GOVERNANCE ASSESSMENT STUDY
FOR SOUND DEVELOPMENT
MANAGEMENT AND POVERTY REDUCTION
IN THE KYRGYZ REPUBLIC∗

Governance, Finance, and Trade Division
East and Central Asia Department

May 2004

∗Prepared by Gulnaz Baiturova, Sheradil Baktygulov, Michael Heppell, Robert Hood, Kadyrbek Kalkanov, Viktor Kim, Gula Kobaeva, Chinara Medetbekova, Roman Mogilevsky, Gulmira Omurbekova, Theodore Parnall, and Saeed Ahmad Qureshi, ADB Consultants. The views expressed in this paper are the views of the authors and do not necessarily reflect the views or policies of the Asian Development Bank (ADB), or its Board of Directors, or the governments they represent. ADB does not guarantee the accuracy of the data included in this paper and accepts no responsibility for any consequences of their use.
CURRENCY EQUIVALENTS
(as of 31 December 2003)

Currency Unit = som
Som1.00 = US$0.02263
US$1.00 = Som44.1902

ABBREVIATIONS

ADB – Asian Development Bank
CDF – Comprehensive Development Framework
FSU – former Soviet Union
GDP – gross domestic product
IAS – International Accounting Standards
IMF – International Monetary Fund
OSCE – Organisation for Security and Cooperation in Europe
NGO – nongovernment organization
NPRS – National Poverty Reduction Strategy
TA – technical assistance
UNDP – United Nations Development Programme
USAID – United States Agency for International Development
VAT – value-added tax

GLOSSARY

Aiyl Village, or the smallest administrative and territorial unit of the Kyrgyz Republic
Aiyl-okmotu The local government executive and administrative body under the aiyl (village) or community kenesh (council), whose responsibilities include management of a community’s local social activities and services
Akim Head of an executive body of the local state administration at the rayon level.
Arbitrazh The court jurisdiction that considers claims against, and disputes involving, companies
Collegium Management committee or board of a ministry, state commission, or other state body, which broadly manages the operations of part of the government
Governor The head official for an oblast (region), who provides state control and monitoring of activities of local management bodies and governments
Kurultay Traditional meeting of representatives of local communities to discuss issues of common interest
Local kenesh Representative body of local self-government, elected to 5-year terms by the citizens of the territory it represents
Jogorku Kenesh National Parliament: the legislative organ of the Kyrgyz Republic
Oblast Region: the largest administrative unit, with respect to regional territorial division, in the Kyrgyz Republic
Rayon District: the next basic administrative unit, after the aiyl, of the Kyrgyz Republic
Som National currency of the Kyrgyz Republic
Special means Revenue raised from charges for services provided
NOTES

(i) The fiscal year of the Government ends on 31 December.
(ii) In this report, “$” refers to US dollars.

Report preparation was supervised by J. Conrad.
# CONTENTS

<table>
<thead>
<tr>
<th>EXECUTIVE SUMMARY</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. BACKGROUND</td>
<td>1</td>
</tr>
<tr>
<td>A. Introduction</td>
<td>1</td>
</tr>
<tr>
<td>B. Historical Overview</td>
<td>2</td>
</tr>
<tr>
<td>II. STRUCTURE OF GOVERNMENT</td>
<td>5</td>
</tr>
<tr>
<td>A. Constitution</td>
<td>5</td>
</tr>
<tr>
<td>B. President</td>
<td>6</td>
</tr>
<tr>
<td>C. Legislature</td>
<td>7</td>
</tr>
<tr>
<td>D. Executive</td>
<td>10</td>
</tr>
<tr>
<td>E. Local Levels of Government</td>
<td>16</td>
</tr>
<tr>
<td>III. OPERATIONAL ASPECTS OF GOVERNMENT</td>
<td>23</td>
</tr>
<tr>
<td>A. Policymaking</td>
<td>23</td>
</tr>
<tr>
<td>B. Public Financial Management</td>
<td>26</td>
</tr>
<tr>
<td>C. Financial Management at the Local Government Level</td>
<td>36</td>
</tr>
<tr>
<td>D. Personnel System</td>
<td>40</td>
</tr>
<tr>
<td>E. Supreme Audit Authority</td>
<td>43</td>
</tr>
<tr>
<td>F. Corruption</td>
<td>44</td>
</tr>
<tr>
<td>G. Poverty and Governance</td>
<td>50</td>
</tr>
<tr>
<td>H. Public Service Delivery and Performance</td>
<td>51</td>
</tr>
<tr>
<td>IV. LEGAL AND JUDICIAL SYSTEM</td>
<td>55</td>
</tr>
<tr>
<td>A. Ongoing Process of Reform</td>
<td>55</td>
</tr>
<tr>
<td>B. Court System</td>
<td>57</td>
</tr>
<tr>
<td>C. Prosecution Agency</td>
<td>64</td>
</tr>
<tr>
<td>D. Police</td>
<td>65</td>
</tr>
<tr>
<td>E. Office of the Ombudsman</td>
<td>66</td>
</tr>
<tr>
<td>F. Law Associations</td>
<td>67</td>
</tr>
<tr>
<td>V. CIVIL SOCIETY</td>
<td>68</td>
</tr>
<tr>
<td>A. Civil Rights</td>
<td>68</td>
</tr>
<tr>
<td>B. Media</td>
<td>69</td>
</tr>
<tr>
<td>C. Nongovernment Organizations</td>
<td>70</td>
</tr>
<tr>
<td>D. Civil Society and the State</td>
<td>71</td>
</tr>
<tr>
<td>VI. KEY CONCLUSIONS AND RECOMMENDATIONS</td>
<td>72</td>
</tr>
<tr>
<td>A. Central State Administration</td>
<td>72</td>
</tr>
<tr>
<td>B. Formulation of Policies and Programs</td>
<td>73</td>
</tr>
<tr>
<td>C. Legislature and the Executive Body</td>
<td>74</td>
</tr>
<tr>
<td>D. Central and Local Governments</td>
<td>74</td>
</tr>
<tr>
<td>E. Civil Service Reforms</td>
<td>76</td>
</tr>
<tr>
<td>F. Institutions in Law and Order</td>
<td>76</td>
</tr>
<tr>
<td>G. Public Service Delivery</td>
<td>77</td>
</tr>
<tr>
<td>H. Fiscal Management</td>
<td>77</td>
</tr>
<tr>
<td>I. External Audit</td>
<td>78</td>
</tr>
<tr>
<td>J. Transparency and Accountability</td>
<td>79</td>
</tr>
<tr>
<td>VII. PROJECTS AND PROGRAMS OF DEVELOPMENT PARTNERS</td>
<td>80</td>
</tr>
</tbody>
</table>
EXECUTIVE SUMMARY

The main challenge for any reform of governance in the Kyrgyz Republic is to transform the civil service to focus more on development of policy and delivery of services, rather than on complying with rules and procedures. The civil service should be further downsized—in line with the role of the government as provider of public goods and services—to a level that allows to pay competitive salaries. The Government should also introduce—and strictly enforce—a policy of zero tolerance of corruption. Any reform initiative that meets these objectives must strike a balance between change and consolidation of change.

In this assessment, good governance (or simply governance) is seen as a particular approach to managing state and society relations that enables the state to play its roles effectively. The approach calls for (i) accountability of all organizations and individuals; (ii) public participation; (iii) transparent policies, rules, regulations, and laws, as well as the processes to implement them; and (iv) predictability and continuity of policies, rules, regulations, and laws. This assessment was conducted on an intermittent basis from April 2001 to December 2003 by a team of international and domestic consultants together with staff of the Asian Development Bank (ADB), with the objective of contributing to the development of ADB’s country strategy and program for the Kyrgyz Republic. Views in this assessment do not necessarily represent ADB’s views.

This assessment considers the current situation in the Kyrgyz Republic. Although it is easy to criticize actual versus ideal situations, it is necessary to put this assessment in context. Kyrgyz authorities have progressed a great deal since independence. The Government initiated massive reforms in 1991—which still continue—to reach the present state of governance. Reform has been implemented on the base inherited from the former Soviet Union (FSU), under which the Kyrgyz state administration was at the end of a lengthy command structure. After the FSU breakup, Kyrgyz civil servants found themselves serving a government with limited experience in policy development and state administration. Furthermore, the reform program progressed concurrently with a dramatic decrease in gross domestic product, and with large parts of the population living in poverty.

Structure of Government

The Constitution of the Kyrgyz Republic guarantees the separation of powers among the legislative, executive, and judicial branches of government, despite certain ambiguities. Although the constitution distinguishes between responsibilities of the President and the Government, in the evolving system the President determines what the Government must do. This seems appropriate, because the President is the only person in the union of President and Government who must seek reelection. The President is responsible for determining the directions of policy and Government, for implementing policy. But the chain of accountability should be stronger.

The culture of control, inherited from FSU, makes the system highly centralized. The President and the central Government are involved in almost any executive action by any civil servant. The so-called “Aksy incident” of 2002, when police shot demonstrators and which resulted in resignations of the Prime Minister, the minister of the interior, and key figures in the President’s administration, exemplifies the risks inherent in the Government’s excessive involvement in day-to-day matters. A solution would be to make ministers responsible for the setting of policy and priorities, and for the overall management of their portfolios. Wherever
practical, autonomous administrative units should be established by statute, so that they can pursue their mandates based on statutory responsibilities, and largely free from ministers' directives. Examples include environmental protection authorities, police, and utility providers.

The relation between Parliament and the executive branch of Government is evolutionary. Parliament is attempting to determine the extent of its powers of scrutiny over government activities, and to establish the extent to which it can require Government to provide information that Parliament considers necessary to carry out its duties. For governance, this is a healthy dynamic. The Comprehensive Development Framework (CDF), which the Kyrgyz Republic adopted in 2001, made an important advance by recognizing the need for a guaranteed minimum budget for Parliament that, among other things, would enhance its research capacities.

The Parliament’s effectiveness would be improved further by decreasing the number of committees, which would give deputies more time to scrutinize broad areas of concern in relation to government business, rather than concentrating on routine operations of government agencies. A smaller number of committees could review the annual performance of government agencies working in the sectors that the respective committees cover. Fortunately, the new constitution, as amended in February 2003, foresees a limitation on committee numbers.

Civil Service

Despite obvious weaknesses in government business management, what the Kyrgyz Republic needs most is time to develop its own system of government—a system that fits its own culture and political needs. Nevertheless, the workings of Government should be improved in several areas. One of the greatest shortcomings is the shortage of good managers in the civil service. Good managers require substantial time to develop, especially when effective role models and mentors are lacking. What is needed, at least in the medium term, is a fast-track career planning system through which to begin establishing a pool of competent managers.

The civil service also lacks experienced policy advisers. Policy units tend to be small, and staff change frequently. Thus, what little training that policy advisers receive is not sustained through practice and continuing education. Also, processes for developing policy are weak in much of the state administration, and there is confusion about location of the main policymaking mechanism. Consequently, international development organizations often set policies—a situation that is neither sustainable nor desirable. Areas of the policy process that could be strengthened include: (i) development of a cadre of experienced policy advisers; (ii) delineation of the functions of the President's administration vis-à-vis the Office of the Prime Minister; and (iii) clarification of sector policy frameworks to abolish redundant decrees and orders, enabling civil service to concentrate on high-priority policy areas and on allocating recurrent budget funds to policy initiatives.

The Kyrgyz Republic faces a tight fiscal situation, which sometimes hampers the efficiency and effectiveness of service delivery. Funds are often insufficient for operations and maintenance, and often are not released in time to adequately serve the budgets. Under the CDF, this situation is expected to improve through enhanced revenue mobilization and private sector growth. Reforms in customs and taxation services should also improve the Government's revenue situation.

The CDF covers a 10-year period. Although initiatives are not prioritized for specific years, the framework includes a 3-year rolling budget and an annual budget. The consolidated
state budget encompasses revenues and expenditures of central state bodies and local levels of government. The consolidated budget is split into a central government budget and a local government budget. The Ministry of Finance is responsible for overall management of revenues and expenditures, with assistance from various development partners, and is taking steps to improve its budgetary practices (for example, by program budgeting).

The local handling of government finance is not conducted well. Local government financing sometimes fosters inefficiency, leads to confused accountability, and causes a process that, although seemingly providing community participation, leaves final decisions in the hands of central government officials. Fortunately, the Kyrgyz authorities have attached high priority on reform of local government finance, because it is crucial for providing basic services to Kyrgyz citizens. Further improvements can be introduced as a decentralized structure takes shape. In decentralizing, each level of government should be given an increasingly discrete set of responsibilities. Each level of government could be guaranteed sufficient funds to undertake those responsibilities, or each level could be given the power to raise its own revenues through taxation and other means.

Personnel management in the civil service still seems in its infancy, although CDF plans to establish a “legally protected administrative class of state servants” that is not automatically discharged when senior personnel change. No central department or agency is yet responsible for personnel management throughout the civil service. Thus, modern personnel management systems have not yet been introduced. Changes to enable a more professional civil service might include, for example, fast-tracking the establishment of a management cadre with reasonable security of tenure; developing a performance system to reward officers who perform well; introducing a personnel policy that does not tolerate corruption; developing a human resource management plan that ensures that the personnel system is managed effectively and that public servants are trained appropriately; and placing responsibility for personnel management of civil servants in a central office, possibly attached to the President’s administration or to the Prime Minister’s office.

A supreme financial audit institution, the Chamber of Accounts, has the authority to use government funds to audit all organizations. But the Chamber seems to focus on auditing compliance with rules and procedures, rather than on auditing efficiency and effectiveness. The Chamber has the power to impose sanctions on, and prosecute, officials who breach government regulations. Its members seem to accept that the Chamber has scope for improvement. The Chamber’s independence would be enhanced if it were brought more clearly under the general administration of Parliament, which would set its annual budget.

Corruption is often discussed in the Kyrgyz Republic, but little factual information about its prevalence is available. The perception of the population at large is that corruption is most prevalent in the police (including the traffic police), the judiciary, and the prosecution, followed by the tax and customs services. These perceptions do not necessarily reflect the entire truth. Private enterprises must pay bribes, for example, to customs and taxation authorities. The Government is taking definite steps to address corruption, but more drastic measures would help. An important factor in limiting corruption would be to pay decent wages to civil servants—but that probably would be affordable only if the Government were to undertake a targeted retrenchment program in overstaffed arms of the civil service. The police and one local level of Government seem good candidates for downsizing. Fortunately, CDF recognizes the relation between the size of the civil service and low wages, and promises reforms.
Effective pro-poor policies need an environment in which the policy process is well managed, the policy framework is coherent, the government machinery works efficiently to implement policy, and policy initiatives are fully funded. The Kyrgyz Government considers poverty alleviation a high priority, but good intentions are constrained by remaining weaknesses in its capacity to implement comprehensive policy actions—including their prioritizing, costing, sequencing, managing, monitoring, and evaluation—in combination with both scarce funds and corruption.

**Legal and Judicial System**

CDF envisages reforms of the entire system of law and order. The Government has introduced a number of important initiatives to improve the workings of the legal and judicial systems. The President has established the independent Judicial Advisory Commission, with broad-based participation, to help formulate a strategy for judicial reform. The authorities are well aware of the need for coherent and well-articulated reform of the entire system, rather than piecemeal reforms.

The judicial reorganization mandated by constitutional amendments made by February 2003 is moving forward quickly in terms of discussing, drafting, and enacting a series of revised laws and decrees. Changes include merging the former economic (arbitrazh) courts into regular courts, and significantly enhancing the finality of judgments. The Constitutional Court’s 1997 decision requiring the entire bench of the Supreme Court and the former Higher Economic Court to hear every appeal strained the appeals process considerably. Both courts found it difficult to cope. The Constitutional Court itself has comparatively few cases. The reorganized court system, once completed and implemented, also may improve the administration of justice by having the district (rayon) courts determine minor matters whereas regional (oblast) courts, together with new “multi-district” courts, decide major matters as first instance courts. The constitutional changes will also affect the Office of the General Prosecutor, which often has functioned as a type of ombudsman. The changes include the addition of an ombudsman to Kyrgyz institutions. Consequently, the Office of the General Prosecutor may devote more of its time to prosecution of major crimes.

The police force seems quite large from an international perspective. Too many police officers, with too little to do, may encourage corruption, especially if the police are inadequately paid. Decreasing the number of police could lower budget expenditures on salaries and provide an opportunity to raise unrealistically low salaries that invite corruption.

**Civil Society**

The liberalization of civil society seems to be underway in the Kyrgyz Republic. Surveys suggest reasonable satisfaction with most of the main branches of Government. Bureaucratic actions are not likely to restrict freedom of the press. The press is slowly pushing the boundaries of freedom further, under a president who understands that a free press is a substantial political asset. The Government also increasingly encourages nongovernmental organizations (NGOs) to play progressive roles in numerous areas, and has taken debate on the CDF to the grassroots level. NGOs have also worked with the Government on policy issues such as women’s rights, and have begun to play a role in service delivery to vulnerable sectors of the community.
ADB Operations

Improving governance is a key feature of ADB operations. ADB has supported various programs to improve governance in the Kyrgyz Republic. Capacity building for better governance has been incorporated in a large number of technical assistance (TA) projects and loans, particularly in agriculture, water management, infrastructure, education, health, and financial sector development. Most of ADB’s engagement has been through TA grants. ADB has also provided a number of TAs for more specific governance work. These TAs have focused on: aid coordination and management, and related budgeting matters; planning capacity for the strengthening of central agencies; preparing and monitoring the strategy for poverty reduction; governance assessment studies; judicial reforms; and accounting and legal professional development. Two other program loans and one TA loan included sizeable components on judicial reforms and accounting—even though they focused on corporate governance. One program loan and related TA support Kyrgyz authorities in the strengthening of customs services.

Key Recommendations

This assessment has stressed the extent of reform that the Kyrgyz Government has undertaken since attaining nationhood in 1991. But more work is yet to be done. If the reform program supported by the World Bank focuses on organizational and personnel matters, the following areas of reform deserve close attention:

(i) Consolidating the legal and regulatory framework, including removal of anomalies and inconsistencies, and strengthening of institutions for improved implementation and enforcement;
(ii) increasing capacities for civil service management and for policy and program development;
(iii) increasing Parliament’s capacity to analyze the state budget, government annual reports, policy proposals, and audit reports of the Chamber of Accounts;
(iv) strengthening audit functions to support the Government’s anticorruption initiatives;
(v) supporting judiciary reform and strengthening targeted institutions in law and order;
(vi) improving the delivery of public services, including health, education, and utilities; and
(vii) incorporating structural reforms at local levels of government into the work already done on local finance.
I. BACKGROUND

A. Introduction

1. A team of international and domestic consultants and staff of the Asian Development Bank (ADB) conducted this governance assessment intermittently from 2001 to 2003. The objective was to contribute to the development of ADB’s country strategy and program for the Kyrgyz Republic. The Kyrgyz Republic has made continued and, in some areas substantial progress in reforming its public sector, so the assessment was comprehensively updated in 2003, the year of finalization of ADB’s new country strategy and program. The consultants’ fact finding was supplemented by access to other studies done mainly by ADB, the International Monetary Fund (IMF), the World Bank, and the United Nations Development Programme (UNDP). The views expressed in this assessment, and the proposals made, do not necessarily represent the views of ADB, or its Board of Directors or the governments they represent.

2. In this assessment, good governance, or simply governance, is seen as an approach to managing the state and state-society relations that enables the state to carry out its roles effectively. The approach calls for (i) all organizations and individuals to be accountable; (ii) public participation; (iii) transparent policies, and rules, regulations, laws, and processes to implement them; and (iv) predictability and continuity of policies, rules, regulations, and laws. Both structures and procedures of governance in the Kyrgyz Republic are being assessed. Good governance ensures that the country’s financial and physical assets are not squandered, and that the Government’s intentions are implemented effectively and in line with preferences of the population.

3. This assessment considers the current situation in the Kyrgyz Republic. Although it is easy to be critical of any actual situation in comparison with an ideal, placing an assessment in context is important and, in this case, requires an understanding of how far and how fast the Government has progressed since independence. To achieve its present state of governance, the Government launched a reform program of breathtaking scope, and at breakneck speed, in 1992. This ongoing program was undertaken on a base inherited from the former Soviet Union (FSU), in which state administration of the Kyrgyz Socialist Soviet Republic was at the end of a command structure that stretched from Moscow. Administrative experience was limited to operations and controls. Few opportunities existed for policy development, and almost none for initiative. The system was also characterized by insularity: as a rule, the organization and operation of civil services outside the Soviet orbit were a closed book for Kyrgyz administrators.

4. In addition to these difficulties, reform coincided with numerous economic shocks, including loss of the FSU market for products and services. That caused a decline of more than 50% (cumulative) in gross domestic product (GDP) and, of course, a sharp increase in poverty. In most democratic countries, such circumstances would have caused the fall of the government that advocated reform. That the Government did not fall is testimony to the political skills of the President and other officials, and to the nation’s resilience.

