

Indian Journal of Modern Research and Reviews

This Journal is a member of the 'Committee on Publication Ethics'

Online ISSN: 2584-184X



Review Article

Methods of Organization and Activity of Local Self-Government

Olimzoda D.A.

Abstract:

The most important goal of the state policy of Tajikistan is to maintain the fundamentals of the constitutional system, to establish a democratic, law-based, secular and unified state, the essence of which is the protection of the rights and freedoms of people and citizens. The method of organizing local self-government was greatly developed during the period of independence. Townships and villages are administrative units within the territory of which direct or indirect management of self-governing bodies of towns and villages is carried out. The method of organization and activity of these bodies is determined by the laws of the republic. This standard means that local self-government is the public authority of a certain territory, which carries out its activities independently. Local self-government reflects historical and other local traditions. This is reflected in the features of local self-government organization in areas that differ in terms of historical, cultural and other local practices.

Keywords: *method, organization, activity, law, constitution, state, system, problem, freedom, international community, modern times, free choice, guarantee, local self-government*

Introduction:

The methods of law are spoken of and called legal ideas and foundations arising from the elements of equality, freedom and justice and expressing the essence of law. Equality, freedom and justice are the fundamental methods of law and are embodied in the most important legal acts. As the central ideas of natural law, they are contained primarily in international legal acts (Declaration of Human Rights, etc.), and then specified in the laws of individual States. Thus, the Constitution of Tajikistan has fixed the basic norms of equality, justice and human freedom, which are enshrined in existing laws [9,129]. Thus, equality, freedom and justice are the main methods of law and are reflected in other legal methods, including in the organization and activities of local governments. The way of organizing local self-government developed greatly during the period of independence. Settlements and villages are administrative divisions on the territory of which the self-government bodies of settlements and villages are directly or indirectly controlled. The way of organization and functioning of these bodies is determined by the laws of the Republic. Local self-government is the local public authority of a single administrative unit, understood based on self-organization and self-organization, with extensive or limited administrative autonomy, which is not included in the system of state power [10,158]. This norm has such content local self-government is the public authority of a certain territory, which independently carries out its activities. Local government reflects historical and other local traditions. This indicates the peculiarities of the organization of local self-government in places that differ in historical, cultural traditions and other local procedures. Local self-government ensures the independent and responsible activity of the local Union of People to resolve issues of local importance, dispose of local property and protect it in accordance with the regulatory legal acts of the Republic of Tajikistan. Local self-government, through its representative bodies, bodies of territorial public self-government, as well as

Article History

- ISSN: 2584-184X
- Received: 30 Dec 2023
- Accepted: 26 Jan 2024
- Published: 08 Feb 2024
- MRR:2(2) Feb. 2024:19-24
- ©2024, All Rights Reserved
- Peer Review Process: Yes
- Plagiarism Checked: Yes

Authors Details

Olimzoda D.A.

Candidate of Legal Sciences, Associate Professor of the Department of Theory and State of Law of the Academy of Public Administration under the President of the Republic of Tajikistan

Corresponding Author

Olimzoda D.A.

Candidate of Legal Sciences, Associate Professor of the Department of Theory and State of Law of the Academy of Public Administration under the President of the Republic of Tajikistan

Thus, it should be noted that the essence of local self-government lies in the fact that the citizen's right is considered as a source of power, he makes the decision himself, for solving everyday issues he himself responds to its consequences[6,100]. The organization and activities of local self-government are regulated not only on the basis of the Constitution, but also on the basis of acts recognized by the international State and scientific doctrines [4,392]. The European Charter has established that local self-government should be enshrined in the legislation and even in the Constitution of each country^[2]. The organization and activity of local self-government in the Republic of Tajikistan, since the end of the twentieth century, has been developing and developing to the present time. The methods of local self-government are the foundations and ideas of the leadership of local self-government, which, in accordance with their nature, are fixed in the normative legal acts of Tajikistan, on the basis of which the system of organizing the activities of the population and the bodies that make them up is established. The history of constitutional methods of local self-government is relevant for the analysis of modern activities of local authorities, and therefore it is important to determine the real level of formation and effectiveness of the constitutional concept of local self-government at the present stage of local government reform. Methods are the idea of revealing the essence of local government. The methods of local self-government are based on the centuries-old activities of local government institutions in different countries. The methods are systematic in nature, which are interrelated and interdependent. This means that one or another institution of local self-government must comply with all methods of local self-government, otherwise the local people's body will not be able to properly perform its work there. They have constitutional and legislative content and are established at the level of the Constitution and current laws. The whole system of methods is divided into two groups: peculiar democratic methods (having the character of any democratic form of government) and special methods of local self-government (reflecting the peculiarities of self-government). General methods of local self-government are divided mainly into legal, territorial, organizational and economic types [5,22] and represent a single basis for the creation and authorization of local self-government throughout the state; determinants of the essence, characteristic features and distinctive features of local self-government; evaluators of the current local self-governing system; ensuring the right of the population to resolve issues of local importance directly and under your own responsibility.

