



Conceptual issues of local government reform in the Republic of Uzbekistan

KEY MESSAGE

- The issue of conceptual clarity is important for the local governance reform in Uzbekistan. The principal difference between local state administration and genuine local government is crucial for the correct design of the reform and mapping of the transformation.
- Selecting a foundational model of local governance is critical, as each model embodies distinct institutional logic and developmental pathways. Therefore, it is important to resolve this issue before developing the strategy of the reform.

INTRODUCTION

The new edition of the Constitution of the Republic of Uzbekistan fundamentally changed the system of local governance.¹ It ended the integration of the representative and executive branches of government, which, for three decades, took place in the institution of khokim.² This created a strict separation of powers at the local level. This constitutional change marked a substantial reform of our country's entire system of local government.

The "Uzbekistan 2030" strategy identified long-term goals for transforming the local governance system.³ Among these objectives

the key one is ensuring that local kengashes⁴ must become a genuine voice of the people. At the local level, the representative and executive branches of government must be functionally and organizationally separated. The territorial administration must be built to serve the interests of the population of the respective territories. Presidential Decree No. UP-28 "On measures to improve the effectiveness of the activities of local government bodies," dated 02/02/2024, encapsulates the guiding principle of the forthcoming reforms: "Strong Kengash, accountable and proactive khokim". This decree also establishes the primary directions for advancing the activities of local representative bodies of state power.⁵ Furthermore, Paragraph 3 of the decree recommends that the Senate of the Oliy Majlis, in coordination with the Cabinet of Ministers, devise a comprehensive framework for developing the activities of local representative bodies through 2030.

In alignment with these reform objectives, Senate Council Decision No. KQ-705-IV, dated April 4, 2024, established an interdepartmental commission and designated working groups to focus on specific areas within this concept.⁶ For over six months, the government has actively worked on local governance reform. The commission has since pre-

¹ Gazeta.uz. 2023. "Changes to the constitutional law." Last modified May 1, 2023. Accessed November 4, 2024.

<https://www.gazeta.uz/ru/2023/05/01/constitution-law/>

² A "khokim" refers to the head of administration in both cities and regions (provinces).

³ See goals 75,76 of the Strategy "Uzbekistan - 2030", approved by the Decree of the President of the Republic of Uzbekistan No. UP-158 dated September 11, 2023 "On the Strategy "Uzbekistan - 2030":

<https://lex.uz/en/docs/6600404>

⁴ "Local kengash" refers to local councils, which are legislative bodies at the district and city levels

⁵ Decree of the President of the Republic of Uzbekistan No. UP-28 dated 02.02.2024 "On measures to improve the efficiency of local government bodies.":

<https://lex.uz/docs/6789355>

⁶ Resolution of the Kengash of the Senate of the Oliy Majlis of the Republic of Uzbekistan No. PK-705-IV dated 04.04.2024 "On the development of a concept for the development of the activities of representative bodies of local government in Uzbekistan until 2030.":

<https://lex.uz/ru/docs/6888075>.

pared a draft concept and a preliminary road map to guide the impending changes. Based on the draft, recently a new law was enacted, which amended existing legislation, aligning local public authority structures with the requirements of the revised constitution. Even more extensive and transformative changes in this sector are anticipated in the coming phases.

THE ISSUE OF CONCEPTUAL CLARITY

Recognizing the progress made thus far, it is crucial to emphasize the scientific validity in the organizational and legal decisions being implemented within the framework of local governance reform. Conceptual clarity in the reform's foundational issues and a scientifically validated approach to its overarching concept and program are essential for the reform's success and serve as the best safeguard against unforeseen risks.

To begin, it is necessary to define the subject of the reform under discussion. In post-Soviet literature, *local governance* is often simplistically characterized as state administration at the local level conducted by appointed representatives of the central government, while *local self-government* is seen as the activity of bodies elected by the population of the respective territory.⁷ However, we propose a more nuanced definition: local governance should be understood as a system of public administration at the local level, integrating both localized state administration and local self-governance.⁸ This approach allows us to distinguish local self-government as a distinct constitutional and legal institution, while also situating it within a unitary state framework where it operates in connection with, rather than in isolation from, state administration at the local level.

