



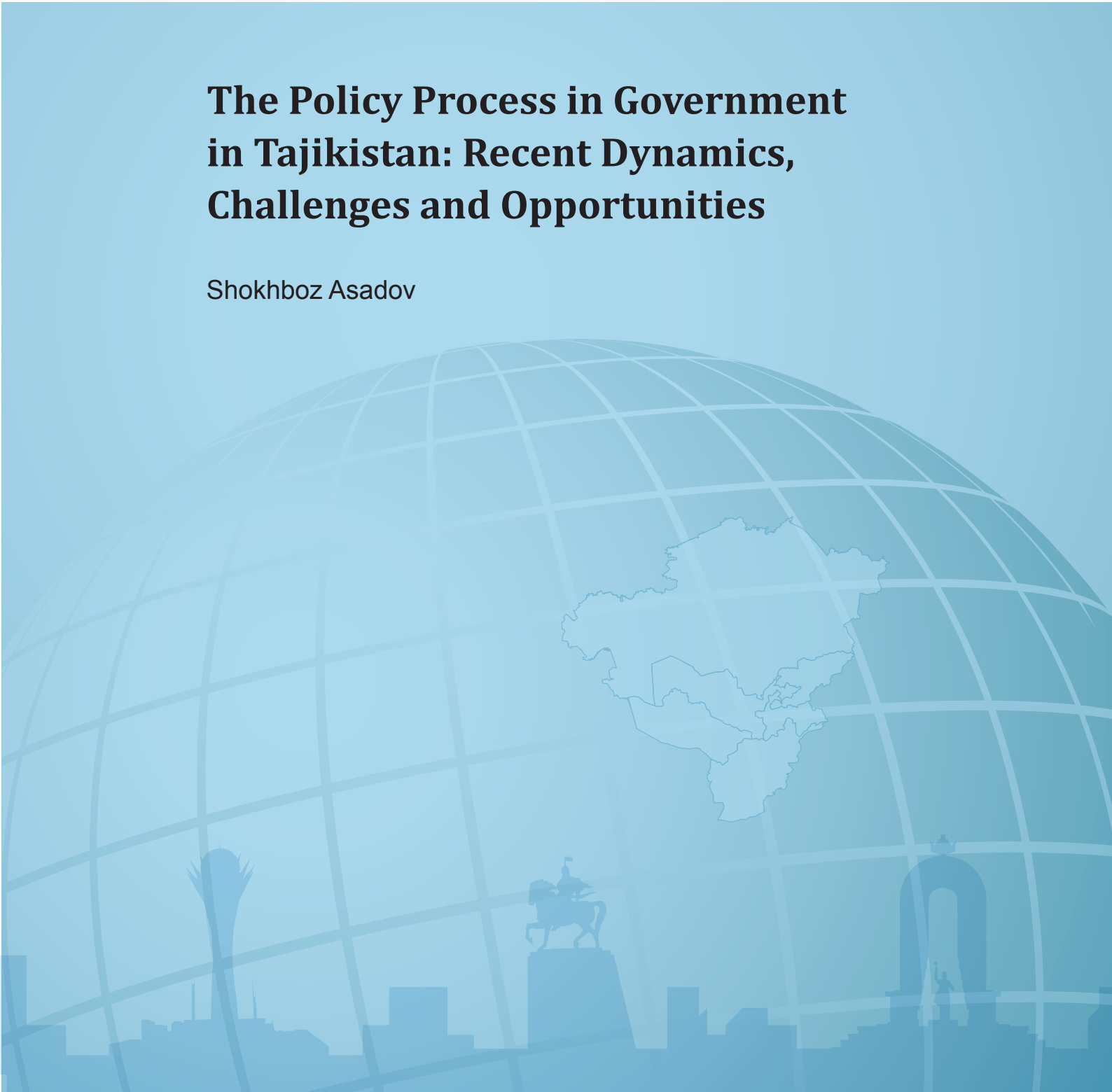
UNIVERSITY
OF CENTRAL ASIA

GRADUATE SCHOOL OF DEVELOPMENT

Institute of Public Policy and Administration

The Policy Process in Government in Tajikistan: Recent Dynamics, Challenges and Opportunities

Shokhboz Asadov



WORKING PAPER NO.28, 2014



UNIVERSITY
OF CENTRAL ASIA

INSTITUTE OF PUBLIC POLICY AND ADMINISTRATION

WORKING PAPER NO.28, 2014

The Policy Process in Government in Tajikistan: Recent Dynamics, Challenges and Opportunities

Shokhboz Asadov

Abstract

Over the last decade, the development of rule of law, democratic governance and support for the growth of civil society have been at the heart of efforts to strengthen the political system in the Republic of Tajikistan. It is natural that within the process of ongoing reforms designed to improve and streamline public policy processes, new challenges for public policy development have emerged. This paper describes the policy formulation process in government in Tajikistan, its main stakeholders and sequences of adoption of draft legislative acts. It also highlights the main challenges to current reform efforts.

Keywords

policy process, reforming process, legislation, Republic of Tajikistan

JEL codes: H1, H8

The Institute of Public Policy and Administration was established in 2011 to promote systematic and in-depth research on issues related to the socio-economic development of Central Asia, and explore policy alternatives.

This paper is part of research being conducted for the «Research and Public Policy Initiative» (RPPI) project supported by International Development Research Centre and Aga Khan Foundation Canada

The Institute of Public Policy and Administration is part of the Graduate School of Development, University of Central Asia. The University of Central Asia was founded in 2000. The Presidents of Kazakhstan, the Kyrgyz Republic, and Tajikistan, and His Highness the Aga Khan signed the International Treaty and Charter establishing this secular and private university, ratified by the respective parliaments, and registered with the United Nations. The University is building simultaneously three fully-residential campuses in Tekeli (Kazakhstan), Naryn (Kyrgyz Republic) and Khorog (Tajikistan) that will open their doors to undergraduate and graduate students in 2016.

The Institute of Public Policy and Administration's Working Papers is a peer-reviewed series that publishes original contributions on a broad range of topics dealing with social and economic issues, public administration and public policy as they relate to Central Asia.

About the author

Shokhboz Asadov is a Senior Researcher at the Institute of Public Policy and Administration, University of Central Asia. He is a public policy expert with extensive experience in public administration reform initiatives in public finance, poverty reduction and results-based management and trade policy. He has experience in capacity building of public institutions and reviewing business processes in the delivery of public services by various government agencies in Tajikistan.

Copyright © 2014

University of Central Asia

138 Toktogul Street, Bishkek 720001, Kyrgyz Republic

Tel.: +996 (312) 910 822, E-mail: ippa@ucentralasia.org

The findings, interpretations and conclusions expressed in this paper are entirely those of the author and do not necessarily represent the view of the University of Central Asia

Text and data in this publication may be reproduced as long as the source is cited.

Contents

Acronyms	4
1. Introduction	5
2. Key Institutions of Tajikistan’s Government Policy Process	6
2.1. Executive Branch.....	6
2.2. Legislative Branch	7
2.3. Government.....	8
2.4. The Executive Office of the President.....	9
2.5. Recent Changes: Opportunities for Better Coordination	10
2.6. Analytical Units of Ministries.....	11
3. Policy Formulation in Tajikistan	12
3.1. Legislation Related to the Policy Process	12
3.2. Sequence of Policy Formulation	14
3.3. Establishment of Working Groups.....	17
3.4. Stakeholder Involvement in Policy Development: Case Study of the New Tax Code	18
4. Challenges to Building Capacity in Public Policy	20
4.1. Dynamics of Civil Service Capacity Building	20
4.2. Assessing the Impact of Proposed Legislation	26
5. Conclusions and Recommendations	27
References	29

Tables

Table 1. Number of Civil Servants by Branch of Government in the Republic of Tajikistan, January 2013	8
Table 2. Typology of Bureaucracies	12
Table 3. Timeframe for Review and Execution of Legislation and Requests by the Executive Office of the President.....	16
Table 4. Responsibilities of Executive Bodies in the Policy Formulation Process.....	18
Table 5. Education, Age and Length of Service of Civil Servants in Tajikistan.....	20

Figures

Figure 1. Policy Process Stage Classification	5
Figure 2. Number of Legal Acts Adopted in Tajikistan (2011-2013).....	13
Figure 3. Number and Gender of Civil Servants who Participated in IPA (Re) Training (2009-2013).....	21
Figure 4. Professional Training Process	21
Figure 5. Civil Service Training Needs Identification Form	22
Figure 6. Important Skill Sets Identified by Civil Servants	25

Boxes

Box 2. Examples of Working Groups.....	17
--	----

Acronyms

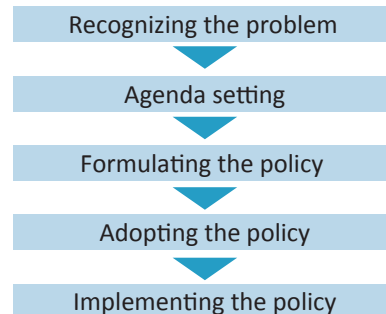
CIS	Commonwealth of Independent States
CSR	Centre for Strategic Research under the President of the Republic of Tajikistan
EOP	Executive Office of the President of the Republic of Tajikistan
IPA	Institute of Public Administration, Executive Office of the President of Tajikistan
NGOs	Non-governmental organisations
OECD	Organisation for Economic Cooperation and Development
PDPT	Peoples' Democratic Party of Tajikistan
RIA	Regulatory Impact Analysis
USAID	United States Agency for International Development
USSR	Union of Soviet Socialist Republics
WTO	World Trade Organisation

1. Introduction

In Tajikistan, public policy decisions are initiated and formulated daily and routinely, presumably based on goals and objectives declared in strategic documents, such as the National Development Strategy and Poverty Reduction Strategy. The term “policy” is described as “a set of ideas or a plan of what to do in particular situations that has been agreed officially by a group of people, a business organization, a government, or a political party”¹. It is a set of activities, a direction or a vision adopted by a government to solve a political or socio-economic issue or problem through the adoption of a strategic paper.