Of course, today there is no need to fully list the methods at the legislative level due to the lack of technical capabilities and not consider the methods as criteria [3,16]. But it is important to take them into account when regulating relations, developing draft laws and other regulatory legal acts. In accordance with article 5 of the Law of the Republic of Tajikistan "On Self-government Bodies of settlements and villages", the activities of self-

government bodies of settlements and villages are based on the following methods:

- legitimacy and social justice;
- protection of human and civil rights and freedoms;
- democracy, openness and recognition of public opinion;
- autonomy, self-government and responsibility in solving local issues;
- accountability to the public;
- participation of citizens in local government;
- the ratio of local and national interests;
- collegiality of the jamoat's activities.

In the legislative practice of modern global local self-government, such general methods of organizing and operating local self-government are defined as the independence of the population in organizing and operating their government, the diversity of local self-government and the correspondence of financial sources to the volume of delegated state powers. Although the current legislation does not formulate methods of organizing and operating local self-government on the basis of these methods, but within the framework of other norms, norms and methods are provided. The method of legality and social justice plays an important role in the activities of self-government bodies of towns and villages. Legality is used in several senses: as a routine of socio-political life, as a steady observance of laws and legal acts, as the basis for the organization and activity of self-government bodies, as the norm for the creation and activity of public associations. I must say that the method of legality is an important method of law. As a method of law, legality is the opinion and driving basis of law and becomes specific in various legal fields. In all areas of Tajik law, legality has peculiar forms of expression. As a legal method, legitimacy is the basis for the organization and activities of State bodies, self-government bodies, officials and public associations. At all stages of government activity – the creation of law, the nature of law, law enforcement agencies, obvious legality is manifested [9,132]. Legality is the observance of legislation in which laws and regulatory legal acts are constantly observed and enforced by all state, public organizations, legal entities of any form of ownership, officials and citizens, the rights of the population and other subjects of local self-government. Legality is necessary not only in the field of law enforcement, but also in the field of legislation. This means that regulatory legal acts: legal acts of state bodies and acts of local self-government should not contradict the laws. The legitimacy method also means compliance with judicial decisions and monitoring compliance with local government legislation. The role of the court in ensuring the rule of law in the local government system is increasing. The courts have the right to independently decide on the cancellation (or suspension) of the decision of the relevant bodies and officials of local self-government when issuing acts contrary to the Constitution and

