

4. Regionalism and Local Self-Government 3rd edit 2.12.01

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The administrative–territorial arrangements and the establishment of genuine local self-government face the same challenges as other areas of public life in Georgia—first and foremost the absence of political will on the part of the government to tackle problems and the distrust of the population in public policy, reflected in its growing indifference and the low level of civil participation. Important reforms have been implemented in other areas of government (such as the different branches of government at the state level) but the excessively centralized system has been maintained in the same mode as that inherited from Soviet times. Moreover, the constitution adopted in 1995 failed to address the issue of the territorial arrangement of the country because of the unsettled ethno-territorial conflicts in Abkhazia and Samachablo (South Ossetia).

Besides other challenges, the status of local governments and self-governments has been complicated by frequent changes of priorities during the process of decentralization, by central government and other political actors rejecting the progress achieved, and by the choice of a relatively conservative system. Other factors also impede the development of local democracy, for instance:

1. At neither the central nor the local level has the political elite committed itself to implementing reforms in the management system, fearing (reasonably) that such reforms might affect their own authority.
2. As the state does not control the entire country, the authorities are allowing themselves to delay addressing the issue of territorial arrangement for an indefinite time.
3. Problems in the relationship between the centre and Ajaria—the only autonomy which is at present under Georgia’s jurisdiction—are seen as negative precedents.
4. There are two (often misleading) stereotypes in the relations between the ethnic majority and the minority. The majority fears that separatist movements might be encouraged in territories where minorities are concentrated. The local populace in these territories often perceives the unresolved socio-economic issues as ethnic discrimination. Thus, the example of such regions is often used to justify the argument that allowing more self-government will pose new threats to the territorial integrity of the country.
5. The majority of the people of the country are not interested in these problems. Since independence the political powers have mostly thought that advancing democracy at the local level is less pressing than foreign policy, ethnic conflicts and other issues.

The problems of Georgia’s future territorial arrangement provide a basis for increasing political confrontation inside the political elite. However, debate on the issue does not extend to a broad spectrum of society.

1. The History

Georgia does not have a tradition of local self-government. It did not see the phenomenon of independent cities that was so characteristic of Europe, except for the short period of the Tbilisi Community in the 11th and 12th centuries and the very restricted self-government that existed during the years when Georgia was included in the span of the Russian Empire, from the 19th to the beginning of the 20th centuries.

Georgia was an independent democratic republic from 1918 to 1921. In 1919, the first democratic municipal elections in the country were held and the establishment of systems of local government was launched. The forced entry into the Soviet Union in 1922 suspended this process.

Autonomous republican (Abkhazia and Ajaria), regional (South Ossetia), district and local councils existed in the Soviet Socialist Republic of Georgia (1921–1990), though they were only formally elected and did not have any responsibilities in the political life of the country. In real life the Communist Party controlled all developments. The constitutional arrangement of the Soviet system did not allow for a clear division of competences between republican, autonomous, district (*rayon*) and municipal councils: the constitution of the Soviet Socialist Republic of Georgia conferred equal rights on all councils at any level. When independence

was gained, conflicts emerged between the different levels of government.

The first attempt to change the Soviet system came with the Law on the Transitional Period, adopted on 14 November 1990. Under this new law, local self-government elections were held. Two levels of self-government were established. The President of Georgia appointed the head of the district executive authority or prefect, and the prefect controlled the work of the locally elected council (*sakrebulo*). On a lower, municipal, level, the chief of the administration (*gamgebeli*) was appointed by the prefect and approved by a local representative body. The prefect was authorized to revoke decisions of the councils at any level without a right of appeal.

After the *coup d'état* in the winter of 1991–1992, the institution of prefect, seen as an authoritarian manifestation of the government of Zviad Gamsakhurdia, was abolished. A legislative gap appeared: although the term ‘prefect’ was no longer applied, the President still appointed the heads of local administrations. No representative body was established on the local levels to exercise oversight over the administrations. The relations between local and central levels were regulated partly by laws and subsidiary legislation, but still mostly by presidential decrees.