The policy making process is a complex interaction of different stakeholders trying to bargain and accommodate various interests. Western academics highlight the public-private interaction that constitute a system within which public policy stakeholders influence the policy making process.² Political systems differ greatly, making it difficult to wholly justify applying public policy making theories or models from developed countries to explain processes in developing countries. Nevertheless, there are some widely-accepted stages to policy making that make up a sequential process (see Figure 1.). These include identifying a problem, analysing it, searching for appropriate policy options to solve the problem, articulating the options clearly, deciding which option(s) to take, implementing the strategic policy option(s) and finally, evaluating the implementation process.

Figure 1. Policy Process Stage Classification³



This paper focuses on the formulation of public policy process within the government of Tajikistan, the key actors in the process and their capacity for shaping it.⁴ The paper also reviews stages of legislative act formulation, and achievements and shortcomings of recent public policy reform efforts.

¹ Cambridge Dictionary, http://dictionary.cambridge.org/dictionary/british/policy_1?q=policy, accessed on 10 November 2013.

² James Anderson, *Public Policymaking: An Introduction*, (Boston: Houghton Mifflin, 1990); Arnold Meltsner, “Bureaucratic Policy Analysts.” *Policy Analysis*, 1, (Berkeley: University of California, 1975).

³ Adapted from Michael Howlett, M. Ramesh and Anthony Perl, *Studying Public Policy: Policy Cycles and Policy Subsystems* (Don Mills: Oxford University Press Canada, 2009).

⁴ This paper does not discuss the role of the judicial branch or that of regional and local government. Tajikistan does not have local self-government. Executive authority in provinces (oblasts), districts and towns is vested in the head of local administration, who is directly appointed by the President.

2. Key Institutions of Tajikistan's Government Policy Process

In order to analyse public policy making processes, it is crucial to identify and define the actors influencing change in the political, economic and social spheres of the country. The political elites felt that the position of Chairman of the Supreme Soviet was an inadequately reflection of the holder of this office as the leader of the country, and felt the title was misperceived by world leaders. Due to this misperception, the highest foreign leaders that would visit Tajikistan were the Chairs or Presidents of parliaments (legislative bodies). Consequently in 1994, a popular referendum adopted the new Constitution that provided for a new separation of power between legislative, executive and judicial branches. The President became the head of the Executive branch. Since 1994, the Constitution has been amended several times, mainly to strengthen the role of the executive branch. Notable changes were made in 1999⁵ and 2003.

This section describes the main branches of government and other influential bodies, including the executive branch, legislative branch, appointed officials and relevant government bodies, such as the Centre for Strategic Research under the President of the Republic of Tajikistan.

2.1. Executive Branch

In Tajikistan, new forms and approaches to public policy emerged during the transformation from the Soviet system to an independent presidential republic.

The Government of Tajikistan is headed by the President of Tajikistan, who, according to the constitution, is the Head of the State and the Head of the executive branch of Government. In the 1990s, immediately following independence, the government was a descendent of the former Council of Ministers of the Tajik Soviet Socialist Republic (SSR). Changes to the constitution were introduced and approved by national referenda in 1999 and 2003. These cemented the already-strong power of the executive branch and extended the term of office of the President.⁶ Following the instability of the 1990s, a power struggle between various opposing establishments in the early 2000s resulted in further powers vested in the President to shape the policy process in Tajikistan.⁷

Article 69 of the Tajik Constitution invests authority in the President to influence the course and direction of the public policy process in the country, in areas such as:

- Defining foreign and domestic policies;
- Establishing and abolishing ministries and state committees and their subordinate agencies (executive bodies that propose new draft laws, by-laws);

⁵ Rahmatillo Zoir and Scott Newton, "Constitutional and Legal Reforms" in *Politics of Compromise: The Tajikistan Peace Process, Accord*, 10 (London: Conciliation Resources, 2001).

⁶ The President is elected for two seven-year terms by popular vote as a result of 2003 constitutional amendments.

⁷ Michael Hall, "Tajikistan at the Crossroads of Democracy and Authoritarianism," *Prospects for Democracy in Central Asia. Transaction* 15 (Istanbul: Swedish Research Institute in Istanbul, 2003).

- Key appointments in Government, including the Prime Minister and deputy prime ministers, ministers and committee chairs, heads of local governments and officials responsible for developing and implementing new laws and by-laws;
- Judicial nominations;
- Abolishing or suspending executive acts; and
- Signing legislation.

The result is that the executive branch possesses unequal power and resources that can be used to control the policy process. Scarce fiscal resources are also used and controlled by the Executive.

2.2. Legislative Branch

After the executive branch, the next powerful actor in Tajikistan's public policy arena is the parliament or the *Malice Oil*. The Constitutional Law of the Republic of Tajikistan "On *Malice Oil* of the Republic of Tajikistan" extends the right of legislative initiative to members of Parliament.⁸ The mandate of the legislative branch is considerable. Among other responsibilities, the *Malice Oil*:

- adopts and amends the Constitution;
- amends and enacts laws;
- approves or rejects government programmes;
- approves the state budget; and
- reviews and approves presidential nominations for the positions of prime minister, deputies and other cabinet members.

The *Malice Oil* is a bicameral legislature, comprised of the *Malice Mille* (upper chamber or senate) and the *Malice Namoyandagon* (lower chamber or house of representatives). More than 70 percent of the members of the *Majlisi Namoyandagon* are representatives of the ruling Peoples' Democratic Party of Tajikistan (PDPT), which was created in 1994 by the current President. Throughout Tajikistan's modern history, the PDPT has not faced any danger of losing control of the legislative and executive branches. Most, if not all, ministerial positions are held by PDPT representatives.

In general, individual members of the Parliament rarely possess the necessary technical expertise to review and consider draft legislation. There are internal committees in Parliament which possess technical skills to consider draft laws. While members of parliament serve in committees in accordance with their education and professional background, they are rarely involved in technical matters, and have limited influence on resultant public policies. The work of the committees resembles a classic case of the "Principal-Agent Problem", where an agent (the committees) has the potential to usurp the principal (the legislature) that created it.⁹

⁸ The Constitutional Law of the Republic of Tajikistan "On *Majlisi Oli* of the Republic of Tajikistan" extends the right of legislative initiative to members of the Majlis of People's Deputies of Gorno-Badakhshan Autonomous Oblast (Article 54).

⁹ Terry D. Clark, *Beyond Post-Communist Studies: Political Science and the New Democracies of Europe* (Armonk, New York: M.E. Sharpe Inc., 2002).

2.3. Government

During the transition of the 1990s, Tajikistan inherited the Soviet style decision-making bureaucracy, which was obsolete and ineffective.¹⁰ The functions of the Prime Minister's Office and line ministries, as well as the role of the Executive Office of the President (EOP) were often duplicative. This was not tenable and a wave of public administration reforms was initiated in the early 2000s.

The Government of Tajikistan is composed of the Prime Minister, a first deputy prime minister and three deputy prime ministers, ministers and heads of state committees. The Prime Minister has the mandate to manage social and economic policy; delegate responsibilities to his deputies; and implement Presidential Decrees and government decisions.¹¹

Although it seems as if the President and the Prime Minister share executive authority, in reality, the Prime Minister's role in public policy making is limited and overshadowed by the President. Additionally, as a presidential appointee, the Prime Minister is beholden to the President. Ministers and Heads of State Committees are also appointed by the President. However, unlike the Prime Minister, they oversee a sectoral portfolio. The former are therefore more influential than the office of the Prime Minister in terms of sectoral policy-making. They manage their own staffing, budgets and most importantly, they have the ability to bypass the Prime Minister and directly communicate with the President.

In 2013, the apparatus of government in Tajikistan was represented by over 18,000 civil servants (see Table 1), the majority working in line ministries and agencies. The President's Office (staff directly under the President) had 679 civil servants. That office, staffed by some of the most able public employees in the country, is the seat of policy decision-making.

Table 1. Number of Civil Servants by Branch of Government in the Republic of Tajikistan, January 2013

Branch of Government	Total civil servant Positions	Vacant Positions	Civil Servants Employed
Bodies under the President (includes staff of Prime Minister and his Deputies)	700	21	679
Ministries	5731	400	5331
State Committees	439	26	413
Departments and Agencies of the Government	3943	156	3787
Total	19836	1345	18491

Source: Data of State Statistics Agency under the President of the Republic of Tajikistan

¹⁰ The World Bank, *Republic of Tajikistan Second Institution Building Technical Assistance Credit, Report No: 19074-TJ* (Washington, DC: The World Bank, 1999).

