

## THEORETICAL BASIS OF ESTABLISHMENT STATE BODIES IN LOCAL GOVERNMENT

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### ABSTRACT

*This scientific article describes the process of public administration through local government bodies, its features. The essence of local government, theoretical approaches of researchers, the concepts of "self-government", "local government", "local government", "activities of local representative authorities" are scientifically classified.*

**Keywords:** public administration, the principle of separation of powers, the institution of representation, local government.

### Introduction

The efficacy of public administration depends on the conclusion of the decision, not on the decision made by them. This is confirmed by the statement of the President of Uzbekistan Sh. Mirziyoyev during his visitation to Namangan region on 19-20 February 2021, to the "Bunyodkor" mahalla in Namangan, that "the position in the mahalla is the face of every sector leader." In this regard, the head of state has repeatedly emphasized the viability of his decisions to local authorities. Execution of the decision made by each local executive body can also be assessed as a decision of the representative body. However, today in the practice of public administration in Uzbekistan there are many problems and uncertainties in this area due to the fact that the executive and representative powers are not completely separated from each other.

The Address of the President of the Republic of Uzbekistan Sh. Mirziyoyev to the Oliy Majlis on 29 December 2020[1] stressed the need to further improve the institutional framework of local executive bodies and representative offices. It was noted that local councils are working on the basis of the Law adopted in 1993, and this law does not meet modern requirements, and it is necessary to update it.

This means the need to fortify the role of local representative bodies in local government in the regions and to create a new system to increase its efficiency. From the point of view of the research topic, it is expedient to consider this issue, first of all, in

terms of the political and legal basis of the representative bodies of local government.

### Analysis of the relevant literature

The first elements of important processes in public administration have been developed since ancient times. In the works of Plato, Aristotle, and Cicero, it is interpreted as a central and unified mechanism of governance as well as a process that is largely carried out by leaders. For example, the Greek philosopher Plato, in his book *The State*[2], acknowledged that the state came into being on the basis of human coexistence and mutual assistance. , - he says. Aristotle, one of the Greek thinkers after Plato, in his book *Politics*[3] saw the state as a form of interaction, emphasizing that it was a political organization with supreme power. He also emphasizes the need for citizens to be involved in all matters of state life, citing some of Plato's and Socrates' views on statehood, including the family, slavery, and common property, which is a form of communication. One of the representatives of the ancient Roman political doctrine, Cicero in his works *"On the State"* and *"On the Laws"*[4] raises issues of the principles of local self-government, the boundaries of power and the interests of the state. Like Plato, he believes that "the reason for the emergence of the state is the desire of people to live together." In our view, if the state was first formed as a result of the natural needs of the people, then it will begin to reflect its political attributes.

By the new era, such views have changed. It begins to represent an organization

with political power, performing all functions related to governance processes. In particular, the well-known thinker and politician T. Jefferson[5] argues that the right of all to participate in the formation and control of state power, no one can be deprived of this right. It is no coincidence that his political ideal was a democratic republican form of government that allowed the state to be governed and controlled by representatives elected by the people. It also states that all officials should be elected for a certain term and be under the control of the people. One of the classic representatives of political theory, J. Locke[6], opposes absolutism and supports the principle of separation of powers by limiting absolute power.

The ideologues of the bourgeois revolutions of the XVII-XVIII centuries - Montesquieu, Russo, Franklin, Jefferson - analyzed in detail the socio-political determinants of the process of interaction between the formation of a democratic state and local government. In the works of A. Smith, Diderot, and others, the concept of the actual formation of local government was developed as the basis of general governance. Including, J. Russo substantiates the contractual relationship between the supreme and local authorities in the settlements [7]. As a result, local authorities transfer some of their powers to higher authorities. According to him, freedom is guaranteed only when the whole nation participates in the legislation. Only when the state adheres to democratic principles can a person have political freedom instead of the natural freedom he has lost. The French thinker C. Montesquieu, studying the relationship between the political system and the type of social order, argues that an important role is played not by the form of government (monarchy, republic), but by the way of exercising power based on the rule of law. In *On the Spirit of Laws*, he emphasizes that the essence of governance is the expediency, value, and ethical guidance of laws. Among political thinkers, the theorist of democratic problems, the liberal A. Tocqueville[8] emphasizes the need to decentralize power. He said that the growing power of the state and its deeper penetration into the life of society would lead to an

increase in the dependence of individuals on the state, the destruction of local self-government, and eventually administrative centralization in its place. The existence of a democratic government means freedom, the absence of arbitrariness, and the exercise of power in accordance with the law.

