman with a two-thirds majority of total council members by secret ballot. This is considered to initiate his or her dismissal from office, and the President of Tajikistan must decide upon the matter within one month. Local council chairmen are charged with convening local council sessions and making any necessary preparations, submitting

proposals on the general direction of economic and social development, nominating candidates for state awards and other responsibilities.

Local councils independently perform duties within their competence. Councils of higher-tier governments may delegate responsibilities to those of lower-tier governments. Conversely, they may assume functions of the lower-tier government by mutual consent. Local councils may enter into contractual relationships with local government entities in other territories to pool financial resources, jointly solve issues of mutual interest or coordinate work in different sectors.

Local councils and chairmen of the GBAR, oblasts, cities and districts ensure the rights of self-governments within their respective territories. According to the government of Tajikistan, there are seventy-seven councils throughout the country.

4.2 Local Administration

Local executive authority at the second- and third-tiers of local government is exercised by the chairman of the local administration, as the representative of the central government. Khukumat chairmen are appointed and dismissed by the president, and approved by their respective councils. Khukumats consist of boards, committees and departments, the organizational structure and activities of which are determined by relevant regulatory acts.

At the first level of local government, the chairman of the jamoat represents the executive branch of local government. According to the Law on Self-governments in Towns and Villages, the main functions of jamoat chairman are as follows:

- to ensure the implementation of jamoat decisions and manage its everyday activities;
- to organize implementation of the Constitution, legislation, acts of the president, Parliament or the government of Tajikistan as well as local government decisions;
- to dispose of funds, enter into contracts with legal and physical entities and sign financial, banking and legal documents on behalf of the local government;
- to represent the interests of citizens to state administration bodies, in court and in relations with enterprises, institutions and organizations in cases stipulated by legislation;
- to undertake measures to improve the material well-being and living conditions of citizens.

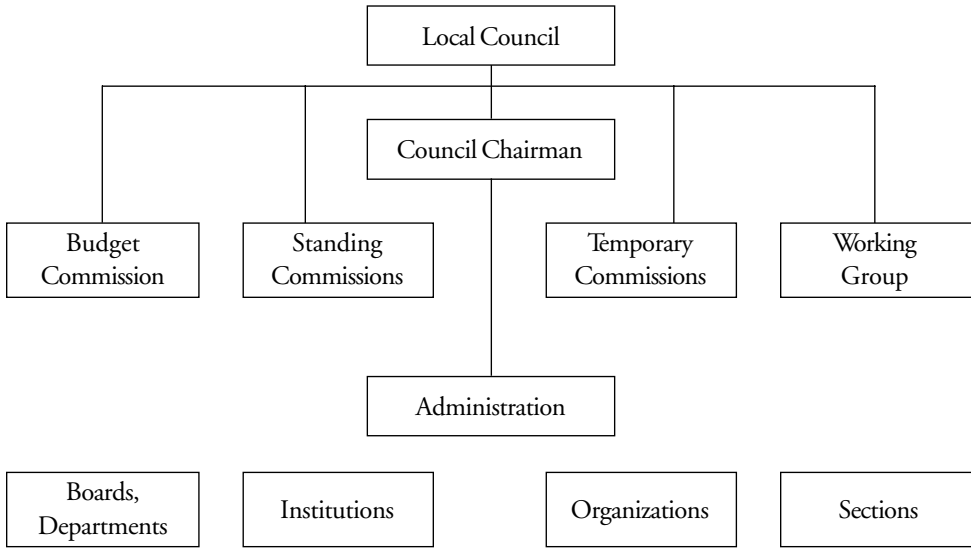
The jamoat chairman makes and signs his own decisions within his competence. Activities of a jamoat chairman may be appealed at the city or raion council or in court.

4.3 Structure and Operation of Local Administration

The legal status of local administration is established in the Law on Local Public Administration and the Law on Town and Village Self-governments. Figure 11.1 illustrates the relationships between

different administrative tiers. Oblast, city and raion administrations usually operate through boards, committees, departments, sections and similar divisions. Jamoat dekhots and shakhraks have a much simpler structure, with staffs of five to seven employees. Each local administration has its own management structure.

Figure 11.1
Structure of Local Administration in Tajikistan



According to the Law on Civil Service, employees in local self-government administrations are considered to be public servants. Local government employees are thus legally required to pass qualifying exams and are encouraged to participate in training programs for civil servants.

The jamoat chairman is nominated by city or raion chairman and elected by the jamoat. Chairmen of GBAR, oblasts, cities and raions are appointed or dismissed from office by the president of Tajikistan, who presents them to their respective councils for approval.

4.4 Control, Audit and Supervision of Local Governments

Local councils elect an auditing commission for a five-year term to carry out internal control over local government financial activity. Auditing commission members are chosen so that all districts within the territorial unit are represented according to population.

The main duties of the auditing commission include:

- monitoring the use of local government funds in accordance with the adopted budget;
- ensuring the legality and efficiency of financial activities conducted by managers and officials of local enterprises and organizations;
- ensuring the use of finances, movable and immovable property and other resources in the implementation of local council decisions;
- conducting audits together with representatives of the Department of Control in the Office of the President and the Department of Control and Auditing in the Ministry of Finance.

The auditing commission may not carry out an audit of a local government institution more than once a year. Other institutions supervising local governments include the Control sector in the Office of the President and the Department of Control and Auditing in the Ministry of Finance. If a council chairman violates the Constitution, legislation, government resolutions or court decisions, then the president or the court may dismiss him or her from office.

5. Public Service Provision

5.1 Distribution of Functions

Local governments in Tajikistan carry out the following general duties:

- administrative, social, cultural and economic functions permanently assigned by the Law on Local Public Administration;
- administrative, social, cultural and economic functions assigned to them by other legislation for a specified period of time;
- public administration functions delegated to local governments by the central government in accordance with the procedures established by the Law on Local Public Administration;
- functions delegated to local governments by a superior local government in accordance with the procedures established by the Law on Local Public Administration;
- voluntary initiatives.

These functions, together with their legal basis, responsible institutions and sources of funding, are detailed in table 11.3.

Responsibilities specifically assigned to local government by the Law on Local Public Administration are funded entirely from local budgets. If the central government delegates other functions, it must also ensure adequate funding to cover expenditures. However, local governments are then responsible for the timely and efficient performance of these additional responsibilities. Currently, the most important additional functions assigned to local government include privatization of communal property and land relations.