5. Over the past decade, the Government has progressed significantly on a number of fronts. For example, it has introduced a constitution that separates the conventional three

branches of government (although that separation still has a particular flavor; for example, individuals can easily move between the executive and the judiciary). Two presidential elections have taken place that have, overall, satisfied international scrutiny, along with elections to Parliament and more recent elections at the aïyl level (or village level, the lowest administrative and territorial unit of government). Parliamentary debates have been made public, and are often televised. Parliament has a number of active committees. The press is free, although economically constrained and in need of advertising revenue, much of which is indirectly sourced from the Government. Nongovernment organizations (NGOs) are flourishing. A supreme audit body is in place and beginning to explore its independence. The Government itself has been decentralized to some extent. In short, the list of reforms is impressive.

6. Despite these achievements, some systemic weaknesses persist, including lack of capacity in management and policy development, low resource levels, a control-oriented culture, and reluctance of civil servants to take initiatives. Individuals in the public sector are also often unwilling to seek, observe, understand, and learn from others who have faced similar challenges. In more developed countries, if a policy change is envisioned, policymakers often try to determine what the best practice is so that they can at least try to emulate best models and international standards. Kyrgyz policymakers could look more attentively beyond FSU.

7. The Kyrgyz Republic's control-oriented culture, a legacy of the Soviet era, impedes change. Transforming the civil service into a management-oriented service that focuses on achievement rather than compliance is a major challenge. The low wages for civil servants offer little incentive to change—but much incentive to seek additional income, sometimes through corruption. Unless the Government addresses the issue of low salaries, these trends may continue. Budgetary constraints are another problem. Current resources can barely sustain the civil service at its present size. The Government will be able to effectively enforce anticorruption policies only if the civil service is downsized to give fiscal space for competitive wages.

B. Historical Overview

8. Russian Prime Minister Mikhail Kazyanov remarked that, “Western governments can usually manage two big reforms in a year” when discussing eight major reform programs the Russian Government was planning for 2001. For the past 5 years, the Kyrgyz Republic Government has attempted at least that many major reforms without the benefit of a stable and well-trained bureaucracy. In the decade since independence, the Kyrgyz Republic has enacted more than a thousand laws, and has maintained this pace despite serious economic difficulties.

9. Over the past decade, the Kyrgyz Republic has become the most democratic of the Central Asian republics. It has embraced market economy principles to the extent that in 1998, with the adoption of internationally accepted trade standards, it was the first Central Asian country to join the World Trade Organization. The Kyrgyz Republic has also embraced a host of other international conventions and protocols in the past 10 years, including the International Convention on Civil and Political Rights, which gives Kyrgyz citizens access to international courts.

---

10. The political antecedents to the present form of government were top-down, command-driven, and control-oriented. Social organization was based on patrilineal clans, with clan allegiance to leaders. The Kyrgyz people have known only a top-down political structure. Such a form of government brings with it a culture of control—and the institutions, attitudes, and behaviors that allow people to exercise control, or to merely survive within the system. Thus people expect strong leaders to exercise political power. For the present government, the pressure to maintain a regime of control-oriented leadership is significant, because citizens fear a large Uzbek population in the south, and the impact of fundamentalist Islam.

11. According to the constitution, the President is both the head of state and head of the executive branch of government. The President can nominate a prime minister, but if the Parliament rejects a nomination three times, the President can either nominate another candidate, or dissolve Parliament. The President approves appointments to the central government. The President also appoints—on proposal of the Prime Minister and in agreement with the respective local keneshes (councils or parliaments)—most heads of local government. He also appoints—in agreement with Parliament—the head of the Office of the General Prosecutor, all judges at the local level of government, and the head of the Chamber of Accounts, which is the supreme audit authority. The President also appoints people to a number of other posts, including heads of commissions, first deputies of ministers, and deputies of the governors at the regional level of local government.

12. The Kyrgyz constitution was adopted in 1993. It was amended in 1996, 1998, 2001, and February 2003. In 1996, Parliament lost the right to determine foreign policy; to approve the Government’s structure and composition; and to appoint ambassadors and judges of regional, district, and municipal courts. The 1998 amendments increased the number of deputies in the lower chamber of Parliament, and decreased the deputies in the upper chamber; recognized the need to encourage the development of political parties by allocating seats to any party with more than 5 percent of the total vote; and improved governance by removing the immunity from prosecution that had previously protected deputies. Parliament was also prohibited from amending the central Government budget without the Government’s consent. The amendments, approved in early 2003, established a one-chamber parliament; ushered in important changes in the interplay among the President, Prime Minister, and Parliament; and prepared the ground for massive restructuring of the court system.

13. One feature of Kyrgyz public life has been a lack of continuity of people who hold senior positions. In the 11 years since independence, and until December 2003, the Kyrgyz Republic had seven prime ministers and, consequently, seven governments. The President has provided continuity. Given the even more dramatic lack of continuity at the ministerial level, and the fact that changes at the top usually result in changes to many senior positions in ministries and other offices, many programs to reform parts of the civil service have been implemented on shifting sands.

14. During the past 10 years, the Government has pursued a program of economic stabilization and structural reform, including a massive privatization program. During 1991 to

---

4 This is a double-edged sword, because of the danger that opposition deputies can be harassed by threats of prosecution for alleged past misdemeanors.

5 Two prime ministers died in office; one resigned on the basis that he was too old to carry out his responsibilities; one resigned, as is customary at the start of a presidential election; and the President removed two (one, after allegations of power abuse and the other, because he was not prepared for the 1998 Russian crisis).
1993, most small, state-owned enterprises were privatized, through cash and voucher auctions, to managers and workers. Since 1993, the privatization program has focused on medium-sized and large enterprises.

15. Tax policy and the administrative system that support tax collection have been reformed significantly. Tax liability is now subject to self-assessment. The tax authority has been reorganized by function rather than type of tax administered. Several approaches have been taken to increasing autonomy at each level of government. The Law on Self-Government, enacted in January 2002, gives local parliaments at each level the right to express disapproval to the head of the local government administration, and to approve the local administration’s budget. The heads of local administrations account for budget implementation through a yearly oral report. Also, they must deliver, at least once a year, both a presentation on the state of affairs at their levels of local government and, before the kunultay (traditional meeting of representatives of local communities), an account of their respective levels of local government. Thus, accountability among heads of local government is increasing. By 1999, local village parliaments had formally disapproved of the performance of 10 heads of local government, and had them removed. Those removed had been nominated by the heads of district governments. At higher levels, the President nominated heads. It will probably be some time before the respective councils exercise authority over individuals who enjoy the confidence of an elected president.

16. A 1994 presidential decree on “The Reform of Local Self-Government” outlined the decentralization process and was followed by local elections in village and city councils and, in early 1995, in district and regional Parliaments. As a result of the early 1997 presidential decree “on Measures to Increase the Role and Responsibilities of Heads of Local State Administrations and Local Self-Government,” governors of regions and district heads were given responsibility for local budget administration, rational use of public investments, and management of state shares in enterprises in their localities under the aegis of the State Property Fund. Afterward, a UNDP pilot scheme was introduced in nine villages. It quickly led to the local election of all village chief executives.

17. Agrarian reform was a major, and radical, Government major initiative that caused no social unrest. The reform program gave adult citizens of every village the right to own part of the arable land of the collective farm of which they had been members. Once individuals register ownership rights, they can sell the land (although a moratorium on sales was in effect until 2001). Not all village land was allocated to individual property owners. A land fund, amounting to about 25% of a village’s holding in state or collective farms, was also established. This land base is an important source of income for village governments.

18. The Kyrgyz Republic was the first Central Asian republic to define humanitarian development priorities. In 1997, the government adopted the National Sustainable Human Development Strategy. The strategy is timely because the move to a market system has caused severe deprivations for much of the population.

19. The process of reform continues apace. A Comprehensive Development Framework (CDF) for 2003–2010 was approved in 2002, and completed through a largely participatory program during which the Government consulted extensively with various social groups. The framework is an impressive document that realistically demonstrates the Government’s capacity to address strategic issues.
20. The first step of the CDF was the National Poverty Reduction Strategy (NPRS), which consisted of two phases. During the first phase, an intermediate NPRS was developed in parallel with the CDF. The draft final NPRS was reviewed by Kyrgyz and international experts, and by international organizations. This intermediate NPRS was approved by the World Bank and IMF boards. Subsequently, and in light of developments after 11 September 2001, views on the NPRS changed, considering new approaches of several donor organizations on poverty reduction, experiences with elaboration of the CDF, and initial positive results in CDF implementation. A review of the draft CDC was considered necessary. The complete CDF version was finalized in 2002. Implementation began in early 2003.

II. GOVERNMENT STRUCTURE

A. Constitution

21. The constitution separates powers among legislative, executive, and judicial branches of government. The constitution also differentiates among functions of the central government and local self governments. The constitution governs the roles and powers of several institutions, including the President, the Parliament, the Prime Minister, local government, the judiciary, the prosecution, and the Chamber of Accounts. The constitution also establishes citizens' rights and obligations. For the judiciary, judges are subordinated only to the constitution and the law, and have immunity and the right of freedom from prosecution. Judges have social, material, and other guarantees of independence. But their tenures are comparatively short.

22. Changing the constitution requires a referendum or a majority vote of Parliament.

23. The ambiguous distinction between accountability of the President and the Government was clarified through recent constitutional changes through which the Government was made amenable to the President and accountable to Parliament. The President is responsible for strategic policy directions; the Government, led by the Prime Minister, is responsible for their implementation. If a president errs in strategic direction, he or she is accountable to the people every five years, when presidential elections are held. If the Government errs, it can be dismissed. Indeed, no Prime Minister has yet served the full 5-year term.

24. Although separation of powers between the President and the Government can be made to work, further clarification is in the interest of good governance. Also needed is a review of the powers of the collegium (the board that broadly manages operations of a given state body) of the President's administration. The collegium, which meets quarterly, is chaired by the chief of staff, and consists of the department heads within the President's administration. Ministers and governors may be invited.

25. The Parliament's powers are dynamic. The constitution gives Parliament the power to control implementation of all legislation. Parliament committees can request that the President or the Prime Minister sanction a nonperforming minister; this has occasionally occurred. There is a fine line between actions a legislator might take to ensure the accountability of a minister and actions ostensibly taken to ensure implementation of legislation that interferes with governmental operations. The Parliament is still discovering the limits of its powers, sometimes to the Government's legitimate annoyance.

26. The Parliament can delegate legislative power to the President by issuing orders and decrees, but for no more than 1 year. The President also has legislative power when the
Parliament has been dissolved. In this sense, presidential decrees and orders are not merely enabling or secondary. A presidential decree can be issued, for example, to address a matter not covered by legislation. This practice has advantages, for it enables the testing for effectiveness of provisions of a decree. Problems with the decree can be addressed through amendments.

27. To strengthen the Constitution, the systems of accountability and implementation must be improved. For this, the capacity of the Chamber of Accounts, the highest audit authority, must be increased. The President appoints the chamber chairperson, who must give a yearly account to Parliament. The Parliament’s appraisal function should be more effective—but that objective requires greater autonomy and efficiency in the audit system.

28. Furthermore, government bodies need greater stability in staffing, if policies are to be implemented successfully. Civil servants owe their jobs to the current administration and are too often appointed, promoted, placed in a reserve pool for civil servants with no current appointments, and dismissed for reasons other than merit and misdemeanors.

29. The constitution will probably be amended from time to time to improve the Government’s operations and to enhance citizens’ rights. Like other nations, the Kyrgyz Republic is improving its constitution progressively, sometimes through trial and error. If allowed to continue to do so, the country will develop a robust constitution, consistent with its own customs, which serves the nation’s political and constitutional needs.

B. President

30. The President, as head of state, defines fundamental directions of the country’s internal and external policies, and adopts measures to protect its sovereignty and territorial integrity. The President has the right to initiate laws, issue decrees, veto laws passed by Parliament, and halt or annul actions of the Government and other organs of executive power. Each year the President presents to Parliament an annual statement on the state of the nation. Although the constitution distinguishes between the President and the Government, the President is chief executive in the system that has evolved. This seems appropriate, as the President is the only person in the union of President and Government who must seek reelection. But other than stating that the President is limited to two 5-year terms in office, the constitution is not clear about executive accountability. The only noteworthy check on the President’s actions is the constitution’s provision that he or she can be impeached with a vote of two-thirds of Parliament. Before impeaching, the Parliament must make a reference to the Constitutional Court in regard to whether or not the charge constitutes sufficient grounds. If the court rejects the grounds, Parliament is dissolved.

31. The constitution gives the President significant powers of appointment to a number of important Government positions. In addition to the Prime Minister, the President appoints and dismisses, with Parliament’s assent, the general prosecutor and the chair of the National Bank of the Kyrgyz Republic, which is responsible for monetary policy and banking sector regulation. The President also appoints—again, in agreement with Parliament—all judges of local courts, and can relieve them from office under circumstances identified by the constitution and laws. The President also appoints, in agreement with Parliament: the chair of the Central Commission on Elections and Conducting of Referenda, the chair of the Chamber of Accounts, and half of the chamber’s officials. Furthermore, the President appoints all heads of local government down to the district level. At the same time, the heads of the regional administration (governors) report to the President and the Prime Minister, while the chief executives (akims) of districts, even
though appointed by the President, report to the President, the Prime Minister, and the governors.

32. Considering the above, the President’s accountability can be defined even more clearly. Also, the accountability of chief executives at the regional and district levels of government can be streamlined.

C. Legislature

1. New Unicameral Parliament

33. According to constitutional terms adopted in February 2003, Parliament should comprise 75 deputies, elected for 5-year terms, from single-member constituencies. These requirements constitute a major change from the previous bicameral Parliament. Before the constitutional amendments, Parliament consisted of a Legislative Assembly and a People’s Assembly. The Legislative Assembly had 60 deputies; 45 were elected for 5-year terms, and 15 were appointed on the basis of percentage of their parties’ respective votes. The People’s Assembly, which consisted of 45 members and had to meet at least yearly, could impeach the President. The People’s Assembly also approved the Prime Minister’s appointment, reviewed proposed changes to borders of regions and districts, elected all judges in the three national appellate courts, received annual reports from heads of offices it had appointed, and approved state budgets.

34. How the new unicameral Parliament will be organized is not clear. Some features of the old parliament will probably persist for a transitional period, at least until the next parliamentary elections in late 2004. This is why the structures and procedures of the old legislative assembly are described in this assessment: to give an idea of possible weaknesses, although some weaknesses will certainly be addressed in implementation of recent constitutional changes.

35. The Legislative Assembly sat for 3 weeks per month, usually for 4 days weekly. Its sessions were public in principle, but the chamber could not accommodate a public audience beyond the accredited press. Certain sittings were televised. Debates were audiotaped, and transcripts were made public. Closed sessions were usually confined to security issues. The Legislative Assembly had 25 committees and three permanent commissions. Each of these was generally concerned with a particular sector. Committees were expected to meet at least twice monthly. Minutes were made available to the public, and committee recommendations were published in the media. A number of committees, including the three committees in the finance sector, had an intelligent and informed memberships that seemed to scrutinize and to effectively influence the Government’s work. But there were too many committees. Sixty deputies staffing 28 committees and commissions meant that each deputy probably served on at least two committees, and had little time to develop the sector expertise needed to effectively analyze the issues addressed by each committee.

36. Furthermore, committees seemed to spend excessive time dealing with queries and keeping any government work in their sectors under constant review. The system might have been better served by having committees examine issues of concern to Parliament. The committees were the first to consider draft legislation. The general rule was that proposed legislation was discussed in committee for a month. Comments were prepared during that time. Draft legislation was then submitted to the Legislative Assembly. The Assembly then had 15 days to incorporate proposed amendments into the law before submitting it to the President for assent. Consensus played an important role in the development of legislation.
37. The Legislative Assembly was supported by a staff apparatus, headed by a chief of staff. A number of departments supported the deputies, including departments for logistics, registration of correspondence and other transactions, and publishing. Seven departments provided research and administrative services to the committees, but their resources seemed insufficient to provide research of the quality that was needed. Resources in the finance sector were enhanced by a grant from the United States Agency for International Development (USAID), which supported a fiscal analysis unit. Because support was insufficient, most committee members had to do their own research. Written information provided by government agencies could be voluminous, further restricting committee members’ abilities to address the essence of a question.

38. As in most of the civil service, there was little development of parliamentary staff to ensure that committees could draw from a pool of consistently high-quality personnel. There was no budget for training. The speaker appointed department heads from nominations made by the chief of staff, after conferring with committee heads. Technically, the chief of staff should have made appointments to a department’s staff, but in reality the committee heads often recommended persons they knew. Such recommendations were generally accepted. Departments were willing to respond to public inquiries for information, but shortages of staff and resources restricted how many they could address.

39. If the deputies and the committees on which they serve are to function effectively, they need improved research support, both for the draft legislation they review and the issues they examine. Deputies have access to too few policy experts. As CDF recognizes, there is a strong case for funding a program to increase the number, and improve the research capacity, of parliamentary support staff.

2. Specific Credibility and Accountability Issues

40. Some surveys indicate that Parliament has not yet established its credibility with the population. Neither chamber seems to be regarded as a genuine “people’s assembly.” The average citizen seems to have little knowledge about how to access deputies, or with what type of problems deputies might help. For example, surveys have found that the population perceives Parliament as less reliable than the President, the Government, or the local levels of government (Figure 1). Thus Parliament has a credibility gap to overcome.

![Figure 1: Citizens’ Perceptions of Reliability of Government Institutions, 1999 and 2000](image-url)

41. Deputies seek reelection every 5 years. A law specifies grounds for dismissal, but it is written such that dismissing is difficult in practice, except for reasons such as leaving the country and becoming a foreign citizen. All candidates for deputy must declare personal assets to the electoral commission, but immediate family are not required to do so. Once elected, deputies must declare their incomes and property annually. Parliament gathers and submits this information to the tax authority. But no declarations have been audited.

42. Many deputies are also involved in business. An important question is: How much information regarding deputies’ business activities and other assets and investments should be part of the public record? A public statement of all business interests would ensure transparency, and make concealment of conflicts of interest of deputies and their family members more difficult.

43. Deputies’ responsibilities to their electorates are not entirely clear. Parliament is recessed the last week of each month, when deputies are expected to return home to be available to their constituents. Many use this time to visit village governments and other entities, to discuss current issues and matters of concern.

44. In the past, Parliament elected two-thirds of the members of the Chamber of Accounts and the Electoral Commission. But through the amended constitution, Parliament will elect only half of the members. Although persons that Parliament has appointed to positions must report to Parliament yearly, individual ministries, state committees, and other agencies funded by the central Government are not required to present annual reports and accompanying audited accounts.

3. Interaction Between the Legislative and Executive Branches of Government

45. The relation between Parliament and the executive branch of government is evolutionary, with Parliament attempting to develop its powers of scrutiny and to determine what its powers are, in the context of ensuring that legislation is implemented as intended. This dynamic seems healthy, in a governance context. Over time, the constitution will be further amended to regularize that Parliament-executive branch relationship, to differentiate their respective roles more clearly. CDF has taken an important step by recognizing the need for a guaranteed minimum budget for Parliament in each annual state budget.

46. Parliamentary committees are said to require much information from the Government. Meeting this need often requires significant bureaucratic effort. Some committees, considering that their constitutional responsibilities are ensuring effective implementation of legislation, venture into the day-to-day running of a ministerial portfolio rather than reviewing performance annually. Such oversights undermine the separation of powers, and should be discouraged. There is also a danger that committee members might mistake their roles as yet another layer of control in an overscrutinized bureaucracy.

47. Considering the above, the Parliament’s credibility should be enhanced through regular public statements of assets and business interests of deputies and their close family. Also, parliamentary support and research capacities should be strengthened.

D. Executive

48. No government performs perfectly. But given the short time the Kyrgyz Republic has had to transform its administration, remaining weaknesses in government machinery should be no
surprise. The President and Government are overwhelmed with advice from abroad about changes and reforms that are needed. Although well-intended, the advice often fails to consider the time needed to implement change—even in a well-organized government. Furthermore, such advice rarely acknowledges the substantial financial costs of change. Advisers sometimes fail to address how the Kyrgyz Government can afford suggested changes, considering its chronic lack of funds. The Kyrgyz Republic needs time to develop its own system of government that fits its own culture and political needs.

49. The Kyrgyz Government will soon initiate a public sector reform program supported by the Governance Structural Adjustment Credit and the Governance Technical Assistance Credit of the World Bank Group. Most branches of the civil service need good managers and policy analysts, which are extremely rare in the Kyrgyz Republic. Thus, policy outcomes are often opaque, with poor service delivery, and inefficient policy implementation. It takes a long time to develop good managers and policy analysts—especially if good role models and mentors are few.

50. Good governance also requires a degree of stability that allows establishment of corporate cultures, corporate memories, and effective teams to focus on developing good policy and delivering effective and efficient services. Change is required, but of a nurturing kind. Also, awareness should be increased that the need for good governance is not confined to the Kyrgyz Republic.