In setting objectives for local government reform, drawing on international experience and crafting reform proposals, it is essential to recognize the fundamentally different natures and public purposes of local state

administration and local self-government in a modern state.⁹

Local state administration refers to administration conducted by the state at the local level. Its primary function is rooted in the exercise of state authority. The purpose of local state administration is to implement a unified state policy across designated territories. This approach is essential because, firstly, it is objectively impractical to manage the entire nation effectively from a central authority¹⁰, and secondly, a unified state policy is more successful when adapted to the unique conditions of each locality.

In contrast, local self-government embodies citizens' right to self-government and has a non-state character. Its essence lies in the autonomy of local or regional communities, which is widely recognized as a constitutional value and an essential feature of modern democracy¹¹. The institution of local self-government seeks to safeguard the interests of local communities and their constitutional right to independent development within the broader public-legal framework of a unitary state. Local self-government, therefore, represents a distinct form of public authority within a democratic state. This type of public authority is commonly referred to as municipal authority.

Municipal authority exists only to the extent that the state recognizes the autonomy of local communities, defining its scope through the constitution and legal statutes. However, this does not necessarily imply that the authority of local communities is derived from the state. On the contrary, the modern democratic state acknowledges the natural right of local communities to relatively autonomous decision-making on local matters, thereby expanding civil society's sphere of freedom and setting reasonable limits on state intervention in citizens' private lives. This idea

⁷ See, for example, E. S. Khozikova, "Modern Approaches to Local Government and Self-Government in Foreign Countries," *Law and Right*, no. 9 (2018): 48–49.

⁸ A. V. Langinen, "On the Relationship between the Concepts of 'Local Government', 'Local Self-Government', and 'Municipal Government'," *Ars Administrandi*, no. 1 (2009): 113–14.

⁹ A.P. Melnikov, "On the Relationship between the Concepts of 'Local Government' and 'Local Self-Government,'" *BSU Bulletin*, 2012, 82; E. S. Khozikova, "Modern Approaches to Local Government and Self-Government in Foreign Countries," 48–49; A. V. Langinen, "On the Relationship between the Concepts of 'Local Government', 'Local Self-Government', and 'Municipal Government,'" *Ars Administrandi*, No. 1 (2009): 113.

¹⁰ Roland Drago, *Administrative Science*, translation by V.L. Entin (Moscow: Progress, 1982), 133.

¹¹ Stephen Bailey and Mark Elliot, "Taking Local Government Seriously: Democracy, Autonomy and the Constitution," *The Cambridge Law Journal*, 2009, 437–39.

is notably embodied in the European Charter of Local Self-Government of 1985¹². Thus, local self-government, by complementing and broadening civil liberties, serves as a “safety cushion” between citizens and state power. This structure positions local self-government as a cornerstone of democratic implementation and a vital component of contemporary democracy¹³. At the same time, it is important to keep in mind that local self-government should not be viewed as a manifestation of the people’s rule, as popular sovereignty resides with the people as a whole and cannot be attributed to the population of a single territorial unit.

THE DELINEATION OF AUTHORITY

With these conceptual clarifications in place, the objectives of the reform can now be more precisely articulated. When we set the goal of transforming local Kengashes into “the real voice of the people”, we must ask: are we aiming to convert local representative bodies of state power into bodies of local *self-government*, or is the objective simply to enhance self-government elements within them while maintaining their status as local state institutions? As highlighted above, the answer to this question fundamentally impacts the approach to reform.

If the reform envisions transforming local Kengashes into bodies of local self-government, they will no longer retain their “state” nature. In this case, they would cease to function as “bodies of state power” and would instead become representative bodies of local and regional communities. This shift would position them similarly to today’s *mahallas* but on a broader territorial scale.¹⁴ Under this model, local Kengashes would focus on addressing issues of local significance in the interest of the local population, rather than implementing national policies in specific territories. For example, they could not be predominantly tasked with executing state policies within their jurisdiction. It is essential to recognize that in many

foreign systems, local representative bodies reflect this model of local self-government. Local councils in countries such as the United Kingdom, the United States, France, and throughout the European Union primarily operate as bodies of local self-government rather than as state administrative bodies.¹⁵

While local self-government bodies may perform certain state administrative functions delegated by the central government, state administration does not form the core of their mandate. An alternative approach could involve preserving the state nature of local councils while expanding self-governance elements within their functions. In this model, local Kengashes would continue to bear responsibility for executing national tasks and implementing central government decisions within their jurisdictions, but with a stronger focus on local specifics, as well as the needs and preferences of the local population.