Table 11.3
Functions of Local Self-governments in Tajikistan

Type of Function	Relevant Legislation	Responsible Institutions	Source of Financing
1. Mandatory functions			
Permanent	Law on Local Public Administration and Law on Local Self-government	Local governments	Local budget
Temporary	Other laws	State administration body specified in the relevant law, and local governments	Additional funding
State administration	Laws, presidential decrees and government resolutions	State administration institutions	Budget of the relevant state administration institution
Individual	Presidential decrees	Local governments	State and local budgets
2. Delegated functions	Agreement between different levels of local self-government	Local self-governments	Funding source specified in the agreement
3. Voluntary functions	Decision of the local council	Local governments	Local budget

Local self-governments may carry out state administration duties if stipulated by law or government resolution. In such cases the state budget must allocate the requisite funding to cover related expenditures. The local government manages performance of these duties and government institutions ensure their implementation.

Local governments, through written agreement with higher level governments, may assume any executive functions within the competence of the higher government. In cases such as these, the central government is not permitted to delegate any responsibilities to local governments without designating a source of funding in the written agreement. The local government bodies that have been delegated additional functions will supervise their implementation.

5.2 Methods of Service Delivery

In order to guarantee local service delivery, local governments may set up organizations and enterprises, cooperate with the state-owned and private companies, contract with private sector companies and privatize communal property.

For instance, between 1991 and 1999, local governments privatized a total of 2,218 trade, public catering and provision companies, 1,953 housing and utility companies and 427 agricultural enterprises. Most of the privatized entities are now owned by individuals. At this time, 70.7 percent of state objects have been privatized. Detailed information about privatization may be found by sector in table 11.4 and by territorial unit in table 11.5. Due to the fact that oblasts, Dushanbe city and twelve cities and raions of central subordination have Departments on Destatization and Property, the information on privatization is given primarily by regions.

Jamoats and local khukumats are responsible for education, social security, health care, the local economy and cultural and leisure services (see annex 11.4 for a detailed breakdown of local government functions). In the field of education, khukumats are charged with the organization, reorganization and liquidation of secondary schools in coordination with the Ministry of Education. Local government activities in the field of social insurance are generally limited to the provision of social services and benefits, although they may offer additional social protection services if they have the financial resources to do so. Local governments also gather and analyze data about citizens in need of social protection. In terms of health care, local governments arguably manage more medical institutions today than the Ministry of Health and have also established communal institutions for public health.

Local governments maintain libraries, museums, cinemas, theaters and other cultural facilities. Since these institutions are under the jurisdiction of government bodies of different levels, local administrations are responsible only for those that they established themselves. However, they cannot reorganize or liquidate these institutions without authorization from the Ministry of Culture.

Public utilities, such as gas, electricity, heating and engineering facilities are also maintained by local governments. In addition, local governments provide public transport, construct and maintain local roads and carry out other construction projects.

As stated above, private companies have undertaken delivery of public services. Many public utility institutions have already been privatized, and certain public transportation services are currently undergoing privatization. Generally speaking, privatization of local services is one of the main methods by which local governments try to counteract the existing monopoly situation.

Table 11.4
Privatized Institutions by Sector

Sector	Institutions originally in state ownership	Privatized Institutions										Total	[%]
		1991	1992	1993	1994	1995	1996	1997	1998	1999			
Industry	318	1	12	1	3	10	16	18	33	26	120	37.7	
Construction	422	1	10	1	2	2	5	3	18	31	73	17.3	
Transport and communications	167		7	1		5	2	6	9	16	46	27.5	
Trade, public catering and provision	2,546	17	198	21	78	170	298	333	471	632	2,218	87.1	
Domestic services	2,200	10	501	43	200	151	242	177	338	291	1,953	88.8	
Agriculture	1,300		1	1	9	5	16	60	137	198	427	32.8	
Abandoned construction projects	350						8	23	0	92	123	35.1	
Other	902		10		20	12	61	100	252	266	721	79.9	
Total	7,855	29	739	68	312	355	640	697	1,258	1,460	5,558	70.7	

Table 11.5
Privatization of Objects by Territorial Unit

Regions	1991	1992	1993	1994	1995	1996	1997	1998	1999	Total
GBAR			10	6		7	13	30	30	96
Leninabad oblast	1	336	8	165	74	200	238	480	373	1,875
Khatlon oblast	5	146	20	63	92	258	168	350	590	1,692
Dushanbe	22	160	22	73	141	117	216	218	201	1,670
RAIONS AND CITIES OF CENTRAL SUBORDINATION										
Kofarnikhon city		10	1	5	2	5	13	21	19	76
Tursun-zade city		30			14	7	3	20	40	114
Rogun city						5	2	10	12	29
Leninsky raion	1	18	5		27	15	27	39	36	168
Gissar raion		24	2		5	4	5	35	42	117
Garm raion		10					4	13	27	54
Darband raion		5							5	10
Shakhrinai raion						22	2	23	14	61
Faizabad raion							3	12	44	59
Tajikabad raion									18	18
Varzob raion							3	7	8	18
Total	29	739	68	312	355	640	697	1,258	1,460	5,558

6. Local Finance, Local Property

6.1 Legal Basis of Local Finance

The legal foundations of local finance can be found in legislation, presidential decrees, government resolution and other regulations. Legislation currently addressing issues of local finance can be grouped into the following categories:

- 1) Basic laws of Republic of Tajikistan. These include the Constitution, constitutional laws on government, on local public administration, on local self-government, on the Gorno-Badakhshan Autonomous Region, on the status of the capital city, on the administrative-territorial composition of Tajikistan and other acts related to the establishment and competence of local self-government bodies or territorial tiers. These include some budgeting and financial authorities.

- 2) Laws and acts directly related to budgeting and finance. These include the Law on the Basic Principles of Budget System and Budgeting Process; the Law on the State Budget, which is adopted annually by the lower house of Parliament; tax and customs codes; and other acts that address budget policy, regulate revenues and expenditures of central and local budgets and establish procedures for submitting budgets and budget execution reports.

6.2 Local Budgets

Local budgets refer to the budgets of oblasts, cities and raions. Local budgets are drafted and approved by the local council, which also reviews budget execution reports. In recent years, the scale and volume of local economies have grown, due to the transition to a market economy and the growth of diversified forms of ownership. At the same time, the influence of local government bodies on the social and economic development of their territories has increased. Under these circumstances, local budgets have assumed an increasingly important role.

