

The Transaction Problems and Strategic Development of Public Administration in Local Level in the Republic of Armenia

Introduction

Since 1991, when Armenia became independent, the state administration had problems over its real functioning. There was a competition between different levels and departments of government to share responsibilities and liabilities of power. This competition created serious problems for the governing processes.

This paper illustrates main processes that emerged at the local level of the public administration in Armenia after the independence, as well as the institutional obstacles for development of the system. It will also take into consideration the post soviet issues in the public administration and future prospects in its development.

It is clear that the quality of public services determines the level of the social welfare. Obviously poor level of public administration cannot provide high quality public services. Therefore, exploring the obstacles in the public administration and public policy will certainly facilitate upgrading the level of the social welfare system.

Development of Public Administration System in Armenia

Public administration system in Armenia has two levels; state government and local self-government. Besides these levels, there are regional government bodies (there are 10 administrative regions in the country) which represent the central government in regions and appointed by the government and president. According to the Law on Local Self-Government (hereafter: Law on LSG) of RA and other legal acts related to the public administration, local self-government bodies wield greater power in local levels in terms of decision making, budget formulation, expenditure assignment spheres, as well as in controlling public property¹. Viewing through the legal aspects, it may seem everything is clear and local authorities may act in accordance with legislation. Nevertheless there is a serious scarcity of sufficient financial resources for the local bodies (Khachikyan 2009, p 114). This problem is partly solved through the financial equalization system, where communities with lesser resources receive state transfer from the state budget, and if these transfers constitute a substantial amount compared to their budget, communities lose significant degree of independence. Transfers have indeed grown up from 31% in 1997 (Tumanyan 2000) to 48% in 2008².

Since 1990s, Armenian authorities faced with great challenge of the very functioning of the public administration and maintaining social conditions at the minimum level. Owing to the limited financial resources and underdeveloped infrastructure, activities of state authorities at the local level greatly deteriorated. It has therefore become a necessity to bring about substantial reforms in social sphere and legislation in the country to strength administrative capacities. In this context, it could be argued that the development of public administration in Armenia can be divided into the three stages; up to 1995, from

¹ Law on Local Self-Government of RA, article 16,

² "Hamainq" official newspaper of Community Finance Officers Association, # 9 2008

1995 to 2005, and after 2005. This division is based on the adoption of the Constitution of 1995 and Constitutional Amendments of 2005.

After the collapse of the Soviet Union, until 1995 where the new constitution was adopted, the public administration system functioned in a completely disorderly manner. The horizontal and vertical intergovernmental relations, as well as the responsibilities between various branches of government were mixed up. This period was mainly characterized by uncontrolled privatization of lands and some enterprises came under local authorities, as well as the erosion of both the institutional infrastructures and management of public resources. It should be mentioned that in this transitional period, the legislation framework was extremely weak and the soviet legal heritage was still in use for the functioning of the government.

The second stage commenced with the new constitution which adopted in 1995, where the concepts of local government was clearly defined³. According to the Article 108 of the constitution, the central government should delegate some of the functions to the local level. This process was implemented in the following manner: new Acts had to be adopted, new territorial administrative divisions had to be established, and investments had to be made for institutional infrastructure. It is clear that such a comprehensive reform enterprise would not be possible in such a short period without the support of donor countries and international organizations. The main agents of international support were UNDP, EU, GTZ, USAID, DFID and a number of developed countries. They engaged in the process through financial aids, advices and training administrative functionaries (Ordyan 2007). In this background this second stage could be characterized as a period of “institutional reforms” to bring about an effective functioning of government authority. However, the development of infrastructure and government institutions presented new challenges in relation to the intergovernmental relations and financial resources, and therefore a new stage of reforms became necessary.

Thus, the third stage began after the Constitutional Amendments of 2005. According to the amended constitution, communities were endowed with new functions to introduce local taxes for funding their budget⁴. Another important aspect of the constitutional amendments was the status of Capital Yerevan; it was required to organize Yerevan into a distinct community, contrary to its earlier position as a regional government status. It should also be mentioned that Yerevan already had an elected Mayor, as prescribed in the constitution. The election for the new Yerevan Community took place on 31 May 2009, and the organization process of the Community is underway⁵.

Another important aspect of the Armenian public administration system is the fact that the state government enjoys excessive power than that has been prescribed in the law. The reason for the excesses was the weak local administration. The limited financial resources that local governments can mobilize do not allow them for the full use of their constitutional power. In this context, they are not left with other options than receiving transfers by the state budget which is about 45-50% of the local budgets. This indeed is a substantial portion of the local budget and therefore causes losing their independence to the state government. These “losing” functions of local bodies are fallen into the hands of the state bodies though funding, and the latter encroach into the realm of the local

³ Constitution of Republic of Armenia, 5 July 1995

⁴ Amendments of the Constitution of Armenia, 27 November 2005

⁵ Decision of State Election Committee Of RA # 204

government. This means that, on one hand, local bodies have more legal authority over local administration even though they do not exercise them in practice, and state government, on the other hand, has less legal power at the local level, but it engages in greater degree in the local administration. It could be argued therefore that this is one of the crucial paradoxes in relation to the legislation of the public administration of Armenia and its actual implementation. Most of the other issues in the public administration and especially in local government are due to this paradoxical situation.