This determines the safety of individuals. We also agree that some of the powers and functions of public administration should be distributed from top to bottom, strengthen the participation of citizens in government and society, and local representative institutions should have more powers in lower levels of government.

In political science, the issue of local government institutions of public administration is based on the experience of countries that have reached a high stage of democratization. This will allow a comparative study of the systems of organization of local government in developed foreign countries, to identify its existing forms, rules and principles. In considering the theoretical principles of local government, local government and self-government, Western scholars I. Bentham, H. Stimpfl, O. Roy, E. Harloff, H. Aldelfer, A. Gasser, S. Duncan, L. Tony[9] ideas are important. Their theoretical views and practical guidelines on the management process play an important role. However, these works mainly explore the role of local governments in public administration, which take the form of a federal structure, and their role in the decentralization process. Under market conditions, the degree of autonomy to perform these functions locally increases naturally and therefore implies the availability of independent resources to provide them. In countries with developed market economies, local governments play an important role. In particular, in the EU countries, the level of domestic expenditures averages 12% of GDP (3.5% in Romania, up to 33% in Denmark), while in Germany the expenditures of more than 9,000 communes (communities, cities and regions) account for 10% of GDP [10]. In Western Europe and the United States, local self-government has gradually taken shape as a result of citizen initiative. Its most effective forms were selected according to the requirements of life. New trends in the development of local

authorities by German researchers have emerged, such as reliance on internal resources, diversification, regional cooperation and strategic principles, the formation of innovation centers and the implementation of municipal marketing. The formation of local self-government in Russia took a different path: it was created in a short time by the decisions of state bodies.

### **Research methodology**

During the research, data from foreign scientific works, scientific methods of studying management processes - generalization, systematic analysis, descriptive and other methods were used.

### **Analysis and results**

In our country, one of the most painful problems is the need to radically change the activity of local government and increase their efficiency. It should be noted that for many years, these representative bodies have been led by governors, who are in fact the heads of local state authorities, as the most corrupt form of government. The issue was sharply criticized in 2017 by President Sh.M.Mirziyoev. Since then, there has been a debate on how to increase the efficiency of these representative bodies, the formation of their powers and role as an integral part of the legislature.

All over the world, local government is one of the most important institutions of a democratic society. But because some elements of self-government are specific to individual states, it has not been fully implemented in any one country. This is directly related to public administration activities. Management activity is a type of professional activity, the specificity of which is determined by its most common task - the organization of other people's activities to achieve common goals, based on the principles of hierarchy[11]. Therefore, it can be said that public administration activities are carried out at the upper, middle and lower (local) levels. In the course of our research, we will examine the management activities at the local level.

Local government is an integral part of general management activities, which is characterized by the following features. First,

local government has its own concept, which, as an institution of democracy and civil society, directs its powers to local government. Second, in the system of local government the following are considered as objects of management: local councils, the importance of the region as a socio-economic system and the socio-economic, political processes taking place in the local area. Third, the leading cadres of local government organizations and elected officials of local self-government bodies are considered as subjects of governance in this system. Thus, local government is complex in nature, it is diverse in its forms and consequences, socio-political phenomena. It has a major impact on social development, which in itself is influenced by political, socio-economic and other factors.

According to some representatives of the economic approach, the local government focuses its activities on meeting the needs of the population for various services, the development of the region, the creation of conditions for personal development[12]. In our view, local government will have its own characteristics as an integral part of social governance.

A distinctive feature of local government is the maximum and effective use of the socio-political potential of local councils based on human resources as a key factor of local areas. Local government is based on the mentality, traditions, spiritual and moral values of regional communities. At the same time, it is not correct to compare local councils with cooperatives or joint-stock companies, whose members have united to pursue common interests. Moreover, it is local government that can be seen as a fundamental principle of the exercise of power in society and the state. This, along with the principle of separation of powers, forms the basis of the system of governance in a democratic state governed by the rule of law.