In Tajikistan, local budgets currently comprise one-third of all budget revenues. Local revenues and expenditures increased considerably between 1996 and 1999 (see table 11.6). However, the size of local revenues relative to GDP and consolidated budget revenues has remained the same. Within the structure of oblast government budget, the share of subordinate local government expenditures decreased from 22.6 percent in 1996 to 12.1 percent in 1999. Raion and city government expenditures did not experience significant change. All of these statistics confirm the reduction of real opportunities for local governments to invest in social, cultural and economic development, as their financial dependence on the central government becomes more entrenched.

First-tier local governments, or jamoats, do not have budgets in the true sense of the word. Instead, their financial resources are specified in a separate line of the raion budget. The allocated finances are transferred to the jamoat treasury account from which all jamoat expenses are funded. Own revenues for first-tier governments include fees, revenues from economic activities and voluntary contributions from enterprises or individuals for cultural, educational and other events. These are kept in special ruble accounts and are spent on the social and economic needs of residents. Due to the recent establishment of jamoats, statistics on jamoat budgets are not yet available, preventing further analysis of the financial basis of first-tier local governments.

The relationship between central and local budgets is determined annually, based on defined principles. After taxes and expenditures funded from local budgets are forecast, Parliament establishes the local share of national tax revenues and fees as well as the amount of targeted transfers to cover local budget deficits. These figures are entered in the annual Law on the State Budget for the upcoming year and distributed to all local administrations. Local budget revenues and expenditures are determined after the approval of the State Budget. Draft budgets are discussed by oblast, city and raion administrations and approved by their respective councils.

The central government supervises the implementation of local budgets. The forms of control at its disposal include:

- preliminary control, placing central financial bodies under the treasury system and financing budget recipients on the basis of approved cost estimates;
- reviewing monthly reports on the implementation of local budgets
- comprehensive audits of local budget procedures, such as drafting, discussion, approval and implementation;
- reviewing audit results through khukumats and the Ministry of Finance Collegium.

Local budgets are sufficiently independent, possessing own sources of revenues which may be allocated at their discretion. Own revenues include a) legally established sources of revenues for different budget levels; b) allocations from centrally collected taxes and duties.

Table 11.6
Structure of Local Budgets in Tajikistan, 1996–1999

Indices		Year			
		1996	1997	1998	1999
1.	Revenues, including subsidies and subventions as a percent of:				
	a) 1996 revenues	100.0	136.0	250.2	316.5
	b) GDP	8.1	6.6	6.0	5.8
	c) the consolidated budget	41.5	31.2	34.1	31.3
2.	Revenues without subsidies and subventions as a percent of:				
	a) 1996 revenues without subsidies	100.0	111.9	196.4	295.3
	b) GDP	7.1	4.3	3.8	4.4
	c) the consolidated budget	32.8	20.2	21.4	23.2
3.	Total expenditures as a percent of:				
	a) 1996 expenditures	100.0	136.9	247.7	314.1
	b) GDP	20.7	20.6	17.4	17.6
4.	Central government expenditures as a percentage of GDP	12.1	14.2	11.6	11.9
5.	Oblast government expenditures as percentage of the consolidated budget	22.6	18.6	20.4	12.1
6.	Raion and city government expenditures as a percentage of the consolidated budget	19.0	12.4	13.1	19.9
7.	Jamoat expenditures as a percentage of the consolidated budget	—	—	—	—

SOURCE: Ministry of Finance of Tajikistan

Khukumats have the right to amend budget revenues and expenditures during budget execution within limits assigned by budget category. Any budget surplus or additional revenues received after approval of the budget is used by the administrations to finance the budget deficit, economic sectors or social programs and other expenses.

The Law on the State Budget establishes protected budget categories, such as salaries, social insurance deductions, scholarships, pensions and benefits, which may not be reduced regardless of deficit.

After assessing all expenditures by oblasts, cities and raions, the Ministry of Finance calculates the total amount of local budget revenues and normative deductions from central taxes and fees. Local expenditures not covered by own revenues are financed by subventions from the central budget. These are allocated on a monthly basis, taking into account incoming budget revenue, in order to pay salaries, fund capital investments and similar expenditures.

6.3 Revenues

Local budget revenues usually consist of tax and non-tax revenues, targeted funding and bank loans. Local tax revenues include the following:

- VAT and excise tax (excluding those collected by customs);
- income and profit taxes, including enterprise profit tax, personal income tax, taxes paid by small businesses under a simplified scheme and others;
- property taxes, including the enterprise property tax, personal real estate tax, tax on vehicles, tax on the use of natural resources or water and other taxable property fees;
- state duty;
- other taxes, including sales tax (for example, on cotton and aluminum), public transport tax, and other taxes.

Non-tax revenues and duties include the proceeds from privatization, the sale of shares, patent fees, dividends on government shares, interest on state capital investments, administrative fees, fines and penalties. Local budgets also receive revenues in the form of targeted funds, bank loans and transfers for mutual settlement or the reduction of budget deficits. Beginning in 1999, local budgets also included a road fund.

The structure of local budget revenues changed significantly in the second half of the 1990s (see table 11.7).

Table 11.7
Local Budget Revenues in Tajikistan, 1996–1999 [percent]

Type of Revenue	Year			
	1996	1997	1998	1999
Taxes	47.3	57.1	54.7	61.2
Value added tax	7.2	0.4	12.5	15.4
Excise taxes	4.5	0.1	0.7	0.6
Income tax, profit tax, capital appreciation tax	26.0	34.8	28.5	27.2
Property tax	8.5	19.6	11.2	13.5
State duty	1.0	2.1	1.7	1.9
Other taxes	0.1	0.1	0.1	2.6
Non-tax revenues	5.7	7.2	7.2	7.6
Road fund	—	—	—	4.5
Balance of budget means	1.0	1.7	2.2	1.8
Targeted funds	5.6	24.7	23.2	16.9
Mutual settlement transfers	40.4	9.3	11.4	7.4
Bank loans	—	—	1.3	0.5
Assignments to reduce the budget deficit	—	—	—	0.1
Total	100.0	100.0	100.0	100.0

Total tax revenues have increased considerably as a percentage of local budget revenue, from 47.3 percent in 1996 to 61.2 percent in 1999. Within tax revenues, the VAT and property tax comprise almost one third of all local budget revenues in 1999, up from 15.7 percent in 1996. The share of excise tax has fallen sharply. The share of income and profit taxes designated for local governments has remained stable and composes a substantial share of local revenues. Non-tax revenues and duties have also remained steady. Finally, it must be noted that the share of mutual settlement transfers has drastically decreased, from 40.4 percent in 1996 to 7.4 percent in 1999.