laws. Constitutional legality, which is ensured by the Constitutional Court of the Republic of Tajikistan, plays a special role in the activities of local self-government. A way to protect human and civil rights and freedoms. In accordance with the Constitution, the State has undertaken to recognize, respect and protect human and civil rights and freedoms. Human and civil rights and freedoms are protected by the Constitution, the laws of the Republic and international legal acts recognized by Tajikistan. In this regard, the protection of rights and freedoms and the fulfillment of tasks require the interaction of the state and the individual. Currently, a number of people exercise their rights and freedoms in accordance with the organization of public associations and participation in their activities. Through participation in the activities of local governments, a person contributes to the management of local life. It should be noted that criminal legislation is designed to prevent a citizen from exercising his electoral rights or the right to participate in a referendum, as well as to impede the activities of election commissions or referendum commissions, as well as for falsification of election documents, referendum documents, deliberate incorrect determination of election and referendum results, for violation of secret ballot committed by a member of the election commission, initiative groups or the referendum commission. Various liability measures are provided for (Articles 150 and 151 of the Criminal Code of the Republic of Tatarstan)^[1]. In accordance with the legislation of the country, a citizen has the opportunity to defend his rights by contacting higher state bodies that violated his rights, or to the court. Criminal legislation imposes criminal liability for violation of laws On citizens' appeals in the form of illegal refusal to consider their appeals, violation without good reason of the deadline for consideration of their applications and complaints, adoption of an unreasonable and contrary to law decision, as well as violation of laws on citizens' appeals, which caused serious damage to the rights and legally protected interests of citizens, society or the state. The role of the general courts, economic courts and the Constitutional Court of the Republic is great in the protection of human rights and freedoms. The Constitution authorizes the judiciary to protect the rights and freedoms of man and citizen, the interests of the State, organizations and institutions, legality and justice. The Constitutional Law "On Courts of the Republic of Tajikistan" is considered one of the first tasks of the court in the republic - the protection of human and civil rights and freedoms. In accordance with article 1 of the Constitutional Law "On the Constitutional Court of the Republic of Tajikistan", the Constitutional Court was established in order to ensure the supremacy of the norms of the Constitution and its direct effect on the territory of the Republic, to protect the Constitution, human and civil rights and freedoms. The protection of socio-economic, political and other human and civil rights and freedoms in accordance with the Constitutional law "On the Prosecutor's Office of the Republic of Tajikistan" is established

as one of the functions of the Prosecutor's office. A person may also apply for the protection of his rights and freedoms to non-judicial bodies, officials, public associations and the press. In order to protect rights and freedoms in the practice of States, the creation of a State-public institution for the protection of human rights has been established. One of these institutions is the Commissioner for Human Rights (Ombudsman). The Law "On the Commissioner for Human Rights in the Republic of Tajikistan" dated March 20, 2008 determined that the Commissioner for Human Rights in the exercise of his powers is independent and is not accountable to any State authorities, self-government bodies of towns and villages (Jamoat) and officials. The activity of the Commissioner for Human Rights complements the existing means of protecting human and civil rights and freedoms, does not cancel or change the competence of State bodies restoring violated rights and freedoms (article 3). This law was developed in accordance with the requirements of the Paris Methods (principles), which define the patterns inherent in the commissioner. The main functions of the Commissioner for Human Rights are to promote respect for human and civil rights and freedoms; restoration of violated human and civil rights and freedoms; improvement of legislation of the Republic of Tajikistan on human and civil rights and freedoms; raising awareness of citizens about human and civil rights and freedoms, forms and means of its protection; cooperation of state authorities to protect human and civil rights and freedoms; development and coordination of international cooperation in the field of human and civil rights and freedoms. The Commissioner for Human Rights, upon receiving information about massive and serious violations of human and civil rights and freedoms, or in cases of special social significance of these actions or related to the need to protect the interests of persons unable to independently use means to protect their rights, has the right to conduct inspections on his own initiative within his competence. A person, his rights and freedoms are the highest value, their observance and protection are the responsibility of the state and local self-government. The implementation of this method is ensured in the course of the activities of local governments to resolve issues of local importance. In such areas of local life as healthcare, education, housing and communal services, land use, trade, household appliances, transport and other types of services to the population, the basic socio-economic rights and freedoms of citizens are realized. State bodies and local self-government are responsible for providing the necessary conditions for the realization of personal and political rights and freedoms of citizens at the local level, facilitating elections and other mass campaigns of the population (voting of the population). One of the main methods is democracy, openness and recognition of public opinion in the organization and activities of local government.

During the analysis of the methods of local self-government, the main features of the method of democracy were considered to some extent. The main source of this method stems from the nature of the State and its social essence.

The nature of local self-governing democracy as an independent activity is expressed in:

- reflection of the democratic nature and social essence of local self-government;
- recognition of local self-government in legislation as one of the basic human and civil rights;
- implementation of local self-government on the basis of the law and regulatory legal acts of the Republic of Tajikistan;
- equality of citizens of Tajikistan in the exercise of their rights to local self-government;
- creation of uniform conditions for the organization and activities of local self-government;
- establishment of unified social and legal guarantees in local government;
- other rights and freedoms necessary for the implementation of independent activities of local self-government.

