“Government officials at all levels give the heads of municipalities and other municipal employees a doing and initiate unnecessary prosecutorial and other checks against those who love freedom and truth-seekers. All this, along with a small salary, creates an unhealthy environment and stimulates the brain drain from the municipal service”, it is said in an article of experts of the Institute for Development Policy (DPI), written exclusively for cabar.asia (Bishkek, Kyrgyzstan).

Every modern state is building its management system in accordance with their historical traditions, political, economic, cultural and other interests. Not least important is the experience of other states and nations. Local self-government, as one of the oldest ways to manage the system, is playing a very important role in many countries. In Kyrgyzstan, it is playing an important role, too.

Local self-governments are the first instance of power, where people turn for help, where they turn to with their problems and questions. How effectively these authorities respond to the needs of the population depends on the degree of accountability, by whom and how they are formed, and how they are connected with this population. The difference in the order of formation and the degree of accountability is a distinctive feature of local self-governments from the central authorities. If the representative power in the face of Parliament is far, and it’s hard to reach it (not to mention, bringing them to account), and the executive government is multi-level, and therefore is also far from the people, local self-governments are pretty close to people! If the executive authorities are created from the top down, and therefore are accountable to the “top” authorities, local self-governments are accountable directly to the people. They are in fact the people! Then, we start talking about such parameters as human resources, financial and economic potential, as well as the scope of the powers of these bodies.

ROLE AND PLACE OF LOCAL SELF-GOVERNMENT IN THE PUBLIC ADMINISTRATION SYSTEM

The combination of direct administration built from the top down on the basis of the hierarchical chain of command, with the administration built on the principles of self-government is a long settled fact in Kyrgyzstan.

At present, the administration system in the Kyrgyz Republic is as follows:

<table>
<thead>
<tr>
<th>Territorial level of administration</th>
<th>Governing body (representative)</th>
<th>Governing body (executive)</th>
<th>Way of formation of an executive body</th>
</tr>
</thead>
</table>
Local self-government (LSG) of Kyrgyzstan is not included in the system of state authorities. However, local self-governments are vested with certain state powers and receive the material and financial resources necessary for their implementation.

The Constitution and the law on local self-government based on the Constitution norms have established the following system of local self-governments: 1) local councils (ayil and city Keneshes) – representative bodies of local self-government; 2) aiyl okmotu, city halls – executive bodies of local self-government.

All these bodies are elected, although the order of elections is different: local keneshes are elected by the people in direct elections, while the heads of AO and Mayors are elected during indirect elections by deputies of corresponding councils.

Local councils, depending on whether they belong to the rural or urban settlements, are

<table>
<thead>
<tr>
<th>Republic</th>
<th>Jogorku Kenesh (Parliament)</th>
<th>Government</th>
<th>Approval by a representative body</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oblast (7 oblasts)</td>
<td>None</td>
<td>Authorized representative of the government</td>
<td>Appointment by Prime Minister</td>
</tr>
<tr>
<td>District (40 districts)</td>
<td>Assembly of local district kenesh deputies</td>
<td>Head of state administration of district (akim)</td>
<td>Appointment by Prime Minister with consent of the Assembly of local district kenesh deputies</td>
</tr>
<tr>
<td>1) City of republican subordinance (Bishkek and Osh); 2) City of oblast subordinance (12 cities); 3) City of district subordinance (17 cities)</td>
<td>City Council (Kenesh)</td>
<td>Mayor, head of the Mayor’s Office</td>
<td>Election of the Mayor by Kenesh on proposal made by Prime Minister or a faction (coalition of factions) of Kenesh; other employees are appointed by the Mayor (some with consent of Kenesh)</td>
</tr>
<tr>
<td>Ayil (village) aymaks (counties) – 453 aymaks</td>
<td>Ayil Kenesh (Council)</td>
<td>Head of Ayil Okmotu (AO)</td>
<td>Election of the Head of AO by Kenesh on proposal by Akim or Kenesh deputies; other employees are appointed by the Head of AO</td>
</tr>
</tbody>
</table>
elected differently. Municipal councils are elected on the basis of the proportional representation from party lists, and rural councils – on the basis of the majority system in multi-mandate districts.