Tax revenues are particularly significant in the budgets of oblasts and cities with high levels of industrial activity (See table 11.8). For instance, taxes accounted for eighty percent of local revenues in Leninabad oblast, where a third of all state industrial enterprises is concentrated, and sixty-seven percent in Dushanbe. Income and profit taxes in particular play a significant role, comprising 31.9 percent of total budget revenues in Leninabad oblast and 41.2 percent in Dushanbe.

Table 11.8
Local Budget Revenues in Tajikistan by Region, 1999 [percent]

Type of Revenue	GBAR	Khatlon Oblast	Leninabad Oblast	Dushanbe	DRS
Taxes	12.6	60.2	77.8	67.0	39.6
Value added tax	2.6	14.0	20.0	19.4	7.8
Excise tax	—	—	1.8	0.2	—
Income tax profit tax and capital appreciation tax	6.6	18.6	31.9	41.2	20.7
Property tax	2.2	24.4	18.5	3.2	8.6
State duty	0.2	0.8	2.8	3.0	0.8
Other taxes	1.0	2.4	2.8	3.6	1.7
Non-tax revenues	3.1	7.2	8.9	9.8	4.6
Road fund	—	5.9	9.0	1.5	0.1
Balance of budget means	0.1	2.5	—	2.5	3.1
Targeted funds	81.4	20.4	—	—	46.6
Mutual settlement transfers	2.8	2.8	3.5	19.2	5.2
Bank loans	—	1.0	0.8	—	—
Assignments to reduce budget deficit	—	—	—	—	0.1
Total	100.0	100.0	100.0	100.0	100.0

6.4 Local Taxes

Local taxes are mandatory payments collected by local governments from physical and legal entities within its territory in accordance with national legislation. Local taxes include the tax on retail trade, personal real estate tax and tax for public transport, all of which are paid entirely to the respective local budget. Local councils are entitled by the Constitution to establish local taxes, set methods of tax collection and declare exemptions or reduced rates for certain categories of taxpayers. Local tax bodies issue instructions on the application of local taxes in coordination with the Ministry of Finance and the Committee on Tax and in cooperation with the local financial departments. In 1999, the proportion of local taxes in the local budget revenues was 3.1 percent.

In addition, councils establish non-recurring payments, such as penalties, sanctions, business registration fees, road inspection fees, proceeds from the sale of state property, auctions, local lotteries or the issue of premium bonds and other payments.

Local budgets are also allocated a share of centrally collected taxes. In accordance with the Law on the State Budget for 2000, shares of the following taxes are to be transferred to local budgets: VAT (excluding those collected by the customs), income tax, profit tax, personal income tax and one hundred percent of enterprise property tax. Leninabad oblast, Dushanbe and the city of Tursunzade cities are exceptions to this rule. Their shares in national tax collections are as follows:

- Leninabad oblast is allocated fifty-three percent of VAT, thirty-two percent of excise tax, forty percent of profit and property tax and eight percent of personal income tax;
- Tursunzade is allocated eighty-three percent of VAT, one hundred percent of excise tax and forty-five percent of personal income tax;
- Dushanbe is allocated one hundred percent of excise tax and thirty-seven percent of the VAT from the Barki Tochik State Joint Stock Holding Company.

Local budgets collect one hundred percent of tax on small businesses paid under a simplified plan, tax on the use of natural resources, state duty, tax on vehicle owners, patent fees and other non-tax fees and eighty-five percent of land tax.

At the same time, it should be noted that distribution of a particular tax among different tiers of government limits the opportunities to develop local financial autonomy, undermines the unity of the tax and budget system and decreases local government responsibility for budget implementation. It is thus important to differentiate clearly between central and local taxes and grant local government more autonomy in defining taxes and fees within their competence.

The procedures for adopting the annual budget create further instability in the budgeting process. Currently, major budget categories are defined only when the budget itself is adopted. Because local governments are dependent on these categories, they do not have the opportunity to forecast potential revenues or develop their draft budgets until approval of the state budget at the end of the year, which greatly weakens their financial autonomy. If the system were changed so that major budget categories are adopted prior to the passage of the state budget, local governments would be able to participate in the early stages of budgeting process.

Municipal loans and municipal banks are still nonexistent. The Law on Bankruptcy has been adopted, but these procedures have only just begun to be practiced in oblasts, cities and raions. For instance, cases have recently been filed in the Supreme Economic Court against Pakhtai Khatlon, a cotton company in Khatlon oblast, and Zafarabad, a cotton company in Leninabad oblast, for failure to pay debts.

6.5 Expenditures

The main categories of local budget expenditures are the economy, the social and cultural spheres, law enforcement and civil defense, administration and other expenses. Social and cultural costs form the bulk of local budget expenditures, amounting to 49.8 percent of total expenditures in 1999, an increase from forty-six percent in 1996. This relative growth is due to increased funding of education and culture. From 1996 to 1999, the share of these sectors in expenditures grew from 28.5 to 34.9 percent, while expenses on health care diminished from 17.1 to 14.4 percent.

Table 11.9
Local Budget Expenditures in Tajikistan, 1996–1999 [percent]

Area of Expenditure	Year			
	1996	1997	1998	1999
Economy	12.5	19.8	19.2	22.8
Agriculture	0.5	0.7	0.5	0.4
Transport	1.3	1.8	2.6	1.4
Housing stock and public utilities	9.4	15.8	14.7	20.0
Trade	0.1	0.2	0	—
Other expenditures	1.2	1.3	1.4	1.0
Culture and society	46.0	58.2	49.8	49.8
Education	27.1	34.5	31.4	32.4
Culture	1.4	1.9	1.7	2.5
Health care	17.1	21.0	16.3	14.4
Sports	0.1	0.2	0.1	0.2
Social security	0.3	0.6	0.3	0.3
Science	0.1	0.1	0.1	0.1
Law enforcement and civil defense	5.6	0.6	7.2	7.8
General administration	4.2	8.2	6.8	6.2
Compensation of employees	25.0	5.1	7.5	1.8
Road management	—	—	—	4.2
Other expenditures	6.6	8.0	9.4	7.3
Total	100.0	100.0	100.0	100.0
Local budget expenditures as a percentage of GDP	7.8	6.3	5.8	5.6
Local budget expenditures as a percentage of state budget expenditures	41.6	30.9	33.5	32.0

The local economy was the second largest component of local budget expenditures, with spending in this sphere rising to 22.8 percent from 12.5 percent in 1996. Housing and public utility services are the major expenses in this category, accounting for 87.9 percent of expenditures on the economy and one fifth of total expenditures. Two other major spending categories are law enforcement and civil defense, which increased from 5.6 to 7.8 percent of local budget expenditures and public administration, which rose from 4.3 to 6.2 percent. Salaries, compensation and other expenses also form a substantial proportion of local budget expenditures.