¹¹ Constitutional Law of the Republic of Tajikistan "On Government of the Republic of Tajikistan", Chapter 5.

2.4. The Executive Office of the President

In 2002, new Regulations of the EOP were adopted by presidential decree,¹² which defined the management of routine presidential administrative issues, as well as political and policy making functions. The EOP is the most powerful administrative, dispositive and regulatory body in the Tajik government. Its functions, include, but are not limited to:

- Preparing draft laws under the legislative initiative of the President;
- Preparing draft addresses of the President to the *Majlisi Oli*;
- Preparing, drafting and registering decrees and orders of the President and resolutions and orders of the Government;
- Developing, implementing and monitoring government plans;
- Managing a roster of human resources for follow-up appointments to leading positions in the Republican Government, local authorities, judges, military and the Prosecution Office; and
- Managing economic, social and cultural public policies.

In the 1990s, the EOP resembled the *nomenclatura* system of the former Communist party, where all recruited public servants directly affecting public policy making were appointed and managed by the secretariat of the Central Committee. Even after the creation of the modern professional Civil Service Department, the corporate interests of the EOP were strongly defended. The EOP manages a roster of personnel to be considered for key appointments in the government, local authorities, judiciary, military and Prosecution Office, managing other economic, social and cultural policies. Thus, it is the most powerful administrative, dispositive and regulatory body.

There are five Assistants to the President in the EOP, managing and administering separate policy blocs on social development, legal policy, human resources, economic policy, and international affairs.¹³ These assistants are not accountable to the legislative branch and are influential in the policy formulation agenda of the President. Most Presidential decrees are drafted, reviewed and finalised by EOP staff and coordinated by respective assistants.

The EOP is a multifaceted, complex structure with vast and duplicative functions derived from the implementation of functions of the President and the government. This has led to dubious use of staff of the EOP. The Prime Minister and deputy prime ministers serve as supervisors in EOP divisions and units. Divisions receive instructions from them in a range of areas, including the preparation of analytical notes, conclusions on draft legislation and responses to correspondence. In reality, however, each presidential assistant oversees the divisions that fall under their mandate and has the authority to engage division staff in fulfilling these tasks. For example, the Assistant to the President on economic issues interacts regularly with the Division of Finance and the Division of Economic Reforms and Investments responsible for the infrastructure sectors of the economy. The latter work closely with

¹² Decree of the President No.779 "On Regulation of the Executive Office of the President of the Republic of Tajikistan", 25 February 2002.

¹³ Positions of Assistants (formerly known as State Advisers) were reorganised based on Decree of the President of the Republic of Tajikistan No.116, 17 January 2014.

relevant ministries and state committees.¹⁴ After the 2014 reorganisation of the structure of the EOP, it retained the status quo of presidential assistants managing EOP departments responsible for coordination and policy making in areas covered by their portfolio.

The Centre for Strategic Research under the President of the Republic of Tajikistan (CSR) was established under the Institute of Economic Research of the Ministry of Economy of the Republic of Tajikistan, to address the Executive's need for better analysis. According to its Charter, the CSR is a public information and analytical organisation, reporting directly to the President. The findings are directed to the EOP and the Security Council of the Republic of Tajikistan.

The CSR has an Academic Council, a Scientific Methodological Council and a Scientific Publishing Council. The Academic Council consists of the heads of leading researchers of the Centre, as well as prominent academics and specialists of the Academy of Sciences, universities and other ministries and departments of the Republic of Tajikistan. Despite its mandate as a state-run think-tank, the Centre is not engaged in modeling policy choices and scenarios of the government. The Centre's staff is rarely involved in policy formulation. Instead, the CSR functions as an additional source and channel for state-controlled socio-political and security-related information.

2.5. Recent Changes: Opportunities for Better Coordination

In Tajikistan, following the presidential elections of 2006 and 2013, the President accepted the resignation of government officials and restructured ministries, committees and agencies. Moreover, in 2013, the EOP was given the mandate to conduct vertical functional reviews of ministries and committees and engage in various capacity building and policy reform activities supported by various international consulting groups and experts based on available international experience. In this process, the President received informed advice on how best to restructure and improve the government machinery.

While the 2013 reforms did not result in a new set of central bodies of executive power, they did include the restructuring of the EOP, the key policy advice institution for the President. The entire structure of the EOP was changed by Presidential Decree in early 2014, providing an opportunity to avoid mere tinkering and the establishment of an ephemeral policy making institution.

Former EOP divisions were expanded into departments¹⁵ and will presumably be strengthened with additional staff. This will ease the overload of paper work of existing staff, and could also improve the quality of work since it will allow staff to engage in more careful review and analysis. Michal Ben-Gera correctly notes that "Coordination is an interactive process, and the best results are achieved when it is seen as a common search for optimal solu-

¹⁴ The assistants and relevant divisions of the President's Office have the power to engage ministries and state committees that are beyond of their line of expertise.

¹⁵ Executive Office of the President (EOP), *Republic of Tajikistan: Conducting Vertical Functional Reviews of Seven Ministries., Interim Report* (Dushanbe: Ministry of Education, 2010).

tions through openness, sharing information, and cooperation rather than through applying authority and control".¹⁶ The upgrade of former EOP divisions to departments may also serve as a signal of the intention of the President to endow EOP staff not only with supervisory functions over line ministries and state committees, but also with coordination of, and active involvement in, policy formulation. The EOP department staff ought to guide line ministries and state committees on what policy issues the latter should focus on while elaborating sectoral policies or ad-hoc tasks.

As part of on-going public administration reform, the Law on System of Bodies of Public Administration of the Republic of Tajikistan¹⁷ further streamlined the legal basis of the functioning of organisation of central executive bodies. The law vests the EOP with authority to coordinate strategic planning, and monitor implementation of adopted policies and strategic plans. Notably, the law also mandates the EOP to cooperate with civil society organisations during policy formulation and implementation on issues related to the development of the country. It further tasks the EOP with "informing society about activities of executive and state authorities regarding results of policy implementation on essential directions of the development of the country".¹⁸ The law thereby provides an opportunity to increase the role of civil society in the process of public management. These are important principles that previously were mentioned but not significantly stressed in legislative acts defining the policy-making process.

2.6. Analytical Units of Ministries

Most line ministries in Tajikistan have a unit responsible for analytical work. However, their capacity to analyse trends and challenges, and elaborate solutions is limited. Most units are small and their staff lack adequate training. Ministerial analytical units are not engaged in gathering evidence in an examination of policy issues or monitoring and evaluation to improve government actions in a given sector. Much of their work centres on providing short informational briefing notes to be used in the leadership's speeches or short reports. Virtually no work is done to identify emerging policy issues.

Vertical functional reviews conducted in 2010 and 2011 found that the analytical and planning units of ministries perform tasks that have little to do with their official function. For example, until a recent government reshuffle, the Ministry of Melioration and Water Resources had a department of economic analysis and forecasting staffed by seven people. This analytical unit, located within the ministry with considerable influence on the policy agenda on agricultural development and irrigation issues spent most of its time drafting collective agreements with labour unions. These tasks could be handled by the ministry's legal and accounting divisions respectively.¹⁹ Another example is the Ministry of Education where several units have duplica-

¹⁶ Michal Ben-Gera, "Coordination at the Center of Government for Better Policy Making," *Paper, Conference on Public Administration Reform and European Integration, A Joint initiative of the OECD and the European Union*. (Montenegro, 2009).

¹⁷ Law On System of Bodies of Public Administration of the Republic of Tajikistan, No.828, 16 April 2012.

¹⁸ Article 8 of the Law on System of Bodies of Public Administration of the Republic of Tajikistan, No.828, 16 April 2012.

¹⁹ EOP, "Republic of Tajikistan: Conducting Vertical Functional Reviews of Seven Ministries", *Interim Report* (Dushanbe: Ministry of Melioration and Water Resources, 2011).

tive and overlapping functions. Thus the ministry's Department of Planning, Budget Implementation and Forecasts and its Unit for Development and Implementation of Investment and Grant Programmes have almost identical investment forecasting and budgeting functions.²⁰ Such duplication is widespread in ministries and state committees.

International experience emphasises the importance of the involvement of non-state actors in the public policy process.²¹ However, in Tajikistan such actors are marginal and have limited influence on the policy process. This is especially true of research organisations and the media. Despite of the existence of numerous private magazines and journals, they hardly contest the directives of the bureaucracy's policy intentions or propose alternatives. Business and other interest groups do exist and try to influence the legislature based on their own interests.

In conclusion, the public policy process in Tajikistan is strongly managed by the executive's apparatuses and could be described as falling under an "instrumental administration" system of policy reforms and changes. "Instrumental administration" refers to "configurations with a high potential to transform substantially existing administrative arrangements".²² Administratively, the governmental institutions are highly organised and integrated. The departments and units of ministries and committees strictly follow the policy agenda of the central government and enjoy limited maneuvering for policy implementation (see Table 2).