The constitution adopted in 1995 did not address the issue of Georgia’s territorial arrangement. According to its Article 2, the issue would be considered only after the country’s territorial integrity had been restored. Meanwhile local government systems had to be regulated by organic laws.

The most essential change in the territorial arrangement of the state has been the introduction of the intermediary (regional) level in the system of governance. During 1993–1995 the country was divided into nine regions, each of them including several districts. The nine regions are Guria; Imereti; Kakheti; Kvemo Kartli; Mtskheta-Mtianeti; Racha-Lechkhumi and Kvemo Svaneti; Samegrelo and Zemo Svaneti; Samtskhe-Javaheti; and Shida Kartli. There are no representative bodies on the regional level and the administration of the regions is the responsibility of representatives of the President, usually referred to as governors by the media and the civil society. The arrangements at the levels below—those of the district and municipality—are examined in section 2 below. On the regions, see chapters 19 [**Breakaway regions**] and 20 [**Relationship between the capital and the regions**] in this book.

Several other pieces of legislation also regulate the system of self-government.

Despite these developments, a well-functioning system of self-governments has not yet been established. The legislation in force has many flaws, most frequently conflicts and discrepancies: sometimes even different articles of the same law conflict. The key flaw in the legislation, however, is its failure to define explicitly the competences and responsibility of governments at different levels. The status of public and municipal property and the relation between central and local budgets are similarly indeterminate. Neither the constitution nor the legislation defines the status of the regions. As in other spheres, the presidential decrees often contradict the constitutional or legislative provisions; presidential decrees have repeatedly been given primacy over them.

2. The Municipal and District System

According to the organic Law on Local Government and Self-Government (adopted in 1997) and amendments to it introduced in 2001, two levels of local government (and self-government) are provided for.

The first—and lower—is the municipal level—that of village, community, settlement or small town, which are governed by elected local councils, except for larger towns where the chairman of the council also acts as *gamgebeli* (head of the administration). The heads of the executive branch are elected. Municipal elections have been held twice, in 1998 and 2002.

The second level is that of the districts (*rayony*) and cities of republican subordination (cities which come directly under the republic). District councils consist of representatives from different municipalities of the particular district.; city councils are elected by the population on a majoritarian system. The *gamgebelis* (chief executives) of districts are appointed by the President from among the members of the council. The district authorities, according to the legislation, act as the local government as well as territorial branches of central government.

The self-government and local government practice that guides the capital, Tbilisi, is regulated by separate legislation. The governing body of Tbilisi is a city council elected by proportional representation.

The legislation also gives some additional authority to local governments in the mountain regions of Georgia.

The mayors of the two economically most important cities (Tbilisi and Poti, Port City) are appointed by

the President and the population basically has no control over the executives here.

There are two types of executive agency on the local level: (a) municipal agencies (for housing, municipal transport and so on); and (b) local offices of the central government (e.g., the police, health care and education departments). The executives of both types are members of the district *gamgeoba* (executive branch) and are accountable to the *gamgebeli* as an entity appointed by the President. In real life, all important agencies are controlled by the central government. The ministries do not agree senior appointments to agencies such as the district police, health care and education departments with councils or the executive heads, although by law these appointments must be agreed with the *gamgebeli*. Naturally, this often triggers major disagreements.

2.1. Oversight

The system of oversight of the organs of local self-government can be divided into three parts.

1. *Civil oversight of the elected councils.* A member of the council is required to meet voters at least once every three months and present a report on achievements not less than once a year.

2. *The elected councils' oversight of the executive authorities.* An inspection examines and records the level of revenue collection, the legitimacy of expenditures and their consistency with the local budget. The *gamgebeli* is required to present a performance report to the council at least once a year.