Under this approach, the local Kengash would not function as a body of local self-government primarily dedicated to advancing local autonomy. Instead, it would serve as a conduit, integrating local interests into the broader framework of state policymaking. The primary aim of the reform, therefore, would be to develop mechanisms for assessing local needs and ensuring that these needs are adequately reflected in the implementation of state policies at the local level. However, in this scenario, the local Kengash would remain an administrative tool for addressing issues of state administration rather than achieving the high degree of local autonomy typically associated with local self-government in modern democracies. This approach would also necessitate setting aside much of the foreign experience in local self-government, as international models generally represent a fundamentally different approach to managing public affairs at the local level.

The separation of powers at the local level creates new opportunities for reform but also introduces complex conceptual challenges for policymakers. Under the previous system, where the *khokim* served as the head of the local Kengash, the notion of the local Kengash losing its state authority and transitioning into a body of local self-government was not even considered. However, recent changes raise questions regarding the future

¹² Council of Europe. “European Charter for Local Self-Government.” Last modified 1985; <https://rm.coe.int/european-charter-for-local-self-government-english-version-pdf-a6-59-p/16807198a3>.

¹³ Radoslaw Kaminski, “The State and Local Self-Government,” *Polish Political Science Yearbook*, 2019, 545.

¹⁴ Mahalla refers to genuine local self-government bodies at the bottom level of administrative division in Uzbekistan.

¹⁵ Angel-Manuel Moreno, ed., *Local Government in the Member States of the European Union: A Comparative Legal Perspective* (Madrid: INAP, 2012).

roles and transformations of local representative and executive bodies.

It is also important to recognize that the evolution of these bodies does not have to follow a uniform path. Comparative analysis of international models of local governance suggests a possible future divergence: the local Kengash could gradually evolve into an institution of local self-government, while the khokim might solidify its role as a state administrative authority at the local level.

THE MODELS OF LOCAL GOVERNANCE

In the field of comparative constitutional law, three primary models of local government (or self-government) are commonly distinguished.¹⁶ **The Anglo-Saxon model**, for instance, features autonomous local governments that operate within the boundaries of legally defined competencies, without direct administrative oversight from the central government. A distinctive characteristic of this model is the lack of hierarchy within local governance; representative bodies of local self-government are not subordinate to those at higher territorial levels. Instead, state oversight of local governments is maintained through legislative and regulatory frameworks, along with judicial review. Thus, the Anglo-Saxon model is characterized by a system of purely local self-government, with no state administration at the local level.¹⁷

The continental (French) model is characterized by local government bodies operating under the administrative oversight of a central authority representative (known as the prefect)¹⁸. This model combines centralized administration at the local level with elements of local self-government. In France, the prefect serves as the state's authorized representative within a given territory, coordinating the activities of territorial administrative bodies and overseeing the legality of local government actions. Historically, the prefect's oversight function was actually administrative

tutelage. However, following decentralization reforms in the 1980s and subsequent years, this control has been limited to the right to challenge unlawful local government decisions before the State Council.

The continental model also traditionally permits hierarchical subordination among local government bodies at different territorial levels. Since 2003, however, the French Constitution has prohibited the subordination of one local government to another, further protecting local autonomy. Consequently, it can be observed that, in terms of safeguarding local community autonomy, the Anglo-Saxon and continental models have shown convergence in recent years.

The Soviet model, currently in use only within socialist countries such as China, Vietnam, Cuba, and North Korea, but still influential in some post-Soviet states, is characterized by the complete subordination of lower councils to higher ones and the accountability of all government bodies to these councils – effectively rejecting the principle of separation of powers. This model mandates the strict implementation of central government decisions at the local level.¹⁹ In addition to the primary models, the Iberian and Scandinavian models of local government are also recognized in the literature.²⁰ It is important to note that these are conceptual models; state-building practice often produces hybrid systems. However, blending features of different models requires careful consideration and a strong scientific foundation.

Until recently, Uzbekistan's local governance system displayed characteristics largely aligned with the Soviet model. While some departures from democratic centralism and the sovereignty of Soviets occurred, the recent amendments to the Constitution and the updated Law "On Local Government Authority" have introduced a division of powers at the local level, signaling a potential shift away from the Soviet framework. Nevertheless, the question of which conceptual model will underpin the reform remains unresolved.

¹⁶ V.E. Chirkin, Yu.A. Yudin, A.I. Kovler *Comparative Constitutional Law* (Moscow: Manuscript, 1996), 676.