Table 2. Typology of Bureaucracies

	Autonomous Administration	Instrumental Administration
Administrative Reform Capacity	Low	High
Strength of Executive Leadership	Fragmented	Integrated
Entrenchment of Administrative Arrangements	High	Low
Political Influence of the Bureaucracy	High	Low
Patterns of Administrative Change	Incremental self-adaptation	Deliberate reform from outside

Source: Christoph Knill, "Explaining Cross-National Variance in Administrative Reform: Autonomous Versus Instrumental Bureaucracies," Journal of Public Policy, 19, 2 (Cambridge: Cambridge University Press: 1999).

3. Policy Formulation in Tajikistan

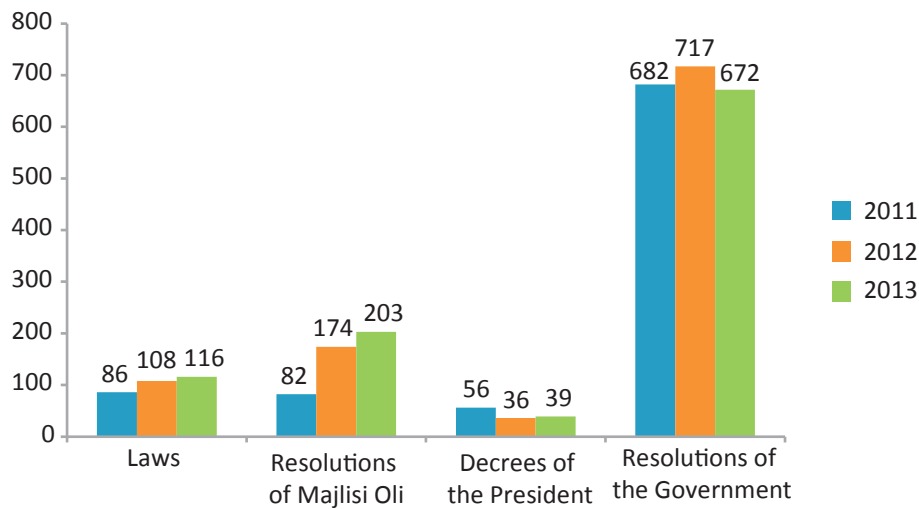
3.1. Legislation Related to the Policy Process

Characteristic features of the current legal system in Tajikistan are the multiple legal documents issued and adopted. This reflects the ongoing expansion of attempts to regulate and control social, political, economic relations in the country.

²⁰ EOP, "Republic of Tajikistan: Conducting Vertical Functional Reviews of Seven Ministries", *Interim Report* (Dushanbe: Ministry of Education, 2010).

²¹ Michael Howlett, M. Ramesh and Anthony Perl, *Studying Public Policy: Policy Cycles and Policy Subsystems*. 3rd Edition (Don Mills: Oxford University Press, 2009).

²² Christoph Knill, "Explaining Cross-National Variance in Administrative Reform: Autonomous Versus Instrumental Bureaucracies", *Journal of Public Policy, 19, 2* (Cambridge: Cambridge University Press: 1999).

Figure 2. Number of Legal Acts Adopted in Tajikistan (2011-2013)

Source: Tajikistan Ministry of Justice Unified Registrar for Normative Legal Acts

The large number of normative acts adapted annually, that are also manifestations of policy intent, are carried out within the context of low capacity of Tajikistan's government institutions responsible for strategic policy planning.²³ Currently, the technical capacity of civil servants to comprehensively analyse and propose rational policy choices remains woefully inadequate. Often, draft legislation contains a high degree of confusion between various definitions within a single piece of legislation. Some legislation is adopted without the support of other regulations within the related sphere. Shallow and superficial analysis by civil servants leads to the unnecessary elaboration of pieces of legislation and causes uncertainty over initiative goals. Moreover, the civil service has low implementation capacity, something that is rarely not taken into account when considering a policy, raising doubts about the utility of normative acts.

These short-comings in capacity in policy formulation are not limited to Tajikistan. Capacity shortage in transition economies poses serious problems in the area of policy formulation, especially the formulation of strategic legislative acts. Analysts have urged policy makers to steer away from "a one-sided policy making of life-changing decisions" and greater openness "towards more coordinated and harmonised actions, cooperation and dialogue".²⁴

In 2006, the Government of Tajikistan criticised its own inadequate capacity to develop policy and coherent national strategies.²⁵ The government attempted to streamline public administration to improve policy development formulation and implementation. The Public Administration Reform Strategy of the Republic of Tajikistan is one of the first policy documents to critically acknowledge weaknesses and develop measures to tackle the challenges. One of the tasks of the strategy was to "strengthen capacity to develop, make, implement and

²³ Motomi Tomaru, *Report of the Assessment on "Development Management Capacity" of the Government of Tajikistan* (Dushanbe: Japan International Cooperation Agency, 2005).

²⁴ S. Safarov, "Problems and the Ways of Efficiency Promotion of State Regulation in the Republic of Tajikistan," *Tajikistan and the Contemporary World Herald*, 4, 13 (Dushanbe: Centre for Strategic Research under the President of the Republic of Tajikistan, 2006)

²⁵ Decree of the President of the Republic of Tajikistan, No. 1713, 15 March 2006.

monitor strategic decisions". The Strategy emphasised the importance of civil service management and functional reviews of line ministries, which is undeniably important in policy development. However, little attention was given to building policy making capacity in line ministries at the top level. The importance of evidence-based policy making was also omitted from the strategy.

In 2009, a Law On Normative Legal Acts was adopted. The law was intended to consolidate, regulate and put in order processes related to the development and adoption of legislation. The law is a reaction to rapidly developing laws and by-laws at all levels of the bureaucracy (see Figure 2), and aimed to streamline the regulation of legal documents. The law determines the main principles, definitions, hierarchy of legal prescriptions, typology of pieces of legislation, order of development and elaboration, and amending and abolishing legal documents in Tajikistan. It also established a unified and comprehensive Register of Legal and Normative Documents.

Since the adoption of the Law on Normative Legislative Acts, there have been improvements to the process of drafting legal documents. However, discrepancies and lack of precision in the legislation that results in differing interpretations of the acts is still wide-spread.²⁶

3.2. Sequence of Policy Formulation

This section will describe the sequence of the public policy process in government; the process of seeking a solution to an identified problem; the key players in designing, reviewing and coordinating the policy agenda; and how policy-related inquiries are addressed and debated.

At the beginning of each year, the Government of Tajikistan holds an extensive session with the heads of all ministries, committees and local governments. Following reports from key ministries, the President reads out a prepared statement setting the annual agenda, outlining the set of problems that the government intends to address in that year. In the case of serious and comprehensive problems, the timing for a discussion of solutions can be extended beyond a year. Usually, there are so many annual challenges, that they have to be prioritised, with some issues getting more and quicker attention than others. The results of this annual agenda setting are recorded in Minutes of the Session or a Resolution of the Government.

The agenda is regularly reviewed and revised, and new tasks maybe added throughout the year. During the annual Address of the President to the Joint Session of both chambers of the Majlisi Oli in late April, each ministry and local government presents their respective annual plans based on the Government agenda outlined at the beginning of the year. The development of these plans is one of the most time consuming phases of public policy-making processes in Tajikistan.

²⁶ H. Hasanov, "Konunguzorii Dzhumkhurii Todzhikiston: Vaz'l Muosir va Durnamoi Rush," *Life and Law Herald*, 2/June (Dushanbe: Ministry of Justice of the Republic of Tajikistan, 2012).

Ministry departments responsible for addressing issues identified in the government agenda elaborate, formulate and develop a draft piece of legislation, based on the scale of a problem to be solved. Draft legislation is then submitted to ministry leadership and other interested departments for review. After further elaboration, the legislation is submitted to the EOP for review and instruction.

The EOP issues its feedback and solicits reaction from all ministries and committees with an interest in the draft legislation. Stakeholders cooperate in reviewing and in some cases amending the draft legislation. Political interests are taken into account, and sometimes, to create the perception of distance, stakeholders may propose several alternative scenarios.

The ministry originally tasked to formulate the policy, is then charged with finding compromises or defending its position. This involves managing and responding to lobbying on contentious issues by various actors.

The key government ministries involved in public policy making are the following:

- Ministry of Justice (MOJ)
- Ministry of Economic Development and Trade (MEDT)
- Ministry of Finance (MOF)

In fact, approval from these three ministries is a prerequisite for adoption of draft legislation.²⁷ The ministries review and consider draft legislation separately among their staff. Often, a ministerial steering body will provide final approval of the draft legislation and send it back to the EOP or the ministry that initiated the consideration of draft legislation. The MOJ reviews proposed legislation to ensure that it does not contradict current legislation. If it does, the ministry amends the draft. The MEDT is the central executive body in charge of the analysis of strategies, programmes and forecasts for social and economic development of Tajikistan. It makes sure that the proposed legislation is in line with existing national strategies and programmes.²⁸ The MOF reviews the draft and verifies if financial resources are available to be allocated for the implementation of the legislation.

Tajikistan inherited a limited time system for reviewing draft legislation from the Soviet era. The government determines who conducts the review and can insist on rigid deadlines that result in premature and shallow analysis. There are cases and circumstances, when the bureaucracy has up to two or three days to review and respond to draft legislation.²⁹ Within this timeframe, decisions are often made on an ad-hoc basis, without detailed review. Only the MOJ is entitled to a 15 day review before submitting its opinion. The EOP record-keeping nomenclature allows for more relaxed and feasible timing for the review of draft legislation, although the two to three day limit is the *de facto* timeframe. (see table 3).