Before July 6, 2012, political parties and groups of voters had the right to nominate lists of candidates for city councils. But with the entry into force of amendments to the Law “On elections of deputies of local councils” in July 2012, groups of voters were excluded from the subjects having the right to nominate their list of candidates. The law did not provide for self-nominated candidates in the city election from the very beginning. Thus, the only subject of the nomination of candidates for the municipal elections is political parties.

The number of deputies of local councils is determined by law and for the cities of Bishkek and Osh, it is 45, while for other cities and ayil districts it depends on their population (11 – 31 deputies).

The heads of the executive bodies of local self-government (head of AO and Mayor) are elected by deputies of the council, and the right to nominate candidates belongs to both the deputies (in rural Keneshes), the factions of Deputies or their coalitions (in city councils) and certain statutory public officials: for cities – the Prime Minister, and for rural municipalities - the head of the state district administration (Akim). It should be noted that since 2012, the Prime Minister has not actively used his right to nominate candidates for the position of Mayor of a city, including of Bishkek. Unlike the Prime Minister, the heads of local state administrations are actively using their right when nominating their candidates to the position of the head of AO. Observers point out that, as a rule, the candidates who are publicly supported by Akims come out victorious. This raises doubts about the accountability of the heads to the people, as they become dependent on the akims, who nominated their candidacy for the elections.

What the local self-governments do

Remembering the fact that the local self-government, an institution enshrined in the Constitution, is not included in the system of state bodies, the legislator has set for LSG a quite clear list of 23 issues of local importance – their own functions. These are mainly functions of organizing and development of life-support areas (local roads, water supply and drainage, municipal transport and lighting, the organization of the collection, removal and disposal of household waste), social and cultural services for the population (libraries, museums, institutions, sports and other leisure conditions of the population). To perform these functions, LSG create their municipal enterprises and institutions, manage other municipal property, including the land resources of the local community. In these functions, local self-governments are responsible only to their community. The central government does not interfere in the exercise of these functions, but in the event of non-performance or improper performance, it has a formal right to ensure the accountability of officials of local self-government to the community in different ways, including the suspension of the
activities of the local self-government and the introduction of direct government control over the territory in question and the dissolution of the local council. To properly control the situation, the government can use public prosecutor’s supervision and judicial protection. Other functions are assigned to government functions and may be transferred (delegated) to local self-government bodies either by law or by agreement between the state bodies and local self-government. For example, local self-governments exercise the power delegated to them by the Land Code, which enables them to dispose the lands of the State land fund and the land of settlements, even state-owned. According to the law, the delegation of state functions must be accompanied by the transfer of the corresponding volumes of material (including labor) and financial resources. In the delegated state powers, local self-governments are accountable to the authorized bodies of state power. The number of delegated functions under the law is difficult to clearly define, however, as experts note, it is very voluminous. According to different estimates, the number of laws only (not including regulations: decrees of the President of the Kyrgyz Republic, resolutions of the Government of the Kyrgyz Republic), delegating the local self-government responsibilities (functions and powers) varies from 30 to 200 and above. This is the result of delayed harmonization of other (sectoral) laws with the law on local self-government. The fact is that up until 2008, the laws on local self-government established an “open” list of issues of local significance within the jurisdiction of local self-government: the law provided some list of the main local self-government affairs, and further said that other issues were set by law. And only in 2008, the list of local affairs was “closed” by a specific and definitive list. The current Law of 2011 also keeps an “exhaustive list” of LSG functions. However, during this time, the whole array of other (sectoral) legislation has not been harmonized with this Law on local self-government, which is beneficial to many line Ministries. They allocate resources and monitor the performance, and LSGs are really working. Often, local self-governments perform the public functions at the expense of their own resources, rather than at the expense of the resources of the public law body whose functions they perform.

**What local self-governments have**

Local governments have their own budget, as well as property owned by the local community according to the right of the municipal property (municipal enterprises and institutions, including the land).