1. Government and Prime Minister

51. The central government (cabinet of ministers, or the Government) consists of the Prime Minister, usually two vice prime ministers, ministers, and chairpersons of state committees. Although the Prime Minister is personally accountable to Parliament for the Government's actions, a notion of corporate responsibility seems to be developing in the Government. But disagreements in the Government about cases of principle rarely result in resignation of government employees. According to the constitution, Government is responsible for policy implementation and monitoring, but overall control remains the President's responsibility (although the Legislative Assembly also believes that it has certain implementation responsibilities). Responsibilities and accountabilities of the President, the Government, and the Legislative Assembly should be distinguished more clearly.

52. The President appoints the Prime Minister, with Parliament's agreement. The Government controls individual agencies, and can annul legal acts of ministries, state committees, administrative agencies, and local administrations. The Prime Minister can be removed from office directly by the President, or indirectly by Parliament, after the passage of a vote of no confidence, which is passed on to the President. The President can choose whether to dismiss the Prime Minister, or to refer the matter back to Parliament. If Parliament passes a third vote of no confidence, the President must either dismiss the Prime Minister, or dissolve Parliament.

53. The Prime Minister has the power to appoint deputy ministers, deputy chairs of state committees, deputy heads of administrative agencies, deputy governors, deputy heads of local administrations, deputy heads of the local self-government of Bishkek, and heads and deputies of state commissions and funds.

54. The “Law on the Government the Kyrgyz Republic” makes the central Government the highest collective body of the executive branch. Ministries and state committees are central
agencies of the state administration. The Government has the following functions: developing and conducting state policy as delegated by the President; ensuring implementation of political, economic, cultural, social, and defense tasks; ensuring the execution of legislation; and developing and submitting proposals regarding the main directions for external and internal policy as well as the Government’s Action Program to the President. The Government also has a number of economic functions, including drafting the central budget; ensuring execution of the approved budget and reporting to Parliament on its implementation; developing and executing plans for social and economic development; managing state property and organizing the privatization of public assets; executing the Government’s action program; carrying out measures to strengthen the monetary system; executing budget, finance, tax, customs, and price policies; regulating prices and tariffs for goods and services, and approving tariffs for utilities; ensuring the execution of a unified financial and credit system; and, jointly with the National Bank of the Kyrgyz Republic, managing monetary policy.

55. According to the Law on the Government, the Prime Minister, as head of the Government, identifies the main directions of Government activities, organizes its work, and is personally responsible for its actions. The Prime Minister submits proposals regarding the main directions of external and internal policy for consideration of the President and the Government, and deals with personnel issues as stipulated in the constitution. The Prime Minister must report annually to Parliament, and is personally accountable to it for all government activities, including implementation of all laws and decrees.

2. Administration of the President

56. To carry out the duties of office effectively, the President requires administrators capable of providing policy advice, monitoring and reporting about whether policy is being implemented, and dealing with problems in government administration. The President needs (i) direct access to advice about the machinery of government, because the President has the power to organize how government services are delivered; (ii) access to expertise in public service personnel matters, because the President is responsible for the civil service; and (iii) a strong public affairs unit that can brief the media and the general population on political events. Such support is provided by the President’s Administration.

57. The President’s Administration is a powerful central agency that adds another layer to the basic work of managing government business, and seems to be the most senior agency in the executive branch. It is headed by a chief of staff. The Collegium of the President’s Administration meets quarterly, is chaired by the Chief of Staff, and consists of the heads of department in the President’s Administration. Ministers and governors may be invited to attend Collegium meetings.

58. No unit is dedicated to providing political and strategic support, but the President’s Administration acts as a central agency for this. Its functions include developing strategic objectives, including both internal and external policies; preparing presidential decrees, most of which other executive bodies submit; advising the President on drafts of legislation from Parliament and the Government; implementing policy (but without an efficient performance monitoring system); monitoring economic, social, and security situations; advising on presidential appointments, with particular reference to those at regional and district levels; coordinating policy through liaison with ministries and the Prime Minister’s office; preparing reports, analyses, correspondence, and speeches; and overseeing public sector reform.
59. To work well, the legislative and executive branches of the current system of government should substantively agree on policies and programs. Therefore, the President’s Administration employs two plenipotentiaries who liaise with members of each house of Parliament.

60. The President’s Administration consists of a number of departments and other units, including six policy departments (economic, social, foreign, defense and security, judicial, and personnel and public administration). The President’s Administration also includes units for public affairs and business management. The business management department provides administrative and financial support to the President, the Prime Minister and his or her deputies, the Parliament, the President’s Administration, the Prime Minister’s office, the Parliament’s Administration, the Constitutional Court, the Supreme Court, the Chamber of Accounts, and the Central Election Commission. The business management department also oversees operation of commercial units subordinated to the President’s Administration—which include hotels, state residences, and a printing house. A number of other agencies is attached to the President’s Administration, as separate line items in the budget. Thus, the President treats these areas as priorities.

3. Office of the Prime Minister

61. Somewhat like the President, the Prime Minister requires access to administrative support to provide good policy advice, especially on sector issues; managing and monitoring the policy process and reporting to the Government on whether policy is being implemented effectively; and dealing with problems with other state bodies. The Office of the Prime Minister supports the Prime Minister by preparing information materials such as reports, policy proposals, and draft regulations for Government and the Prime Minister. The Office also monitors implementation of decisions that both agencies make.

62. As of November 2003, the office of the Prime Minister included two departments: civil service, and local government (economy, investment, and state property); and divisions for finance; fuel, energy, and infrastructure; defence and law enforcement; agriculture and natural resources; industry, trade, construction, and communication; information technology; social development and culture; international relations; regional problems; administrative services; and legal affairs. Staff of the units spend much of their time managing the development of sectoral policy, rather than reviewing sectoral initiatives developed by ministries or other central state bodies.

63. The Prime Minister’s office also has a secretariat. It comprises the Prime Minister’s specialists, advisers, and assistants; his or her deputies; and the head of the Office of the Prime Minister. But how the Government’s business is managed is not entirely clear from these organizational arrangements. Effective management of the review and discussion of policy initiatives is a key to good governance. Procedures should be in place to ensure that staff of affected agencies receive information about new policy initiatives, and can express their opinions. For example: that the Ministry of Justice has reviewed the initiative to determine its consistency with the Government’s legislative framework; that the Ministry of Finance has reviewed budgetary implications and has agreed that funds are available; and that the Office of the Prime Minister has considered the initiative to require legislation and has ranked its priority on the Government’s legislative docket. There seems to be a case for strengthening the secretariat so that it can better coordinate the Government’s work. The secretariat could ensure completion of consultation cases before submission to the Government, and could be
responsible for taking minutes of discussions and decisions, and for following up on implementation.

64. Despite circulation of resolutions and orders, requirements for specific actions by individual agencies and their local departments are not generally provided.

65. The Prime Minister’s office does not seem organized to review and provide primary policy advice, and the Government has no formal personnel agency. The Prime Minister’s personnel unit is concerned only with that office and with deputies to ministers and to local government heads. In practice, the President’s Administration seems to have a say in many senior government appointments. The structure and composition of the staff of all ministries were determined according to a Presidential decree “on Measures for Future Improvement of Administrative Structures in State Bodies of the Kyrgyz Republic” in December 2000. This decree established the minimum staff numbers, the normative structure of state positions, and the maximum number of deputies in all ministries and other state agencies, including state administration at local government levels.

4. Ministries and State Committees

66. The Ministry of Finance does not seem to coordinate activities effectively with the Prime Minister’s office on policy preparation and review. For example, decrees and laws are sometimes passed despite insufficient funding. Similarly, the ministry sometimes agrees on donor infrastructure projects without assurance that the budget provides sufficient operating and maintenance funds for their efficient operation over time.

67. Individual line agencies—ministries and their component departments and state committees—report to the Government. Thus, the Government is ultimately accountable for their actions. The functions of each line agency must be agreed on by the Prime Minister’s office. As of November 2003, the Kyrgyz Republic had 12 ministries, and two state committees—whose heads also had ministerial status—and 15 state agencies and commissions.

68. Most ministries are headed by a minister, supported by a first deputy and a deputy minister. Each agency has its own collegium, whose membership is not restricted to officials under the broad umbrella of agencies beneath a certain minister. Collegium members are appointed by ministers, but must be approved by the Prime Minister.

69. Ministries are empowered by government resolution and prime ministerial decree. In reality, most resources of a central ministry are dedicated to administrative matters. For example, Ministry of Health staff spend an estimated 70 to 90 percent of their time gathering statistical data and responding to letters and requests. Such activities are not part of implementation of a government agenda, and could cost the President and Government dearly in terms of public perceptions of government inactivity.

---

6 Regulations describe many of the ministries’ tasks, responsibilities, and functions. For example, the Ministry of Health was established in March 2001 by Government Resolution 95, which designated its management scheme as well as 42 subordinate organizations. The Prime Minister’s Decree 288, of February 2001, approved the structure of the central ministry’s staff.
70. No legislation establishes what ministers and ministry collegiums should do to meet good governance requirements, as defined by this assessment. One of their jobs should be to ensure that good management systems are in place throughout a ministerial portfolio, which includes subordinated departments and agencies at the local and national levels. An internal audit capacity would aid ministers and collegiums in such an endeavor. The overall understanding of good governance could be enhanced, even among senior officials, by regular training courses and seminars to discuss such issues and experiences. Educational videos and reference documents could be provided for such courses.

71. Ministries do not seem organized primarily to deliver their three key services—policy advice, activity regulation, and service delivery—to Government. Service delivery is the responsibility of the district level of government, but in the health and educational sectors, for example, village governments operate and maintain facilities. Ministry staff tend to focus mainly on monitoring the operational aspects of service delivery, at the expense of policy advice.

72. Many ministries have subordinate enterprises. The income that ministries raise is known as special means, which are user charges such as dues or duties. There is little public reporting of the financial and commercial performance of these enterprises. Parliamentary committees might increase attention to such enterprises.

73. Ministries should initiate sector policies for Government approval. Procedures to manage subordinate agencies should be in place. But chief executives of large prestigious institutions might be made with the Prime Minister’s approval.

74. Despite meager staffing at the central level, the Government continues to institute reforms to improve performance across all sectors. Many such improvements are introduced on a pilot basis, which is a good management practice.

5. Administrative Agencies, Funds, and State Commissions

75. In developed countries, the government machinery usually allows authorities to carry out certain functions without prior approval, and independent of political direction. Conventionally, such authorities include those for environmental protection, regulation, police and prison services, and offices such as chief veterinary officer. International experience shows that such agencies are most effective when granted sufficient operational freedom. Government should retain the power to appoint or to dismiss such managers. But those managers, once appointed, should have the power and responsibility to carry out their duties. This system allows the government to concentrate on policy work. Such an arrangement has political advantages for a government, because it can distance itself from unpopular decisions such as those concerning livestock slaughter after a disease outbreak, or tariff increases, or violent police actions. Such statutory agencies are also made independent to ensure that government officials are not favored when they break the law, and cannot be accused of harassing an opponent by influence as public authorities.

76. The so-called “Aksy incident” of 2002, in which police shot five reported participants of a demonstration, exemplifies the political risks of excessive government involvement in day-to-day workings of agencies. After an investigation, the Chief of Staff of the President’s Administration, the Minister of the Interior, and the general prosecutor tendered their resignations, signaling the probability of close central government involvement in a decision of the police of the city of Jalalabad to use live ammunition. In democracies, where police have both the authority and
responsibility to act, such an incident would probably have caused the Minister of Interior to dismiss the police chief for exceeding his or her responsibilities, or for using poor judgment.

77. The Kyrgyz Republic has a number of agencies, such as prosecution, with some independence—but that independence needs further development. But functions of other potential statutory agencies lies with line ministries. For example, the head of the veterinary department is charged with making decisions like a chief veterinary officer in a western government, but—unlike his western counterpart—has no statutory authority to make decisions free from those of the Government. Similarly, the police do not act as a statutory agency in the Kyrgyz Republic—an area of governance that may require attention. For example, the police should have authority to investigate crimes committed by any citizen. The Office of the General Prosecutor should have similar powers, to ensure that the police can resist political influence and follow up on complaints from the public on illegal actions.

78. The executive branch of government incorporates two other kinds of entity. The first is state funds, which the Prime Minister may set up to direct funding, usually through grants, to a government priority. Funds can be controlled by a board or an executive director. The second entity is a state commission which, although created by the Government, is not included within its structure. The President usually establishes state commissions, primarily to address complex government activities. Thus, the commissions often include “sunset clauses” that dissolve commissions after achievements of their objectives. Such commissions often hurt government efficiency because, given their independence from the ministries responsible for sectors of concern, their creation tends to duplicate responsibility. To minimize such duplication, responsibility for creating commissions should be assigned to the line ministries and, for cross-sector work, to the Prime Minister’s office. The President could also issue directives to establish commissions for areas in which he or she normally takes the initiative.

79. The Law on the Government establishes state agencies as regulatory administrative agencies, and inspectorates as control bodies. These agencies are headed by directors that the President appoints, after consultation with the Prime Minister. The President retains the power to dismiss the agency heads. Staff of the state agencies and inspectorates are part of the civil service, and the Prime Minister has the power to direct their activities. Staff of the state agencies and inspectorates are part of the civil service, and the Prime Minister has the power to direct their activities. Many administrative agencies are required to raise their own funds by issuing licenses and thus are cost neutral in context of the central government budget.

80. The People’s Control Office was an institution that disappeared after independence. About 30 years ago, the office acted as a type of ombudsman that investigated citizen complaints against administrators. Currently, the prosecution investigates complaints against government officials for incompetence, for exceeding their authority, or for acting contrary to regulations. The CDF promised establishment of an ombudsman’s office in 2002; in fact, a “Law on the Ombudsman” was enacted in July 2002. The ombudsman was elected in November 2002, but the office was established only in early 2003. Thus, the Kyrgyz Republic now has such a commissioner on human rights. But human rights are protected by the constitution, and

---

7 For example, the education sector has the State Inspectorate for Licensing and Accreditation, which licenses schools to run courses and is supposed to evaluate schools and other educational institutions every 5 years. Ideally, such an agency would report regularly to Parliament on the state of education and the sufficiency of resources provided to the sector.

8 OSCE’s Office for Democratic Institutions and Human Rights and UNDP have provided quick start-up funding to enable the newly established Kyrgyz ombudsman office to start work soon.
the Constitutional Court, which sees that no citizen’s rights are abused, is not overworked. At a
time when international agencies are advising the Government to reduce the size of its public
sector, duplicative functions seem unwarranted. The degree of overlap between the two
institutions should be analysed, and staff readjusted to suit the workload.

81. Changes in the following areas should be considered:
(i) A statutory agency should be established by legislation and made accountable to
the Government, but should have the authority and responsibility to make
decisions on operational matters without clearance from higher authorities.
Parliament should review the agency’s performance, but should not have a
supervisory role because that would undermine the separation of powers. As with
the framework of government, operational powers should be delegated to lower
echelons.
(ii) A central personnel agency responsible for managing the civil service and
developing staff across the entire Government should be established, in a form
that resists political interference in appointments and promotions.
(iii) Accountability and public reporting of the financial and commercial performance
of enterprises subordinate to ministries should be improved. Parliamentary
committees should review their performance yearly.
(iv) State commissions established to address specific areas of government activity
should be structured so they are dissolved, timely and efficiently, after achieving
their objectives.

E. Local Levels of Government

82. The constitution recognizes the existence of regions (oblasts), districts (rayons), and
cities or groups of villages (aiyl). Each level has an elected Parliament or council (kenesh),
which enjoys independence in the sense that no higher council can alter a lower council’s
decision. The constitution allows for local self-government by each village, whose local
government (aiyl okmotu) manages local affairs within the bounds of law. These local self-
government bodies are accountable to state bodies in relation to transferred powers. The 2002
“Law on Local Self-Government and Local State Administration” (Law on Local Self-
Government) sets the framework for each level of government and the relation between it and
their local parliaments. The law also provides for election of administrative heads, or mayors, at
the region-subordinated city level, or of the heads at the village government and district-
subordinated city level.

83. The current organization of the local level of government follows the old Soviet vertical
structure, based on territorial entities. Administrations are responsible for government activities
in their respective territories. The Law on Local Self-Government reinforces the importance of
territorial-based governments by denoting three local levels: the region territorial level; the
district territorial level; and the primary territorial level, which includes groups of villages,
Bishkek, region-subordinated cities (usually the headquarters of regional administrations), and
district-subordinated cities (usually the township in which district headquarters are located).

84. Crisscrossing the vertical lines of territorial responsibility are sector ministries with offices
at the regional level, or even at the district levels of local government. This structure of local
government may at first resemble a matrix organization, but it is not in practice, nor is it
designed to be. In a matrix organization, the territorial administration is responsible for setting
local priorities and delivering government programs in its locality. The line ministries have only
functional responsibilities for staff at local levels, or are concerned with maintaining the standards and technical competencies of individuals who supervise certain sectors. In contrast, sector ministries operating at the local territorial level are funded from ministry headquarters. Staff appointments are made at the national level, and require concurrence of local authorities. Reports are made to ministry headquarters and to local territorial administrations, but territorial administrations might encounter resistance if they attempt to override priorities set by a central ministry (see box).

**Box: Oblast Administrations and Sector Agencies in Emergency Situations**

Springtime in the mountains of the Kyrgyz Republic brings the dangers of floods, avalanches, and mudslides, which cause significant loss of life and property. In one region, the administration wanted to reinforce certain riverbanks and slopes by using metal mesh boxes filled with stones, which were being stored by the local Ministry of Environment and Emergency Services. Article 61 of the “Law on Local Self-Government” gives a region the power to “coordinate and carry out measures to prevent emergency situations, natural calamities and subsequent addressing of their impacts.” The regional administration asked the local Department of Environment to provide the mesh boxes to its road maintenance and water resource workers so that they could reinforce the river banks. The regional administration was told that the minister had assigned the mesh boxes for other uses, but that the local head of department would ask for a reassignment from the ministry. The danger of flooding became extreme, and the administration forced the department head to release the mesh boxes for immediate use. The minister was not pleased. As a result, the department head received a formal reprimand from the ministry—which is now in his personal file, and will detriment further promotions.

85. Important to understanding how the Government works is an understanding of the concept of subordination. Responsibilities are delegated, in most developed countries. Some are delegated from one agency to another, as with the formal delegation of financial and personnel responsibilities from a central financial authority. But most responsibilities are delegated within an agency, from its head through various management levels, with each level delegating responsibilities downward. In the Kyrgyz Republic, agencies and subagencies are subordinated to higher agencies, on up through the system to the apex. Some agencies can be subordinated three and four times. This has a marked effect on how bureaucratic action is perceived. Instead of having a set of responsibilities to carry out, managers wait to receive orders. Citizens who understand the system can use it to their advantage by taking problems and issues to more senior officials in an administration. The principle of subordination means that in the Kyrgyz decentralized system, governors, districts heads, and elected mayors have a good deal of power to override lower government policies and programs.

86. The Law on Local Self-Government also defines “territorial public self-government bodies,” which are essentially voluntary associations of people residing in a local community, much like housing associations or residents’ committees in western countries. Such bodies must register with the local council when they become legal associations. The main purpose of these committees is to identify and implement their initiatives related to local affairs. The law also recognizes a traditional Kyrgyz community meeting (**kurultay**), in which members of a local

---

9 For example, an *regional* veterinary laboratory would be subordinated to the central Government’s veterinary laboratory, to the chief veterinary officer, to a ministry, and to the governor of a region.
group formally communicate their opinions to a clan or other group leader. These meetings of local communities usually result in recommendations being passed for consideration to a local council.

87. A common feature of decentralization projects of the Kyrgyz Republic’s development partners is that they focus on strengthening the primary level of local government. An example is through training programs for officials of the government of groups of villages. Officials of the regional or district level of local government receive less assistance.

1. **Oblast Level**

88. Essentially, the regional level of government is responsible for maintaining technical standards and for coordinating the work in the region, which comprises districts, cities, and groups of villages. Each region is headed by a governor, appointed by the President after consultation with the Prime Minister, and with agreement of the regional parliament. Each governor is supported by a first deputy governor, also appointed by the President, and by one or two other deputy governors appointed by the Prime Minister. The Governor reports to the President, the Prime Minister, and the locally elected parliament. The regional administration is accountable to the President, the central Government, and the local parliament.

89. Regional Parliaments have from 3 to 45 deputies. The number seems large when considering the total number of elected politicians at every level of government. The chair of a parliament is elected by the council deputies and receives a stipend. Thus, the chair cannot hold another remunerated position. Deputies, who are not paid, generally meet quarterly. The regional parliaments can form committees. A Governor must make an annual oral report to the regional parliament. The major responsibility of such a parliament is to deliberate upon, and pass, the annual budget of the respective region. A regional Parliament has the power not only to make decisions about expenditures, but also to amend proposed budgets to fund the decisions. Before the budget is discussed, the budget committee reviews the draft budget and forms its opinion. The budget then is discussed by the parliament and usually approved through a resolution. There is a view that regional (and district) parliaments have not yet rejected the power relations obtaining during the Soviet era. Most deputies, unlike their parliamentary equivalents at the national level, are insufficiently versed in the law and have only a poor understanding of their own authority. Consequently, they tend to consider the administration of the regional their superior, and consider themselves little more than a rubber stamp for the administration.