²⁷ Resolution of the Government of the Republic of Tajikistan “On Rules of the Government of the Republic of Tajikistan”, Section III, No.419, 7 September 2001.

²⁸ Main strategies include the National Development Strategy and the Poverty Reduction Strategy.

²⁹ For example, the urgent preparation of a legal conclusion on an international treaty or agreement ahead of a state visit.

Table 3. Timeframe for Review and Execution of Legislation and Requests by the Executive Office of the President

Type of Legislation/Legal Act	Review Period
Official letters of ministries, state committees, agencies	Up to 7 days
Letters requesting official conclusions	14 days
Official letters from foreign countries and international organizations	7 days
Submission of information on the request of EOP	7 days
Laws, Resolutions of Majlisi Oli, Orders of the President, Resolutions of the Government	Determined on an individual basis

Source: *Instruction on Record Keeping in the Executive Office of the President of the Republic of Tajikistan*³⁰

Assuming that all interested ministries and committees agree on the draft legislation, it is submitted to the relevant department of the EOP for review. The draft must include the following:

- A cover letter;
- A justification for the draft legislation;
- A list of bodies and agencies which have reviewed and agreed on the draft;
- Expert opinion prepared by an independent investigator (if required);
- Financial justification and sustainability of the draft legislation; and
- Other supporting documents.

If all documents are provided, the draft legislative act is scheduled for consideration in the next session of the Government, at the end of each calendar month. The draft act is discussed and voted on by Government members. It is either approved by the majority or is returned for further elaboration to the ministry in charge. Following a positive outcome by the cabinet, depending on the nature of the document, the act can be immediately adopted in the form of a Governmental Resolution if the issue under consideration falls within current legislation, and has a significant impact on the socio-economic life of the country.³¹ Acts which are operational are adopted as Government Directives. However, if the issue at hand is not covered by existing law, a Government Resolution involves sending a new draft act to Parliament for consideration.

It is often not clear in Tajikistan what value a new law adds to existing legislation and the logic used to assign topics to various laws. For example, in the current legislative reform governing the pension system, a new law “On obligatory pension insurance” is on the Government’s annual agenda. During the review process, it became obvious that the draft did not add much value to current pension legislation. Any important changes or additions could have been added to an existing law. In other words, for the sake of a few provisions, a complete new law was drafted.

It should be noted that under the existing system of policy formulation, the government is not acting as a policy-making body but as a quasi-legislative body, considering and approving draft laws. The documents submitted to cabinet and the EOP tend to be draft normative acts. Draft acts are legal and technical documents, which by their nature are not designed to

³⁰ Approved by the Directive of the Head of the Executive Office of the President of the Republic of Tajikistan, No. 3, 22 January 2001.

³¹ For example, if existing tax legislation allows the government to adjust tax rates, this can be implemented through a government resolution.

facilitate policy discussions and decision-making. In a sense, this process results in the tail wagging the dog; instead of technical and legal papers being prepared in response to policy decisions, policy decisions are made in response to technical documentation.

3.3. Establishment of Working Groups

Working groups are an effective instrument to tackle challenges in the policy making process and to coordinate actions of different executive bodies. This is particularly true in the formulation of strategic policy papers, such as Poverty Reduction Papers, the National Development Strategy and documents related to the World Trade Organisation (WTO) accession process. Policy documents such as these require detailed preparation based on a thorough review of socio-economic development in the country and the engagement of almost every executive body. The process can last a number of years.

To accommodate the process, the Government of Tajikistan has issued a separate resolution on the formation of inter-sectorial working groups and is recruiting the best available experts. It is considered a great honour to be recruited into the process of strategic policy paper formulation. The donor community is also significantly involved, when the proposed reform requires international expertise and support. Under such mechanisms, quite often, the donor community is an important source of funding to hire the best available expertise.

Section VII of the Regulations (*reglament*) of the Government mentions the criteria for setting up working groups by the executive branch. Legal and public policy experts have advocated for better regulation of the terms of the establishment and mechanisms of legislative working groups.³² Such regulation would improve the efficiency of working groups and the quality of their outcomes. Specifically, it would govern the order of discussion, preparation and decision-making processes, mechanisms for communication, procedures for sharing information and setting target dates.

Box 2. Examples of Working Groups³³

Working Groups can either be established by the Central Government or by other executive bodies. Examples include:

A bi-level working group on the Accession of Tajikistan to the World Trade Organisation was established in 2007 by a government resolution, which outlined tasks and objectives, mechanisms for coordination, rights and obligations, working arrangements and staff composition of the working group.

The recently adopted Living Standards Improvement Strategy for 2013-15³³ was drafted by a working group created by the MEDT. Previous working groups for development of policy papers were established by the Government and so this signals a slight devolution of authority. In 2011, the MEDT wrote to the EOP and received support to set up the working group. The Ministry adopted a Decree of the Minister on the establishment of a two-level working group, requesting line ministries and other central executive bodies to nominate a Deputy Minister/Deputy Chairman for the coordination group (first level); and sectoral experts for inter-sectoral cluster groups (second level). This Strategy resembled previous Poverty Reduction Papers and the content and structure was familiar and manageable to formulate.

³² See for example, D. Davlatov, D. Murodov, R. Mengliev and N. Fozilov, *Metodicheskoe posobiye po eazrabotke normativno pravovikh aktov* (Dushanbe: Optima Company, 2005).

³³ Approved by Resolution of Majlisi Oli, No. 1030 on 26 December 2012. No.1030 replaces the previous Poverty Reduction Paper for 2010-2012.

A summary of the policy formulation stages and degree of responsibility of key executive bodies is outlined in Table 4.

Table 4. Responsibilities of Executive Bodies in the Policy Formulation Process

Policy Process Step	Lead Body	Contributing Bodies	Decision/Approval
Priority definition	President, Ruling Party, Government Cabinet	Ministries and committees	Presidential Decree or Resolution of the Government or Parliament
Policy and legislative planning	President, EOP, MOJ	Ministries and committees	Government Resolution
Preparation of policy proposal	Proposing ministry	Working Groups, Non-governmental organisations	Minister
Preparation of legal drafts	Proposing ministry/ Legal Department of EOP	MEDT, MOF, MOJ	Minister
Inter-ministerial consultations	Proposing ministry	MEDT, MOF, MOJ, other ministries	Minister
Submission to Government/EOP	Proposing ministry		Minister
Review by the Government /EOP Units	Prime Minister and deputies, other Cabinet members	EOP Units, Proposing Ministry	Recommendation of the Cabinet / Head of the EOP includes proposal in agenda of next Government Session
Review by the Cabinet	Cabinet	EOP Units, Ministries	Minutes of the Government Session
Decision by Government	Head of the Government	Government Cabinet, EOP Units, Ministries	Government Resolution
Parliamentary process and passage	Parliament	Assistant to the President working with Parliament, Proposing ministry	Resolution of the Parliament

Source: Based on Organisation for Economic Co-operation and Development (OECD), "The Role of Ministries in the Policy System: Policy Development, Monitoring and Evaluation," Sigma Paper Series, 39. (Paris: OECD, 2007).

3.4. Stakeholder Involvement in Policy Development: Case Study of the New Tax Code

The role of analysis is to assist in formulating policy variants from which a choice can be made. Different options are weighted on the basis of their advantages and disadvantages regarding the established objectives of the policy. Alternative solutions are sought both within and beyond government institutions.

Over the last two decades, extensive research has been done in both developing and developed economies on the greater involvement of civil society in decision-making processes.

This includes public hearings where citizens or civil organisations can express their views.³⁴ Tajikistan is gradually increasing the transparency of its public policy making process, inviting members of civil society and interested sectoral actors to engage in discussion on draft legislations.

An example of this more transparent process is the assessment of the new Tax Code of Tajikistan.

In 2008, the National Association of Small and Medium Business of the Republic of Tajikistan, with the assistance of the United States Agency for International Development (USAID), carried out an assessment of the existing Tax Code.³⁵ The analysis concluded that the Code was excessively complicated, lacked budgetary efficiency and had a negative impact on businesses.

In his annual address to Parliament in April 2011, the President urged the Government to develop a new Tax Code by mid-2012, with the active participation of associations of entrepreneurs.³⁶ A working group was established by the government to draft the code. The President later asked the Government to engage experts and taxpayers while considering the simplification of tax regimes and to ensure the absence of contradictory and mutually exclusive clauses in the Code.

As a result, more than 4,000 proposals and comments by stakeholders were submitted to the working group. According to the Tax Committee note, most of the proposals were partially or fully accepted. The working group held numerous meetings and debates and the Investment Council under the President held a special session on the subject in the 2011 to 2012 policy period. In general, civil society and business associations felt positive about the outreach from the Government and a sense of possibility in providing feedback and analysis on the consequences and opportunities of new Tax Code. However, as it turned out, this public engagement exercised that held out much promise for changes in taxation to stimulate private sector development and growth did not produce significant results. Despite improvements in the contextual and interpretive nature of the Tax Code, major changes to the draft tax legislation that could boost private sector growth were not adopted. The Tax Code was modified cosmetically and technically,³⁷ raising concerns about the government's real interests in greater public involvement in decision making.