Local budgets of aiyl aimaks and cities receive: deductions from state taxes and other income, the amount of which is approved by the Parliament; revenues from the management and disposal of municipal property; land tax; property tax; Tax on special means; land rent charged for the use right for the land of the State Land Fund; some types of state duty; revenues of municipal institutions for providing paid services and works; some administrative fines and other financial penalties; transfers from the government (categorical, equalizing and stimulating grants), voluntary contributions and other revenues,
stipulated by the legislation. Local self-governments are legally entitled to dispose all these revenues at their own discretion. Exceptions are transfers from the national budget (categorical, equalizing and other grants, budgetary loans), i.e. revenues allocated by the state to fund certain expenses of the local budget, guaranteed by the government.

**LSG PROBLEMS**

Local self-government took a bumpy ride during its formation and development. The history of the formation of today’s system of local self-government can be described as a continuous and sometimes contradictory movement in search of optimal forms and models. Many solutions largely depended not so much on the social and economic situation in the country, but on the political leanings of the government. As a result, local self-government has experienced waves of unlimited political independence and almost complete nationalization. The rudiments of nationalization of LSG, such as state intervention in the process of formation of local self-government bodies and their decision-making, lack of attention to the local government financial autonomy, still take place and often serve as an obstacle to the development of genuine democracy. The intervention has both formal legal and informal nature.

Thus, at the level of law, there is the right of the Prime Minister and the head of the state district administration to intervene in the process of electing the head of the executive bodies of local self-government in towns and rural municipalities, respectively. The Prime Minister and mayor have the right to dismiss the mayor, respectively, and head of AO, in some cases without the consent of the local council. As previously mentioned, the government did not harmonize sectoral legislation with the law on local self-government during a long period (from 2008), and, thus, imposing on local self-governments a large amount of additional functions to the detriment of their own functions, which also limits the independence of local self-government. Given the requirement of the Constitution and the law on local self-government bodies’ accountability to the government on the delegated state authorities, as well as the possibility of making decisions about dismissal of Mayors and heads of ayil okmotu, experts wittingly or unwittingly come to the conclusion that local self-government lacks autonomy. There is a frequently changing legislation, amendments are often aimed at further narrowing of space for LSG. For example, during 4 years (from 2011 to 2015), the legislation on election had changed 8 times, legislation on the status of deputies of local councils had changed 6 times, and the Law on local self-government changed 15 times! In many ways, these changes in the law were dictated by narrow interests of the parliamentary factions, as an example of which was the above-mentioned law of July 6, 2012, which excluded groups of voters that are not organized into political parties from the list of entities having the right to nominate candidates for city councils. At the informal level, the above requirements or deficiencies of the legislation often
translate into an even greater domination of often highly personal interests of central government officials over the interests of local communities. Government officials at all levels give the heads of municipalities and other municipal employees a doing and initiate unnecessary prosecutorial and other checks against those who love freedom and truth-seekers. All this, along with a small salary, creates an unhealthy environment and stimulates the brain drain from the municipal service.

This is aggravated by the problem of shortage of LSG’s own budgetary resources. Today, local self-governments occupy from 15 to 20% in the consolidated budget of the country share. Only 15% of the budget goes to the solution of urgent problems of citizens linked to local issues: road maintenance, water supply, garbage collection, organization and content of kindergartens and so on. In the Kyrgyz Republic, only the national budget is growing; its growth rate is outpacing the growth of the local budgets (see Diagram 1).

Diagram 1. Dynamics of revenue growth of national and local budgets

It is worth reminding that the national budget is the budget of public authorities responsible for issues of national importance, such as national security or foreign policy, rather than of local authorities.

The evolution and growth of local budgets indicate that the quality and quantity of municipal services and the solution of local problems remain on the margins of policy management, and the lion’s share of public-state and municipal finance is concentrated in the center and does not reach the population. Indicators of 2012-2014 look a little better, but it’s not yet the time to calm down.

After the reform of inter-budgetary fiscal relations in 2007, when the financial condition of municipalities improved dramatically, the number of so-called subsidized LSGs decreased. The deterioration of the financial capacity of local self-government began in 2009. By 2011, the situation returned to the pre-reform period – almost no local taxes (there are two of them), the lion’s share of local budgets are grants from the national budget. As a result, almost 80% of the municipalities of Kyrgyzstan turned out to be subsidized, unprofitable.