90. Governors serve 4-year terms, with a maximum of two terms in the same region. Governors are primarily responsible to the President, and to the Government. Important decisions are sometimes sent to the President’s Administration. Governors report to the Government frequently, especially regarding implementation of government priorities, new legislation, and presidential decrees.10

91. Governors can be removed from office based on the Prime Minister’s recommendation. The local Parliament can also express, with a two-thirds majority, its lack of confidence in a

---

10 The first deputy governor is responsible for supervising agriculture, industry, enforcement bodies, and financial matters in the region. The deputy is responsible for matters such as education, health, labor, and social protection. The deputy reports both to the first deputy and to the governor.
governor. The President then has 1 month to decide whether or not to dismiss the governor. No regional parliament has voted, by December 2003, to dismiss a governor.

92. The Law on Local Self-Government establishes certain good governance standards for governors. Governors cannot: hold other remunerative offices; use official assets such as a car for private purposes; accept gifts; participate in political party activities; or appoint close relatives—parents, siblings, spouses, or children—to official positions.

93. Governors have no official say in appointments to the courts; the prosecution; the Ministries of National Security and the Interior; the Customs and Taxation Services; or the State Statistical Office. Governors usually take an active interest in appointments, but often move first when a vacancy arises, and lobby the respective national state body for preferred candidates.

94. Governors are empowered to issue resolutions and instructions. They can also cancel orders issued by a district head or village government, and suspend regulations passed by a district parliament that contradicts higher legislation. For the latter, governors usually act as a type of ombudsman. Usually the prosecution draws a governor’s attention to a contradictory action by a lower level of government while simultaneously notifying the lower level that it should amend the legislation or regulation. The governor can than decide to suspend the legislation or regulation. But the lower level of government, if it believes it is right, can appeal through the courts.

95. Governors’ relationships with their local Parliaments are usually consensual and participative. Governors hold roundtable meetings with members of the Parliament to agree on programs and projects. From time to time, governors initiate local-level projects and encourage members of local parliaments or councils to mobilize local populations to take action on a self-help basis.

96. The chair of a regional parliament is often a member of the regional collegium. The collegium is a consultative body that considers strategic questions and current matters relating to the region that require joint efforts of local authorities and subdivisions of central government authorities. Collegium members also can be heads of local subdivisions of central government agencies, members of the district administration, members of the local Office of the Prosecution, and judges. The collegium of the Osh region, for example, has nine members and is chaired by the speaker of the local Parliament (in most other regions the governor acts as collegium chair). Other collegium members are the governor, the three deputy governors, the regional health officer, the chief of police, the mayor of Osh city, and a community representative chosen by the governor. The collegium meets monthly. The agenda usually consists of matters such as reviewing recent regional development projects, preparing for the school year, readying local utilities for winter, and preparing for agricultural activities.

97. The composition of the collegiums seem to confuse political and executive arms of government, with the chairperson of Parliament attending, and sometimes chairing, the meeting. The collegium makes decisions about exercise of the regional administration’s responsibilities. At the same time, the administration is accountable to the regional Parliament. Consequently, the chair of the Parliament could have a conflict of interest. Also, having the chiefs of police on as members may compromise the independence of collegia, and send ambiguous signals to the general population about the backing that governors might seek to ensure the carrying out of their orders, and to counter opposition.
98. The regions’ powers seem to be declining. A January 2000 government regulation limited regional administrations to eight departments: economic, finance, and support of entrepreneurship; organization and self-governance; social and cultural development and tourism; industry, construction, and communications; agrarian development; defense and law; general administration; and financial and logistics. Each department may have as many as five professional staff. Former departments such as the Department of Education became subordinate units and therefore have primary line responsibilities to the national Ministry of Education in Bishkek. Regions can increase staff working in sector departments by paying for them from their own budgets, but line budgets are not affected.\footnote{For example, the local administration in Bishkek believed that certain areas of the city had insufficient police. The Bishkek administration found a budget allocation to employ more police, and provide municipal apartments for the new employees. The new recruits, however, are employees of the Ministry of the Interior.} Taxation inspectorates remain part of the Ministry of Finance, even though regions are responsible for raising revenue.

99. The regions’ main priorities tend to be donor-assisted projects. Regions’ budgets do not provide for such projects, so no provision is made for their ongoing operation and maintenance should that be necessary.

2. **Districts and Region-Subordinated Cities**

100. In many respects, the district is a mirror image of the region. The President appoints district heads, and appointments must be approved by a two-thirds majority of the district Parliament. Two deputy district heads are usually nominated by the district head, but the Prime Minister appoints them. The district head appoints all other staff of the district administration. If the budget is an indicator, education is the main service delivery responsibility of the district government; education consumes about 65% of a district’s budget.

101. The Law on Local Self-Government makes district heads accountable to the President, the Government, the governor, and the local Parliament. Given these reporting relationships, governors and senior personnel at the regional level have a significant say in service delivery at the district level. Discrete accountabilities between the two levels of government are not as clear as they could be.

102. Districts have locally elected Parliaments with 15–30 unpaid deputies. District heads, who have the same accountabilities to the district parliaments as governors have to the regional parliaments, present oral annual reports of activities, and annual budgets for agreement. District parliaments can make decisions on public service delivery, but only if funds are available. With the agreement of the district head, decisions are passed to the relevant departments for implementation.

103. District deputies have the right to remit “deputy’s requests,” or letters by concerned citizens, to the heads of government of those districts or villages from which they have been elected. Requests must be answered. If the relevant official does not reply, the deputy has the right to raise the matter in the district parliament, whose members tend to consider themselves empowered, under the provisions of a presidential decree “on the Ethics of Civil Officials”, to investigate complaints about inappropriate behavior of local officials.

104. There also are collegia at the district level that operate much like those at the regional level. The confusion between the legal and executive arms of government at the regional level,
mentioned in para. 96, is compounded at the district level by the fact that deputies are permitted to hold positions simultaneously at both levels. For example, in one district, a Parliament member who had been chair of the district Parliament for the previous two 5-year terms was appointed as chief of staff of the district administration. Consequently, he reported to the district head, but the district head was accountable to him as a member of the Parliament. Such ambiguities can impede good governance.

105. Municipalities have been separated from the district structure by the Law on Local Self-Government. A pilot scheme to test the appropriateness of making large municipalities into self-governing entities was initiated in 2001. In May 2001, for example, the city of Osh became a self-governing municipality. From two candidates that the President nominated, the local Parliament directly elected the mayor for a 4-year term. Given that the President is the next level in the broad area of directly elected government, the President has an interest in the election of loyal candidates from self-governing municipalities. This process is regarded as temporary, to be replaced by the direct election of candidates. The new mayor is responsible for the municipality’s general management, and the first deputy is responsible for developing the municipality’s economy, industry, and commerce. The Law on Local Self-Government requires the mayor to report biannually to the municipal council regarding city finances and programs.

106. Municipal boundaries probably should be reviewed again. Urban areas have expanded markedly since the last review, in 1966. For example, the municipality of Osh has an official population of about 270,000, but unofficial estimates are that about 450,000 people live in the metropolitan area. Although 65% of the “official” city has piped, potable water and 40% is attached to the sewage system, there is confusion about whether the municipal authorities also should be responsible for delivering municipal services to areas into which the city has expanded. It can be assumed that most village governments lack the funds to provide services such as water and sewage to many urban areas developing in their territories.

3. Village Governments and District-Subordinated Cities

107. Heads of village administrations and of district-subordinated cities were traditionally appointed by district heads. But according to the Law on Local Self-Government, they will now be elected by the local electorate for 4-year terms. Open and free elections at the village level are guaranteed by law, and discrimination against people who wish to run for office is prohibited. The Law on Local Self-Government provides that the council of any village government can issue bylaws on affairs of local significance. These arrangements have been in place for only a short time, but the system clearly provides for democratic institutions at the village level.

108. Discrete accountabilities among different levels of government are, however, confused by a number of powers now delegated to the village level. The Law on Local Self-Government and the recently enacted “Law on Financial-Economical Foundations of Local Self Government give village governments the powers to:

(i) provide social and cultural services, including medical services and primary (basic) and secondary education;
(ii) identify and organize social protection for low-income persons;
(iii) oversee compliance with passport system rules;
(iv) draft social and economic development projects and manage communal property and financial resources, including the collection of taxes and other dues;
(v) create jobs;
(vi) supervise land use and the formation of a land fund;
(vii) register citizens’ civil and marital status;
(viii) provide notary services;
(ix) issue identity documents;
(x) administer state land;\(^{12}\)
(xi) run the traditional court, which consists of village elders who hear local disputes;
(xii) maintain security of the villages comprising the aiyl; and
(xiii) set up enterprises to undertake business activities.\(^{13}\)

109. These powers make village governments responsible for upkeep and maintenance of schools, local health centers, and in some cases, local hospitals. This is in addition to delivering all other services normally expected in a township, such as maintaining roads, collecting garbage, and providing water. As the lowest level of government, village governments are often short on cash and other resources. A major income source is leasing the land set aside for villages, although 30% of that revenue is earmarked for soil conservation. Nevertheless, significant disparities are evident in resources available to different villages. For example, a progressive village government close to Osh with more than 4,000 households had annual revenues of Som6.6 million in 2000, while an village in the district of Bazar Korgon with 2,200 households had only Som850,000—a fourfold difference per household. Many village governments lack funds to properly maintain local amenities and provide standard services. A September 2003 Kyrgyz Government resolution to establish cofinancing from the central (republican) budget for certain local government programs signals that authorities are well aware of this problem.

110. Village governments are accountable to village parliaments in much the same way that regional and district administrations are accountable to their Parliaments. Village parliaments are limited to 9–21 deputies who are elected as ward or geographic-area representatives, like at every other level of Government. Such arrangements are generally regarded as the most accountable systems of government.\(^{14}\)

111. Considering the above, changes in the following areas could be considered:

(i) Given the current disparities among villages in levels of resources, either the number of services that villages must provide should be rationalized, or a system of horizontal or vertical transfer payments should be developed.
(ii) Whether members of a local Parliament should have the right to serve on collegia, or be paid as local government employees, should be considered.
(iii) Tax-sharing arrangements below the regional level should be made more transparent and systematic. To allow for long-term policy planning, the arrangements should not depend on annual negotiations.

\(^{12}\) This accounts for roughly 25% of the total land in an village, and was held back as a reserve after land was privatized.

\(^{13}\) This provision seems to actively encourage village governments to establish their own businesses to overcome their chronic lack of finances. How sensible this will be in the long term remains to be seen. Governments have usually been found far better equipped to carry out their traditional responsibilities than to pursue business and commerce, which the private sector can usually handle far more effectively.

III. OPERATIONAL ASPECTS OF GOVERNMENT

A. Policymaking

112. Policies at various levels of government are manifested through legal acts such as laws, decrees, resolutions, and orders. Policies are transparent insofar as they are published in selected media. But transparency in implementation requires that initiating authorities notify relevant individuals regarding changes. When initiating change, the central Government usually ensures that the relevant authorities are informed of the change, and its implementation requirements. But initiating authorities outside the central Government—for example, a state administration at the local level—do not always inform the concerned authorities. Also, the body of current government policy, as contained in its legislation, decrees, enabling resolutions, and orders is not detailed systematically in any document, although a database named TOKTOM, which a private company maintains, is updated monthly with all new laws and decrees.15

113. Most laws originate either with the Government or with the President’s administration. Once Presidential decrees and decisions have been formulated, directives that describe the required action are usually sent to the implementing ministries or other central state bodies. The Ministry of Justice often checks—although not mandated to do so—presidential decrees for consistency with the constitution and with the body of legislation. Figure 2 illustrates the process whereby policies are manifested in laws.

15 This database is, however, more a list than a systematic account of legislation and other orders.
Figure 2: Preparation and Adoption of Laws

Process of Preparation of Draft Law Within the Government

- Situation Analysis Through Ministry or Committee
- Preparation of Draft Law
- Agreement with Other Ministries and State Committees
- Submission of Draft Law and Comments Matrix to Government
- Government Regulation to Submit Draft Law to Parliament

Process of Adopting a Law

- Draft Law
- Submission to Parliament
- Speaker of the Parliament
- Committee of the Parliament
- Opinion of the Committee
- Legislative Assembly (from 2005 Session of the Unicameral)
- The President’s Signature
- Law
114. Government legal acts or resolutions are usually prepared by ministries, state committees, the Office of the Prime Minister, or—if authorized by the Government—other state bodies. The Ministry of Justice must agree to the acts. So must the Ministry of Finance, if the acts have implications for state revenues or expenditures. Ministers and chairpersons of state committees issue legal acts of their respective state bodies, if authorized by the constitution, laws, or government resolutions. These legal acts are effective only after registration with the Ministry of Justice.

115. When a legal act is prepared within a line ministry, a lead department typically drafts that act. The ministry’s lawyers and economists then comment on it. The officer in charge will liaise informally with counterparts in other ministries. The draft may first be submitted to the ministry collegium, which if it agrees, will submit it to the Government. All Government papers are circulated 7 days before meetings. If the Government approves the draft, it is circulated for comment to all central state bodies headed by government members. Each state body must sign an “agreement list.” The draft policy is then either submitted to the Ministry of Justice for registration as a government resolution, or is passed to the newly formed Commission on Drafting Legislation, which comprises representatives of the Government, Parliament, and judiciary. The head of the President’s administration heads the Commission. Inclusion of the judiciary seems unfortunate because it may compromise separation of powers. A chief legal officer or a parliamentary counsel might provide more appropriate advice.

116. A draft policy can have two types of opposition. The first type of opposition concerns a draft that conflicts with the law, in which case the draft cannot proceed until amendment of the law in question. The second type of opposition concerns disagreement of other ministries on the policy’s content. But no formal process to resolve disagreements seems to exist. Usually, opposing ministry staff write letters to the initiating ministry. If the initiator does not withdraw the policy, passage seems to depend largely on who the policy’s champions are. Introduction of clear procedures to address conflicts would enable more efficient resolution of conflicts between sectors affected by a proposed policy. Policies concerning more than one ministry should be approved by the Government. In cases of disagreement, each ministry’s positions should be reported, and the Government should make the final decisions.

117. The Ministry of Justice monitors implementation of new laws through its Department of Legal Issues and Legal Expertise, which meets quarterly with legal departments of the line ministries responsible for the policies. No line ministry systematically monitors the effectiveness of policies. The Prime Minister’s legal department monitors implementation of government resolutions, and its Department of Control has a computerized database to track all decisions. But monitoring seems quite formal, and is not qualitative. No central government body focuses on monitoring and controlling implementation of presidential decrees, or other government activities.

118. Regarding quality, the formulation of good policy advice is not a strength of the civil service of the Kyrgyz Republic, which inherited limited experience or capacity in policy development from FSU. Policy units tend to be small. Staff are changed frequently, so not even minimal training is sustained and in most agencies, core capacity is not built on.

119. Nevertheless, development of substantial policy capacity among civil service members does not seem an important priority. The Ministry of Finance has developed some policy capacity, but other central agencies and most line agencies are lagging. The lack of policy capacity is even more apparent at regional and district levels. The need for a large pool of competent policy specialists is made more acute by the strict way in which the Kyrgyz Republic
exercises accountability. A result is frequent change of ministers, governors, district heads, and the senior staff who work for them.

120. Therefore, until CDF completion, donor organizations sometimes drove policy and project development. Development partners of the Kyrgyz Republic have shown interest in public sector reform, but their reform programs have tended to focus on capital investment. Even there, donors sometimes have had determined spending priorities.

121. The recently completed CDF offers a broad framework for policy development. Although it looks to the future, the CDF has not yet addressed priorities within the context of contingency funding of ongoing government programs. Priorities will become increasingly important if economic activity fails to meet CDF predictions.

122. Considering the above, reforms in the following areas should be considered:

(i) The inadequacy of policy capacity should be addressed at all levels of government. That includes research support to Parliament, to enable the President and Government to better control the nation’s policy agenda.

(ii) Arrangements should be made for the Ministry of Finance to review policy initiatives more systematically. The Ministry’s inputs regarding budget implications of new policy initiatives should be presented to the Government, and be considered by the President. Such inputs would also enable the funding of new policies, to enable easy scrutiny of implementation. Also, more systematic advice should be provided to the Government and President regarding the consistency of government policy initiatives.

(iii) A system to monitor performance of policy and program implementation would not only help the Government ensure that initiatives are implemented as intended, but would also ease the current burden on policy officers in the President and Prime Minister’s offices. The Government might also consider whether the Ministry of Justice is the appropriate agency to undertake such monitoring.

(iv) The means by which government decisions are disseminated could be strengthened, especially to ensure that local levels of government understand the implications of new initiatives.

B. Public Financial Management

1. Performance History

123. The economic history of the Kyrgyz Republic has been marked by difficulties since independence. Economic activity, as measured by GDP growth, declined until 1995, followed by solid growth in 1996–1997, before several negative developments, including the 1998 Russian crisis, which triggered another decline (Table 1). Growth increased in late 1999, and has remained relatively steady in recent years. Given this context, the country has been under considerable day-to-day fiscal pressure. Also, progressive depreciation of the Kyrgyz currency, the som, from 1998 to 2001, aggravated the external debt burden such that servicing the debt constrained all other government actions. External debt was greater than 130% of GDP in 1999, and external debt service was equivalent to 26–31% of GDP in 1999–2001.

16 The 2002 decline was caused by a specific factor—a major gold mine accident—and was followed by more than 6% GDP growth in 2003.
Table 1: Key Economic and Fiscal Indicators, 1991–2002

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>GDP Growth (%)</td>
<td>(2.0)</td>
<td>(14.0)</td>
<td>(16.0)</td>
<td>(20.0)</td>
<td>(5.0)</td>
<td>7.1</td>
<td>9.9</td>
<td>2.1</td>
<td>3.7</td>
<td>5.4</td>
<td>5.3</td>
<td>(0.5)</td>
</tr>
<tr>
<td>Change in Consumer Price Index (%)</td>
<td>179.0</td>
<td>1,259.0</td>
<td>767.0</td>
<td>96.0</td>
<td>32.0</td>
<td>32.0</td>
<td>23.4</td>
<td>10.5</td>
<td>35.9</td>
<td>18.7</td>
<td>6.9</td>
<td>2.0</td>
</tr>
<tr>
<td>Current Account (% GDP)</td>
<td>11.0</td>
<td>(6.0)</td>
<td>(17.0)</td>
<td>(11.0)</td>
<td>(15.7)</td>
<td>(23.2)</td>
<td>(7.8)</td>
<td>(22.2)</td>
<td>(14.4)</td>
<td>(5.6)</td>
<td>(1.3)</td>
<td>(2.0)</td>
</tr>
<tr>
<td>Government Revenues (% GDP)</td>
<td>35.6</td>
<td>16.5</td>
<td>24.6</td>
<td>20.7</td>
<td>16.7</td>
<td>15.9</td>
<td>16.2</td>
<td>18.0</td>
<td>17.7</td>
<td>15.1</td>
<td>17.0</td>
<td>19.2</td>
</tr>
<tr>
<td>Government Expenditures, including the Public Investment Program (% GDP)</td>
<td>31.1</td>
<td>33.9</td>
<td>39.3</td>
<td>32.4</td>
<td>33.2</td>
<td>25.2</td>
<td>25.3</td>
<td>28.8</td>
<td>30.4</td>
<td>24.9</td>
<td>22.8</td>
<td>25.6</td>
</tr>
</tbody>
</table>

GDP = gross domestic product.  

124. The Kyrgyz Republic has relied on assistance from the International Monetary Fund (IMF) and other international agencies, mainly ADB and World Bank, to help support its economy. That reliance has contributed to the rapid increase of external debts. Agreement reached between the Kyrgyz Government and the Paris Club in 2002 on restructuring external debts owed to foreign governments will facilitate resolution of the problem. Recently, the Government has been framing its budgets to achieve fiscal targets—part of the conditions set under IMF-supported reform programs. During 2000, the Government faced serious difficulties complying with key budgetary and monetary policy targets, but it has since reaffirmed its commitment to doing so.17 The Government’s remedial actions include strengthening short- and long-term policy and budget planning.

2. Comprehensive Development Framework

125. The CDF has set the aims and aspirations of the Kyrgyz Republic for 2001–2010, together with an analysis of current economic and social conditions. The Government views the National Poverty Reduction Strategy (NPRS) and CDF as its blueprint for development and expects future external assistance to be directed at the priority areas that they identify. The CDF foresees further decreases in recurrent government expenditures and planned public investment as a percentage of GDP (Table 2). Lower public investment will, in turn, mean less offshore borrowing and lower costs for debt service. These reductions are in accord with conditions of the current IMF-supported program.