3. *The central government's oversight over local authorities.* The central government has valid instruments of control over local government bodies at its disposal. This control is exercised by the Prosecutor's Office, the Chamber of Control and individual ministries (Ministry of Internal Affairs, the Ministry of Finance and so on). The role of the judge system in handling disagreements and conflicts between the central and local governments is vital. The central government usually has the final word in such disputes.

Local government bodies are required to submit reports on the execution of their respective budgets to the statistical body and the Chamber of Control of Georgia.

Some public bodies have delegated certain rights to local self-governments. Where this has been done they are authorized to revoke decisions made by the local governments.

The shortcomings of the legislation are particularly felt because of the rule whereby local municipal activities can be suspended.

2.2. Financial Principles

The fiscal and financial policy of local governments was designed in a chaotic environment, without a basis in well articulated policy. At present a four-level budget system operates in Georgia: (a) the state budget; (b) consolidated budgets of the autonomous republics; (c) consolidated budgets of districts or cities holding special status; and (d) budgets of self-governments (towns, settlements and villages).

The financial independence of self-governments is limited by the frequent introduction of legislative amendments (at least twice a year). Given the inadequate transparency of laws, officials often use their own interpretations of legislative provisions.

The rules whereby the budgets of territorial units are planned, considered and approved are determined by the respective central government bodies, for instance, the central Ministry of Education will decide the municipal or regional education budget. Typically the budget process does not comply fully with the requirements of the law. Violations are so common that they usually do not provoke any reaction.

The state delegated a set of responsibilities to the district and municipal governments, but did not adjust the budget accordingly.

There has recently been talk in the political circles of Georgia about the decentralization of public services. The privatization of communal services is under way. As a rule, the owners of these organizations are their former managers or heads.

Only a limited number of local bodies are allowed to design independent development programmes. Usually the financial resources assigned to territorial units are scarce. At the same time, by using a number of legal or political levers the central government can guide local public service policy to suit its own view, even when part of such services is financed by local budgets.

The law on municipal services has not yet been approved. Every employee of local government and self-government is considered a public servant. All the requirements that apply to servants of the central government, as set by legislation, are also applicable to local government employees. This provides the central government with additional levers with which to exert direct or indirect influence on the performance of employees.

3. The Practice of Local Government

The practice of local government does not meet the requirements of the law because the legislative basis is inadequate and internally inconsistent, and it is even more disordered than public management on the national level. Thus, formal, law-based relationships are replaced by informal ‘crony’ networks.

The assessment as to whether elections at local level are free and fair is similar to the assessment of national elections (see also chapter 5 in this book).

Municipal budgets are mainly financed through shares from nationwide taxes collected (there are ten types of taxes), five local taxes and fees. Local taxes and fees do not make up even 13 per cent of the overall revenue; thus local governments are largely dependent on national taxes and transfers administered from the central budget. Such transfers are already earmarked so that municipalities are deprived of such financial independence as they could have.

The financial office of the local government body designs the draft local budget. In regions where such departments do not operate, the municipalities are requested to develop draft budgets. There is no practice of assigning grants to territorial budgets from the state budget, and the municipalities are not authorized to use investment funds without prior agreement with the President.

For the past three years public money has not been used to cover capital expenditure or domestic debt repayments; lower-level budgets receive insignificant loans from upper-level budgets. In essence no environmental protection measures are being implemented.

The local government bodies are required to submit reports on the execution of their respective budgets to the statistical body and the Chamber of Control of Georgia. Nevertheless, the central government lacks instruments of active control over the financial activities of local government bodies.

The heads of regions and municipalities compete with each other to receive more transfers from the state budget. Here the government in Ajaria must be singled out. It openly does not adhere to the legislation of Georgia and spends tax revenues collected on the territory of Ajaria according to own judgement. Once the central government is faced with actual expenditure *ex post factum*, it has no option but to approve its legitimacy.