Some researchers note the dual nature of the concept of "local government"[13]. The content of local government activities includes, on the one hand, issues related to the general interaction of local government with various entities operating in the territory of local self-government bodies, on the other hand, it depends on regulating economic relations for

municipal enterprises, institutions and organizations.

Another researcher divides local government management activities into two types, economic and socio-political[14]. The main type of economic activity of local public authorities is to direct the activities of enterprises and institutions located in the local area to the realization of public interests of citizens. Another feature is that local government is closely linked to self-government. Local councils monitor their specific role as a subject of local self-government. Therefore, not only the results in the economic sphere, but also other key areas: socio-cultural, political and ideological aspects are important as criteria for the effectiveness of their activities.

Local self-government is a logical continuation of intra-state self-government as a way of organizing the life of the population in a particular area. Due to its relative independence, it performs a number of functions that predetermine the content of social relations in the system of public administration at the local level. In this case, the government will have to focus directly on solving pressing social problems of a local nature. The adoption of this function by local governments will, first and foremost, help decentralize governance, excluding the concentration of power in a single system vertically. Decentralization cannot be imagined without the independence of local governments, the establishment of appropriate boundaries for the distribution of powers between authorities. Such decentralization implies the transfer of certain functions from higher levels of government to lower levels, but this is not seen as a way of organizing local self-government[15].

The concept of "self-government" does not have the same scientific meaning as most terms in the social sciences and is interpreted differently by different authors. The theory explaining the nature of local self-government first appeared in Belgium and France in the mid-19th century. Representatives of this theory of free (natural) society (O. Laband, E. Meyer, O. Ressler) believe that the right of society to govern its own affairs is as natural and inalienable as human rights. That is why

society is a broader concept than the state. Second, the government must respect the freedom of society. "Society, by its very nature, has the right to be independent of the central government. It does not create a state community, it only recognizes it." [17] Hence, the concept of self-government includes the following elements: society manages its own affairs and public government officials are communities, not state bodies. Within this theory, the executive - the legislature and the judiciary, as well as the lower - local (municipal, communal, public) authorities are recognized. This theory was later replaced by economic theory. Its representatives R.Mol, A.Vasilchikov pay attention not only to the recognition of the self-governing society as an independent legal entity, but also to the content of communal activities. Both theories are areas of social theory that leave the essence of "self-government" to the participation of the local community in the management of their public interests, while leaving government agencies to the management of public affairs only. According to legal theorists G. Ellinek, N. Korkunov, B. Chicherin, local governments are not state bodies, but the state gives them a number of government rights and thus recognizes their independence and inviolability. Later, the state theory of local government emerged. Its basic rules are L. Developed by researchers such as Stein, R. Gneist [18], proponents of this theory considered local government to be part of the state. In this sense, any government of a collective nature is a matter of the state. In this process, it is not the isolation of the local community, but the involvement of the local population to serve the interests and goals of the state.

According to N.Lazarevsky, one of the scholars who shaped the essence of local government, it is divided into four components: the exercise of government rights on behalf of the state; the activity of public administration consists of the performance of local functions; the state itself performs the functions of public administration and the state itself has bodies and representatives.

At the highest stage of the principles of democratization and decentralization, local self-government is reflected in the structure

and activities of representative bodies. At the same time, it is impossible to accept any interference of the state power both in the implementation of the functions of these bodies and in the process of their formation, if their financial independence is fully guaranteed by law. Also, the expansion of local self-government is not possible without the formation of a democratic state with a legal social orientation in parallel with society.

The formation of local government, in turn, creates a reserve for the establishment of a representative institution of local government, along with its representatives, allowing the local population to show more civic activism. Researcher Aydar Yusupov[19] considers local self-government as one of the conditions for achieving the real goals of certain levels of government. Article 3 of the Charter of Local Self-Government, adopted by the Council of Europe in 1985[20] defines local self-government as the right to regulate and manage an important part of public functions acting within the law in accordance with its powers and the interests of the local population. However, some authors, including N.V. Bondar writes: "Local self-government is defined by the people of the whole country as a way of exercising power, that is, as a form of state power at the local level"[21]. In our view, in some federal states, local self-government is recognized as a form of exercising popular sovereignty through direct and organic unity of institutions of representative democracy.