Table 2: Key CDF Indicators, Selected Years, 1999–2010

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>GDP in Real Terms (1999 = 100%)</td>
<td>100.0</td>
<td>103.9</td>
<td>108.0</td>
<td>119.8</td>
<td>134.5</td>
<td>153.9</td>
</tr>
<tr>
<td>Government Revenues (% GDP)</td>
<td>17.0</td>
<td>16.1</td>
<td>19.1</td>
<td>18.0</td>
<td>18.6</td>
<td>19.1</td>
</tr>
<tr>
<td>Government Expenditures (% GDP)</td>
<td>26.7</td>
<td>25.0</td>
<td>24.7</td>
<td>21.0</td>
<td>20.3</td>
<td>20.1</td>
</tr>
<tr>
<td>Public Investment Program (% GDP)</td>
<td>8.4</td>
<td>6.9</td>
<td>6.0</td>
<td>3.9</td>
<td>2.9</td>
<td>2.9</td>
</tr>
</tbody>
</table>

CDF = Comprehensive Development Framework, GDP = gross domestic product.

126. The CDF also envisages decreased taxes and abolition of inefficient taxes, as well as a broadened tax base that emphasizes indirect taxation, simplified taxation for small and medium businesses, and improved tax administration. All of those reforms will help eliminate corruption, and eliminate tax privileges. Realization of the country’s long-term objectives to develop its private sector and to increase exports is expected to counteract and, possibly, eliminate the persistent fiscal difficulties that undermine the Government’s ability to deliver services.

127. Starting in 2003, CDF and NPRS were to begin playing the role of primary constructors of the annual budgets. The key challenge will be to effectively link policy priorities with fiscal measures.

3. Annual Budget Process

128. The annual budget is based on the 1998 “Law on the Main Principles of the Budget” and the 1994 “Law on the Provisions of Treasury”. The outcome is set in annual budget laws. Few other laws have a bearing on budget formulation and implementation. The Government is now consolidating these various laws into a single law: the Budget Code.

129. The annual budget includes revenues and expenditures for both the central Government and the local governments (regions, districts, cities, and villages). To create a consolidated budget, the Government issues a timetable identifying procedures and deadlines. Governments at the regional, district, and village levels prepare budgets for submission to their councils and to the next higher level of government. Districts prepare budgets (which include the village budgets to be amended by the districts if necessary) for approval by their parliaments and then for submission to the district Department of Finance. Regional administrations and parliaments approve and perhaps amend the districts’ budgets, add their own budgets, and submit a consolidated local government budget to the Ministry of Finance. Ministries also provide their estimates for Ministry of Finance review. Submissions from line ministries, other central government agencies, and regions are usually due in July. The Ministry of Finance prepares a consolidated state budget, separating the central and local government portions, for review by the Government before seeking formal approval from Parliament. That budget is usually submitted to Parliament in September. Parliamentary committees consider the budget before the full Parliament approves it in late November or early December.

130. With USAID assistance, the budget process is moving to a program basis. This change requires ministries to submit to the Government program structures, program costs and revenues, performance indicators, and options for program savings. Ministries are also being asked to identify high-priority spending initiatives. The expectation is that program savings can
be redirected to such initiatives. 2002 was the first full year of adoption of program budgeting. The Government realizes that program budgeting will not take full effect for some time, however, partly because of one line ministry’s perceived lack of interest, which is exacerbated by inexperienced accounting personnel.

131. The Ministry of Finance plans to more clearly separate the responsibilities of its budget department, which is in charge of budget planning, and the treasury department, a change in concordance with good governance. The objectives and skill requirements for each function differ greatly. If they are amalgamated, the budget controllership will probably take a secondary position. Issues that authorities should address in the short to medium term include:

(i) accounting standards to be adopted throughout the public sector, and how to addressed them in any finance act;
(ii) programs for professional development of government accountants, especially as improved accounting standards are introduced;
(iii) creation of an internal audit function within the Government;
(iv) synchronization of account and budget classifications so that all financial reports, especially year-end reports, are clearly related to the budget;
(v) development of good financial management reporting at all levels of government so that the budget and subsequent expenditures are related in an overall management system;
(vi) more clearly distinguished responsibilities and rights of the administrations at regional, district, and village levels of local government, with regard to service delivery and financing; and
(vii) presentation of audited annual reports to Parliaments or councils at all levels of local government by all ministries and attached agencies.

132. The Kyrgyz Republic does not seem to use the concept of a chief accounting officer, usually the head of a ministry, to whom the Ministry of Finance delegates financial authority and who then is held accountable for the proper disbursement of all money appropriated to the Ministry of Finance. Ministries are held accountable for adherence to fiscal budgets, and sanctions seem to be applied for failures to operate within fiscal constraints. This is not to say, however, that ministries are held accountable for the quality of either their services or their performance. Sufficiently specific service performance standards have not been published.

133. Line agencies might claim that their performance is impaired because the Ministry of Finance has not provided budget funds for interlinked expenditures related to a program or set of outcomes. Also, agencies could be constrained by not being able to rely on budgeted amounts, because funds are released only as revenues become available, and are then subject to the Ministry of Finance’s payment priorities. Certain line items are not paid in full, with reports indicating that many are funded only to about 60% of the amount appropriated in the Law on the State Budget. Some agencies have had to obtain their own funds from levies and charges, which are referred to as “special means”. At one time, revenue-raising departments and regulatory authorities were expected to be self-financing. But the Government has recognized

---

18 The treasury function focuses on broad economic and financial issues that affect the financial health of the country. Its head requires extensive experience and training in economics; taxation; and banking, cash, and debt management in domestic and international financial markets. The controllership function focuses on ensuring effective financial control of operations and providing the decision support systems that manager need to effectively plan and deliver government programs and services. Its head requires extensive experience and training in financial and management accounting, information systems, internal controls, and performance management.
that special means can decrease accountability and foster corruption, so has largely discontinued this approach. CDF mentions that special-means resourcing of official supervision and regulation at all levels of government will cease, and that financing will come, instead, from budget resources. Certain commercial services, such as product or material testing, have been separated fiscally from their respective policy wings and made self-financing. Again, introduction of program budgeting may go some way toward remedying these problems, if the Ministry of Finance is required to release funds in accordance with scheduled program expenditures.

134. Budget reliability is an issue, especially considering the fiscal constraints. Evidently, the Ministry of Finance optimistically increases the revenue estimates prepared by revenue-raising units such as Customs and Tax Inspection. This practice may be to create incentives or to compensate for perceived conservatism on the part of the revenue-raising agencies. The revenue-raising agencies disapprove of the practice, because they consider themselves better informed than the Ministry of Finance regarding attainable revenues. Nevertheless, they are held accountable for achieving the Ministry of Finance’s targets and can be sanctioned for failing to collect budgeted revenues. Available data indicate that revenue shortfalls occur, although the amount has declined considerably. Revenue collection is relatively low, partly because smaller enterprises underreport business. Additionally, taxes are often levied by inexperienced and underpaid staff working in a system that permits exemptions and discretionary areas. Corrections to the budget are common. At the end of each year, the Government submits, and Parliament adopts, amendments to the budget law that adjust both revenues and expenditures so that they match executed levels.

4. Public Investment Program

135. Economic growth requires a sound program of public investment. The Kyrgyz Republic appends a development budget to its recurrent budget submission for approval, and determines the major projects the Government intends to fund over a 5-year period. But to decrease external debt, the Government is cutting back expenditures as a percentage of GDP that are directed to capital projects. If the Kyrgyz Republic achieves the ambitious GDP growth projections envisaged in CDF, the projected total capital expenditure will remain flat until 2007, then rise to about 35% by 2010, then even though the plan is to decrease the percentage of GDP directed to capital projects (Table 3).

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Nominal GDP (som million)</td>
<td>48,744.0</td>
<td>62,203.0</td>
<td>71,257.0</td>
<td>101,006.0</td>
<td>136,260.0</td>
<td>184,332.0</td>
</tr>
<tr>
<td>Public investment program</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Som million</td>
<td>4,094.0</td>
<td>4,292.0</td>
<td>4,275.0</td>
<td>3,939.0</td>
<td>3,952.0</td>
<td>5,346.0</td>
</tr>
<tr>
<td>$ million</td>
<td>87.0</td>
<td>91.0</td>
<td>91.0</td>
<td>84.0</td>
<td>84.0</td>
<td>114.0</td>
</tr>
<tr>
<td>% GDP</td>
<td>8.4</td>
<td>6.9</td>
<td>6.0</td>
<td>3.9</td>
<td>2.9</td>
<td>2.9</td>
</tr>
</tbody>
</table>

GDP = gross domestic product.

19 This shortfall passes through to the expenditure side of the budget, because the Ministry of Finance considers the daily cash flow and then releases what it can to ministries and local governments.
The public investment program faces difficulties in addition to affordability. First, the program is monitored for implementation, but not for outcome. As the IMF has indicated, implementation, expenditure control, project selection, and evaluation should all be enhanced. In August 2000, the authorities attempted to improve reporting of the public investment program to the Ministry of Finance. In 2001, projects were reviewed. Consequently, several projects were delayed or suspended. Second, the recurrent budget does not provide the recurrent expenditures needed for development projects. The Government is considering ways to address this dilemma, including the creation of operations and maintenance funds from specific taxes (IMF 2002). The problem with not properly taking into account the consequences of capital expenditure on operations and maintenance is that assets created will depreciate quickly and the investment project will fail to realize predicted returns.

5. Budget Revenues

Increasing revenues is a key factor in decreasing budget deficits. The Kyrgyz Republic has continued to upgrade its taxation practices, but tax collections are lower than in most other countries in the region and, until recently, had declined steadily (Table 4). The country seeks to improve collection of both taxes and customs.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Income and Profit tax</td>
<td>27.0</td>
<td>19.0</td>
<td>14.0</td>
<td>15.0</td>
<td>15.0</td>
<td>18.0</td>
<td>16.0</td>
</tr>
<tr>
<td>Value-Added Tax</td>
<td>27.0</td>
<td>35.0</td>
<td>36.0</td>
<td>33.0</td>
<td>26.0</td>
<td>31.0</td>
<td>32.0</td>
</tr>
<tr>
<td>Customs and Excise Revenues</td>
<td>16.0</td>
<td>13.0</td>
<td>15.0</td>
<td>19.0</td>
<td>21.0</td>
<td>17.0</td>
<td>11.0</td>
</tr>
</tbody>
</table>

Gross Domestic Product (%)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Income and Profit Tax</td>
<td>4.4</td>
<td>2.9</td>
<td>2.2</td>
<td>2.6</td>
<td>2.4</td>
<td>2.1</td>
<td>2.7</td>
</tr>
<tr>
<td>Value-Added Tax</td>
<td>4.4</td>
<td>5.3</td>
<td>5.6</td>
<td>5.8</td>
<td>4.1</td>
<td>4.6</td>
<td>5.5</td>
</tr>
<tr>
<td>Customs and Excise Revenues</td>
<td>2.7</td>
<td>1.9</td>
<td>2.3</td>
<td>3.2</td>
<td>3.3</td>
<td>2.7</td>
<td>1.9</td>
</tr>
</tbody>
</table>

GDP = gross domestic product.
Source: International Monetary Fund (2002).

a. Tax Revenues

The Tax Code was introduced in July 1996. It has since been amended more than 600 times, which has complicated its application and caused conflicting regulations. Although taxes are self-assessed and compliance is checked, misunderstandings about the legislation cause many mistakes. Furthermore, many companies have been able to negotiate exemptions with the Government. The “Law on Free Economic Zones” further decreased the tax base by exempting enterprises located in free economic zones from corporate and all other taxes.

In mid-2001, the Government moved to simplify the Tax Code and to lower tax rates, partly as a result of consultations with business representatives such as the Chamber of Commerce. Lower income taxes are expected to lead to less tax avoidance. The main types of taxes currently in effect follow:

(i) “Corporate taxable income” is defined as the gross receipts from sales (including sales of assets), from dividends, and from interest earned, minus labor and other operational costs. Losses can be carried forward for 5 years, with 20% annual
tax deductions. The profit tax is levied monthly, which means that the monthly tax is often levied on estimates based on the previous month’s activities.

(ii) Individuals pay a progressive income tax with a maximum rate of 20%.

(iii) Dividends distributed are subject to a 10% tax at source. Imports from Belarus, Kazakhstan, and Russia are not taxed, but imports from other countries are taxed at 5.0 to 17.5%. Certain enterprises are evidently able to negotiate relatively favorable rates.

(iv) The value-added tax (VAT) rate is 20%, but is 0 for most exports.

(v) The emergency tax amounts to 1.50% of turnover and the road tax, to 0.80% of turnover of enterprises in manufacturing and 0.08% of enterprises in trade.

(vi) Excise taxes are levied at variable rates, depending on the product.

(vii) Agricultural enterprises pay only a land tax.

(viii) Regions can choose to levy an optional sales tax of as much as 4%.

(ix) Companies also pay contributions into various social insurance systems, which total 33% of payroll, but such contributions are not taxes for budget purposes.

140. The Tax Inspectorate—responsible for tax code implementation, tax control, arrears, staff ethics, laws and regulations, appeals, tax collection, statistics, and large taxpayers—is hampered by a lack of computerization. Progress has been made through technical support from USAID under the Kyrgyz Integrated Taxation Information System project, but the current manual procedures not only increase staff costs significantly, they also present more opportunities for the negotiation of tax liabilities and for corruption. The tax authority has more than 2,000 staff dispersed across a central office, seven regions and the city of Bishkek, 52 districts, and various cities. Less than 10% of the staff is in the central office. The tax authority is organized along functional lines, with departments for collection, enforcement, audit and control, and fraud investigation. Recently, the former Tax Inspectorate and the former Customs Inspectorate were merged into a State Committee for Revenue Collection, under the Ministry of Finance. Its objective is to increase efficiency and transparency of these revenue-raising agencies.

141. The officer responsible for the initial assessment often deals with taxpayer appeals, but dissatisfied taxpayers can resubmit appeals to the next level and pursue them in court. The number of appeals recorded is small, suggesting that most taxpayers are able to settle disagreements about assessments. The tax authority can seize property for overdue taxes only with a court order. The prosecution oversees operations of the Tax Inspectorate (and now the State Committee for Revenue Collection). This is another avenue of appeal for disgruntled taxpayers.

b. Customs Revenues

142. Customs is the responsibility of the Customs Subdivision of the newly established State Commission for Revenues under the Ministry of Finance. The Customs Subdivision is governed by the Customs Code. Its 1,200 employees work in 15 main offices and about 40 entry and other posts. It includes the departments of Smuggling Control, Drug Traffic Control, and Control and Audit.

143. Customs revenues were declining until 2000, but have subsequently increased, mainly because of VAT revenues on imports (Table 5). The customs authority studied customs collection performance and ascertained that tariff rates were lower than in neighboring countries, reflecting the Kyrgyz Republic’s obligations under the World Trade Organization.
Customs did not then have a system for valuing goods, making the imposition of duties subject to negotiation between customs officials and importers. Furthermore, a review of other countries’ reported exports to the Kyrgyz Republic indicates that collections are about half of what they should be. The collection shortfall can be traced partly to importers’ understating the value of shipments—but is also due to the corruption of inspectors who are bribed to overlook customs obligations or to expedite the clearance of goods. Goods clearance takes 1–10 days because of such factors as the 100% inspection regime, variable quality of documentation, insufficiently trained customs staff, and inspectors’ work attitudes.

**Table 5: Customs Revenues, 1998–2000**

<table>
<thead>
<tr>
<th>Source</th>
<th>1998</th>
<th>1999</th>
<th>2000</th>
<th>2001</th>
<th>2002</th>
</tr>
</thead>
<tbody>
<tr>
<td>Customs Duties</td>
<td>1.1</td>
<td>0.6</td>
<td>0.4</td>
<td>0.4</td>
<td>0.6</td>
</tr>
<tr>
<td>Excise Taxes</td>
<td>0.9</td>
<td>1.2</td>
<td>0.7</td>
<td>0.7</td>
<td>0.7</td>
</tr>
<tr>
<td>Value-Added Taxes</td>
<td>2.9</td>
<td>2.4</td>
<td>2.7</td>
<td>3.9</td>
<td>4.3</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>5.0</td>
<td>4.2</td>
<td>3.8</td>
<td>5.0</td>
<td>5.6</td>
</tr>
</tbody>
</table>

Source: Former Customs Inspectorate data.

144. Citizens can address complaints about the customs authority to its chief, to the Ministry of Finance, or to the prosecution. Disciplinary action is taken when complaints are proven valid.

145. The customs authority faces two challenges under its dispersed arrangement: consistency in applying its rules, and effective monitoring. It would benefit from a computer network for timely central monitoring, and from a consistent schedule of the values of goods. Simplifying regulations would enhance transparency and understanding by both citizens and customs officers. This is especially important, considering the high turnover of customs officers.

146. ADB supports customs reform through Loan–3950–KGZ and related TA, and through regional TA, all approved in October 2002.

6. Expenditures

147. Expenditure management is within the context of approved budgets, and is subject to controls and audits. Controls are satisfactory, but that does not imply that expenditure programs are effective. The approval of budgets does not necessarily mean that full funding is made available, or that funding is on time.

148. Although the annual budget is supposed to reflect the first year of a 3-year rolling budget, the focus is clearly on the current year. In reality, the Ministry of Finance must monitor cash flows on a daily basis to determine the amount of funds it can release, regardless of approved budgets, to other ministries and to local governments. The Ministry releases funds in a priority sequence, first to service external and internal debts, then for social obligations, enforcement agencies’ costs, ministries’ protected costs (including staff salaries), and finally for ministries’ nonprotected costs.

149. This ranking affects both efficiency and effectiveness. Funding for salaries tends to make funds for operational expenditures, which are nonprotected, nonavailable. Consequently,
salaried personnel sometimes lack the resources to perform their jobs. There is no flexibility to save on salary costs and make those savings available for nonsalary items. Nor is there incentive to outsource, because outsourced items would have lower priority for payment. Furthermore, a ministry’s work may not be carried out if it requires a mix of resources such as staff and travel, because funding for the nonsalary cost is far less likely. This rigidity in budgeting for line items, rather than on program bases, frustrates performance. But the move to program budgeting, if used to make choices among programs, may lead to removal of item protection. Table 6 shows the broad composition of expenditures.

Table 6: Budgeted and Actual Expenditures, 2001–2004

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Current</td>
<td>13,599</td>
<td>15,401</td>
<td>15,744</td>
<td>102</td>
<td>16,395</td>
<td>17,112</td>
<td>104</td>
<td>19,002</td>
<td>20,638</td>
</tr>
<tr>
<td>Wages</td>
<td>2,686</td>
<td>3,415</td>
<td>3,579</td>
<td>105</td>
<td>3,835</td>
<td>3,891</td>
<td>101</td>
<td>4,275</td>
<td>4,671</td>
</tr>
<tr>
<td>Social Funds</td>
<td>3,376</td>
<td>3,961</td>
<td>3,899</td>
<td>98</td>
<td>4,472</td>
<td>4,566</td>
<td>102</td>
<td>5,028</td>
<td>5,365</td>
</tr>
<tr>
<td>Interest Due</td>
<td>1,507</td>
<td>1,420</td>
<td>1,228</td>
<td>86</td>
<td>1,588</td>
<td>1,577</td>
<td>99</td>
<td>1,450</td>
<td>1,513</td>
</tr>
<tr>
<td>Goods and Services</td>
<td>4,402</td>
<td>4,412</td>
<td>4,818</td>
<td>109</td>
<td>4,533</td>
<td>4,858</td>
<td>107</td>
<td>5,411</td>
<td>5,872</td>
</tr>
<tr>
<td>Capital</td>
<td>5,309</td>
<td>5,000</td>
<td>3,915</td>
<td>78</td>
<td>5,072</td>
<td>5,121</td>
<td>101</td>
<td>5,280</td>
<td>4,551</td>
</tr>
<tr>
<td>Foreign-Financed Public</td>
<td>4,412</td>
<td>4,280</td>
<td>3,239</td>
<td>76</td>
<td>4,410</td>
<td>4,410</td>
<td>100</td>
<td>3,541</td>
<td>2,936</td>
</tr>
<tr>
<td>Investment Program</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>18,907</td>
<td>20,400</td>
<td>19,659</td>
<td>96</td>
<td>21,467</td>
<td>22,233</td>
<td>104</td>
<td>24,282</td>
<td>25,189</td>
</tr>
</tbody>
</table>

Source: Ministry of Finance.

150. Table 6 shows that expenditures for wages and social funds account for about 46% of total current expenditures, and are projected to grow in line with such expenditures during 2001–2004. Table 6 also indicates the extent of deviation from the expenditure estimates made in 2001: 5% on major items such as wages, but even more—9%—for goods and services. Variations were similar in 2002.