3.1. Daily Practice

The elected councils of the municipalities have to operate under the conditions described above. Nearly all members of the councils (especially on the lower level) are unaware of their own rights and thus do not exercise them. In councils where political awareness is relatively advanced (in some large and medium-sized cities), the confrontation between the political parties guides relations with the local executive. To give a telling example, if different parties have a majority at different levels of local government, the upper level revokes, as far as it possibly can, all decisions made by the lower level even if such decisions would be to the benefit of the territorial unit in question.

Against the background of the fiscal crisis and the mismanagement of public resources, even if the municipalities are given more authority they will not be able to meet even the most basic needs of the local community. There are cases when the revenues of smaller municipal units are not enough to pay its own staff.

Regardless of the absence of instruments of active control, the government is still failing (or has no will) to establish strict control over the financial transactions of local government bodies—the spending of the local budgets themselves and the central government transfers earmarked for particular purposes. The lack of capacity to carry out independent financial audit boosts corruption and the inappropriate use of already scarce resources.

3.2. The Mentality of the Bureaucracy

The modern Georgian bureaucracy, with its composition and rules of governance, is widely considered to be the heir of the communist system. This heritage is manifested in the crony and feudal nature of relations inside the bureaucratic apparatus.

Public institutions in Georgia are characterized by qualities typical of a patrimonial society: nepotism, regionalism (tribalism), ‘clanism’ and clientelism at regional and national levels. The role of informal relations is very prominent in everyday life. Pursuant to the law, recruitment has to be administered through competitive examinations, but as a rule officials are offered posts (especially more lucrative positions) by a single order of the chief of the body or agency concerned. Corruption plays an important role in these processes; it leaves no room for transparency.

The usual instrument for solving problems is the crony relationship with senior-level officials of the central government and representatives of economic 'clans'. The officials at the lower (especially local) government levels have an extremely vague knowledge of their own rights and duties.

Two qualitatively different groups of staff can be singled out: (a) the communist group; and (b) the local entrepreneurs who emerged as a result of privatization (often carried out by illegal and corrupt means).

Local levels of management are authoritarian, and there are frequent clashes of interests. Many officials of local government bodies have a mercantile vision of their work rather than a professional one. Officials usually wait for instructions from Tbilisi, although often in the knowledge that they are required to taken independent decisions.

The poor competence of staff is also a major challenge. There is no system to provide training for the employees of local self-government bodies.

3.3. Attitudes to Local Government

Recent sociological surveys reveal that the credibility of local government has declined. This tendency is progressive: for instance, in 1996, 53 per cent of the population did not trust the local government, whereas in 1998 the percentage had increased to 67 per cent. The majority of the population is not acquainted with the system of local government or is sceptical about the prospects of having outstanding problems solved.

An example is a public opinion poll of 500 people carried out by one of the non-governmental organizations in Mtskheta, a districts of Georgia north of Tbilisi, in 2000. It showed that the population has no information on the activities of the councils: to the question 'Has anything changed since the self-government bodies were elected?', 53 per cent of the respondents answered 'No', whereas 7.9 per cent felt that their views could now be considered by the government; 70.6 per cent of respondents had never addressed local councillors to seek solutions to their problems, 95.0 per cent of respondents did not know the size of the local budget of their territorial unit, and 68.4 per cent had no idea what the available budgetary resources were spent on.

Attitudes towards the method of selection of the administration are rather interesting: 66.4 per cent of respondents favour the election of governors, whereas 15.5 per cent would prefer to have them appointed and 18.6 per cent have no preference as to whether the head of their administration is elected or appointed.

For comparison we could take the results of a 1997 nationwide public opinion poll: 90 per cent of respondents supported local government elections and only 9.1 per cent favoured direct appointments.

However, the apathy of the 1990s is tending to change; the municipal elections held on 2 June 2002 are evidence of this. These elections were notable for the high voter turnout—60.1 per cent according to assessments by independent observers, and especially high in the regions, where in some constituencies over 80–90 per cent of the population participated in the elections. This suggests that step by step people are realizing that they can make a major input into finding solutions to the challenges they face.