### **Discussion of research results**

It can be said that the models of local government implementation in foreign countries are diverse. No model has a single and clear way to ensure that issues of local importance are more successfully addressed. Each of them is determined by the political, economic and social level of development of a society, its traditions and legal culture. Moreover, there is no single model of local self-government that is acceptable to the state at different stages of territorial development.

In general, the development of local government has a beneficial effect on the implementation of the principle of people's sovereignty. An important role in this is played by the development of communication

mechanisms for direct and indirect forms of population participation in local government (for example, the election of a member of a representative body or the institution of recall of a local elected official). Also, the concept of local government, reinforced by general principles, allows the development of mechanisms to protect the people's power in relation to the activities of local self-government bodies as a form of local sovereignty[22]. Therefore, the reform of the local government system should not be limited to general amendments, but the formation and organization of local representative bodies so that citizens can fully and systematically exercise their democratic rights. Researcher - A.A Zamotaev explains that "local self-government is carried out through the activities of local authorities"[23]. B.C.Vet suggests that "the ability to coordinate and manage the affairs of civil society within the framework of the law, based on its powers and interests, is an important aspect of the activities of local communities"[24]. Thus, in this case, it would be correct to consider the local population as a subject of authority, i.e., based on the factor of living in a certain (local) area, united in order to protect the interests and exercise power. In our view, the organic interaction of forms of representation and direct democracy allows for the correct implementation of the principle of people's sovereignty in modern statehood. Local activity, as a rule, is carried out taking into account the interests of the population. The importance of local representative government as a democratic institution is that it expresses the right of citizens of a particular region to solve local problems through their representatives. In view of the above, we can define the concept of "local self-government" as a form of exercise of power directly and independently through local public authorities in accordance with applicable law. At the same time, self-governance should be seen as a way of organizing and implementing local government that ensures that citizens resolve local issues independently, taking into account historical and other local traditions.

At present, the concept of local government is usually manifested in the following aspects: First, local government is the right of citizens and local communities to independently

manage local affairs. It is clear from the definition that local government is seen as a clear legal capacity. This department ensures that the population independently resolves issues of local significance, ownership, use and disposal of territorial property. The right of local government can be exercised both through direct forms of expression of will (elections, referendums, etc.) and indirectly through the system of local representative bodies. Second, it is the activity of citizens to independently address issues of local importance. Third, it is a form of democracy, a way for the people to exercise their power. For this reason, Article 7 of the Constitution of the Republic of Uzbekistan stipulates that the only source of state power is its people. The people exercise their power directly, as well as through local representative bodies of state power.

At the same time, the direct decision-making of citizens based on the interests of the population, taking into account historical and local traditions, is ensured through local public authorities. Fourth, local government is one of the foundations of the constitutional system. In the organization of power, it defines the principle of separation of powers (horizontal distribution of powers), as well as the system of governance along the vertical (division of forces).

Local government has a number of common features, despite significant differences from other institutions (self-government of the people, permanent and temporary associations of citizens, the principle of control over the activities of all authorities). Therefore, we can see local self-government as part of a modern democratic society and as a single structure of the organization of power and governance in the country.

In addition to the principle of horizontal distribution of power, there is also the principle of vertical separation. Thus, the power available in the region can be divided vertically into state and local. The term "public authority" was first used in a legal document, and there are two types - public authority and local (municipal) authority. Each power level has its own characteristics. Public authorities resolve issues of national importance; local public

authorities address issues of local importance. These features include, for example, a clearly defined institutional character. Both the state and local government are distinguished by the existence of a separate apparatus that exercises this power - state power and local government. Both state and local government have continuity on a universal basis. The activities of state and local governments are based on laws and other regulations. Both branches of government exist in a particular area (generally the territory of the state, the subject of the country, the municipal structure) in relation to all persons in that area. At the same time, the territory of the local community is the territory of the state, and the local population is the citizens of the state.