The fact is that the policy of the previous generation of the Kyrgyz government was concentrated on the artificial retention of municipalities on subsidized “injections” by concentrating funds in the center – beginning with 2009, this trend becomes evident (see. Diagram 2).

Diagram 2. The trend of increasing the share of government grants in local budgets, in %

RECOMMENDED ACTIONS

Based on the above policy guidelines on reforming local self-government, we should take the following measures, which may be the basis of the strategy of decentralization and local self-government development. When planning the works required to achieve the objectives, there should be determined the conceptual issues to which the government must respond
clearly and decisively.

1. How many levels of local self-government should be there: one (rural and urban level) or two (rural and urban level + district level)?
Selecting the first option will greatly simplify the solution of the issue of delineation of functions between state authorities and local self-government. In the author’s view, the district level is too large for the local self-government. The distance to the center where one can receive services, the amount of population and other parameters directly affect the degree of self-governing principles. The representation of the population in the LSG drops significantly: if at the village level, one deputy represents about 200 people, at the district level, one deputy will represent 1,000 or more people. As a result, the interests of small groups get affected, they are simply “drown” in the interests of the other, larger groups. Other costs of too large municipalities are rising: the cost of services, the number of municipal employees, and so on. If it is so necessary to address the issues of large areas through the creation of elected bodies, these bodies cannot be separated from ayil and city keneshes. These keneshes should be represented in these elected bodies (regional Kenesh), represented by their delegates.

2. Should the mechanism of formation of executive local self-government be the same for the whole country, or we can apply a dispositive method of regulating of this issue?
The nature of local self-government lies precisely in the fact that the community itself solves most of the issues (of course, within the limits defined by law). These issues could include, among others, the choice of the way, in which the local community would form their executive bodies: by direct election or by electing the local Kenesh. If the law allowed local communities to address this issue in their charters, the State would fully confirm its intentions to develop a genuine democracy. A survey conducted in 2010 during the development of the Constitution of the Kyrgyz Republic showed that the population treats the methods for the formation of the executive body in various ways: there are those who favor direct election, and there are those who believe in the elections through councils, but without central government’s interference in this process. But there are also citizens who advocate for the appointment of mayors and heads of ayil okmotu by the central government. With such a spread of views, a great political mistake would be the establishment of a single method. For example, it is unreasonable to force the Batken region, where 90% of the population are for the elections through local councils, to follow the same way as Talas population does, where 80% are for direct elections.

3. How to strengthen the role and importance of the representative bodies of local self-government - local keneshes?
It is time to stop the destructive policy of reducing capacity and competence of local councils in favor of the interests of the executive bodies. The executive bodies of local self-
government must depend on representative bodies, not on government officials. The final
decision on the fate of the head of an executive body should be made by Kenesh, not by a
representative of the State. The representative of the State (the Prime Minister or another
official) has the right to appeal to Kenesh about the responsibility of the head of an
executive body, but does not have the right to decide on his/her appointment or dismissal. It
is also necessary to radically solve the problem regarding the status of the deputy of a local
kenesh. We cannot automatically mirror the republican system of government construction
based on the separation of powers. This is, firstly, uneconomical, and secondly, inefficient,
and moreover, it undermines the authority of keneshes. The Soviet model of “operating
corporation” is quite efficient for small communities. This issue must be resolved before the
elections of deputies of the majority of local councils, which will take place in the fall 2016.

4. Is the effective financial decentralization possible without a parallel increase in
political and administrative autonomy?
Many politicians and managers believe that in first, it is necessary to finally resolve the
question of fiscal decentralization and inter-budgetary relations, and only then to carry out
political reforms. But we must not forget that the success of 2007-2008 in improving the
profitability of local budgets were largely due to the fact that the heads of local self-
government at that time were directly elected by the population, and so they were able to
benefit from the reform of intergovernmental fiscal relations, dispose enhanced budgets for
the benefit of communities. If they were dependent on government officials, the success
would have been much smaller. It suggests the need to start a “package” comprehensive
reform.