151. Aside from the problem with release of funds, expenditure management is made more difficult because commitments go unrecorded. According to an IMF assessment, this omission is a major deficiency that prevents efficient expenditure control and thus, complicates program design and monitoring. The noncomputerization of many records worsens the deficiency.

7. Procurement

152. The Kyrgyz Republic has passed specific government procurement legislation that resulted in the 1997 establishment of the Procurement Commission, to oversee the procurement process and to train civil service staff in good procurement practices. The

---

Commission (now the State Commission for State Reserve and Procurement) has developed policies, guidelines, and procedures. Each ministry and local level of government has its own tender commission. The structure of these commissions seems somewhat ad hoc. The procurement process would be strengthened by increased transparency of roles and responsibilities, including panel membership with regard to pecuniary interest, technical capability, and independence of the project at tender. Panel members currently must comply with a set of obligations for publishing, processing, and evaluating tenders. In time, the quality of management information on tendering will be improved by procedures for achieving established performance indicators, best value for money, and good data regarding company performance and capability. Procurement already incorporates some discretion by allowing small purchases without a full tender process.

153. The Procurement Commission ensures appropriate vetting of tenders by receiving details of tenders already approved and reviewing all decisions. The Commission has the capacity to register the process nationally and to monitor its costs and benefits, as well as responsibilities in procurement activity. The Commission already fulfils such a requirement, partly through monthly and annual reports to the Prime Minister. Furthermore, the Commission has a database that allows it to identify purchasers of various products and provide procurement advice to ministries. Commission representatives meet with government representatives every 3 months. Besides the Procurement Commission, parliament has a committee that oversees procurement and its links with the central government budget.

154. Regarding enforcement of policies and procedures, if the Commission detects a failure to comply during tender review and approval, it provides instruction to the offending officer or officers in the first instance. If the offence is repeated, a penalty is levied—usually against the officer’s salary. The Commission reports a third offense to the Government in preparation for legal action. No statistics have been made available on the extent of noncompliance. Complaints by bidders also are subject to a definite process. Bidders with a complaint must inform the respective tender board within 10 days of the tender’s award. The complaint can be appealed to the Commission and, if warranted, to the courts. If the Commission finds that a firm is trying to corrupt the process, it can prohibit that firm from participating in government tenders for as many as 3 years.

155. The Commission employs about 100 staff centrally. At the regional level, the Commission organizes training seminars on procurement, and has sent a number of commission staff overseas for training. The World Bank sponsored a visit by Commission staff to the International Labour Organisation in Turin, Italy, to observe best procurement practices. The Commission chair has said that Kyrgyz practices were considered superior to those of other Central Asian republics.22

156. Issues that the Commission still face include developing local procurement skills and helping local firms compete more effectively, because local firms often cannot meet the typical financial guarantee conditions found in tenders. Furthermore, the Commission should assess the extent to which locally owned and controlled firms win contracts, and should enhance its own effectiveness through improved interoffice communications such as fax and computer networks.

22 The Commission does not seem to play a substantive role in procurement associated with projects of ADB, the World Bank, and the European Bank for Reconstruction and Development.
C. Financial Management at the Local Government Level

1. Policy Making

157. Local levels of government have few opportunities to develop policies and programs distinct from those at the national level. But each level of government has the power to issue normative acts recognizing its distinctive requirements, as long as the acts do not contradict higher-level resolutions. In this way local levels of government can address matters such as specific environmental concerns or the needs of special groups in areas such as the south, which has sizeable ethnic minorities.

158. Local government finance is often inadequate, fosters inefficiency, leads to confused accountability, and occurs through a process that, although nominally providing for community participation, leaves final decisions in the hands of central bureaucrats. Local government finance seems a priority area for improvement, because it is key to providing adequate basic services to Kyrgyz citizens. ADB’s Fiscal Decentralization Study includes a number of sensible recommendations that need not be repeated here. But first, a fundamental decision should be made on the structure of decentralized government, and how many levels it should have.

2. Budget Process

159. Each level of local government has a budget, in accordance with the 1999 Presidential Decree on Local Self-Government and the Law on Budget Principles. Adequacy of local government finances depends on the government’s capacity to raise funds and the predictability of transfers from higher government, including the central Government.

160. The budget process starts in late May each year, when the governor of a region issues an order through the regional department of finance requiring districts to submit budgets within a month. In July, districts submit their budgets, which the regional finance department consolidates and adjusts before submitting its budget to the Ministry of Finance. In September, three-person Ministry of Finance teams (two tax staff and a deputy governor) visit each regional department and agency, where the agencies defend their budgets. Later in September, the Ministry of Finance submits its draft budget to the Government. Once the Government has agreed to the draft, regions are notified of their revenue targets and allocated expenditures. During the budget process, regional representatives meet with the Ministry of Finance to discuss areas of disagreement. The region can submit objections to the Ministry of Finance, but such objections rarely carry much weight. After the Ministry of Finance has considered the objections, it submits the formal budget to Parliament. The Law on the State Budget and the Ministry of Finance’s distribution of grants to regions then is submitted to regional departments of finance. Regions agree on the distribution of funds across expenditure heads, and distribute the equalization grants to districts, submitting draft regional budgets to the budget committee of the regional Parliament. The regional collegiums can alter distribution of equalization grants and of other funds to regional sector departments. The draft budget is then submitted to the regional Parliament, which cannot alter the approved total, but can redistribute amounts among sectors.

3. Revenues

161. Only about 10% of the 471 groups of villages in the Kyrgyz Republic can cover their expenses using their own revenues. The remainder depends on transfers from higher levels of government. About 52% of revenues of the village level of government come from categorical or equalization grants from the central Government, which are filtered down through the regions
and districts. Shared taxes and regulated taxes raised from the village or district average 23%. For local taxes, land taxes account for the greatest part of revenues. Local fees and charges make up the balance. Categorical grants must be used for specific social services, mainly health and education. Also, the central Government provides equalization grants to equalize remaining gaps between revenues and expenditures of a village administration. These grants are also channeled down through regions and districts. Equalization grants are pro-poor, as they transfer funds from wealthier areas such as Bishkek, Chuy, and Issyk-kul, to poorer areas.

162. Villages have almost no say or control over the level of categorical grants and equalization grants they receive. The grants are intended mainly to pay salaries of designated-service providers. For example, in the city of Osh, categorical grants to cover salary costs account for only Som60 million, out of a budget of Som116 million. Consequently, grants do not cover the full costs of service delivery, so the local government must find funds for supporting facilities, utilities, supplies, and ancillary services. That the local government often cannot do this is no surprise, and quality of service suffers accordingly. Another area of concern is that although grants are determined based on a defined methodology at the central Government and regional levels, grants do not necessarily flow through to the districts and villages. Categorical and equalization grants, and a third category called “stimulating grants,” are appropriated from the central government level to the regional level. Thus, regional administrations have the discretion to vary grants to districts and region-subordinated cities. The result is that the poorest areas do not necessarily receive the highest subventions. But in September 2003, the Kyrgyz Government adopted a resolution that may help address this problem; the resolution foresees cofinancing from the central budget for local government programs.

163. Shared and local taxes are also a problem for local governments because the central Government specifies what types of taxes they can levy, the appropriate tax rates, what taxes they can retain, and what taxes local governments must share with central Government. Table 7 breaks down revenues from local government taxes.

### Table 7: Revenues from Local Government Taxes

<table>
<thead>
<tr>
<th>Shared Taxes</th>
<th>Taxes Earmarked for Local Government Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Income Taxes (personal)</td>
<td>Land Taxes and Land Utilization Fees</td>
</tr>
<tr>
<td>Profit Taxes</td>
<td>Duties on Real Estate Transactions</td>
</tr>
<tr>
<td>Patent Fees</td>
<td>Health Resort Taxes</td>
</tr>
<tr>
<td>Fees on Domestic products</td>
<td>Taxes on Advertising</td>
</tr>
<tr>
<td></td>
<td>Dog Fees</td>
</tr>
<tr>
<td></td>
<td>Fees for Auctions and Exhibitions</td>
</tr>
<tr>
<td>Central Government Share: 65%</td>
<td>Parking Permits</td>
</tr>
<tr>
<td>Share of oblasts and districts: 35% (regions usually receive 20% and districts, 15%)</td>
<td>Taxes for the Use of Local Symbols (such as the flag)</td>
</tr>
<tr>
<td></td>
<td>Retail Turnover Taxes</td>
</tr>
<tr>
<td></td>
<td>Taxes on Transactions on Raw Materials and Commodity Exchanges</td>
</tr>
<tr>
<td></td>
<td>Trash Collection Fees</td>
</tr>
<tr>
<td></td>
<td>Taxes on Commercial Flower Growing</td>
</tr>
<tr>
<td></td>
<td>Hotel taxes</td>
</tr>
<tr>
<td></td>
<td>Hunting and Fishing Taxes</td>
</tr>
</tbody>
</table>

23 “Stimulating grants” refer to situations in which expenditures are shared between central and local budgets. Therefore, a local budget revenue side can be made up of various grants (equalization and categorical), shared taxes, its own tax base, and special means.
<table>
<thead>
<tr>
<th>Shared Taxes</th>
<th>Taxes Earmarked for Local Government Use</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Tourist taxes for Traveling Outside the</td>
</tr>
<tr>
<td></td>
<td>Commonwealth of Independent States</td>
</tr>
<tr>
<td></td>
<td>Taxes on Videos and Concert Halls</td>
</tr>
<tr>
<td></td>
<td>Taxes on Premises Not Used for Production</td>
</tr>
<tr>
<td></td>
<td>Vehicle Taxes</td>
</tr>
</tbody>
</table>

Note: One hundred percent of the value-added tax goes to the central Government.  

164. Land taxes are the main revenue source under local government control. Local governments retain 90% of land taxes. But some local government officials say land taxes are too low, and should be increased.

165. Local governments can impose user charges for various services. Because local governments have a monopoly on their services, their charges come under the authority of the Antimonopoly Commission. The villages and other levels of local government may seek to maximize user charges—but if successful, the central Government is likely to decrease the level of their categorical and equalization grants. This practice discourages local governments to raise, and encourages them to hide, revenues.

166. A further complication is that citizens can pay taxes and charges “in kind.” As a result, local governments must sometimes pay items like pensions in kind.

167. Improvements in the area of taxes are being implemented. For example, the recently established property tax should strengthen the financial statuses of cities.

4. Expenditures

168. Local administrations can determine staff numbers and salary rates within the establishment levels and wage bands that Government sets. Heads of local levels of government decide on staff bonuses, which are usually paid every 3 months, and have become an expected supplement to basic wages. Local governments can switch expenditures among budget items, except for protected items such as salaries, allowances, and social insurance contributions.

169. Service obligations for local governments are established through legislation. Furthermore, local governments are responsible for assets of the State Property Commission, even if the governments do not use, and no longer require, them. Local governments have little choice in setting priorities. Given their dependence on grants from the central Government and the limited revenues they can raise themselves, it is not surprising that the local governments either fail to deliver certain required services, or fail to set and achieve standards for services they provide. For example, garbage is collected sporadically, and public roads, drainage systems, and lighting are neglected.

---

24 An example of this was an aïyl that desperately needed upgraded equipment for harvesting, but felt obliged to spend its limited funds on maintaining a coronary unit that had been placed in a local hospital—even though excellent hospital facilities were available 30 minutes away, in the regional center.

25 In a city like Osh, for example, unofficial estimates are that only about 65% of the population has access to potable water and 40%, to sanitation and sewerage services. Often, there is no garbage collection. Furthermore, water provision is unreliable, and quality varies considerably. The situation seems even worse in the city of Naryn, where most of the population must carry water in buckets and milk churns from standpipes, which often are relatively far from homes.
170. Local governments are responsible for delivery of education and health services that are partly funded by categorical grants from the central Government, and that cover only salaries and wages. The local governments are to fund all other expenditures. Because any decrease in teaching staff automatically decreases the categorical grant, there is little flexibility to amalgamate schools to save on salaries and direct the savings to essential school supplies and facilities. Local governments rely partly on voluntary labor to help maintain schools. Health services are funded similarly.

5. Accountability

171. The Treasury of the central Government transfers categorical and equalization grants to regional departments of finance, which transfer funds to the district level, which then transfers the funds to the village government. The district treasury departments report monthly to the treasury on regional revenues and expenditures, and the regional treasuries report to the central Government treasury. Reports on the execution of state budgets are submitted to the Chamber of Accounts and to the audit department of the Ministry of Finance.

172. Accountability is not always entirely clear under current fiscal and administrative arrangements. Local government heads may counter criticisms about their performance by blaming other levels of government for a lack of funding, authority, and other problems of a system designed on the principle of subordination. The Parliament may blame an administrative head for not making the most of available funds, even though he or she merely endorses an indicative budget because the Ministry of Finance determines the operational version, based on final allocations. The central authority may consider the village, district, or region to be at fault, or the tax authority to be at fault for failing to raise targeted revenues. Even the regulatory authority can be blamed for making decisions about service pricing without being accountable for their effects on service delivery.

173. Community participation occurs, and the Law on Local Self-Government encourages it by recognizing local territorial bodies. Even before the law was proclaimed, local administration communities in some areas were consulted before budget preparation. The local parliament must also approve the indicative budget. An initiative by the Urban Institute, an NGO with USAID support, is resulting in more community participation in the setting of budgets in self-governing towns, and provides communities with information packages about budget composition and resource allocation. But much of the budget is predetermined in terms of both revenue levels and expenditure allocations. Thus, the current effect of participation is marginal, but could eventually be directed to increasing pressure on the central Government to change financial policies and processes.

174. A confusing fact about villages and districts is that financial statistics indicate balanced budgets, as required by law. But budgets are balanced by manipulating finances to defer payments and by “borrowing” funds from higher levels of government. These cash-balancing practices result in only a bad start for the next fiscal year, because villages and districts must use their annual allowances to repay loans and settle delayed supplier and other costs. This practice would be transparent under accrual accounting practices, which would reveal true operating deficits.
D. Personnel System

175. Management of an independent civil service is still in its infancy. Frequent reorganizations of ministries, departments, and lower-level units result in the nonexistence of corporate memory. Hiring by patronage is common, but recent changes in the rules should result in recruitment and promotion by merit.

176. No part of the government or civil service is responsible for the effectiveness of civil service. The constitution makes the President, in consultation with the Prime Minister, responsible for establishing and maintaining a unified system of training and selection of personnel, but a human resource management system is more than that. The Government does not seem to have a body that manages numbers of employees in the civil service, although the President determines the level of posts and sets salaries and allowances, and the Prime Minister determines organizational structures and establishments for central line agencies. Thus, anomalies in the actual workforces often arise.

177. The 1999 Law on Civil Service defines the civil service. The law also introduces or confirms important governance issues such as (i) giving every civil servant the power to challenge a superior’s order if considered illegitimate; (ii) introducing merit-based provisions, including the attestation of state officials and setting of their qualification examinations; (iii) merit-based processes for filling vacancies and promotions; (iv) requiring all civil servants to disclose their assets (wives and children are excluded), and all agencies to maintain registers of civil servants’ assets; and (iv) restricting civil servants to one job, and forbidding their engagement in business activity or investment in the stock exchange. (The latter restraint seems unnecessarily restrictive.)

178. The law also sets out other important attributes of any personnel system, including procedures for disciplining state officials; conditions of employment, including (i) remuneration; (ii) procedures for termination and redundancy; (iii) restrictions against strikes by civil servants; (iv) restrictions of civil servants from being members of political parties (which also seems unnecessarily restrictive); and (v) procedures for the formation and functioning of the personnel reserve in the civil service, which is a pool for permanent civil servants who have been removed from their positions and are temporarily available for ad hoc work.

179. The Law on Civil Service is still in its infancy in terms of implementation. Traditionally, managers tended to fill vacant positions with personnel from their own parts of the country. This tendency was balanced at the national level where, to some extent, the Government was often formed according to the unwritten rule of maintaining regional balances among groups of political elites. The new system seeks to fill appointments based on merit. As a result, positions are being advertised publicly, and selection committees are established to interview candidates. Usually, as in most civil services, the manager who is responsible for the position chairs the selection committee. The law addresses most requirements for a merit-based civil service—but with no clear mechanism for civil servants to appeal to address perceived grievances.

180. As previously mentioned, filling senior positions remains a prerogative of certain offices, particularly those of the President and Prime Minister. In practice, heads of agencies or levels of government choose their own teams, other than their immediate deputies, like during the Soviet era. Teams stand or fall depending on their leaders’ competencies and on the teams’ abilities to fulfill their responsibilities to the satisfaction of the offices that appoint them. Incoming teams sometimes reflect an agency’s or a section head’s preferences for certain people, rather than a realistic assessment of the competencies required to implement the program. This situation will
probably continue until the focus shifts to outputs and requirements for accountability are strengthened. The situation is an argument in favor of program budgeting. When a new incoming head introduces changes, effects on core competencies, not to mention on the corporate memory of an agency, can be dramatic. When a senior official such as the prime minister leaves office, major changes of senior positions often follow throughout the Government. A change of president would likely cause even greater ramifications throughout the civil service.

181. The Law on Civil Service requires the creation of a network of personnel offices supported by a central unit. The central unit does not yet exist, although the Department of Organizational Work and State Policy in the Prime Minister’s office has a number of personnel-related responsibilities, mostly associated with training.

182. Each ministry has a personnel department that replicates the responsibilities of the Department of Organizational Work and State Policy, but at the ministerial level. These departments administer recruitment, promotion, and dismissals within the ministry. Budget constraints inevitably result in a decrease in the priority of staffing issues, which are funded minimally. Thus, ministries lack human resource management systems and policies on most personnel issues such as recruitment, retention, promotion, discipline, and staff development. Few staff in personnel departments have been trained in the management and other requirements of a human resource management system.

183. Salaries are low by western standards. Most civil servants earn barely enough to pay for the necessities of life. In such an environment, other incentives are extremely important to encourage civil servants to work industriously and enjoy reasonable rewards for their efforts. CDF recognizes the relation between the size of the civil service and the low wages. CDF promises reform of the wage system, and recognizes the need for better incentives.

184. Performance records of all civil servants on matters such as implementation of responsibilities, outputs, and assessment by superiors are kept in the respective agency’s personnel department. For example, regional staff records are kept in the regional personnel office and ministry staff records, in each ministry’s personnel department. Staff can review this information. A staff member who disagrees with an assessment has the right to appeal to his or her departmental ethics commission, or to take the issue to court. The latter indicates that a legal tribunal might be a more effective mechanism for dealing with such issues, and is a further argument for establishing a government-wide, independent personnel agency. Information on all aspirants to senior appointments is gathered from previous employers and kept in a database. Such information is made available, confidentially, to the person who makes the appointment. Before establishing a central personnel agency, if senior executives are to continue to choose their own teams, choices might be restricted to personnel already named as civil servants. The law seems to envisage that as a solution.

185. Public sector reform has largely been donor-driven. That is not surprising, considering the Kyrgyz Republic’s unfamiliarity with systems of government with market-based economies. What is surprising, however, is the Government’s lack of consistent attention to building core

---

26 For example, in 1999, 85% of the staff in the now defunct State Commission for Family, Youth, and Women’s Affairs had no gender-related skills. But in 1996, all staff had been trained.

27 Donors pay far higher rates to local consultants and interpreters than what the public sector pays. Consequently, western-educated personnel, who the civil service desperately needs, are being drained from civil service.
skills in areas vital to an effective and efficient civil service, including economic and financial analysis, legal advice, policy development, management, public affairs, accounting, human resource management, and systems development. The lack of a coherent program might partly be explained by the Government’s reported reluctance to borrow for capacity building. Effective TA might best address that problem. Such assistance must demonstrate that it can produce skills that will result in provision of improved advice to political leaders and better performance of civil servants. Past TA has not successfully achieved either performance.

186. The perceived reluctance of the Kyrgyz Republic’s development partners to provide appropriate capacity building might be explained by their recognition that the country has not yet established a secure and stable body of professional civil servants. Capacity building experience at the sector level suggests that the Kyrgyz Republic has few guarantees that trained staff will continue to work in areas for which they were trained. That makes the building of required skills difficult. Such skills are usually acquired through a combination of training and on-the-job experience. Monitoring by experienced, more senior personnel accelerate the process.

187. The absence of coherent career paths is a direct consequence of the absence of a system of human resource management. Young people entering the civil service have little idea about what positions they may eventually hold. No career streams have been established to direct superior policy analysts or other specialists who demonstrate the necessary aptitudes into management positions, or into senior advisory positions if they have skills in advisory and research areas. The absence of such career streams, supported by appropriate rewards, seems a weakness of the current system.

188. The change to a merit-based system will take time because it requires a significant cultural change in civil service operations. Without strict accountability or measurable criteria for performance in most areas of public administration, there is no strong mechanism to encourage managers to appoint the best personnel. Once the concept of accountability has been introduced, and managers whose sections perform unsatisfactorily can lose their jobs, pressure will intensify to hire the best possible people. Thus, not only should the personnel system be improved, it should also be linked closely to performance and incentive-based rewards systems that encourage high performance.