Table 11.10
Local Budget Expenditures in Tajikistan by Region, 1999 [percent]

Area of Expenditure	Total	Region				
		GBAR	Khatlon Oblast	Leninabad Oblast	Dushanbe	DRS
Economy	22.7	12.9	10.9	11.4	62.5	10.2
Agriculture	0.4	1.0	0.5	0.6	—	0.3
Transport	1.3	—	0.2	—	5.8	—
Housing stock and public utilities	20.0	11.6	9.3	10.4	56.7	6.1
Other expenses	1.0	0.3	0.9	0.4	—	3.8
Culture and society	49.8	55.0	59.0	54.0	24.0	62.4
Education	32.4	33.8	39.3	34.0	13.0	45.8
Culture	2.5	3.6	4.0	1.8	2.6	1.4
Health care	14.4	17.0	15.3	17.4	8.2	15.0
Sports	0.2	0.2	0.3	0.3	0.1	0.1
Social security	0.3	0.4	0.1	0.5	0.1	0.1
Science	0.1	—	0.1	0.1	—	—
Law enforcement and civil defense	7.8	14.2	8.9	7.5	6.2	6.9
General administration	6.2	9.9	9.3	5.7	2.0	7.1
Compensation for employees	1.8	2.5	1.1	0.3	0.6	7.4
Other expenses	11.4	5.5	10.7	21.0	4.5	5.2
Funds transferred for mutual settlements	0.2	—	—	—	0.2	0.8
Total expenditures	100.0	100.0	100.0	100.0	100.0	100.0

Dushanbe is an exception to the generally high levels of local spending on social and cultural programs, with these expenses amounting to only one-fourth of the city budget (see table 11.10). Most schools, health care and cultural institutions located in the city are financed directly from the central budget. However, housing and public utilities expenditures composed 56.7 percent of the city budget.

All of this happens at the time when local governments are facing a multitude of urgent problems. For this purpose it is necessary to increase the expenditures section of the local budgets, which will be possible based on a steady growth in GDP and increased allocation of national funds. It is equally important to increase local government responsibility for budget execution and eliminate the misuse of funds, thus improving the efficiency of allotted expenditures

6.6 Local Property

Local property refers to the property of oblasts, cities, raions and other administrative-territorial units, as well as property of the GBAR. The main law regulating the ownership rights of local governments is the Law on the Property of the Republic of Tajikistan. Under this law, local property falls into the following categories:

- property of oblast, city and raion councils;
- property of jamoat self-governments;
- property of the GBAR.

Property of oblast, city and raion councils includes local budget means, housing stock, public utilities and industrial enterprises which utilize local raw materials or whose products or services are used by the oblast, city or raion. Council property also includes securities and enterprises operating in construction, transportation, trade, agriculture, public services, education, health care and culture institutions, including property needed for the social and economic development of the oblast, city or raion.

Jamoat property includes community objects, social amenities and other facilities built or purchased by the community governments. It also includes transport vehicles, communal equipment and other property transferred through legally established procedures; funds and assets allocated from local budgets; and voluntary contributions from individuals or charities. Jamoat property may not be withdrawn. Communal self-governments have broad rights to lease or use their property, as well as discretion over the use of their money and assets.

Administrative-territorial units where most enterprises have been privatized are generally in a better financial position and require fewer subsidies from the national budget. Typically, the more conservative the raion, the higher its level of centrally allocated targeted funds and subsidies. Currently many territorial enterprises are operating at less than one-third of capacity or stand idle due to poor cash flow and the unavailability of loans. Since they are not generating profit, their contribution to local budgets is insignificant.

7. Relationships Between the State Administration and Local Governments

The structure of government power in Tajikistan is composed of the central state administration and the three tiers of local government. The distribution of powers between the central and local governments is based upon the following principles:

- subsidiarity, which dictates that issues are to be addressed at the level of government closest to the people, involving higher levels only when necessary;
- decentralization of power;
- clear differentiation of responsibilities;
- direct correlation between responsibilities and financial resources.

The principle of subsidiarity also prevails in the division of power between tiers of local government. Whenever it is necessary to consolidate the financial, material, informational and human resources of several raions, the oblast or city administration has jurisdiction over the matter.

Oblast, city and raion khukumats consist of various units, whose structure, organizational pattern and activities are defined by specific provisions approved by the central government. The established structure of local administration may be changed by the head of local administration within its assigned budget in coordination with central government and subject to approval by the local council.

The structure and staff of local khukumats are established by the government. This results in dual subordination, with local executive bodies simultaneously subordinated to a central ministry and accountable to the chief of staff in the oblast, city or raion government. Figure 11.2 illustrates the structure of executive authority and decision making at the oblast level. It should be noted that the president of Tajikistan is also chairman of the government.

The head of an oblast government department is accountable both to the respective minister and the chief of staff in the office of the oblast chairman. This system also exists between officials at lower levels of government. Fifteen ministries and five other central government bodies have divisions at the oblast and raion levels.

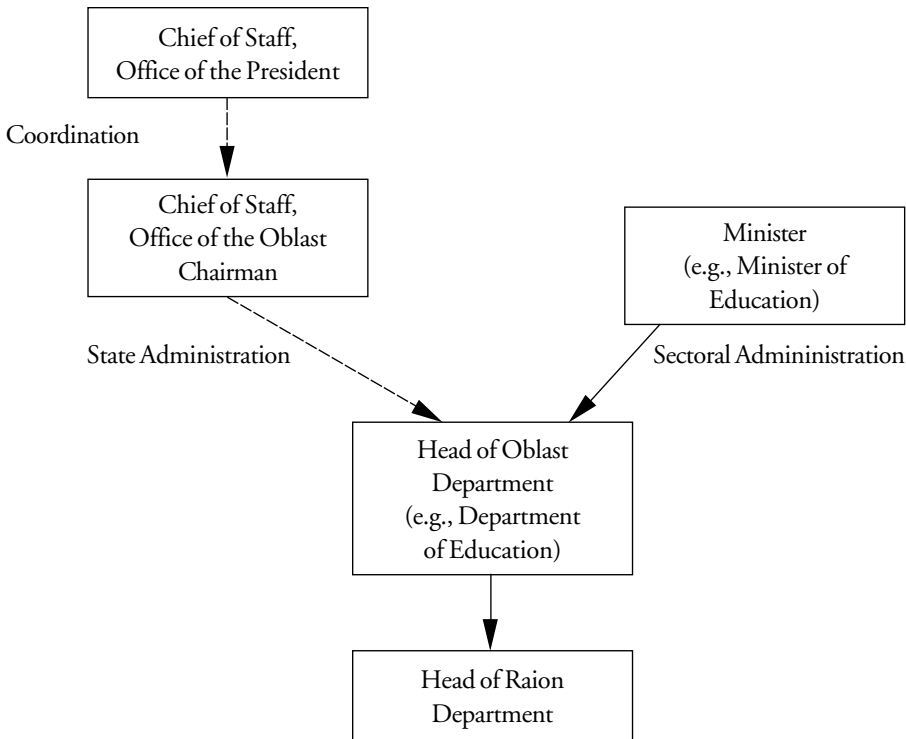
The current distribution of responsibility between the central and local governments and among different local self-governments is far from perfect. Some sectors, such as education, health care and other social services, remain completely under the control of the central government. This situation is unlikely to change in the near future, due to the following serious obstacles:

- The system of local self-governments is not fully integrated;
- Many jamoats and sub-raion cities are financially weak;
- The system of public services at the local level is very unstable, a consequence of the subsidy-oriented system under Soviet administration. Inefficiency in distribution, technical inefficiency and huge internal debt have devastated the state industrial sector.

- Self-governments have not yet been established in oblasts and raions, making it problematic to delegate larger responsibilities, such as secondary education, to local administrations.

Some forms of cooperation exist between local khukumats and self-government bodies. Local governments participate in the selection and placement of personnel for jamoats.

Figure 11.2
Sectoral Responsibility at the Oblast Level



The oblast administration bears responsibility for the economic and social development of its territory, in particular by preparing development concepts for individual raions. Raion khukumats have direct, daily contact with the jamoats in their jurisdiction, especially with respect to the following issues:

- jamoat participation in territorial development plans;
- developing programs for social and economic development throughout the raion and coordinating initiatives to this end;
- reviewing the performance of a given jamoat in response to complaints, according to the relevant law.

8. Local Government Employees

Article 1 of the Law on Civil Service defines a civil servant or official as a person who holds a paid governmental position and executes professional duties to implement government authority. The administrative organization of government employees is determined by the Registry of Government Employment Positions in Tajikistan, professional grade and qualification requirements. There are five professional grades accorded to government positions: supreme, major, leading, senior and junior. The annex to the Registry lists the specialization of government employees and their specific qualification requirements. In general, requirements for government positions are based on the following:

- a certain level of professional education, determined according to the professional grade and type of specialization;
- work history and experience in the profession;
- knowledge of the Tajik Constitution, legislation and other norms and regulations, as relevant to the performance of professional functions.

Principles of civil service in Republic of Tajikistan include:

- the sovereignty of the Constitution and laws of Tajikistan;
- a commitment to the people of Tajikistan;
- humanity and social justice;
- protection of human rights and freedom;
- democracy and openness;
- a nonpartisan and secular basis;
- professionalism, competence and honesty;
- legality, professional responsibility and discipline in the performance of official duties;
- the accountability of civil servants;
- the legal and social protection of civil servants;
- equal opportunity for citizens to enter civil service.

Civil servants are prohibited from organizing or operating political party structures, religious organizations and other public associations on government premises, with the exception of trade unions.

In the first and second tiers of local government, civil servants are considered to be individuals holding official positions in local executive bodies and their structural divisions; in offices of the chairmen of the GBAR, oblasts or Dushanbe; and in offices of village and town self-governments. In addition, the status of civil servant is also accorded to notary publics; employees of the prosecutor's office, the regional divisions of the National Bank of Tajikistan, police and civil defense services; tax and customs administrations; and public attorneys of raions, cities, GBAR and oblasts and their deputies. The legal status of civil servants is determined by the duties, rights and limitations related to their positions.

In addition to their obligation to follow general principles of civil service, government employees also have specific rights and duties reflected in their terms of reference, which are approved by the heads of respective governmental structures within the limits of the law. Civil servants are prohibited from:

- sitting on the board of any commercial organization;
- appropriating assets or technical, financial, information and other government resources for personal use;
- accepting gifts for services provided in the course of their professional duties. Should employees receive a gift in their capacity as an official person in the country or abroad, they are to hand it over to the state according to established procedures.

Guarantees and incentives for civil servants are established in the Law on Civil Service. Government bodies create a personnel reserve for the timely replacement of civil service positions, as well as to promote efficient civil servants. This reserve personnel is formed from:

- civil servants who have upgraded their qualifications through additional training and are recommended for promotion after official assessment;
- experts from village or town local governments and self-governments, experts from industrial, social, cultural and scientific circles or academics from relevant fields.

Civil servants do not include the technical and support staff that ensures daily functioning of government bodies and their offices. The register of these employees is defined by the government of Tajikistan.

9. Legal Guarantees for Local Autonomy

Guarantees for the establishment of local khukumats and the autonomy of self-governments are defined in Section 7 of the Constitution on Local Government, the Law on Local Public Administration and the Law on Local Self-government in Villages and Towns and the Administrative Violations Code of the Tajik Soviet Socialist Republic.

Decisions of the council chairman in the court may be appealed in court by citizens; community associations, enterprises, organizations and institutions; public administration and government bodies and self-government bodies. The public prosecutor initiates proceedings against decisions that do not conform to the Tajik Constitution and legislation; these must subsequently be reviewed by the local government body itself or by a higher council or chairman.

The local council can prematurely dissolved by Parliament in cases of recurring violations of the Constitution, legislation or rights and freedoms of citizens. Parliament may also decide to dissolve a local council before the expiration of its term upon the recommendation of a higher council or a National Assembly committee in the following instances:

- if a newly elected council has failed to establish the structure of its subordinate bodies within a month of its opening session;
- if the council fails to convene the necessary quorum of its members for a period of over two months.

Local councils may also vote to disband voluntarily by a two-thirds majority.

The president of Tajikistan may dismiss a chairman from office before the expiration of his or her term under the following circumstances:

- if the chairman loses Tajik citizenship;
- upon the chairman's conviction in court;
- upon personal submission of the chairman's resignation.

Chairman, deputies and heads of executive divisions are prohibited from holding other paid positions or participating in the management of joint stock companies, limited liability companies or any other non-governmental economic entities.

Local councils and administrations in the GBAR, oblasts, cities and raions have the authority to establish courses of disciplinary action for administrative violations in accordance with the Administrative Violations Code and within the limits established by Tajik legislation. Infractions include illegal or negligent actions against the public order, the rights and freedoms of the citizens or the established government order. These are subject to legally established penalties. Provided that these violations do not entail criminal responsibility, disciplinary action is then pursued through administrative channels.