Local government is an integral part of the system of public authorities, which is the final instance in which laws and decisions of public authorities are to be enforced. In addition, the forms of public administration must be consistent with the specific goals, objectives, conditions of the ongoing reforms at all levels of government, including local self-government. They must have certain territorial powers, provided with resources to perform certain functions necessary to meet local needs. In our view, the formulation and implementation of local social, economic, environmental and institutional policies should be based on different regional needs and interests. On this basis, local authorities will try to provide them in practice. The main tasks of local authorities in the implementation of local economic policy stem from the needs and interests. They approve and execute the local budget, introduce local taxes and levies, and manage communal property. Local authorities should also set conditions for the use of local land; creation of city enterprises, organizations, banks, issuance of securities, business, regulation of prices and tariffs, employment, solving other social problems, forecasting and planning the development of the region, manages material resources, accumulated research and production capacity, qualified personnel, and so on. In case of non-compliance with their decisions, local public authorities have the opportunity to use the necessary means legally approved - to bring to justice, to apply other state coercive measures.

In other words, local public authorities, like public bodies, have an appropriate set of powers of a public authority, without which it is impossible to govern. It may also have certain state powers by law, such as the collection of taxes, the formation of an independent budget.

The status of local public authorities is determined by the state in the Constitution of the country and in laws adopted by public authorities. Unlike public authorities, local authorities act on behalf of the local community, not on behalf of the state. The content of state power consists of issues of state importance, for example, it is defined in the fifth section of the Constitution of the Republic of Uzbekistan. At the same time, issues of local importance are addressed taking into account the specifics of the development of their territory. Local governments are the level of government that is closest to the population, and they are in closer contact with the population than central government bodies. Forms of direct participation of the population of the region in this process are very important. Local authorities do not have the right to exercise their legislative power, but to monitor its implementation.

The lack of the right to enact relevant laws on certain issues that replace the general laws for a particular territory is an important criterion that distinguishes local state power. Of course, local governments issue appropriate rules, including general rules of conduct. But they are not subject to the law. Local governments do not have the “authority to establish their own authority”, ie they cannot independently determine the scope of their authority; unlike the state itself, the local community does not have sovereignty.

### **Conclusions and suggestions**

Summarizing all of the above, it should be noted that local government is a system of relations that performs local government functions on the basis of this coercive tool. Local government is not only social power, but also state power that acts on behalf of the local community and acts in a local order based on the law. An analysis of the nature of local government allows us to conclude that it simultaneously combines two principles: the

state and the public. It should be noted that, despite the dual nature of local government, we propose that the existing local state authorities be constitutionally divided into two independent power structures (representative and executive).

At present, a single definition that explains the essence of the concept of local representative bodies has not yet been formed. Many scientific and theoretical sources comment on the role of local representative institutions in the system of public authorities, and differ in their content. In particular, according to M. Maslovskaya [25], the local representative body consists of deputies elected in local elections, with special powers to address issues at the local level, taking into account the interests of the population, taking into account historical and other local traditions. authority. In addition to its definition as a body of public power formed through elections, it can be said that the local representative body is an important branch of government that oversees the implementation of laws in the lower regions of the state. Another researcher, A. Barixin[26], described it as an electoral body of local self-government that has the right to represent the interests of the population and make decisions on behalf of that population. True, the local representative body carries out its activities independently, not vertically subordinate to higher authorities. This does not mean that the local representative body fully represents the local self-government. Because in the system of state power, the upper, middle and lower links are based on the mechanism of interaction. On the one hand, it is seen as a state authority with special powers in the local branch of government, on the other hand, it is seen as a structure that exercises public control. In this case, deputies are not civil servants, but representatives of the public.

As a continuation of these ideas, A.Djagaryan[27] considers the local representative body as a collegial body formed by elections, which performs the function of representation of the people at the local level, and is the main institution that creates norms at the local level. According to G. Ismalova, an Uzbek researcher, the Council of People's Deputies should be a real representative body

of the people, and people should be elected who know the secrets of society and public administration, understand the concerns of the people and can help them, it is a requirement of necessity [28].

In addition to the above, in order to clarify this concept, we define the representative body of local government as follows: a

representative body of local government is an elected body of local government, which protects the interests of the population and makes decisions on its behalf in the local area. It is a specific type of state power, characterized by the implementation of its activities on the basis of monitoring the implementation of laws in the regions.

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