³⁴ See for example, United Nations Development Programme (UNDP), *Human Development Report 2000* (New York: UNDP, 2000); Ruth Lister, *A Politics of Recognition and Respect: Involving People with Experience in Poverty in Decision Making that Affects Their Lives*, *Social Policy and Society*, 1 (Cambridge: Cambridge University Press: 2002); and Steven Kelman, *Making Public Policy. A Hopeful View of American Government* (New York, New York: Basic Books, Inc., 1987).

³⁵ See the analysis at http://www.namsb.tj/phocadownload/beilibrary/tjfea_on_tax_code.pdf. Accessed in December, 2013.

³⁶ Address to the Parliament of the President of the Republic of Tajikistan, <http://president.tj/node/193>, accessed in December 2013.

³⁷ See for example, <http://freemarket.tj/2013/12/konstantin-bondarenko-fakt-sushhestvovaniya-igotgovorit-o-tom-chto-obshhiy-rezhim-nalogooblozheniya-v-strane-neblagopriyaten>, accessed in January 2014; <http://rus.ozodi.org/content/article/25065005.html>, accessed in February 2014; and <http://www.dialog.tj/news/news10357/>, accessed January 2014.

4. Challenges to Building Capacity in Public Policy

4.1. Dynamics of Civil Service Capacity Building

Ministries have the difficult task of implementing policies in a context that does not encourage capacity building within their ranks. This includes the on-going brain drain of qualified personnel and experts, resulting in a limited number of civil servants possessing institutional memory of public institutions. The civil service is further characterised by a lack of incentives, low salaries and no overtime compensation. Almost 20 percent of ministry staff is made up of young civil servants, some of them recent university graduates (Table 5). More than a third of the key policy-making institutions have staff with a length of service of just up to five years, highlighting the degree of inexperience within the newly qualified civil service in Tajikistan (see Table 5).

Table 5. Education, Age and Length of Service of Civil Servants in Tajikistan (1 January 2013)

Institutions	Total Employees	Education Background		Age			Length of Service	
		Economics and Finance	Law	18-28	29-35	36-45	Up to 5 years	Between 5 to 10 years
Bodies under the President	700	440	20	79	153	175	154	137
Ministries	5731	2645	692	1061	1382	1362	2225	1340
State Committees	439	80	18	58	106	169	113	105
Departments and Agencies of the Government	3943	2084	332	721	1051	990	1210	908
Total	10813	5249	1062	1919	2692	2696	3702	2490

Source: State Statistics Agency under the President of the Republic of Tajikistan

Capacity-building of central and local government agencies is considered a focal issue in the development of a state. In the post-Soviet era, former graduates of party schools of the Soviet Union continued to hold high-level government posts, but needed new public administration and management techniques that reflect emerging administrative systems.

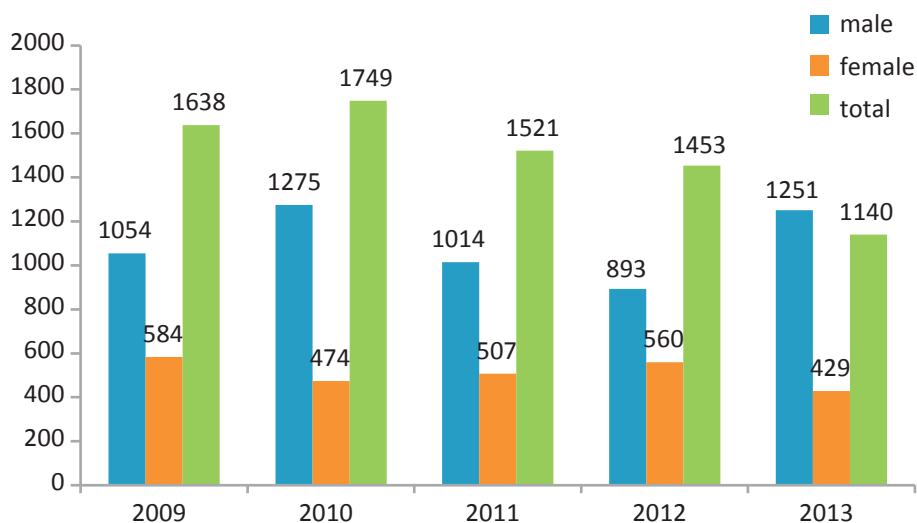
In 2013, the Institute of Public Administration (IPA) under the President of the Republic of Tajikistan was established. Building on the former Institute for the Upgrading of Qualification of Civil Servants under the Civil Service Department of the President of the Republic of Tajikistan, IPA is tasked with the education and training of civil servants, and with developing management methodology for assessing civil servants. The Institute aims to upgrade the competence of civil servants, build management capacity for public administration, and promote the development of public administration through applied research. It is the only educational institution in the country authorised to train senior staff and executive specialists of the government, ministries and departments, local authorities and local self-government entities of Tajikistan.

Since 2004, 13,800 civil servants and post-graduate students have participated in trainings and courses facilitated by predecessor and current Institute.³⁸ In 2009, the Institute received a license

³⁸ Data from the Institute of Public Administration (IPA) under the President of the Republic of Tajikistan.

to deliver post-graduate professional education, in addition to its short- and mid-term training courses. In the last five years, over a third of all Institute graduates have been female (Figure 3).

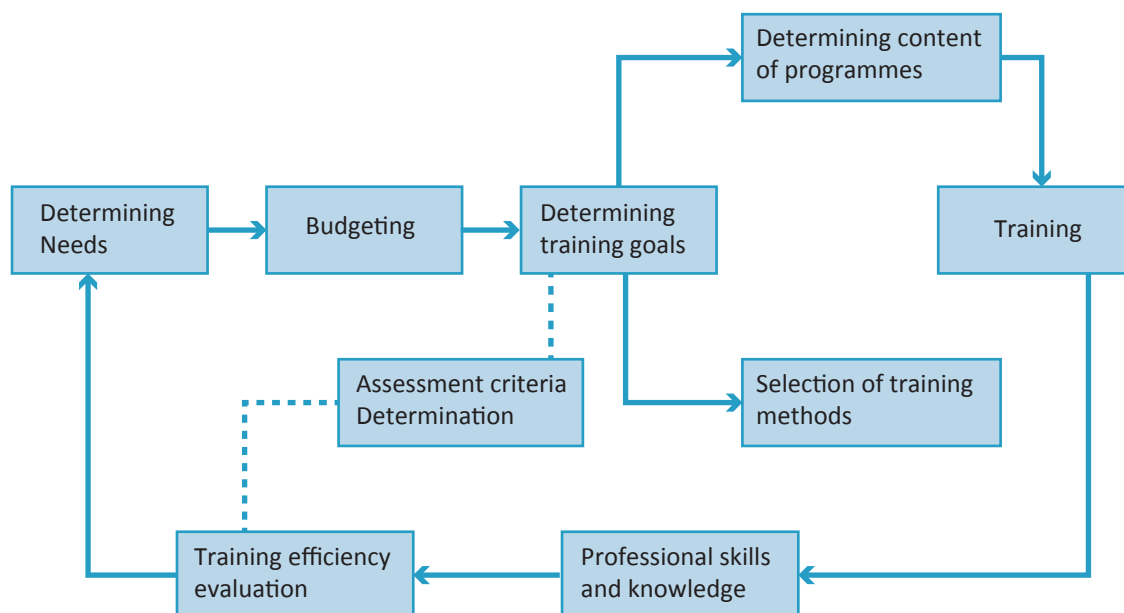
Figure 3. Number and Gender of Civil Servants who Participated in IPA (Re) Training (2009-2013)



Source: Institute of Public Administration (IPA) under the President of the Republic of Tajikistan

The training process at IPA is comprised of several steps requiring adequate resources and capacity at all stages of its implementation (Figure 4).

Figure 4. Professional Training Process



Source: Adapted from Human Dynamics Consortium (2011)³⁹

³⁹ Report on Management of Trainings of Civil Servants in the Republic of Tajikistan, “Support of Civil Service Reforms” Project (Dushanbe: 2011)

The IPA conducts training and retraining based on an initial needs assessment conducted by line ministries and departments, who submit a list of training needs to the IPA. After considering these lists, the Institute prepares a “State Order” on retraining and training of civil servants, which is approved by government resolution on an annual basis. Every order identifies training topics and includes a list of staff. Figure 5 shows the form that is used to prioritise needs based on a list of courses on offer (that are discussed below).