Disclosure of local government. The use of the method of publicity in local government means the openness of the activities of its subjects and the systematic informing of the population about its activities. Local self-government bodies and their officials are obliged to provide everyone with the opportunity to familiarize themselves with documents and materials directly related to human and civil rights and freedoms, as well as the opportunity for citizens to receive information about the activities of local self-government bodies, unless otherwise provided by law. The use of the glasnost method in local government may be limited. This is due to the characteristics of this or that information. For example, in the border regions, in closed administrative-territorial structures, in accordance with the legislation, restrictions on the territory are established. The consistent implementation of the glasnost method creates the necessary conditions for citizens to participate in monitoring the work of local governments and in resolving issues of local importance. The method of responsibility of local self-government bodies and officials. Every government agency is responsible to people for its actions. But local governments are accountable not only to people, but also to the state. The method of autonomy of the population in solving problems of local importance. The way in which the population is independent in the activities of local self-government is one of its key forms, since the organization of local self-government is a people's power and is carried out within the limits established by law, but the state has no right to interfere in the affairs of local self-government. Interference in solving the problems of local government is unacceptable. The population independently establishes the structure of local government: independence in the management of communal

property, independence in solving financial issues (they independently adopt the local budget and, consequently, set local taxes). As an exception, in well-defined cases, the State may intervene in local affairs, but only if this is provided for by law. The method of independence of the population in solving local issues is associated with the consolidation in legislation of a special body of the population as a collective subject of local self-government, which has the greatest authority to resolve issues of local importance in a timely and complete manner. In strengthening this body, the phrases "consent of the population", "taking into account the opinion of the population", which are still used within the framework of the territorial organization of local self-government for implementation in solving other issues of local importance, play an important role. The legislation has fully established the forms of direct expression of the will of the population. Including: local referendum; local government elections; polls; citizens' meetings; Civic Initiative, etc. It is important to note that the country's legislation does not provide for some of them. The responsibility of local government bodies and officials to the population, which arises as a result of a decrease in trust, requires improvement. The legislation should provide for mandatory grounds for this type of liability.

The independence of local governments consists of four components: 1) organizational independence; 2) independence of the population (local community) in determining the structure of local government; 3) independent resolution of local issues by the population; 4) economic independence. One of the main components of the independence of local governments is the independent resolution of issues of local importance. In the process of providing this method, a number of problems may arise: interference of state bodies in the activities of local self-government bodies; delegation of officials of state bodies with the right to cancel acts of local self-government bodies and not only in case of violation of the law by a local self-government body, but also if an official considers the activities of self-government bodies ineffective. State support for local self-government is one of the main conditions for ensuring the independence of local self-government in the Republic of Tajikistan. Things like D.M. Mulloev notes: "the experience of Russian and world statehood shows that the functioning of the system of state power and management will be effective if it is based on a viable structure of local self-government[7,255]. In general, the content of state support for local self-government is defined as the creation of the necessary conditions for its formation and development. Legal, organizational, material and financial conditions must be created. It should not be overlooked that the autonomy of local self-government, like the autonomy of any other regime within the framework of a single statehood, is relative. Within the framework of the existing state, interacting with the institutions of state power, ultimately, along with other systems in the interests of the individual, local self-government has various restrictions on its autonomy. First of all, this body

determines the inclusion of local self-government in the general system of public order, public administration and self-government. Another reasonable limitation of the independence of local self-government, which is objective in nature, is the limitation of its powers on issues of local importance, local territory [8,12]. It should be noted that the practical implementation of these methods helps to strengthen the ties of the jamoat with the population, increase public confidence and increase their participation in the implementation of local government tasks. Along with this, one of the methodological shortcomings of this Law is that the right to participate in the organization and activities of the jamoat is granted only to citizens of Tajikistan. This norm essentially contradicts the basic definition of the phenomenon of local self-government, which is provided for by law. It establishes that "self-government of settlements and villages is the activity of settlements and villages", the competence of the jamoat includes solving "issues of local importance - everyday problems of the population of settlements and villages", and one of the methods of activity of the jamoat is considered to be "protection of human and civil rights and freedoms". These norms presuppose the participation of the "population" and "man" in the organization and activities of local governments. Because in the science of constitutional law, these concepts include citizens of the Republic of Tajikistan, foreign citizens and stateless persons living in the territory of a village and a village. They are also interested in solving the problems of local life in the right way. For example, a foreign entrepreneur in the territory of the Jamaat has capital in the form of a commercial enterprise and is engaged in entrepreneurship. This foreign entrepreneur can contribute to the development of this place, that is, in a charitable way. So why does the law leave unclear foreign citizens and civilians who do not have permanent residence in the territory of the village and village, deprived of the right to participate in the organization and activities of the self-government bodies of the village and village. In the practice of leading countries, this issue has long been eliminated, and the participation of these people in the life of the area is not only supported, but also encouraged. In order to strengthen guarantees of the rights of local self-government, the country's legislation stipulates that each village, regardless of the number of its voters, must have at least one deputy in the jamoat, who will protect the rights and interests of the same village and present requests and proposals from residents of the same village at jamoat meetings.