5. How to implement the new individual approach to the sphere of delegated
government functions?
The mechanism of delegating state functions and powers is not finalized and is not
executed. The previously used “continuous” method of delegation when a large list of
functions and powers is transferred to any and all local authorities, does not take into
account the economic and human potential, other features of LSG. In addition, the fact that
the delegation is still not legally formalized, as required by current law “On local self-
government” and the Law “On the procedure of delegating to local self-governments of
individual state powers” disorganizes the system of local self-government, budget system,
distribution of accountability to the citizens between the state and local government
agencies. The delegated functions and powers are not funded by the State, since they fall of
the field of attention of government agencies during the budget development process. In
these circumstances, a legitimate and most effective method of delegation is the individual
approach, when the list of delegated functions and responsibilities is specified in the laws on
the establishment of respective administrative units (city or ayil aimak). As another option,
we can and should use the group method of delegation, when certain functions and powers
are delegated (after the talks) to a group of similar municipalities (for example, a group of cities, a group of valley ayil aimaks or a group of remote mountain ayil aymaks).

6. **How to harmonize and improve the status of the legislation on local self-government?**

Politicians and the legal community must resolve the status immediately. Issues of local self-government are the issues of organization of the power of the people and, therefore, shall be governed by the laws, which have the highest force, compared with conventional (sectoral) laws. Ideally, this law should have the status of constitutional law or the Code. This will give an opportunity to turn on the “principle of the guillotine” in the practical application of law and the emergence of conflicts of law.

7. **How to strengthen the financial capacity of local self-government?**

The mechanism of transmission to LSG bodies of financial and economic resources, in accordance with their functions and powers, has not been settled. It is necessary to strengthen their own sources of revenue - to change the list of local taxes, as well as the rate of deductions from state taxes. Even cities of regional importance, which are the economic centers of the country and provide the lion’s share of the state budget, go into the category of “subsidized” under the new Tax Code of the Kyrgyz Republic. Based on the current situation and the existing regulations, in order to further advance fiscal decentralization in the country and the establishment of financial sustainability of local self-government, it is necessary to identify and legally establish the level of their budgetary security. In the world practice, according to the European Charter of Local Self-Government, the revenue sources, accumulated in the local budgets, should cover at least 2/3 of the budgetary needs of the LSGs. In Kyrgyzstan, at the moment, this level is not more than 21-22%. To determine the level of budgetary security of local self-governments, it is necessary to develop a system of minimum social standards that will determine the cost of functions. The size of local budgets, compared to the republican budget, should be increased from 15 to 30-40%.

8. **How to stimulate the improvement of the institute of municipal property and the empowerment of local self-governments concerning the objects on the territory of the community?**

During the period from 1999 to 2009, there was a significant increase in the volume of municipal property due to the transfer from the State of a large number of objects. However, the incomplete inventory of state property, especially land, and its improper registration remain a serious problem. Incomplete inventory and registration greatly complicates the involvement of municipal property, especially such a valuable community resource as municipal land, into economic circulation and prevents the local economic development. Norms of the Land Code of the Kyrgyz Republic established that the lands of settlements are municipal property, with the exception of the lands which belong to the
State or to private persons. If the individual property rights have already been already formally registered, the State’s land has not been fully registered. State authorities themselves are not paying the necessary attention to the issue of registration of state-owned land, while LSG has no authority to require the relevant information from real estate registration bodies. Therefore, we must complete an inventory of public lands in the settlements, as well as to expand the right of self-government for information about the property, located on the territory of the corresponding municipality.

9. **How to synchronize the issues of local self-government with the administrative reform (reform of the state executive bodies)?**

Developed LSG must be balanced by strong local state authority (LSA). The weakness of these bodies (at the level of laws and law enforcement practices) compared to the territorial divisions of Ministries and departments will inevitably encourage the heads of state administrations to intervene in the activities of local self-government. Therefore, we should pay particular attention to the question of the structure, powers and role of the administrations in the system of executive power.