The Problems of Local Self-Government

Despite the presence of a number of acts which aimed at introducing good governance to local authorities, there has not been a significant change. There are several factors for the failure of these measures to reach intended objective.

1. Lack of financial resources: the main reason for the lack of financial resources is the constraints on local bodies in taxation. The Article 106 of the Constitution permits local authorities to define local taxes. In order to implement this constitutional provision proper mechanisms have to be established by the national legislature. The main reason behind this long delay from the part of the national legislature was, arguably, due to the administrative status of Yerevan, where it was not a 'Community'. Therefore, the national legislature has no vested interest in expediting the legislative process. However, by now Yerevan is being reorganized as a local self-governing entity, and the completion of legislation process for administering taxation at the local level has become a necessity. Apart from this, the local tax administration too remains at low level. Though local authorities cannot define local taxes, the national government authorizes them to collect land and property taxes. In this context it is necessary to mention that the average tax collection by local authorities during last five years is only about 50%⁶. Because of inefficient tax administration local budgets has lost significant quantity of financial resources. According to the law, uncollected taxes could be delayed indefinitely. Although, there are provisions for the heads of communities to go to the court in order to levy taxes, this process is very long and expensive. On the other hand solvency of inhabitants in rural communities remains at a very low level.

Another major reason for insufficient financial resources is the uncontrolled budget expenditure. The Article 16 of the Law on LSG has made the local elected council responsible for the supervision of budget expenditure. However, especially in rural Communities, the members of council are not professionally qualified to supervise this process and therefore the activities of the heads of Communities could become out of control.

2. The administrative capacities are very poor in local government bodies. The main reason for this is the municipal service system. The system established in Armenia after adopting the Law on Municipal Service (hereafter: Law on MS) in 2004⁷. Although major efforts have been made organizationally as well as institutionally to establish the system, results were not promising at the early stage of the attempts. At these early stages, there were problems in re-training and raising qualification of municipal servants. This was mainly because the institutional capacity in terms of professional resources and technical standards are not satisfactory. The deficiencies in teaching methods and

⁶ Statistical Statements, State Budget Report 2008, Local Self Government Activities' Section

⁷ Law on Municipal Service of RA, adopted in 2004

materials, as well as technical equipments, make teaching process very hard and ineffective. Nevertheless, the availability of qualified municipal servants is a major prerequisite for providing high quality of public service.

The inactivity of community council is also a hindrance to the development of public administration at the local levels. In a democratic setting, it is not possible to impose educational qualifications on elected members of council. Nevertheless according to the Law on LSG (Article 16) and Law on MS (Article 13) these elected members of the councils have been given such important functions as the decision making on the behalf of the population, supervision of budgetary expenditure, and recruitment of procedure of municipal servants, which demand certain level of education. For the implementation of the above mentioned functions it is necessary to have established institution of community council. The absence of this institution is due to the lack of public interests, which brings about the next problem of public administration in local government.

3. There are variations in different societies in terms of the interests of the people in public affairs. People in Armenia do not have a high degree of participation in public affairs. There is, of course, a historical reason for this lack of public participation, i.e. public activities in Armenia were heavily restricted for a long time. This problem is being partially addressed by international organizations by way of creating opportunities to communicate for individuals and groups with various parties. Although this is a deeply rooted social problem, the authorities cannot pay the blind eye and have to take measures to address this problem of the lack of interests in public affairs among the people. For instance, there is a clause in the Article 16 of Law on LSG that "... the Community council is authorized to organize local referendums to solve local issues based on public opinion". Certainly, before the referendums are held, there have to be public discussions and local authorities have to play a major role in organizing them. The fact remains however that there have not been any local referendum in 926 Communities of Armenia up to now, which shows the negative attitude of local authorities toward the public opinion.

There are about 3000 NGOs in the country, 85% of which are registered in Yerevan and the rest is in 48 Town Communities⁸. The NGOs in rural communities are very small. In this circumstance civic initiatives are almost excluded and, therefore, the public participation in decision making processes is sharply decreased. This situation allows heads of Communities to resort to an authoritarian decision making process and enjoy unrestricted authority. Thus, there is an imbalance between the existing way of exercising power by authorities and the democratic polity. This problem also needs to be addressed in order to develop the public administration. Many Post-Soviet countries faced similar problems, and, among them, the East German case would be more illuminative to understand the Armenian situation.

