

Chapter 11



Local Government
in Tajikistan

by

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Developing New Rules in the Old Environment

Local Government in Tajikistan

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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.

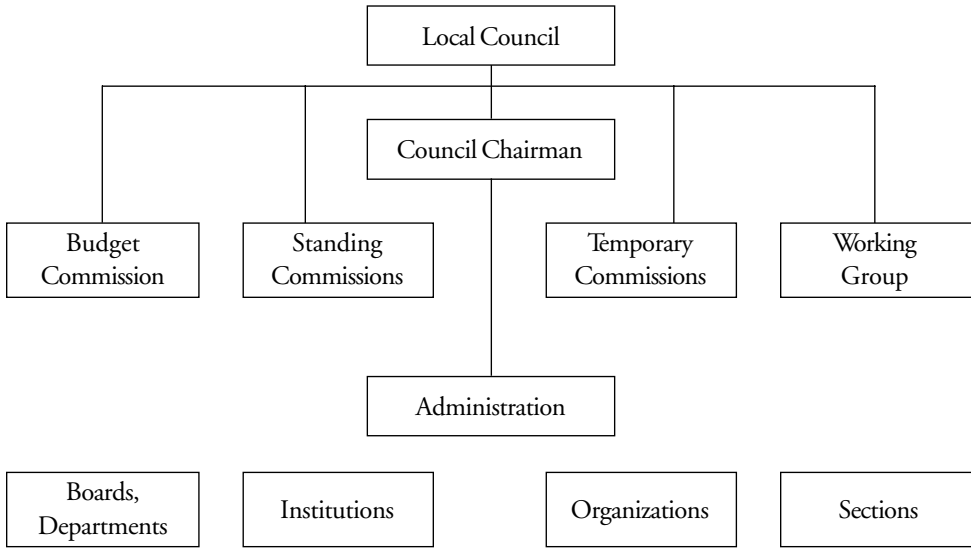
The jamoat chairman makes and signs his own decisions within his competence. Activities of a jamoat chairman may be appealed at the city or raion council or in court.

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 To'chik 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.

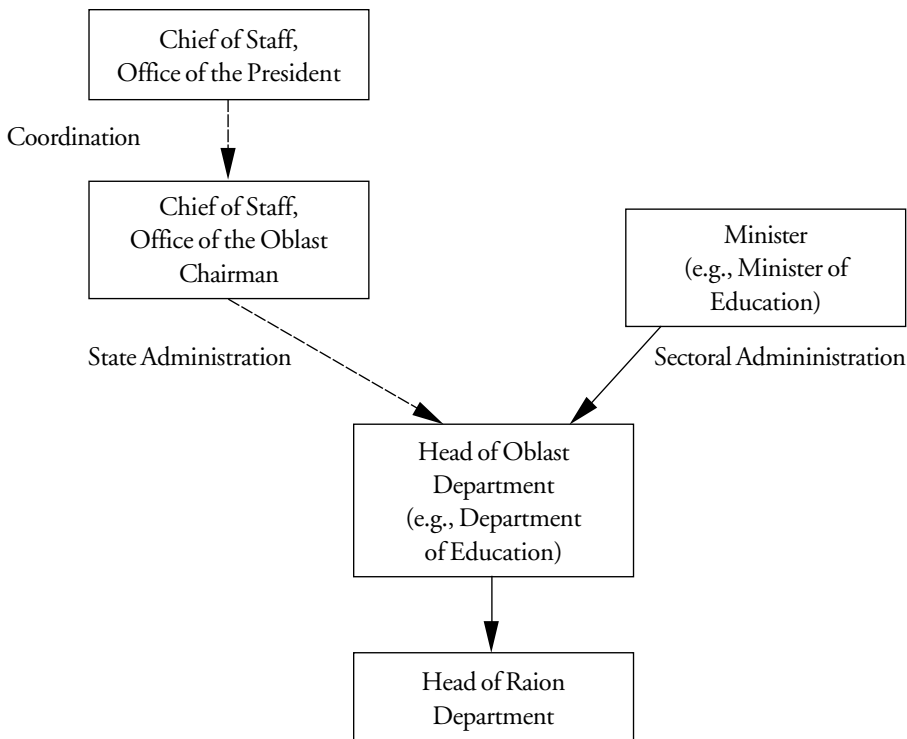
The current distribution of responsibility between the central and local governments and among different local self-governments is far from perfect. Some sectors, such as education, health care and other social services, remain completely under the control of the central government. This situation is 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

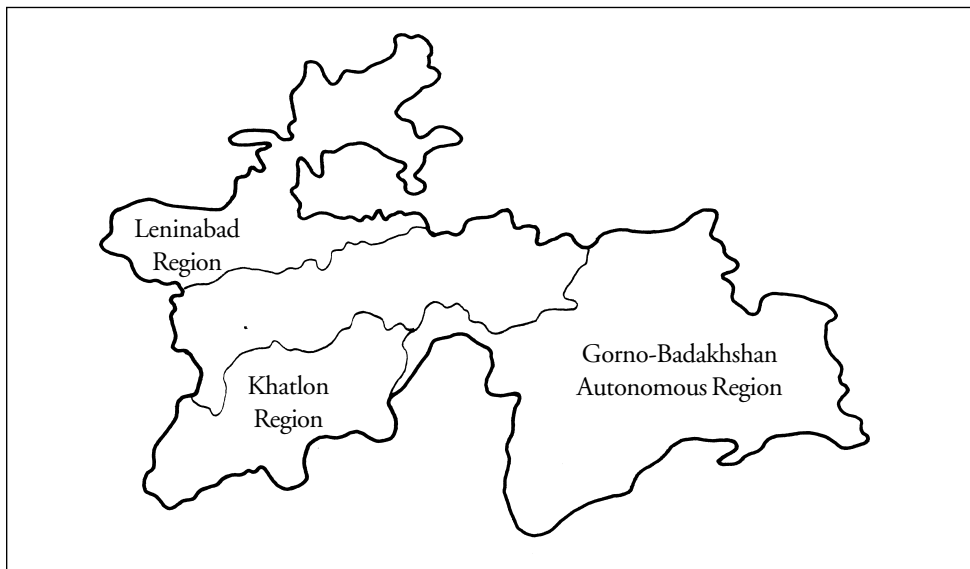
Table 11A.3
Types of Administrative-territorial Units in Tajikistan

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 dekhot)	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