

NATION-BUILDING IN TAJIKISTAN

Abdusattor JABBOROV

*Chairman,
Committee for Nation-Building and Local Self-government,
Parliament of the Republic of Tajikistan
(Dushanbe, Tajikistan)*

The statehood of the Tajiks is rooted in hoary antiquity. It stems from the very specific local states (Bactria, Sogdiana and Khorezm) with the state-political tradition of their own. Its principles and values were reflected and further developed in the state of the Akhamenids. The society, its civili-

zation and ideas about state administration survived under the pressure of Islam the influence of which upon society was huge. Active and complex interaction between the old and new institutions and values created a much more mature and integral social model of the state of the Samanids (875-999). It was at that time that the political culture of the Tajiks became characterized by such element as legal foundation and strengthening of the statehood. It was based on a very high level of social ties, dynamic and multi-functional urban culture and developed trade infrastructure.

The principles and ethics of labor, the institutions of social cooperation, of male and female associations and professional alliances were developing within the framework of traditional social relations.

On the whole, the pre-Soviet state administration structure included the political-legal relationships, ethical, social and moral values through which the nation expressed itself. In the course of time the Tajiks formulated stable social principles and norms, created institutions of political power and administration, and acquired sociocultural and spiritual values still preserved by the nation's genetic memory.

The communist system radically altered the course of social evolution and administration; the type of statehood changed a lot. A new type was officially formulated in 1929 in the course of national-territorial delimitation in Central Asia. The new administrative-territorial pattern completely discarded the old statehood. The middle class accepted the new values: the process was wide but barely deep-cutting. The lower strata of the population hardly recognized the process of Sovietization.

This explains why the problem of creating an independent country with a new type of state administration and its smooth functioning was one of the key problems of independent Tajikistan. During the years of Soviet power the local society transformed considerably, yet it was the traditional institutions, their principles, norms and values that played a leading and consolidating role in overcoming the domestic conflict. Today, during the transition period, they have retained their efficiency as well. In order to overcome the postwar economic, social and cultural devastation the country should acquire a qualitatively new type of state administration that will maximally mobilize the constructive and socially oriented paradigms of social and ethnic self-expression.

According to the Constitution Tajikistan is a sovereign, democratic, law-based, secular and unitary state. Arts 1-13 of the Constitution describe its legal basis: the rule of law (Art 10) and the division of power. The state is obliged to ensure and protect human rights and freedoms as well as the foundations of the country's political and economic diversity. The Constitution was enacted in 1994; in 1997 and 2003 after the referendums it received important amendments related to the system of state administration.

Under the Constitution the President is the head of state and of executive power, the latter consists of two branches: the central government and the local structures. The President acts as the guarantor of the Constitution and laws, human rights and freedoms, national independence, unity and territorial integrity, continuity and stability of power, coordinated functioning of and cooperation among state structures and observation of the international agreements signed by the republic. The president is elected for seven years by the general, equal and direct secret ballot. Any citizen of 35 years and over who speaks the state language and has been residing in the republic for no less than 10 previous years may be nominated presidential candidate. A person may not fill the post for more than two successive terms.

Legislative (elected) power is represented by a pyramid of the majlisis. The highest of them is Majlisi Oli (the parliament) that comprises two chambers: the Majlisi milli and the Majlisi namoiandagon. It is functioning according to the Constitution and the constitutional law On the Majlisi Oli of the Republic of Tajikistan. Their term is five years—between the last day of the previous parliament to the first day of the next parliament.

The Majlisi namoiandagon is elected by the general, equal and direct secret ballot; it is a permanently functioning professional structure. Any citizen over 25 with higher education can be elected deputy. Seventy-five percent of Majlisi milli is elected indirectly through secret ballot at joint meetings of people's deputies of the Gorno-Badakhshan Autonomous Region (GBAR), of its cities and districts as well as people's deputies of other regions, their cities and districts, the capital Dushanbe and its districts, cities and districts of republican subordination (the latter sit together and elect one deputy). The GBAR, other

regions, the city of Dushanbe, cities and districts of republican subordination are equally represented in Majlisi milli. The president appoints the remaining 25 percent of its members. Majlisi milli regularly meets for sittings. Any citizen over 35 with higher education can be elected or appointed Majlisi milli deputy. All former presidents become Majlisi milli deputies for life unless they decline the right.