Physical or legal persons who commit an administrative infraction are subject to the penalties in force at the time and place of the act. Legal acts that mitigate or revoke the penalties for administrative violations may take effect retroactively, whereas acts declaring or increasing penalties may not. Legal proceedings are carried out according to the legislation applicable at the time and place of the legal investigation. Raion or city courts oversee investigation of administrative cases, provided they fall under their jurisdiction. The order of legal proceedings on administrative violations is established by the Administrative Violations Code and other laws of Tajikistan.

According to the Law on the Office of Public Prosecutor, an attorney in the Office of the Public Prosecutor who monitors observance of the law during the administrative proceedings has the following rights:

- to initiate proceedings on administrative violations;
- to study case documents;
- to monitor the legality of actions by law enforcement bodies during the proceedings;
- to participate in the investigation;
- to submit petitions and offer conclusions on issues arising during the investigation;
- to verify the legality of the disciplinary actions applied by law enforcement bodies;
- to appeal decisions on the case;
- to suspend execution of the court decision and other actions envisaged by the law.

Outside lawyers may also take part in investigations. According to the authority vested in them by the Bar, the lawyers have the right to study all case papers, submit petitions and initiate appeals on behalf of their clients.

10. Next Steps in the Transition Process

In order to create the foundations for future local government reform, the current division of power between the central and local governments must be reviewed and amendments must be made to the Law on Local Public Administration and the Law on Local Self-government in Villages and Towns. The president of Tajikistan has recently submitted two draft laws to Parliament, the Law on the Administrative Proceedings Code of the Republic of Tajikistan and the Law on Territorial and Administrative Structure. These initiatives proposed the following reforms:

- democratic reform of the administrative-territorial structure;
- developing the local budget system;
- improving the territorial statistics system;
- improving social and economic planning methods;
- introducing principles of strategic governance, quality management and business administration;
- broader participation of local residents in the decision-making process;
- direct elections for raion, city and oblast chairmen;
- amendments to the Constitution regarding the division of local representative and executive powers;
- developing a Code of Ethics for deputies and employees of executive bodies;

In addition to the reforms proposed by the president, further steps could be taken to strengthen the institution of local self-government in Tajikistan. These include:

- making the khukumat chairman an elected position rather than an appointed one, thus separating the representative and executive branches of local government;
- discussing a potential new law on communal self-governments and grassroots organizations such as makhallia committees and kishlak organizations, in order to increase their role, status and authority;
- amending legislation on community associations and non-profit organizations in order to extend their application to makhallia councils and committees;
- establishing preconditions for an Association of Makhallia Councils;
- inviting local and international NGOs to work together with makhallia councils to solve social, cultural and economic problems;
- encouraging the relevant NGOs to implement educational programs for heads of makhallia councils in order to promote leadership skills, share the methodology of social partnership, train them in the basics of market economy and civil law and resolve community problems through makhallia councils.

Recent Publications on Local Government in Tajikistan

Khudoiyev M.N. "Otnosheniye sobstvennosti v perekhodnoy ekonomike." [Ownership in the Transition Economy]. In *Sociology* No. 1, 1999, p. 15. Dushanbe.

Naseleniye Gorno-Badakhshanskoy avtonomnoy oblasti po dannym Vseobshchey perepisi naseleniya 2000. [Population of Gorno-Badakhshan Autonomous Region According to the General Census in the Republic of Tajikistan, 2000]. Dushanbe: State Statistics Agency, 2000.

Perviyte itogi Vseobshchey perepisi naseleniya Respubliki Tajikistan, provedennoy 20 yanvaria 2000 [First Results of the General Census of the Republic of Tajikistan, 20 January 2000]. Dushanbe: State Statistics Agency, 2000.

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Glossary of Tajik Terms

<i>Dekhot</i>	— Extremely rural settlements, often sparsely inhabited. Together with shakrak, these comprise the first (jamoat) tier of local government
<i>Jamoat</i>	— The local self-government body that has recently emerged to replace the former village and town councils and exercise local self-government functions in towns and villages
<i>Khashar</i>	— A traditional Oriental method of mutual support when people assist each other to build a house and to sow or harvest crops
<i>Khukumat</i>	— The local executive authority at the city, district or regional level
<i>Kishlak</i>	— Village
<i>Kishlak rais</i>	— Village chairman
<i>Majlis</i>	— Assembly or council
<i>Majlisi Milli</i>	— The National Assembly, or the upper house of Parliament, convened at least twice annually
<i>Majlisi Namoyandagon</i>	— The Assembly of Representatives, or the lower house of Parliament, which operates on a professional basis
<i>Majlisi Oli</i>	— “Supreme Assembly,” or Parliament, of Tajikistan. The highest representative and legislative body, composed of two chambers, the Majlisi Namoyandagon and the Majlisi Milli
<i>Makhallia</i>	— A localized community group
<i>Makhallia rais</i>	— The chairman of the community council
<i>Shakrak</i>	— Rural settlements with some urban elements. Together with dekhhot, these comprise the first (jamoat) tier of local government
<i>Shura</i>	— The committee of elders which heads the makhallia

Annex 11.1

Major General Indicators (1 January 2000)

Size of territory	143,000 square kilometers
Population	6,127,000
Pensioners	960,000
School-age children	1,479,000
Population density	42.8 people per square kilometer
Major ethnic divisions	
Tajiks	69.1 percent
Uzbeks	25 percent
Kyrgyz	0.8 percent
Russians	2.7 percent
Other	2.4 percent
Per capita GDP	USD 178.50
Consolidated budget revenues	100.0 percent
National budget	70.04 percent
Local budgets	29.96 percent
Social security fund	11.46 percent
Unemployment rate	3.1 percent
Inflation rate	12 percent
Average population per local government	12,655
Number of public employees:	15,702
Employed by the state government	9,026
Employed by local governments	6,776
Territorial autonomies with special status	Gorno-Badakhshan Autonomous Region (GBAR)

Annex 11.2

Population, Settlements and Administrative Units

Table 11A.1
Raions and Cities by Population Size Categories in Tajikistan

Population Size Categories	Number of Khukumats	% of Total Khukumats	Number of Inhabitants	% of Total Population
0–10,000	1	1.27	8,000	0.12
10,000–20,000	8	10.26	146,000	2.37
20,000–30,000	12	15.37	250,000	4.07
30,000–40,000	8	10.26	284,000	4.69
40,000–100,000	25	32.08	1,726,000	28.16
100,000–200,000	21	26.91	2,961,000	48.33
200,000+	3	3.85	752,000	12.25
Total	78	100.0	6,127,000	100.0