Figure 5. Civil Service Training Needs Identification Form

FORM
of civil servants for identifying training needs

Full name _____

Position held _____

№	Subject	Choose one of the options to answer and tick in an appropriate column				Note
		very important	important	not so important	not important	
1. PUBLIC ADMINISTRATION						
1-1	Organization of public administration: structures and functions					
1-2	Public administration as a professional activity					
1-3	Enhancement of efficiency of public administration					
1-4	The main conceptual documents in the sphere of public administration					
1-5	Foreign models of public administration.					
2. ORGANIZATION OF CIVIL SERVICE						
2-1	Basics of civil service					
2-2	Legal status of civil servant, rights and duties					
2-3	Appointment procedures in civil service					
2-4	Employment in Civil Service (procedures for attestation of civil servants, proficiency examination, awarding of rated ranks)					
2-5	Issues related to employment and transfer of civil servants when undertaking reorganization of state bodies					
2-6	Planning of personnel training: training needs assessment, development of training plan for staff, assessment of training effectiveness					

№	Subject	Choose one of the options to answer and tick in an appropriate column				Note
		very important	important	not so important	not important	
2-7	Procedures of official checks and investigations					
2-8	Declarations submission process					
2-9	Ethics of the civil servant.					
3. RECORDS MANAGEMENT						
3-1	Maintaining business nomenclature					
3-2	Organizing documents custody, requirements of the archival legislation to the terms and organization of documents custody					
3-3	Conclusion and preparation of the labour contract					
3-4	Record keeping in a state language.					
4. STRATEGIC PLANNING						
5-1	Definition and objectives of the strategic planning					
5-2	Types of analytical documents and their preparation					
5-3	Perform SWOT analysis.					
5. SYSTEM OF NORMATIVE LEGAL ACTS OF THE REPUBLIC OF TAJIKISTAN AND TECHNIQUE OF THEIR DEVELOPMENT						
7-1	System of normative legal acts of the Republic of Tajikistan					
7-2	Organization techniques for preparation of normative legal acts					
7-3	Rules for preparation of normative legal acts					
6.	Analysis, development and implementation of state policy					
7.	Performance of functional analysis in state bodies					
8.	Social partnership					
9.	Basis of gender politics					
10.	International experience in civil service					
11.	Practical application of information technologies in public administration system					
6. OTHER SUBJECTS (specify)						

Source: IPA (2011)⁴⁰

⁴⁰ Institute of Public Administration (IPA), Methodological guidelines on application of the rules of development and implementation of state order for professional training, retraining and improving the qualifications of civil servants of the Republic of Tajikistan (Dushanbe: IPA, 2011)

IPA carries out in-house and field trainings for civil servants of central executive bodies, as well as for civil servants working in regional and local authorities. These include:

- short-term courses (24 to 72 hours)
- mid-term courses (72 to 500 hours)
- long-term courses (more than 500 hours)

In 2013, IPA delivered 10 courses in its Dushanbe location and 12 courses in the field.⁴¹ All courses in the field are short-term and vary based on the topics requested and the level of the participants in the civil servant. Notably, in 2012, IPA arranged gender-related trainings for civil servants and talented female staff members of central and local authorities improved understanding of gender issues by both female and male course participants.

The content and curricula of IPA courses are designed based primarily on theoretical materials on civil service legislation, human resource management and accounting reporting in public offices, correspondence and legislation implementation issues, and cooperation of public bodies with civil society. Although, these topics are important for civil servants, the IPA curriculum lacks a focus on strategic planning and policy analysis, and analytical tools to assess the economic impact of regulatory activity.

The structure of IPA courses could also be strengthened. For example, the 46-hour course “Order and Implementation of Legal Normative Acts” does not include separate lectures on the Law on Normative Legal Acts, other by-laws regulating the sequence of drafting legislation and the elements of analysis required for consideration by the Government. The course does cover a range of issues such as ethics in the civil service; the civil service code of conduct; legislation to combat corruption; and WTO membership of Tajikistan.⁴² A review and thorough rearrangement of curriculum plan is a major priority for IPA in the near future.

Many reports assessing existing capacity of Tajikistan’s executive bodies responsible for strategy development highlight the lack of in-depth understanding of concepts and implementation methods within the sectors they are responsible for.⁴³ As a result, unreliable data, poor transfer of methods and instruments of data analysis, and lack of defined inter-sectoral cooperation between institutions is wide-spread. Improving the qualifications and building the capacity building of civil servants and personnel of local and central authorities is a prerequisite to successfully reforming the policy process in Tajikistan. Since civil servants directly influence the on-going reform initiatives affecting development of the country, over time, these will be positively impacted by extension.

⁴¹ Based on IPA statistics.

⁴² See IPA’s 2013 Curriculum Plan on training courses and improving qualifications of civil servants of the Republic of Tajikistan.

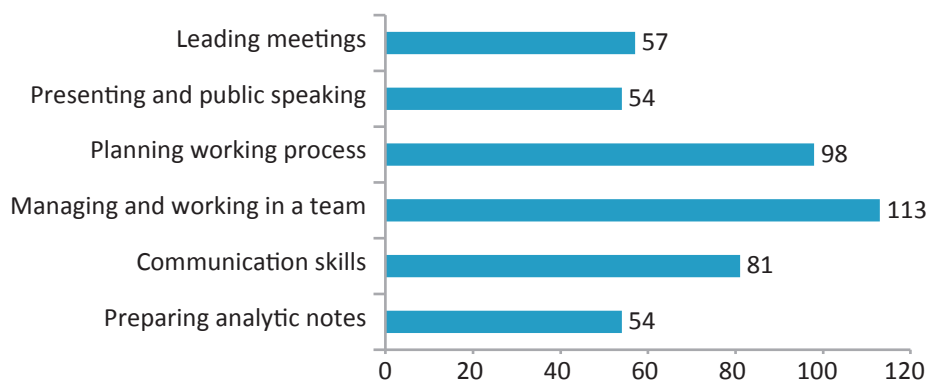
⁴³ See for example, Tugrul Temel, “Institutsional’naya otsenka informatsionnoi sistemi prodovol’stvennoi bezopasnosti Tadjikistana,” Joint Report of the Food and Agriculture Organisation and the European Union (Dushanbe: 2012).

Low levels of professionalism are a key reason for the low efficiency of the public sector in Tajikistan. One survey found that the public sector is staffed by personnel who are inadequately equipped to implement the functions of the civil service.⁴⁴ The majority of respondents stressed that the state apparatus has a poor professional education system and public service personnel are unprepared for civil service.

A survey on public awareness on the implementation of the Public Sector Reform Strategy also assessed the training of civil servants.⁴⁵ Civil servants, members of parliament, representatives of the mass media, entrepreneurs and civil society were surveyed. Only one-third of all respondents considered IPA programmes to be relevant. Almost half (42 percent) of civil servants felt the same way. Improvements in IPA curriculum, programmes and training modules over the last three year were noted by only 23 percent of civil servants, the primary beneficiaries of IPA courses.

Another survey asked civil servants to identify important skills sets and related training needs (Figure 6).⁴⁶ Out of 10 skills listed, those listed as least important were the ability to prepare analytical documents and presentation skills. More interactive and process-oriented skills, such as planning working processes, managing and working in teams and communication skills were much more valued.

Figure 6. Important Skill Sets Identified by Civil Servants



Source: Human Dynamics survey (2011)

Existing training curricula to enhance the qualifications of civil servants in Tajikistan are based on broad generalities. It is critical that IPA establish clearer links between training and practice. The 2013 restructuring of IPA should provide momentum for strengthening the capacity of civil servants to effectively engage in policy formulation.

⁴⁴ Fariza Ergasheva, "Client Capacity Building under the Tajikistan GPF Grant," *Survey Report* (Dushanbe: The World Bank Residence Mission, 2011).

⁴⁵ Civil Initiative Centre, "Public Awareness on the Implementation of the Public Sector Reform Strategy," *Survey Report*. (Dushanbe: Civil Initiative Centre, 2011).

⁴⁶ 2011 survey conducted by Human Dynamics, with IPA support; 175 civil servants from 20 ministries and departments were interviewed.

4.2. Assessing the Impact of Proposed Legislation

A well-structured legislative act can positively influence the economy through the support of competition and enterprise development. However, often new regulations generate unwanted effects that take away from their original goal. It can be difficult to predict these potential consequences without using a dedicated instrument.

One of the most challenging stages in policy formulation is creating a realistic understanding of the nature of the problem under review. Many policy decisions are made without a thorough analysis of possible consequences or an assessment of the government and private resources needed for their execution. Who and which sectors will benefit from proposed legislation, and who and which sectors will be worse-off? Will the legislation have a positive outcome and support intentions reflected in top strategic documents or will it undermine the initially favourable objectives of the political agenda of the Government?

The Law on Normative Legal Acts (2009) requires an explicit assessment and justification of the financial implications of proposed legislation. The 2011 Instruction of the Head of the EOP⁴⁷ further requests the submission of various indicators providing a thorough justification of draft legislation. It signifies an attempt by the government to force policy makers to thoroughly assess the implications of draft legislation. The required justification includes an elaboration of:

- Legal, social, economic, financial grounds and indicators;
- Legal and social consequences;
- Sources of funding;
- Impact on budget funding;
- Impact on incomes of citizens, entrepreneurs and organisations; and
- Environmental impacts.

To date, no draft legislation has been prepared in accordance with the Law on Normative Legal Acts or the Instruction of the Head of the EOP. This is due to the lack of capacity to prepare detailed justifications, and the lack of methodological guidance, tools and mechanisms on how to engage in such analysis.

Most post-communist countries have successfully assessed the impact of proposed legislation by adopting impact assessment tools and mechanisms to determine measures to improve business environments, and conduct quantitative and qualitative assessment of costs and benefits of proposed legislation. The most widely used tool is called Regulatory Impact Assessment (RIA).⁴⁸ It is a useful technique in policy development.