Collegiality of local government activities. The bodies operating in the local government system can function both on a collegial basis and on the basis of individual management. According to the guidelines of local self-government, they have the right to resolve issues of local importance and are responsible in cases and in accordance with the procedure established by law.

A representative body cannot be one person. Its main goal is to unite the interests of various groups of voters who are

represented by delegates. None of the deputies can express the opinion of the entire population. Therefore, the representative body makes its decisions on a collegial basis. In the field of executive and administrative activities, the solution of issues based on sole management is most effective when a specific area of activity is headed by professionals who are personally responsible for the result of their work and the decisions they make. But even in the field of executive and administrative activities, the most important decisions can be made on a collegial basis, especially in those matters where there may be assumptions about the bias or personal interests of an official (for example, the board under the head of the local administration).

The main form of activity of the village and the village is the assembly of the jamoat, in which the powers of the jamoat are considered collectively. From the above analysis, it can be concluded that the development of local governments at each historical stage is different and varies depending on the desire, capabilities and legislation of each state. In the Republic of Tajikistan, the organization and development of local self-government bodies are fixed on the basis of State legislation, and there are several shortcomings in the current legislation. In order to further ensure its effectiveness, it is necessary to take into account the continuous improvement of normative legal acts corresponding to the development of the improvement of society, which makes a great contribution to the development and development of self-government bodies. In conclusion, it should be noted that the methods of local self-government form the theoretical foundations of local self-government, contribute to understanding the essence of local self-government and lead to further development of self-government. Local self-government bodies in their daily activities are based on legislative norms, the provisions of which are adapted to the methods of local self-government.

Thus, in practice, the methods of local self-government should be developed as accurately and accurately as possible, since this is necessary for the qualitative implementation of legal norms governing the activities of local governments. Scientific substantiation and compliance with the methods of organization and activities of local self-government contributes to a corresponding reduction in the number of offenses on the ground. Therefore, in our opinion, in order to properly and effectively carry out the activities of local self-government bodies in the Republic of Tajikistan, it has become necessary to review the ways of its organization and functioning by bringing it into line with generally recognized international methods and the process of developing a legal and democratic state.

References

1. The Criminal Code of the Republic of Tajikistan // Majlisi Oli of the Republic of Tajikistan. 1998. -No.9. - Mod. 68, - Mod. 69. -No.22. - Mod. 306; 2019.-No.. - Mod.1, - Mod.2. - No. 6. - Mod.311.

2. The Charter of Europe on Local Self-Government. - Strasbourg, 1985.
3. Babun R.S. The organization of interdisciplinary self-correction: Educational situation. - M.: SNORUS, 2010. - 222s.
4. Yunibaryan R. S. A valuable constitutional advantage: a solid state. - M., 2005. - 543c.
5. Kutafin O.Or., Fadeev V.I. Municipal law of the Russian Federation: Textbook - 3rd ed., reprint. and the ball. - M.: Prospect of issue, 2010. - 372s.
6. handbook for civil servants of self-government bodies. Guide. Edition 1 /executive editor Inoyatova M.A. - Monday, 2006. - 100S.
7. Mulloev D.M. Theory of public administration. - Dushanbe "ER-Graf" 2013. - 256c.
8. Municipal exaltation (reasons and answers). - M., 1997. - 420s.
9. Sotvoldiev R.G. Theory of law and the state: textbook. - Monday, 2002. - S129.
10. Yakubova S.N. Constitutional law of foreign states. - Monday, 2015. - 163c.

Creative Commons (CC) License

This article is an open access article distributed under the terms and conditions of the Creative Commons Attribution (CC BY 4.0) license. This license permits unrestricted use, distribution, and reproduction in any medium, provided the original author and source are credited.