**Historic moment: necessary transition from uncertainty to the expansion of local self-government**

Misunderstanding by the political leadership of the nature of local self-government and the prevalence in the minds of politicians of the concept that local self-government is part of the state apparatus, the fear by the country’s leadership and political heavyweights of the loss of control on the ground, the failure by virtue of the above-mentioned fear to consider the advantages of developed local self-government for the party and state-building, the reluctance to use a creative approach to the issue of local self-government based on local circumstances, the desire to simplify and unify the system of self-government and other risks (lack of adequate finance, insufficient qualified staff and so on. n.) create an unhealthy context and recall the history of governance before 2010, when excessive state intervention in the interests of local communities bred apathy of the population, dependency, bringing the discontent to the center. As a result, the link between local leaders and the population was extremely weakened, while their dependence on the center increased. Not surprisingly, as a result of the construction of such a system of local governance, local self-governments were not able to control the situation in their communities at a time when the conflict erupted in the country. Local self-governments lost trust and credibility in the eyes of the people to such an extent that they became the first administrative victims in the regions, along with representatives of the State. The fact of distrust in LSG among the population is confirmed by the following: if after the events of the change of power in 2005 (then the leaders of rural municipalities were elected directly by the people), people dismissed from their posts from 20 to 30 heads of ayil districts (There were 489 counties at that time), in the summer of 2010, during the second change of power, more than 150 local self-
government leaders were withdrawn (they were actually appointed by the President and Akims since 2008).
Thus, the conclusion is obvious: strong local self-government with a capacity to act is not only an effective solution to issues of local importance, but also a stable system of governance in general, not to mention the effective management of conflicts in the field. Developed LSG is, at a minimum:

- the subject of expectations and aspirations of people on the ground;
- a way to “unload” the State of its non-relevant functions;
- a method of compensating the costs of inter-party struggle for power, in which the party that did not win in parliamentary elections, able to work, can compensate for the lack of its position at the center level by its work in local self-government, and thereby influence the overall public policy;
- a method to develop the economy, support the culture and social welfare at the expense of local communities.

Obviously, there are much more advantages than disadvantages. Therefore, despite the risks and the minimum cost, the State is obliged to undertake systematic and comprehensive steps to further strengthening and development of local self-government. After 2010, there is a gradual return to the idea of constructing a true self-government and decentralization of state power. The “shackles” thrown at LSG in 2008 -2010 have been significantly loosened. However, remnants of the old, rigidly centralized system remained, and it is time to change this situation. The past five years have not yet given their results. In 2011-2012, at the governmental level, there had been attempts to create a clear program of development of local self-government. However, for various reasons, especially due to the frequent change of the Government, this program has not been fully implemented. Political parties that have come to the Parliament after the October elections 2015 have no clearly defined programs on local self-government either. The program of the new Government “Stability, confidence and new opportunities”, approved by Parliament on Nov. 5, 2015, does not contain any of the conceptual provisions aimed at strengthening the system of local self-government and optimization of the relationship between the State and local self-government either.
The expert community is concerned about this attitude of the State to the problems of local self-government and asks, how long such an approach to local self-government will continue. Isn’t it time to seriously take up the expansion of the autonomy of local communities? After all, in 2011, when the law on local self-government was adopted, the then Government had recognized the fact that this law was temporary, and that it was intended to provide “stabilization” of the administration system after the events of 2010. However, the stabilization has, thank God, come, the elections of deputies of local councils
were held in 2012, and the next election is coming in 2016! Will citizens be interested in the election of local authorities, will anybody seek to work there, if everyone knows how depressed this system is today?

The period of uncertainty after the terrible events of 2010 is over, and we must actively take up the development and introduction of a new approach in the relations between local self-governments and the State. We need a new strategy of gradual and thoughtful expansion of local self-government.

**The authors of this article are experts of the Development Policy Institute (DPI).**

*Development Policy Institute is a Kyrgyz nonprofit, nongovernmental organization dedicated to reforming the state and municipal government, development of local self-government (LSG) and communities.*

*The views of the authors do not necessarily represent those of cabar.asia*

* In the picture – the flag of the city of Batken, one of the centers of local self-government in Batken oblast

---

1 “Administration system” in this article is understood as a combination of the bodies of legislative and executive authorities and the links between them. Judicial power is not considered as administration system.