Representatives of the regions expressed similar opinions at seminars and meetings organized by International IDEA in the regions. A number of interesting trends stood out. Although the general public, especially those who live outside the capital, can make little impact on decision making, people still have a clear vision of the problems.

1. The population of the regions are concerned at the fact that the central government does not foresee the needs of the regions when policy is being implemented.

2. In seeking solutions to the territorial arrangement of the country, representatives of the regions believe strongly that there is a need to introduce a bicameral parliamentary system, where the upper chamber (the Senate) will comprise regional representatives.

3. Heated debates under way in the capital and regions are advancing the idea of changing the system of administrative arrangements in the direction of regionalism.

4. People see the key challenges of the country as the weakness of civil society, the increasing role of the shadow economy, repeated violations of human rights by government officials, especially by staff of the power ministries, and the all-encompassing corruption.

5. Another major threat is seen in the strengthening of local clans and their desire to legitimize the economic or political power they have gained illegally by **rigging** election results.

6. Georgian society perceives a need for uniform legislative provision over the whole country. Granting different benefits to separate regions, on the one hand, and the asymmetric distribution of power between the centre and other regions, on the other hand, might help local clans, driven by authoritarian forces, to seize power in regions that enjoyed more authority.

7. Authority must be delegated to regions or municipalities must by extending the practice of electing executive officials and by reinforcing the instruments of public oversight.

4. Conclusions

The common problems in the local government system of Georgia can be summarized as follows.

4.1. The State

Since 1991, the government has failed to design a more or less acceptable concept (let alone a system) of municipalization and decentralization. The challenges local government bodies face are apparent.

1. The regions and local self-governments cannot and do not act as genuinely autonomous bodies. The officials appointed from the centre are accountable to the **central** rather than local government.

2. The majority of central and local bureaucracies have no commitment to tangible reform because they are happy with the present situation, which they are able to shape according to their own private interests. The use of violence by local government bodies (the police, tax collection bodies and so on) is growing and is usually driven by financial motivations. Levels of criminality in local businesses and services have also increased.

3. The central government is less involved in the activities of local self-government bodies, except when they clash with the interests of influential political groups in Tbilisi or very grossly violate the law.

4. Levels of qualification and the information available to local government bodies are fairly low. Independent initiatives are fairly scarce and are seldom encouraged by the government. The new style of democratic management is relatively unknown to the heirs of the communist system.

5. The costs of public services are high and the quality is low. Such services are not accessible to the majority of the population given their low income. No independent alternative system is available from special services, agencies or companies.

6. The efficiency of local government bodies is impaired by lack of financial resources and by the requirement to transfer a large share of local tax revenues to the central budget. The monopoly of central government over the distribution of public finances or other financial resources also restricts the competence of local government bodies.

7. Given the absence of effective public oversight, the widespread corruption constrains the ability of local governments to address core social problems.

4.2. The Society

1. Society in general does not acknowledge the need to develop government decentralization and local democracy.

2. Such conditions provide a breeding-ground for populist demagogy. They also allow the central government to discredit self-governments.

3. The level of popular involvement in these processes is very low. The general public **see** the local self-governments as representatives of the central authority and not their own government.

4.3. Prospects for Development and Recommendations

1. Rapid reform is not feasible and development in local government can only be achieved step by step. This is indicated by the general popular mistrust of the political elite, which is hindering the mobilization of a broad spectrum of the society in support of radical reform.

2. The initiative towards municipalization and the establishment of self-government is observable in a number of regions and cities of Georgia. The regions are driven by an urge to achieve independence; this is true not only of opposition forces but also of local representative offices of the former ruling party, although they are less courageous during public demonstrations. Popular involvement is increasing. The development of this tendency and people's knowledge of their own rights will be decisive for the implementation of local self-government reform.

3. At this stage the improvement of the legislative basis is crucial: the laws adopted must be made compatible with each other and new legislation must be passed to support the final establishment of self-government structures.