¹⁷ Chris Himsworth, "Local Government in the United Kingdom," in *Local Government in the Member States of the European Union: A Comparative Legal Perspective* (Madrid: INAP, 2012).

¹⁸ Robert Hertzog, "Local Government in France," in *Local Government in the Member States of the European Union: A Comparative Legal Perspective* (Madrid: INAP, 2012).

A WAY FORWARD

¹⁹ V.E. Chirkin, Yu.A. Yudin, A.I. Kovler, *Comparative Constitutional Law*, 678–79.

²⁰ A.P. Melnikov, "On the issue of the relationship between the concepts of 'local government' and 'local self-government'," 85.

Focusing on the core conceptual challenges of the reform, the *Uzbekistan 2030 Strategy* calls for strengthening self-governance principles within the activities of local Kengashes. However, a critical question arises: should these bodies be developed into autonomous municipal entities, or should they retain their status as state authorities? This is a fundamentally important question that the reform concept must address directly.

In this context, it is essential to consider that structuring local representative power in a strictly vertical hierarchy – such as district Kengash, regional Kengash, and Senate—would essentially negate the principle of self-governance. Such a rigid structure may exceed even the organizational framework of the continental model and aligns more closely with the Soviet model, which places a high value on centralized authority. Thus, the reform must carefully navigate these structural choices to promote genuine local self-governance.

It is important to note that strengthening self-governance within the councils, as outlined by the strategy, inherently involves enhancing their public autonomy. This implies that a strict hierarchical structure – characterized by subordination or appeals to higher bodies – is unsuitable. Instead, the scope of authority for representative bodies at various levels of local government should be clearly defined by law, with their rights safeguarded through administrative justice mechanisms.

If the Kengashes retain their state authority, a hierarchical structure would be appropriate, but only insofar as it pertains to the implementation of national policies. However, adherence to self-governance principles still necessitates recognition of the autonomy of local representative bodies in addressing local issues independently.

Accordingly, the role of the khokim within the new system must be clearly defined: will the khokim serve as an elected official of local government, akin to a mayor in the UK or the US, or should they instead assume the role of a central government representative at the local level, similar to a French prefect? In the latter scenario, while self-governance principles are strengthened within Kengash activities, the khokim's role would emphasize centralized state administration to maintain institutional balance. This configuration would prevent increased accountability of khokims to Kengashes; a “khokim-prefect” would answer to the central government,

while only municipal executive bodies would remain accountable to the local Kengash. Alternatively, khokims might assume additional responsibilities in overseeing and even supervising Kengash activities, similar to the role of the prefect in France prior to the 1982 reforms. Khokims would also address challenges that local representative bodies may face when interacting with territorial offices of central administrative agencies.

If the khokim's role aligns with the continental model, granting Kengashes the right to appeal to national administrative agencies, as some experts propose, may be unnecessary. Instead, the khokim, as the central government's local representative, would handle these matters. Conversely, it is important to note that municipal authorities have the right to challenge unlawful decisions and actions of state authorities in court, a feature that is particularly characteristic of the Anglo-Saxon model. The right to legally challenge unlawful actions of state bodies is codified in Article 11 of the 1985 European Charter of Local Self-Government.²¹ The right to administrative review is thus an essential aspect of self-government.

Additionally, it may be worthwhile to differentiate the khokim's status across various levels of local government. For instance, the role of the khokim in regions and in Tashkent could follow the prefect model, while the district-level khokim might adopt a mayoral model. In this arrangement, a “khokim-mayor” would function as a municipal official accountable to the local Kengash, as envisioned by the reform's developers, while a “khokim-prefect” would remain a central government representative overseeing the local self-governance framework within their jurisdiction.

In conclusion, establishing a clear conceptual framework is essential before formulating a local government reform strategy. Selecting a foundational model is critical, as each model embodies distinct institutional logic and developmental pathways. Carelessly blending elements from different models risks creating an unworkable hybrid that could lead to a crisis in local governance or, at best, fail to achieve the intended outcomes.

²¹ Council of Europe. "European Charter for Local Self-Government." Last modified 1985; <https://rm.coe.int/european-charter-for-local-self-government-english-version-pdf-a6-59-p/16807198a3>.

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DISCLAIMER

The findings, interpretations, views, conclusions, and recommendations of the study, as contained in this publication, reflect the authors' views and do not necessarily reflect the official opinion of WIUT or CPRO.

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