Enclosure 1

Review on Public Administration System in East Germany After the Unification

Since 1949, when German Democratic Republic was established, there was invested centralized state model where the regional government was implemented by new created 14 regional administrative districts (Bezirksverwaltungen). Thorough the two-tier structure of local administration was remained, but the role of municipalities was

⁸State Register Agency Report 2008, p 21

minimalized in the GDR centralized state, where most of the services were provided by enterprises of the economy sector (Wollmann, 2003). The Unification by integrating the GDR in the Federal Republic changed almost everything has been characterized as "institution transfer" (Lehmbruch, 1993). There was reintroduced five Lander changing the structure of public administration. Almost 90% of the numbers of Land parliaments were "new politicians" who had not held any political position under the Communist regime (Derlien, 1997). At the same time about three quarters of the newly elected local councilors were "new politicians" who had not occupied any political position or public function prior to 1990 (Wollmann 1996). It is essential to emphasize an administrative dimension; the high positions of the Lander were occupied by West German "transferees", while in the local authorities the share of East German "new politicians" in the top positions were significant (Wollmann, 2003). However, there were not controversies between east and west politicians because of clear division of functions and political morality, and the strategic development of public administration have got new perspectives.

The Strategic Development Prospects of Public Administration in the RA

It is commonplace now that in every session of the state legislative body laws of public administration are amended. This means that there is incompleteness in the sphere of public administration. As it was considered earlier the main problems are at local levels and intergovernmental relations.

At the local level there are low professional capacity and public inactivity. It has become prerequisite, therefore, to upgrade the level of professionalism in Community councils. According to the Law, every LSG Community has to adopt a four-year development program every year. Usually, these development programs, adopted by Communities, aim at addressing public needs. Yet, there is no in these programs any attempt to upgrade the level of efficiency of councilors. Of course, extra funding would be needed for local authorities. In the existing budget allocations there are no provisions for spending money for educating councilors who work voluntarily. It should be further emphasized that the teaching Community councilors is only one part of the educational effort that Communities have to undertake in upgrading the professionalism in their activities. It is also essential to train municipal officers (them who are not municipal servants: deputy head, assistant, advisor), because their service is very important for an effective administration. Although the first phase retraining of municipal servants has been completed, this training is insufficient because neither local government, nor municipal servants were ready for this process. What they were basically taught in these retraining were laws related to public administration, where they get only a theoretical knowledge on their work. There is no attempt to improve their skill in dealing with practical issues (Khachikyan, 2009: p 226). It is impossible to set up an efficient public service only by giving training to public servant on legislations without improving their professional skill. Therefore, this aspect should be taken into consideration in making curricula for retraining programs for municipal servants.

The other most important issue that local authorities have to take into consideration is the long-term strategic development which fulfills the interests of the public. Without implementing above mentioned reforms it is not possible to create a conducive environment where public opinion will play a determining role in the decision making

process. This issue is less connected to legislation process than the public consciousness. In this connection the role of the head of the Community becomes important as an organizer, because he enjoys the authority by law to coordinate public activities. When civic initiatives do not exist, the head of the Community can initiate new activities where the public can be mobilize to discuss matters of their interests. Therefore the state supervision over the local government should not be limited to “investigate” budget expenditure, which is usually the case, but it also should take measures to encourage heads of Communities toward initiatives to get the public participation in making public policies. These events should become traditions pushing forward social and political morality.

The intergovernmental relations in the strategic development of public administration in Armenia generally remain at political level and do not reach the public domain. Although the economic and social issues are also discussed at the level of intergovernmental relations, the political issues in general receive a higher priority. As the period of institutional establishment is over, the strengthening of public policy aspects has become more important at this conjuncture. This means that emphases on economic and social aspects are central at this stage in policy making. Therefore, central government has to provide economic and social levers to local governments. Such levers may be constituted of local taxes, borrowings, bill issuing, as well as investment of both local system of social insurance and new system of welfare estimation. Though, there are some legal acts which regulate these affairs, there is no mechanism to implement the process. Thus, local authorities need levers as well as mechanisms from the central government in order to have a proper self-governance.

In discussing intergovernmental relations in public administration it is also important to take fiscal policy into consideration. In this case local authorities heavily depend on state transfers, as a result of which central government retain extra supervisory power over the activities of local government. The financial equalization system is the most important measure in providing local government with financial resources from state budget. Therefore, this system has to be improved as one of the goals of the development strategy of the public administration system.

Similar to other transitional societies, Armenia faces many challenges in, and has opportunities for development of an effective public administration system. What is important, however, is to devise a strategy which takes political, social and economic components into serious consideration.

Conclusion

The present stage of the public administration system in Armenia can be characterized as a transitional period from establishment to development. This is a period that needs strategically defined goals by the players, i.e. the strong central government, weak local governments and indifferent population. The stronger central government should act as the provider, delegator and regulator in this strategy. The role of local governments would be capacity building and organizing. At the same time central as well as local authorities have to take initiatives to enhance public participation in decision making. In this context clear distribution and implementation of functions is necessary, and the German Unification practice could become more helpful. Increasing public participation and accommodating public opinion in decision making would make it possible to

guarantee the public supervision over the central and local governments. This would be the goal of societal development. These goals could be achieved only through measures that provide high degree of professional skills to municipal servants, practical and organizational abilities to Community councils, enrich local governments with levers and mechanisms to act, and make transparency in intergovernmental relations.

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