189. The Government is addressing the problem of how public administration should reflect the country’s needs. The Government will have to decide whether or not to implement a mechanism that provides stability of appointments to all but the most senior levels of the civil service. Such reform could be difficult because of the tradition of senior administrators choosing their own teams. But reform could be achieved by appointing an independent chair or chief executive to the central personnel agency who reports to Parliament and could be removed only upon engaging in prohibited behavior. Such a person could ensure that the system is generally not abused. Unsatisfactory workers and poor performers should not have job protection, given CDF’s intent to establish a “legally protected administrative class of state servants” who are not discharged automatically when senior personnel change.

190. Considering the issues described above, the following changes should be considered:
   (i) A civil service agency should be established to take charge of recruitment, training, promotion, discipline, and career planning. It should have sufficient autonomy to enforce merit.
(ii) An independent chief executive of recognized integrity should be appointed to head the civil service agency, to give credibility to the processes of personnel management.

(iii) The system should ensure stability of appointments to all but the most senior levels. Alternatively, senior executives, if they are to continue to choose their own teams, should be restricted to choosing from among a list of pre-approved candidates.

(iv) Establishments should be linked to budgets, and civil service numbers managed through the budget process (i.e., agencies should be given budgets related to the numbers and levels of personnel needed to fulfill agency missions).

(v) The civil service should become performance oriented, and should offer a form of tenure within the framework of a career planning system.

E. Supreme Audit Authority

191. An important factor in achieving financial accountability and transparency is the role of a supreme audit authority. In the Kyrgyz Republic, this body is the Chamber of Accounts, which has the authority to audit all organizations that use central Government funds—even joint stock companies that are fully or partly state-owned. The chamber is directed by a chairperson appointed by the President and has 12 members: the President nominates 4, and both houses of Parliament nominate 4 each. The amended constitution decrees that, beginning in 2005, the President and the unicameral Parliament each will appoint half the members, and the President will continue to appoint the chair. These arrangements raise the question of whether the chamber is sufficiently independent. The chamber’s operating staff was increased to about 180 through merger of the State Financial Inspectorate with the Chamber of Accounts. The chamber’s audits now extend to the village level of local government.

192. The chairperson of the Chamber of Accounts presents a yearly report on its work to Parliament. The Chamber determines its own yearly working plans, based on a comprehensive and systematic review of the implementation and rational use of the state budget. Requests from the President and Parliament are taken into account. The Chamber is expected to ensure audit of all state bodies at least every 2 years but in practice, audits are more likely to be once every 3 years. The Chamber also receives requests from the President and Parliament to conduct special audits. These requests have recently increased, affecting the Chamber’s schedule. Upon completion, reports on special audits are made available to the person who initiated the request, but not to the public. An audit of the report of the Government on the 2001 budget implementation, however, was made available online in 2003.

193. In the Soviet era, accounting methods were well developed, and each ministry had its own accounting unit. Some ministries continue to operate in Soviet style. Their annual reports comprise 20 standard forms, including balance sheets; operating statements; and accountings of items like materials, labor, fixed assets, efficiency. But these reports are not generally made public. One exception is the National Bank of Kyrgyz Republic, which publishes annual reports with detailed information. Additionally, certain major state-owned enterprises disclose financial reports in line with the post-Soviet Kyrgyz accounting standards, or even in line with international standards.

194. Audits are end-of-year activities. Interim compliance audits, or other effectiveness and efficiency audits, are not conducted. Activities are underway, however, to enhance the Chamber’s contribution. For example, the Ministry of Agriculture was recently audited; the Chamber studied the sector background, and identified issues and completed analyses. Audit
findings were reported to the President, the Government, and Parliament. Audits typically take 3 to 4 months. Then the Chamber, through resolutions, proposes measures to address the problems identified to state bodies, and in response to requests from companies. If criminal activities are detected, the Chamber informs prosecution. The Chamber monitors its timeliness by tracking delays in audits. In conducting audits, the Chamber uses its own standards, although it considers them similar to standards that the private sector uses. The Chamber has still not applied international accounting standards to any public entity.

195. The Chamber decides whether or not to transmit an audit report to the President or to Parliament. The Chamber must also submit an annual report on its own activities. The Chamber also allows the media to read and report on parts of or complete reports. If the Chamber finds evidence of criminal wrongdoing, it must report findings to prosecution authorities. The Chamber has the right to impose sanctions such as fines or dismissals of staff who are in breach of trust, and to close accounts, so to close operation of an audited organization. About 200 court cases stemmed from the Chamber’s work in 2000. The courts now tend to be less sympathetic to defendants.

196. The Chamber considers its standards and performance good. As proof, it refers to its discovery of errors in donor-assisted projects that international firms had given audit clearances. But the Chamber recognizes that it can improve further, and seeks support to do so. Priorities include enhancing the Chamber’s independence, and finding ways to reward and retain its best staff. The Chamber also recognition of the value of audits, possibly by having line ministries include audit costs in their budgets, and by ensuring that the Chamber is not being prohibited from auditing specified entities such as the central bank.

197. Although the Chamber considers itself professional, private sector accounting professionals have criticized it. Excluding tax specialists, about 200,000 individuals in the Kyrgyz Republic claim to be accountants. A professional association for accountants was established in 1999. Some accountants claim the Chamber’s work is merely transaction-based, does not apply generally accepted accounting standards, and is more concerned with discovering noncompliance with rules than with establishing efficiency and effectiveness. Critics are also concerned that the Chamber’s reports are not generally available.

198. Considering the above, it might be helpful (i) to give the Chamber of Accounts the capacity to carry out effectiveness audits, which would support the change to program budgeting and management, and capacity to conduct forensic audits to combat corruption; (ii) to change appointment arrangements to ensure sufficient tenure of Chamber members to ensure the Chamber’s independence; and (iii) to require ministries and other state bodies to submit annual audited reports to Parliament.

F. Corruption

1. Perceptions of Corruption

199. Many outsiders believe that corruption is increasing in the Kyrgyz Republic, and inhibits economic development significantly. Many also perceive corruption as a tax on the poor. The Kyrgyz population also generally believes that corruption has increased since the Soviet era.

---

28 About half of the chamber’s audits uncover fraudulent activity. Both the number of cases and the amounts involved have been increasing over the last 10 years.
(Fig. 3). But there are signs in a number of areas that measures are being implemented to remove opportunities for corruption. In fact, decreasing corruption is a major CDF priority. The President often refers to his goal of decreasing corruption in public speeches.

![Figure 3: Kyrgyz Citizen's Perceptions of whether Corruption Has Increased Since 1991](image)


200. The question of corruption should be kept in perspective. After all, some form of corruption is present, in some form, in all countries. But the legal systems of most countries clearly define corrupt behavior, and pursue suspected corruption rigorously. Perpetrators of corruption, if found guilty, are punished, although usually more leniently than violent criminals. The Kyrgyz Republic has not yet clearly defined corruption in legal terms. As a result, law enforcement agencies have difficulty pursuing it.

201. Corruption claims two main victims: the Government, which suffers from decreased revenue; and ordinary citizens, often poor, who must make illicit and sometimes random payments to receive services to which they are entitled. The poor are victimized in two ways: (i) they must pay for services that should be free, and (ii) the quality of service provided to the poor is generally of lower quality because the Government has fewer funds to dedicate to the poor. The beneficiaries of corruption are the recipients of illicit payments, the individuals and companies who evade full payment of taxes and other charges, and those who receive benefits they are not entitled to. Figure 4 shows that the population perceives corruption as the main inhibitor to economic growth. Politicians would be well advised to address the issue effectively.


---

20 To mention only a few examples, a minister of education stopped giving gold medal awards to gifted students because she believed the system was open to abuse; fixed fees for hospital treatments have been introduced on a pilot scheme to remove opportunities for demanding illicit payments; the number of licensing regulations have been decreased from 62 to 29; and special means are being eliminated progressively.
Table 8 shows citizens’ perceptions of the incidence of corruption. Notably, corruption is perceived at its worst in law enforcement. If law enforcement agencies such as the police, the courts, and the general prosecutor are seriously corrupt, the rule of law will not prevail and corruption cannot be eradicated. Two other corrupt areas of Government are perceived to be the customs and taxation services. Although perceptions of incidence of these types of corruption are lower than, for example, perceptions of police corruption, the monetary amounts involved are likely to be far higher. Thus, these areas may be the greatest drain on the nation’s exchequer, and its ability to effectively manage its budget. Perceptions may be distorted because entities of the private sector are not perceived as being particularly corrupt—even though private enterprises obviously bribe customs and taxation authorities. Considering these public perceptions, the Government might consider initiating a public awareness program, directed to all citizens, that explains that every act of corruption includes at least two participants: the giver of the bribe, and its recipient.

Table 8: Perceptions of the Incidence of Corruption, 1999
(% of respondents)

<table>
<thead>
<tr>
<th>Entity</th>
<th>General Public</th>
<th>Government Employees</th>
<th>Law Enforcement Personnel</th>
<th>Business Representatives</th>
</tr>
</thead>
<tbody>
<tr>
<td>Police</td>
<td>86</td>
<td>92</td>
<td>71</td>
<td>90</td>
</tr>
<tr>
<td>Courts, Prosecutors</td>
<td>83</td>
<td>86</td>
<td>67</td>
<td>82</td>
</tr>
<tr>
<td>Highway Police</td>
<td>81</td>
<td>91</td>
<td>78</td>
<td>85</td>
</tr>
<tr>
<td>Customs Inspectorate</td>
<td>80</td>
<td>88</td>
<td>86</td>
<td>87</td>
</tr>
<tr>
<td>Higher Education Institutions</td>
<td>79</td>
<td>77</td>
<td>65</td>
<td>63</td>
</tr>
<tr>
<td>Taxation Inspectorate</td>
<td>78</td>
<td>86</td>
<td>86</td>
<td>89</td>
</tr>
<tr>
<td>Military Registration Officers</td>
<td>65</td>
<td>58</td>
<td>60</td>
<td>60</td>
</tr>
<tr>
<td>Ministry of Finance</td>
<td>59</td>
<td>60</td>
<td>73</td>
<td>66</td>
</tr>
<tr>
<td>Hospitals, Health Administration</td>
<td>59</td>
<td>64</td>
<td>55</td>
<td>51</td>
</tr>
<tr>
<td>State Commission Responsible for Privatization</td>
<td>58</td>
<td>60</td>
<td>68</td>
<td>64</td>
</tr>
<tr>
<td>Large Companies and Banks</td>
<td>55</td>
<td>52</td>
<td>58</td>
<td>55</td>
</tr>
<tr>
<td>Ministry of National Security and Security Organizations</td>
<td>53</td>
<td>46</td>
<td>56</td>
<td>55</td>
</tr>
<tr>
<td>District Administrations</td>
<td>53</td>
<td>49</td>
<td>63</td>
<td>60</td>
</tr>
<tr>
<td>Regional Administrations</td>
<td>52</td>
<td>46</td>
<td>54</td>
<td>57</td>
</tr>
<tr>
<td>Ministry of Justice</td>
<td>51</td>
<td>46</td>
<td>53</td>
<td>53</td>
</tr>
<tr>
<td>Cabinet Ministers</td>
<td>49</td>
<td>51</td>
<td>69</td>
<td>56</td>
</tr>
<tr>
<td>Military Units</td>
<td>49</td>
<td>37</td>
<td>48</td>
<td>45</td>
</tr>
<tr>
<td>President’s Administration</td>
<td>47</td>
<td>37</td>
<td>67</td>
<td>53</td>
</tr>
<tr>
<td>Parliament</td>
<td>47</td>
<td>55</td>
<td>61</td>
<td>53</td>
</tr>
</tbody>
</table>
203. The speed at which corruption has become, for some, a means of gaining considerable wealth is a major problem that the Government faces. For example, the undue haste and poor planning of the privatization program became an effective mechanism for high-value corruption. Development partners of the Kyrgyz Republic might also have played a role by introducing significant cash flows that produced another window of opportunity for the corrupt who have learned to divert donor funds. Thus, donor assistance programs must lessen opportunities for corruption.

204. Poorly paid officials who seek illicit benefits through their official positions is another source of corruption. Customs and taxation officials may negotiate to reduce duties and taxes. Police, prosecutors, and judges may accept bribes to overlook crimes. Educators may accept payment to enable students to enter higher education, or to pass incompetent students on exams.

2. Criminal Code on Corruption

205. Article 303 of the Criminal Code defines corruption as a "deliberate act involving an illegal relationship between one or more public officials in authority with one or more persons or corporations, for the purpose of unlawfully receiving some tangible object or other benefit or advantage to the detriment of society and the state." Conviction of corruption carries an initial imprisonment of from 8 to 5 years, along with confiscation of property and deprivation of the right to hold specified positions or to undertake specified activities for as long as 3 years. In comments on the proposed Law on the Fight against Corruption, the general prosecutor stated that corruption, as defined in the Criminal Code, is unlikely to produce convictions. In fact, no one has been sentenced for breaching this article. But conviction is more likely through other articles of the Criminal Code.

206. The Criminal Code includes a number of offences that, if committed by public officials, fall under the rubric of corruption—for example, abusing power, exceeding authority, concluding a contract against the state’s interests, using budget funds unlawfully, participating unlawfully in a business activity, extorting a bribe, and forging official documents.

3. Government Action to Address Corruption

207. The Government is well aware of perceptions of the international community and the general public about corruption in the Kyrgyz Republic. The President’s administration has made the fight against corruption a responsibility in public sector reform. A 3-year state program to strengthen public order and reinforce the fight against corruption was initiated 1997, and renewed for 3 more years in 2001. The President has strengthened his original 1992 Decree On Measures to Organize the Fight Against Corruption with his 1998 Decree On Additional Measures to Strengthen the Fight Against Economic Crimes, Smuggling, and Corruption. The Kyrgyz Republic has also endorsed the joint anticorruption initiative of ADB and the Organization for Economic Co-operation and Development. The Council for Honest Governance

<table>
<thead>
<tr>
<th>Entity</th>
<th>Genera l Public</th>
<th>Government Employees</th>
<th>Law Enforcement Personnel</th>
<th>Business Representatives</th>
</tr>
</thead>
<tbody>
<tr>
<td>Industrial Enterprises</td>
<td>36</td>
<td>21</td>
<td>34</td>
<td>25</td>
</tr>
<tr>
<td>Media</td>
<td>35</td>
<td>45</td>
<td>49</td>
<td>41</td>
</tr>
<tr>
<td>Schools</td>
<td>26</td>
<td>35</td>
<td>28</td>
<td>32</td>
</tr>
</tbody>
</table>

was established in 2003. Several other measures in the Government’s policy matrix to support foreign investment in the private sector also have the potential to limit corruption.

208. The state program and the presidential decrees elicited a good deal of activity in collegia of the state bodies responsible for national security, internal affairs, customs, and taxes. The law enforcement bodies planned joint actions to combat economic crime, smuggling, and corruption. The Office of the General Prosecutor created the Division of Supervision of Investigations of Economic Crimes and Corruption, which was located centrally and in its regional offices. The Office of the General Prosecutor also published orders and recommendations for dealing with economic crimes and established, by presidential decree, the Coordination Council to Fight Economic Crimes, chaired initially by the general prosecutor. In January 1999, the chair was assigned to the Prime Minister; that brought the council into the political arena. The council now controls investigation of all significant economic crimes.

209. The Ministry of Internal Affairs responded to the state program by strengthening the Administration for the Fight against Economic Crimes and turning it into the Chief Administration of Economic Security, with the following objectives:

(i) protecting state property and budgets;
(ii) guaranteeing the timely repayment of credits, loans, and grants taken under the name of the Kyrgyz Government;
(iii) attacking corruption, bribery, and malfeasance in the general economy;
(iv) prosecuting crimes associated with privatization; and
(v) attacking smuggling.

210. Measures taken by the Office of the General Prosecutor and the Ministry of Internal Affairs, however, have not increased the number of individuals brought to justice.

211. Economic crimes reported and recorded with the general prosecutor climbed significantly from 1995 to 1997, then decreased after 1999 (Table 9). Corrupt economic crimes increased in 2001. However only 566 such crimes were recorded, which is a surprisingly low number.

<table>
<thead>
<tr>
<th>Year</th>
<th>Economic Crimes (% of all crimes)</th>
<th>Registered Crimes (no.)</th>
<th>Registered Economic Crimes (no.)</th>
<th>Economic Crimes Investigated (no.)</th>
<th>Economic Crimes Prosecuted (no.)</th>
<th>Economic Crimes of a Corrupt Nature (no.)</th>
<th>Corruption Cases (% of economic crimes)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1995</td>
<td>6.5</td>
<td>41,008</td>
<td>2,647</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1996</td>
<td>8.1</td>
<td>39,623</td>
<td>3,207</td>
<td></td>
<td></td>
<td>539</td>
<td>15.6</td>
</tr>
<tr>
<td>1997</td>
<td>9.3</td>
<td>37,262</td>
<td>3,447</td>
<td></td>
<td></td>
<td>3,266</td>
<td></td>
</tr>
<tr>
<td>1998</td>
<td>10.0</td>
<td>34,287</td>
<td>3,412</td>
<td>1,965</td>
<td>349</td>
<td>538</td>
<td>17.1</td>
</tr>
<tr>
<td>1999</td>
<td>8.7</td>
<td>39,951</td>
<td>3,457</td>
<td>3,266</td>
<td>1,965</td>
<td>539</td>
<td>15.6</td>
</tr>
<tr>
<td>2000</td>
<td>8.2</td>
<td>38,620</td>
<td>3,155</td>
<td>2,399</td>
<td>349</td>
<td>538</td>
<td>17.1</td>
</tr>
<tr>
<td>2001</td>
<td>7.6</td>
<td>39,986</td>
<td>3,047</td>
<td></td>
<td></td>
<td>566</td>
<td>18.6</td>
</tr>
</tbody>
</table>

Source: Ministry of Internal Affairs, Division of Statistics data.
212. Despite initiation of a program to reinforce the struggle against corruption, prosecutions by the two main agencies empowered to carry out investigations have remained flat (Table 10).

Table 10: Corruption Crimes Prosecuted by Selected Bodies, 1999–2001

<table>
<thead>
<tr>
<th>Type of Corruption</th>
<th>Police or Militia</th>
<th>General Prosecutor</th>
<th>National Security Service</th>
<th>Financial Police and Customs Inspectorate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bribery</td>
<td>135</td>
<td>132</td>
<td>135</td>
<td>5</td>
</tr>
<tr>
<td>Malfeasance</td>
<td>321</td>
<td>323</td>
<td>338</td>
<td>31</td>
</tr>
<tr>
<td>Total</td>
<td>456</td>
<td>455</td>
<td>473</td>
<td>36</td>
</tr>
</tbody>
</table>

Source: Ministry of Internal Affairs, Division of Statistics data.

213. Not surprisingly, civil servants are the main perpetrators of corrupt acts. For example, the police (militia) prosecuted 679 people for corruption in 2001, of which 572 were civil servants, according to the Division of Statistics of the Ministry of International Affairs.

214. The President's administration has not been impressed with overall progress in fighting corruption. The Chief of Staff strongly encouraged senior officials at the Ministry of Internal Affairs to accelerate efforts to fight corruption, according to minutes of the January 2002 collegium of the President's administration.

215. The authorities seem to have targeted a few large offenders. But small civil service offenders, when caught, are generally dealt with at the departmental level, either by removal from their jobs or reprimands in their personnel files. The big offenders deal in large sums, much of which is recovered by the courts (Table 11). Since the advent of the Coordination Council to Fight Economic Crimes, the number of cases investigated has increased, but with little increase in cases prosecuted. But large sums are involved. A number of senior officials have been dismissed from the civil service by Coordination Council actions.

Table 11: Economic Crimes Investigated by the Office of the General Prosecutor, 1999–2001

<table>
<thead>
<tr>
<th>Year</th>
<th>Cases Investigated (no.)</th>
<th>Cases Prosecuted (no.)</th>
<th>Total Expropriated (Som million)</th>
<th>Loss to the State (Som million)</th>
<th>Amount Recovered for the State a (Som million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999</td>
<td>633.0</td>
<td>494.0</td>
<td>136.1</td>
<td>134.3</td>
<td>92.2</td>
</tr>
<tr>
<td>2000</td>
<td>645.0</td>
<td>516.0</td>
<td>42.5</td>
<td>38.6</td>
<td>25.3</td>
</tr>
<tr>
<td>2001</td>
<td>713.0</td>
<td>501.0</td>
<td>126.8</td>
<td>102.8</td>
<td>52.4</td>
</tr>
</tbody>
</table>

a The apparent paradox of the state actually receiving more than the amount recovered is explained by the fact that some crimes involved US dollars, and different exchange rates were used to convert the amounts because they were calculated at different times.

Source: Office of the General Prosecutor.