Under the constitutional law the cabinet members, judges, law enforcement officers, the military and certain other categories may not be Majlisi milli members. Nobody may be a deputy of both chambers; a Majlisi milli member may not sit in more than two representative structures.

A Majlisi namoiandagon deputy may not sit in any other representative structure but may continue his research, creative or teaching career.

Judicial power in the republic belongs to the Constitutional Court, the Supreme Court, the Supreme Economic Court, the Military Tribunal, the GBAR Court, the courts of other regions, the city of Dushanbe, other cities and districts, the GBAR Economic Court, the economic courts of other regions and the city of Dushanbe. The judges are appointed for a ten-year term; trained lawyers between 30 and 65 years of age with the previous record of a judge not less than 5 years may be appointed judges of the Supreme Court, the Supreme Economic Court, the GBAR Court, the courts of other regions and of the city of Dushanbe. The posts of judges of city and district courts, the Military Tribunal, the GBAR Economic Court, the economic courts of other regions and the city of Dushanbe are given to people between 25 and 65 with the previous professional record of not less than 3 years.

Administrative division of the republic's territory is determined by the Constitution and the constitutional law On the Procedure of Dealing with the Issues of Administrative-Territorial Division of the Republic of Tajikistan. The republic is divided into the GBAR, other regions, the city of Dushanbe, cities, districts, settlements and villages; each of the regions, cities and districts has legislative and executive structures of power; the settlements and villages have bodies of local self-government.

The districts, cities and towns form part of the GBAR, the Khatlon and Sogd regions; some of the districts belong to the city of Dushanbe. Certain districts and cities (in the Rasht and Gissar valleys around the capital) are administered directly from the center.

Local state power has two levels: the regional and the city or district ones. The lowest level is made up of local self-government (the settlement and village jamoats that are independent and equal).

There is no local self-government in industrial cities and districts—there are councils of the makhalla formed by people's associations at their places of residence.

The Gorno-Badakhshan Autonomous Region and the city of Dushanbe, the republic's capital, have their own administrative structures. The GBAR was formed because of its special features: the natural and climatic conditions (the region is situated high up in the mountains and is far removed from the republic's center) that created a specific social and economic system; linguistic, everyday life and certain other local ethnic features. The Constitution describes the region in a special chapter and establishes that its special status is envisaged by the constitutional law On the Gorno-Badakhshan Autonomous Region.

The city of Dushanbe has mostly the same rights as the regions. As the republic's capital it enjoys a special status described by the law On the Status of the Capital of the Republic of Tajikistan.

One can describe the present administrative-territorial system as a product of history. Before the Russian revolution of 1917 Tajikistan had the same administrative division (gubernia, uyezd, and volost) as the rest of the Russian Empire of which it was a part. After the 1917 revolution the system was abolished. In the late 1920s and early 1930s, the republic, together with the rest of the Soviet Union, received a new administrative-territorial system comprising regions, territories, cities, districts, settlements and villages. The two latter levels had no self-governance and were ruled by the bodies of state power (settlement and village soviets and their executive structures). In 1994, the newly adopted Constitution provided for election of local self-governments at the settlement and village level.

Today, the district is the key element of the local structure that addresses all the major issues of local administration, economic and sociocultural development. The district is the lowest element of state power below which local self-governments (jamoats) operate.

The region is the middle administrative link that connects the republican government with the districts and cities. In practical terms, the region is responsible for the territorial administration in general as

well as all the structures, enterprises, and organizations situated in it. From this it follows that state power in Tajikistan is executed at the regional, city and district levels while local self-government belongs to the settlement and village levels.

Executive structures also represent local state power; they interact and cooperate among themselves and with other levels (regions) and represent state power across the republic.

The Majlis of the regional, city and district deputies elected for the term of five years are representative bodies. The constitutional law On the Elections to the Local Majlis of People's Deputies established the number of deputies to be elected to the regional and Dushanbe Majlis (not more than 70) and for the district and city Majlis (not more than 40). In less populated administrative units the number of deputies can be fewer.