Table 11A.2
Urban Population in Tajikistan by City

City	Number of Inhabitants	% of Total Urban Population
Gafurov	15,000	1.2
Gissar	20,000	1.6
Dushanbe	562,000	44.1
Isfara	37,000	2.9
Kayrakum	10,000	0.9
Kanibadam	45,000	3.5
Kofarnikhan	44,000	3.4
Quliab	78,000	6.1
Kurgan-Tiube	60,000	4.7
Nurek	19,000	1.5
Penjikent	33,000	2.6
Piandj	8,000	0.6
Rogun	8,000	0.6
Sarband	11,000	0.9
Taboshar	12,000	0.9
Tursun-Zade	39,000	3.0
Ura-Tiube	51,000	4.0
Khorog	28,000	2.2
Hudjand	149,000	11.7
Chkalovsk	22,000	1.7
Shurab	4,000	0.3
Yavan	20,000	1.6
Total	1,275,000	100.0

SOURCE: State Statistics Agency

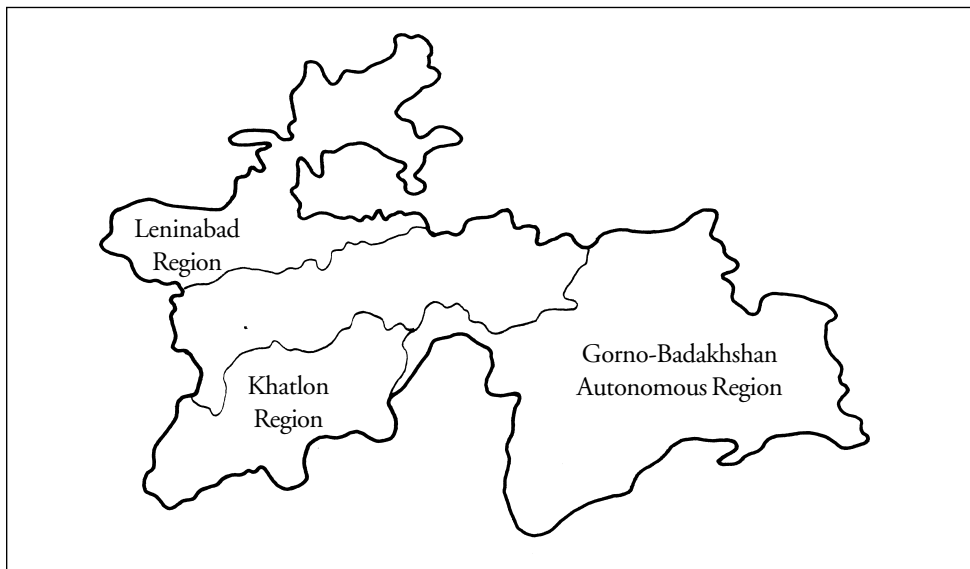
Table 11A.3
Types of Administrative-territorial Units in Tajikistan

Type of Administrative-territorial Unit	Number of Units
Jamoaty shakhraks and dekhots	401
City and raion khukumats	78
Oblast and Dushanbe khukumats	4

Table 11A.4
Administrative-territorial Structure in Tajikistan

Local and Regional Governments	Average Number of Inhabitants per Unit	Average Number of Settlements per Unit
First tier (jamoaty shakhrak and dekhoto)	15,279	12
Second tier (city and raion khukumats)	78,299	112
Third tier (GBAR, oblast and Dushanbe khukumats)	1,531,750	712

Figure 11A.1
Administrative Map of the Republic of Tajikistan



Annex 11.3

Major Laws on Public Administration and Local Government

- Law on Administrative Violations (adopted by the Tajik Soviet Socialist Republic on 1 June 1986)
- Law on Local Public Administration (1 December 1994)
- Law on Local Self-government in Villages and Towns (1 December 1999)
- Constitutional Law on the Majlisi Oli of the Republic of Tajikistan (4 May 2000)
- Constitutional Law on the Government of the Republic of Tajikistan (2 November 1995)
- Law on Civil Service (20 May 1998)
- Constitutional Law on Local Council Elections (10 December 1999)
- Constitutional Law on Elections to the Majlisi Oli of Republic of Tajikistan (10 December 1999)
- Constitutional Law on the Status of the GBAR (2 November 1996)
- Constitutional Law on the Status of the Capital City (12 November 1998)

Annex 11.4

Responsibilities of Administrative Tiers

Table 11A.5
Specific Functions of Local Government Tiers in Tajikistan

Functions	Jamoats	Raion and City Khukumats	GBAR, Oblast and Dushanbe Khukumats
I. EDUCATION			
1. Pre-school	X	X	X
2. Primary	X	X	X
3. Secondary		X	X
4. Technical			X
5. Higher			X
II. SOCIAL WELFARE			
1. Nurseries	X	X	X
2. Kindergartens			
3. Welfare homes	X	X	X
4. Services for low income families	X		
III. HEALTH SERVICES			
1. Health protection	X	X	X
2. Hospitals		X	X
3. Public health system		X	X
IV. CULTURE, LEISURE, SPORTS			
1. Theaters			X
2. Museums			X
3. Libraries		X	X
4. Parks	X	X	
5. Sports, leisure		X	X

Table 11A.5 (continued)
Specific Functions of Local Government Tiers in Tajikistan

Functions	Jamoats	Raion and City Khukumats	GBAR, Oblast and Dushanbe Khukumats
V. ECONOMIC SERVICES			
1. Water supply	X	X	
2. Sewage	X	X	
3. Electricity	X	X	
4. Gas	X	X	
5. Central heating	X	X	
VI. ENVIRONMENT, PUBLIC SANITATION			
1. Waste collection	X	X	
2. Waste disposal	X	X	
3. Street cleaning	X	X	
4. Cemeteries	X	X	
5. Environment protection	X	X	
VII. TRAFFIC, TRANSPORT			
1. Roads	X	X	X
2. Public lighting	X		X
3. Public transport	X	X	X
VIII. URBAN DEVELOPMENT			
1. Town planning		X	
2. Regional planning		X	X
3. Local economic development		X	X
4. Tourism	X	X	X
IX. GENERAL ADMINISTRATION			
1. Security, militia		X	X
2. Fire brigades	X	X	
3. Civil defense	X	X	
4. Justice	X	X	X
5. Civil status registration		X	X
6. Statistics			X

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