Draft legislation should present alternative scenarios of possible outcomes. Once all the possible options are identified, the RIA approach provides the methodology to compare the costs and benefits and likely impacts of each option. Through this assessment, policy makers can compare different approaches and decide which option is likely to be most the most efficacious in achieving policy objectives. Specifically, RIA provides the methodology to:

⁴⁷ Instruction No.2, 28 January 2011.

⁴⁸ For details see Organisation for Economic Co-operation and Development (OECD), *Introductory Handbook for Undertaking Regulatory Impact Analysis (RIA)*, Version 1.0 (Paris: OECD:2008).

- Evaluate the impact of different proposals;
- Identify alternative scenarios to achieve desired policy changes;
- Ensure that the proposed legislation will positively impact those who will be affected; and
- Determine whether the expected benefits exceed the potential costs.

Each regulatory act should clearly establish the nature of the problem (that could also have arisen because of government action), the stakeholders involved and the timeframes for action. Information on RIA experience in other countries⁴⁹ highlights that executive bodies are required to:

- Issue a general note on the implementation of regulatory activities;
- Announce a draft RIA so that interested parties have an opportunity to review it and respond; and
- Ensure the participation of civil society representatives in open discussion and debate and discussion.

New regulations have costs and benefits, which may change over time. There are a range of assessment tools such as break-even analysis, cost effectiveness analysis, and multi-criteria analysis. Policy makers should determine which tool to use based on the frequency of the control and supervision of the compliance with the proposed act. At the end of the day, all instruments must be used to avoid the adoption of awkward and unpopular policy, as was the case of the new Tax Code in 2012 and 2013.

In Tajikistan, as noted, because of the lack of capacity, legislative initiatives do not receive the rigorous scrutiny that is required, and in fact is now mandated by the Government's own regulations.

5. Conclusions and Recommendations

Effective and informed policy making is critical for a society's progress. Policy making is a central function of government and the quality of policies depends on the capacity of a government to manage its policy-making processes. For the most part, in Tajikistan, laws and by-laws have been drafted by a small circle of ministerial staff. This limited involvement, combined with high turnover, has created a loss of institutional memory in policy making and implementation.

Institutional legacies of Soviet policy making are still wide-spread. As a result, central public administrations have limited political commitment to essential reforms in policy making and coordination. There is little capacity for strategic planning processes and practices within government and non-governmental stakeholders, such as the media, think tanks and non-governmental organisations. Laws are often drafted before policy decisions are made. Moreover, there is poor coordination and communication between ministries.⁵⁰ Despite this, recent high-level reforms and restructuring provide opportunities for increased capacity within government and the greater involvement of civil society in the policy-making process in Tajikistan.

⁴⁹ See for example, RIA Legislation of Ukraine, Kyrgyz Republic and the Russian Federation.

⁵⁰ Ecorys, *Functional Review: Functions of the Budget Cycle in Tajikistan* (Dushanbe: Ecorys, 2009).

5.1. Recommendations

- The momentum generated by the 2014 restructuring of the EOP and upcoming adoption of Regulations of New Ministries and Committees should be used to reflect on the roles and responsibilities of all relevant institutions in policy development and implementation.
- Qualitative policy planning and impact assessment should be done to guide policy decisions and prevent the inefficient use of human and financial resources.
- Consistent decision-making processes and clear criteria on who, how, when and in what manner policy processes should be implemented should be developed to ensure well-managed policy processes.
- Draft legislation often lacks a thorough assessment of the funding required for implementation. Although the evaluation of the regulatory impact is a requirement in the legislative drafting process in Tajikistan, it is not practically implemented, and there are no guidelines on how it could be carried out. The introduction of RIA mechanisms, processes and elements, which are now partially described in legislation, should be systematised.
- IPA is the only institution responsible for the training and capacity building of civil servants in Tajikistan. IPA's curriculum is currently focused on theoretical approaches to civil service management. The Institute should use applied research to strengthen its curriculum and focus more on the analytical capacity of civil servants.⁵¹

⁵¹ It should be noted that the University of Central Asia's Institute of Public Policy and Administration is cooperating with IPA to deliver a certificate programme in policy analysis in 2014 and 2015.

References

- Gabriel Almond, G. Bingham Powell Jr, Kaare Strøm and Russell J. Dalton. “*Comparative Politics. A Theoretical Framework*”, Fourth Edition. USA; Pearson Longman, 2004.
- James Anderson. *Public Policymaking: An Introduction*. Boston: Houghton Mifflin, 1990.
- Michal Ben-Gera. “Coordination at the Centre of Government for Better Policy Making.” *Paper, Conference on Public Administration Reform and European Integration, A Joint Initiative of the OECD and the European Union*. Montenegro, 2009.
- Terry D. Clark. *Beyond Post-Communist Studies: Political Science and the New Democracies of Europe*. Armonk, New York: M.E.Sharpe Inc., 2002.
- Civil Initiative Centre. *Public Awareness on the Implementation of the Public Sector Reform Strategy. Survey Report*. Dushanbe: Civil Initiative Centre, 2011.
- D. Davlatov, D. Murodov, R. Mengliev and N. Fozilov. *Metodicheskoe posobiye po razrabotke normativno pravovikh aktov*. Dushanbe: Optima Company, 2005.
- Ecorys. *Functional Review: Functions of the Budget Cycle in Tajikistan*. Dushanbe: Ecorys, 2009.
- Fariza Ergasheva. *Client Capacity Building under the Tajikistan Governance and Partnership Facility Grant. Survey Report*. Dushanbe: The World Bank Residence Mission, 2011.
- Executive Office of the President. *Republic of Tajikistan: Conducting Vertical Functional Reviews of Seven Ministries. Interim Report*. Dushanbe: Ministry of Melioration and Water Resources, 2011.
- . *Republic of Tajikistan: Conducting Vertical Functional Reviews of Seven Ministries. Interim Report*. Dushanbe: Ministry of Education, 2010.
- Gregory Gleason. *The Central Asian States: Discovering Independence*. Boulder, Colorado: Westview Press, 1997.
- Michael Hall. “Tajikistan at the Crossroads of Democracy and Authoritarianism.” *Prospects for Democracy in Central Asia. Transaction*, 15. Istanbul: Swedish Research Institute in Istanbul, 2003.
- H. Hasanov. “Konunguzorii dzhumkhurii Todzhikiston: Vaz’I Muosir va durnamoi rushd.” *Life and Law Herald*, 2/June. Dushanbe: Ministry of Justice of the Republic of Tajikistan, 2012.
- Michael Howlett, M. Ramesh and Anthony Perl. *Studying Public Policy: Policy Cycles and Policy Sub-systems*. 3rd Edition. Don Mills: Oxford University Press, 2009.
- Steven Kelman. *Making Public Policy. A Hopeful View of American Government*. New York: Basic Books, Inc., 1987.
- Christope Knill. “Explaining Cross-National Variance in Administrative Reform: Autonomous Versus Instrumental Bureaucracies.” *Journal of Public Policy*, 19, 2. Cambridge: Cambridge University Press, 1999.
- Ruth Lister. “A Politics of Recognition and Respect: Involving People with Experience in Poverty in Decision Making that Affects Their Lives.” *Social Policy and Society*, 1. Cambridge: Cambridge University Press, 2002.
- Michael McFaul. *Post-Communist Politics. Democratic Prospects in Russian and Eastern Europe*. Washington DC: The Center for Strategic and International Studies, 1993.
- Arnold Meltsner. “Bureaucratic Policy Analysts.” *Policy Analysis*, 1. Berkeley: University of California, 1975.
- Organisation for Economic Co-operation and Development (OECD), *Introductory Handbook for Undertaking Regulatory Impact Analysis (RIA)*, Version 1.0. Paris: OECD, 2008.
- . “The Role of Ministries in the Policy System: Policy Development, Monitoring and Evaluation.” *Sigma Paper Series*, 39. Paris: OECD, 2007.

S. Safarov. "Problems and the Ways of Efficiency Promotion of State Regulation in the Republic of Tajikistan." *Tajikistan and the Contemporary World Herald*, 4, 13. Dushanbe: Strategic Research Centre under the President of the Republic of Tajikistan, 2006.

Tugrul Temel. *Institutsional'naya otsenka informatsionnoi sistemi prodovol'stvennoi bezopasnosti Tadzhikistana*, Joint Report of the Food and Agriculture Organisation and the European Union. Dushanbe: 2012.

Motomi Tomaru. *Report of the Assessment on "Development Management Capacity of the Government of Tajikistan"*. Dushanbe: Japan International Cooperation Agency, 2005.

United Nations Development Programme (UNDP), *Human Development Report 2000*. New York: UNDP, 2000.

The World Bank, *Republic of Tajikistan Second Institution Building Technical Assistance Credit. Report No: 19074-TJ*. Washington DC: The World Bank, 1999.

Rahmatillo Zoir and Scott Newton. "Constitutional and Legal Reforms" in *Politics of Compromise: The Tajikistan Peace Process, Accord*, 10. London: Conciliation Resources, 2001.



Produced by UCA Communications Department
Copy Edited by Sia Nowrojee
Printed by VRS, Bishkek, Kyrgyz Republic