The local Majlis must express the interests of local people and deal with the following issues: approve local budgets and their execution reports; approve long-term social and economic development programs, general plans and rules of territorial development, sizes of local taxes and fees; approve candidacies for the chairman of the region (city, district), his deputies, heads of local administration branches; discuss their reports; issue and place local loans, bonds, lotteries, etc.

The deputies of local Majlis are not professional deputies: they meet for their sessions not less than twice a year; the Majlis are headed by the chairman of the region (district, city) appointed by the President for the term of five years from among the deputies. In other words, the Majlis chairmen represent the president and also head the executive and representative bodies of power on the relevant territory.

The local executive bodies of power are headed by the GBAR chairman or heads of other regions, the city of Dushanbe, districts and cities. All chairmen have first deputies and deputies, their own administrative structures. The chairman heads all structural elements of the local executive bodies of power as well as of all other bodies, enterprises, departments and organizations located on his territory.

Under current legislation, there are three types of local bodies, enterprises, departments and organizations: based on communal property; local structural elements of the republican executive bodies; local bodies, departments, enterprises and organizations in the republican ownership.

Enterprises, institutions and organizations in communal ownership are administered by local executive structures; the chairman who signs contracts with them also appoints their heads.

The local structural elements of the republican executive bodies are described by governmental resolution No. 216 of 17 March, 1995. They include all relevant regional, district and city structures working in the field of education, health care, culture, environment, economy and external economic relations, justice, finance, agriculture, etc. subordinated to both the local chairman and the heads of corresponding ministries and agencies. The relevant local chairmen in agreement with the ministers and heads of republican agencies appoint heads of such structural elements.

The structures left outside the first and second groups comprise the third group. They belong to the republic and, therefore, their heads are appointed (or removed from their posts) by ministers and agency heads with the local chairmen's agreement. At the same time, all bodies and organizations functioning on any given territory have to obey the decisions made by local Majlis and chairmen within their jurisdiction.

Chairmen of the regions, the city of Dushanbe, cities and districts have to deal mainly with the organizational and administrative issues within their territories. The chairman convenes sessions of the local Majlis; chairs them, controls the local executive structures; supervises the management of communal property; coordinates operation of enterprises, organizations and institutions in republican ownership; regulates land relations; supervises the execution of local budget, etc. He has real power and is completely responsible for the state of affairs on his territory.

The relationships between the chairman as the head of local executive power and organizations and other structures found within the scope of his responsibility are organized in the following way: he directly heads communally owned enterprises, agencies and organizations; coordinates activities of republican organizations on his territory, controls activities of all structures on his territory in terms of land use and the use of other natural resources, environmental protection, construction, communications, trade, social-

cultural services, social protection, the rule of law, law enforcement and security, human rights and freedoms.

Communal enterprises designed to meet the social-economic needs of local people form the economic and financial basis of local administrations; the latter may also use local budgets and extra-budgetary and special purpose funds, credits and republican subventions and donations.

According to the 1994 Constitution, local self-government is operating in settlements and villages; its functioning is regulated by the law On Bodies of Self-government in Settlements and Villages. They are set up in settlements and *dekhots* and function within their territories. The jamoats are expected to promote people's rights to take part in administering social life and the state; to bring people together to address social, economic and other problems related to the local people's interests and to help bodies of state power to observe the Constitution and other laws.

The jamoat as a local self-government structure is composed of elected delegates sent by streets, makhallias and villages. They meet at least twice a year and elect chairman, deputies and secretaries for the period of five years. The chairman has a small body of public employees the number of whom is established by the chairmen of districts (cities) or by the majlisis of people's deputies of districts (cities).

The local state power and self-governments were established by the 1994 Constitution. Time has shown that they work efficiently yet their performance should be improved. First, the powers of the local majlisis and their chairmen should be clearly outlined. Second, the relations between the local elected bodies and chairmen and other local executive structures, public organizations and individuals should be envisaged by law on the comprehensive basis. Third, time has come to strengthen the economic and financial basis of the structures of local power and local self-governments. For this purpose the financial sources of local budgets should be expanded and specified. Fourth, the legal framework of the structures of local power and local self-governments should be improved; we need a law to clearly outline the scope of responsibility of the local self-government structures and to give them legal protection.

On 11 July, 2002 the President issued a resolution on setting up a work group to draft laws on local power and local self-government. The group is now working on the laws related to this sphere of state administration.