216. One of the prosecutor's responsibilities is to oversee police actions crime investigations. The prosecutor's office has focused on investigating economic criminal cases that the police, after initial investigations, decided not to prosecute. During 2000–2001, the prosecutor's office
voided more than 1,000 police decisions that it considered improper, and prosecuted 130 cases. In some cases, the general prosecutor also reported irregularities to the Ministry of the Interior, which resulted in formal reprimands against police officers. The Office of the General Prosecutor found such weaknesses in police investigations as inadequate preliminary investigation of documents, inadequate interviewing of suspects, failure to track money alleged to have been expropriated, and failure or to investigate events leading to alleged crimes. The Office of the General Prosecutor has had marked success, and must be regarded as a major force in the fight against corruption.

217. Despite success of the prosecutor's office, overall progress in the fight against corruption has been slow. Thus, public perception of the endemic nature of the corruption problem is not changing. The Government's dilemma seems to be that the fight against corruption is being undertaken by tainted organizations and thus by their poorly paid and tainted personnel. Furthermore, organizations who fight corruption have a relationship with those in power. For example, judges move seamlessly between the judiciary and the executive branches (i.e., they hold positions in both branches over time). Minimization of such relationships would probably be helpful. But that may require an untainted organization with well-paid, honest personnel that can break the back of corruption, starting with that of the judiciary and police.

218. Considering the above, changes should be considered in the following areas:

(i) Zero tolerance of corruption in civil service should be a basic principle. Corruption, when exposed, should lead to summary dismissal with loss of all entitlements. But this should be accompanied by increasing civil service salaries through savings achieved by decreasing the size of the civil service. That would minimize the need of civil servants to seek income from other sources.

(ii) The Government might consider developing a public awareness program to explain to citizens that corruption involves two parties: the giver of a bribe, and its recipient.

(iii) The Office of the General Prosecutor should be above suspicion in the fight against corruption, yet there seems to be no oversight of its operations. The General Prosecutor's office should, at the least, be audited internally.

G. Poverty and Governance

219. Effective pro-poor policies require an environment in which the policy process is well managed, the policy framework is coherent, policy initiatives are fully funded, and the machinery of government works efficiently to implement policy. Poverty alleviation is a high priority for the Kyrgyz Government, which finalized its National Poverty Reduction Strategy (NPRS) in December 2002.

220. Economic reforms since independence have had a markedly adverse effect on poverty. Poverty increased rapidly after independence, and affected about half the population by 1997.\textsuperscript{30} The Russian crisis of 1998 exacerbated poverty, and it had risen to more than 64\% in 1999.\textsuperscript{31} Surveys indicate that solid economic growth since then has brought poverty back to its pre-crisis level. Nevertheless, half the population is considered to be living in poverty. The poor are concentrated in rural areas.

\textsuperscript{30} Poverty headcount using the poverty line based on the World Bank Kyrgyz Poverty Monitoring Survey.\
\textsuperscript{31} Ibid.
221. Poverty is thus a serious issue in the Kyrgyz Republic and, in at least one respect, quite different from poverty in most other developing countries: although other Central Asian republics have poverty, no poor adults in the Kyrgyz Republic were born into poverty. Consequently, all levels of Kyrgyz society— the Government, the non-poor, and the poor—must work together to develop strategies to deal with this phenomenon.

222. The broad policy priorities of NPRS are appropriate and generally consistent with its policy action plan. NPRS has three broad areas of focus: (i) fostering economic growth and creating employment opportunities; (ii) improving efficiency and equity of social protection and human development; and (iii) improving governance, public sector efficiency, and institutional and human capacity. Those focus areas are consistent with the multidimensional nature of poverty alleviation. But weak institutional capacity undermines the Government’s good intentions to implement comprehensive policy actions (presented in Appendix V of NPRS).

223. Governments confront three key governance issues for poverty reduction: (i) the capacity to prioritize, sequence, and cost of NPRS actions; (ii) the capacity of resource management and of monitoring and evaluating NPRS; and (iii) the capacity of local service delivery, in light of the NPRS objective of increased reliance on such service delivery.

224. To address these issues rapidly, particularly the first issue, the following would be useful: (i) reforms in civil service and capacity building; (ii) clear definitions of the respective roles of the public sector, the private sector, and the civil society in NPRS implementation; (iii) improvement of cost-effective monitoring, evaluation, management, and coordination mechanisms based on effectiveness rather than control; (iv) identification of crucial steps on the path to achieving broader NPRS objectives; and (v) more closely coordinated external support to meet the challenge of implementing and monitoring NPRS.

225. Based on the above, the following additional efforts are suggested:

(i) The Government could facilitate evolution of a well-focused and realistic action plan directly out of the broad-based participatory process. Continuation of strong civil society participation in further policy development should not prevent the Government from prioritizing key policy actions.

(ii) The Government should continue to build capacity for strategy formulation, implementation, monitoring and evaluation, and resource management. That includes the mobilization and coordination of aid.

(iii) The Government should continue to ensure that the Ministry of Finance plays a key role in costing and coordination of various initiatives, especially in linking NPRS to the annual budget and the recently introduced medium-term expenditure framework.

H. Public Service Delivery and Performance

226. The Kyrgyz President has, on a number of occasions, expressed concern regarding deficiencies of government agencies in providing public services. In a detailed study on pro-poor growth, the World Bank\(^{32}\) analyzed features of public service delivery in the Kyrgyz Republic. Highlights of this study in health, education, and public utilities are summarized below:

---
1. Health Services

227. With a poverty rate of about 50%, health standards in the Kyrgyz Republic are understandably low. Rates of infant and maternal mortality are among the highest in the region. Communicable diseases, particularly tuberculosis, are increasing. Infectious and parasitic diseases are widespread. Twenty-six percent of the population suffers from acute or chronic illness. Malnutrition rates among children, and alcohol consumption, have increased dramatically. Meanwhile, expenditures on health have declined.

228. The Government initiated major reforms in 1993, under the Manas Health Program, to introduce an incentive-based payment system and to establish a health insurance fund, cost-effective outpatient family medicine, and improved systems of pharmaceutical and health information. Preliminary results in pilot areas showed marked improvements in health indicators, increased funding for health staff and medicines, decreased informal payments, and positive responses from the public. But reform slowed in 2002. Funds for health insurance were diverted to pay pensions, arrears accumulated in insurance fund contributions, and support from the state budget for hospitals decreased. Health service providers reintroduced informal payments to cover costs.

239. In February 2003, the President and Prime Minister confirmed that health reforms would continue. This is a welcome development given that the system still suffers from persistent weaknesses: (i) Health spending is unevenly distributed among regions; (ii) Health workers are the lowest-paid governmental employees; (iii) Primary care is neglected, as most public expenditures are allocated to hospitals; and (iv) Informal payments play a large role, causing unbearable strains on household budgets.

229. Overall, the budget allocation should be better balanced territorially among regions, and functionally among preventive, primary care, and hospital management. In some countries, the institution of village health workers as paramedics has improved access to health services. The Kyrgyz Republic could consider this. Such village health workers would be from the local area and educated up to Grade 10, with a year’s training in primary health care.

2. Education

230. The Kyrgyz Republic has almost 100% official literacy and gross primary enrollment rates. These are impressive social indicators—but there are substantial actual enrollment deficits in certain areas. Distance from school determines whether the children of poor families can attend year round. In cold weather, some children do not attend school for weeks or even months. Costs of textbooks and school uniforms are also practical deterrents. Rural households have higher expenditures for higher education than urban households, because universities are in urban areas. Rural families must pay for board and lodging of dependent students.

231. The budgets for education can barely cover teachers’ salaries, so parents must contribute for maintenance, educational materials, library, and computers. Prosperous areas offer a better educational environment because they can afford facilities. Fuel costs for heating is a crucial factor, especially at high altitudes where poverty is greatest. Rooms are often too cold for teaching and learning. Such difficulties are increasing the differences between the best and worst schools.
232. Research indicates that outlays on primary education are the most pro-poor of educational expenditures. Those who assign educational priorities should keep this fact in mind. There is also a need to improve regional distribution of expenditures. Nonsalary expenditures, especially for books and libraries, should be increased substantially.

3. Public Utilities

233. Only 40% of Kyrgyz households have access to drinking water or sewerage, 36% to gas, and 21% to hot water. Access to these services is comparatively restricted to rural areas.

234. Electricity is the main energy source. Subsidies on residential consumption of electricity are 2.7% of GDP. Although intended as a subsidy for the poor, irregular electricity supply neutralizes the advantage. Disruptions in electricity supply are more frequent in rural areas, where most of the poor live.

235. Households are also required to pay for repair of equipment to restore supplies. Repair fees can be costly, and repairs can take months. Interruptions in power supply are frequent. Low voltage is normal in rural areas, so rural consumers are often forced to stop using refrigerators. These supply-side problems have spawned significant diversion to more expensive, and dirtier, fuels.

236. Restructuring of the supply system is inevitable, and will certainly mean higher charges. But restructuring will offer regular supply and will, to some extent, mitigate reliance on more expensive fuels. Restructuring of the supply system might also diminish the need for informal payments.

4. Key Weaknesses of Public Service Delivery

237. The main weaknesses in the delivery system for public services are absence of a clear policy, lack of stakeholder participation, funding problems, and reluctance to levy user charges.

238. Public service delivery should either pursue a policy objective or cater to an administrative requirement of the agency that delivers the service. Any service that does neither should be passed on to the private sector, or discontinued. In the Kyrgyz public sector, many government agencies own commercial operations that would be difficult to reconcile with policy priorities.

239. Regarding policy, effectiveness concerns outcomes, which relate the public to a policy objective. Policies are designated objective, such as decreasing the incidence of enteric diseases or the number of road accidents. Services for enteric disease reduction would include providing potable water, and sewage and garbage disposal. Decreasing road accidents might be addressed by imposing and enforcing speed limits, and improving road engineering, signage, and road management systems such as one-way routes and traffic lights.

240. Regarding participation, the system of service delivery operates as a command structure, with no production interface with stakeholders. The public does not know what level of service to expect. No service standards are published. Customer and media pressures are not mobilized to bring attention to service delivery problems.

241. Funding problems are obvious, with the state budget funding little more than civil servant salaries. Operational and maintenance funding is insufficient. Budgets are often inadequate for
programs, although a current project requires public sector managers to begin establishing targets for outputs.

242. When feasible, fees should be charged for services. The fees should generate sufficient revenue to cover operations and maintenance costs, plus a reasonable return on capital investment. This is not currently happening. For example, consider irrigation. The Government sets unrealistic tariffs that do not permit the Department of Water Resources to manage the irrigation system effectively. The unrealistic tariffs also result in the use by irrigators of far more water than crops need. Setting lower-than-economic fees creates conflicting obligations for service managers. Are they delivering a social service, or are they seeking to make the best use of available resources to meet service standards? Problems with water and sewage services reflect the following weaknesses in service management:

(i) Only big water users are metered. Everyone else pays a flat charge. Thus, average citizens have no incentive to conserve water. A flat charge penalizes the poor, many of whom cannot afford it. With a pro-poor pricing policy, all households would be metered. Consumption to meet basic needs would be priced at a lower level. Charges would increase with increased use, to encourage water conservation.

(ii) Tariffs must be approved by the Antimonopoly Commission, which is reasonable. The problem for the commission is that no accounts are kept on commercial principles. Consequently, the commission does not receive verifiable information about real costs of operating the system. Also, amortization of assets and reasonable return on capital investments are not taken into account. The tariff is too low.

(iii) Collection of fees for water and sewage services is uncertain. In Osh, for example, only 30% of fees is collected regularly. The remaining fees are received infrequently, or not at all. Yet no one is cut off. Government agencies are among the worst offenders. Numerous illegal connections are made.

(iv) The municipal authority is taxed based on the amount of water it treats, not on the amount of water it delivers. That, essentially, amounts to a resource tax. This situation drives up prices, and makes the charge even harder on the poor.

(v) Sewage is charged on the basis of 310 liters per person/day—more than twice the usage on which most designs are based. A more realistic approach would be to base the charge on 135 liters per person/day and thus, increase the charge per liter.

5. Measures to Improve Public Service Delivery

243. Presumably, the most important measure to improve delivery of public services would be to generally reorganize the Government so that it delivers policy advice, regulation, and services as efficiently as possible. Thus, the Government should identify which services are required and, as far as possible, set and publish standards for services that the public consumes.

244. Furthermore, state bodies responsible for certain services should be organized to deliver programs that are considered important enough to receive full funding. Managers should have discrete responsibilities for delivering outputs for each program. Agencies should be organized so that senior managers can delegate responsibility for program components to the next level of management, which would probably be regional. A key requisite of this chain of responsibility is that central agencies fulfill their service obligations. Thus, the Ministry of Finance should provide budget appropriations on designated dates; and a central personnel agency, yet to be
established, should enable those accountable to recruit and to train needed staff. Having the civil service operate on these principles is important, and should receive higher priority than the introduction of new services of the type envisaged in CDF.

245. Plans to reform service delivery should be based on the unique sets of challenges that each state body faces.

IV. LEGAL AND JUDICIAL SYSTEM

A. Ongoing Process of Reform

246. The Kyrgyz Republic’s legal and judicial system is clearly a “work in transition.” Much of any description of this system will likely be outdated even before publication because of judicial reorganization mandated by the 2003 Constitution. But several shifts in institutional structures that affect law and the judiciary, initiated since independence, are significant. CDF envisages reform of the entire system of law and order, and the President has established an independent Judicial Advisory Commission with broad-based participation to formulate a strategy for judicial reform. ADB supports the initiative under the Corporate Governance and Enterprise Reform Program II and related TA. The initiative is driven by the understanding that much of the system should be reformed, under a coherent program and over a realistic time period.

247. The Report of the Consultative Judicial Reform Group, as approved in July 2001 (July 2001 Report), remains relevant to judicial reform, even after adoption of the constitutional changes, because it specifies needs and issues that affect the judicial system. Recommendations address urgent concerns that affect the judiciary.

248. The July 2001 Report also suggests actions to implement its recommendations. Many constitutional changes adopted after the February 2003 referendum were driven by efforts to implement judicial reform recommended in the July 2001 Report. The court system is now being reorganized substantially. Laws to implement that reorganization, and the 2003 constitutional changes, are being drafted.

249. Surveys by international agencies, and anecdotal evidence from the legal community and users of the judicial system, indicate that citizens have a low level of regard for the courts’ independence, and the legal system’s effectiveness. Nevertheless, the continuing seriousness of high officials to implement reforms, and their willingness to frankly discuss current deficiencies, offers optimism.

250. The following description of the Legal and Judicial System, prepared in 2002 and updated in August 2003, includes information from the system before the 2003 amendments. It also indicates how amendments after the transition period will affect the system (Fig. 5).
Figure 5: The Kyrgyz Court System

**Constitutional Court**
(Nine judges, including the chairperson and his/her deputy)

**Supreme Court**
(35 judges, including the chairperson and his/her deputy)

**Regional Level**
Bishkek City/ Chui/ Osh/ Batken/Jalalabad/ Issykul/Talas/Naryn
Oblast-level Courts
(111 judges*)

**District Level**
Bishkek City: four + one** courts
Chui: eight + one** courts
Osh: eight + one** courts
Jalalabad: 12 + one** courts
Issykul: seven + one** Courts
Batken: five + one** Courts
Nayrn: five + one** Courts
Talas: five + one** Courts
(193 judges)

**Military Courts**
Military Court of the Kyrgyz Republic
(oblast level, nine judges)
Bishkek City, Chui, Osh
Batken, and Balykchi
Military Courts
(12 judges)

* See Presidential Decree No. 251, August 2003.
** Inter-district economic courts
B. Court System

251. The constitution, as amended after the February 2003 referendum, restricts the court system to the Constitutional Court, the Supreme Court, and local courts (Fig. 5). Before the 2003 constitutional changes, there were also economic or arbitrazh courts, with jurisdiction over certain cases involving commercial disputes and juridical persons, organizations, and state agencies. The Ministry of Interior is responsible for the police and security services. The Ministry of Justice is responsible for the court system. A department of the Ministry of Justice and its regional divisions are responsible for the budget of the court system and supplies for courts (other than military courts). Outside the public sector, more than a dozen societies represent lawyers.

1. Constitutional Court

252. The Constitutional Court is the highest court dealing with issues of the constitution. Its decisions cannot be appealed. The Constitutional Court comprises a chair, a deputy, and seven other judges. The President nominates judges, who are then elected by the Parliament for 10-year terms. Judges may be dismissed by presidential initiative, by a two-thirds majority vote of Parliament. The Constitutional Court:

(i) declares laws and other normative legal acts unconstitutional if they contradict the constitution;
(ii) decides disputes about the effects, uses, and interpretations of the constitution;
(iii) rules on proposed amendments and alterations to the constitution;
(iv) annuls decisions by local self-government bodies that contradict the constitution;
(v) renders decisions about the constitutionality of practices relating to the application of laws;
(vi) assesses the validity of presidential elections;
(vii) issues findings concerning parliamentary resolutions to remove the President and judges of the Supreme Court from office; and
(viii) consents to criminal prosecution of judges of local courts. The court’s workload has not been heavy since its 1994 establishment (Table 12).

33 The Constitution provides for additional local courts that are informal and based on traditional mediation processes. These courts generally consider small property disputes and family matters. Participants can appeal their decisions to the formal court system.
Table 12: Cases Referred to the Constitutional Court, 1994–2001 (no.)

<table>
<thead>
<tr>
<th>Year</th>
<th>Appeals</th>
<th>Sentences of Lower Courts</th>
<th>Referred to the Supreme Court</th>
<th>Referred to the Higher Arbitrazh Court</th>
<th>Referred to the Constitutional Court</th>
<th>Refused by the Constitutional Court</th>
<th>Heard by the Constitutional Court</th>
</tr>
</thead>
<tbody>
<tr>
<td>1994</td>
<td>292</td>
<td>44</td>
<td>28</td>
<td>4</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>1995</td>
<td>141</td>
<td>52</td>
<td>32</td>
<td>0</td>
<td>14</td>
<td>9</td>
<td>5</td>
</tr>
<tr>
<td>1996</td>
<td>166</td>
<td>61</td>
<td>52</td>
<td>5</td>
<td>10</td>
<td>2</td>
<td>8</td>
</tr>
<tr>
<td>1997</td>
<td>102</td>
<td>47</td>
<td>47</td>
<td>2</td>
<td>60</td>
<td>37</td>
<td>23</td>
</tr>
<tr>
<td>1998</td>
<td>202</td>
<td>89</td>
<td>87</td>
<td>2</td>
<td>45</td>
<td>25</td>
<td>20</td>
</tr>
<tr>
<td>1999</td>
<td>217</td>
<td>65</td>
<td>45</td>
<td>0</td>
<td>77</td>
<td>42</td>
<td>35</td>
</tr>
<tr>
<td>2000</td>
<td>281</td>
<td>119</td>
<td>128</td>
<td>6</td>
<td>43</td>
<td>19</td>
<td>24</td>
</tr>
<tr>
<td>2001</td>
<td>306</td>
<td>123</td>
<td>138</td>
<td>8</td>
<td>26</td>
<td>18</td>
<td>8</td>
</tr>
</tbody>
</table>

Source: Constitutional Court.

253. The Chair of the Constitutional Court reviews and decides if appeals meet criteria to be heard. For example, in 2001 the chair rejected 280 appeals. The full bench considered 26—but rejected 18—appeals for eligibility. Hearings can last as little as half a day. After hearing legal arguments, the bench retires to discuss the case. Individual opinions are not systematically written.

254. The Constitutional Court is not a supervisory court like the Supreme Court or the regional courts.

255. The 2003 constitutional amendments include several provisions that have affected the Constitutional Court. The tenure of its judges was decreased from 15 years to 10 years, and the court lost its right to determine the unconstitutionality of decisions of regular courts. This has enhanced the finality of judgments, especially in view of the recent history of the holdings of the Constitutional Court, i.e., the Constitutional Court overturned the Third Party Arbitration Act, determining that it was unconstitutional and therefore the arbitration award, in favor of a non-national, was invalid. The most relevant change appears to be the addition of the wording in the last two sentences of Article 82 (4) of the Constitution: “The determination of the unconstitutionality of laws and other acts by the Constitutional Court annuls their application on the territory of the Kyrgyz Republic and also cancels the effect of other normative acts based on the act determined to be unconstitutional, except for judgments of the regular courts. The periods and order of a canceling of judicial acts are carried out according to laws adopted by Parliament of the Kyrgyz Republic in each case of a determination that a law or other act is unconstitutional.”

2. Supreme Court

256. Based on changes to the constitution as of February 2003, the arbitrazh court system has been merged with the system of courts of general jurisdiction. A unified and consolidated court system has been established, headed by the Supreme Court, which no longer has the right to initiate legislation within its respective jurisdiction. Nevertheless, the Supreme Court, together with the Judicial Advisory Commission, has been active in preparing drafts of legislation that affect the court system. A common way for governments to circumscribe the courts’ capacity to function satisfactorily is by controlling their budgets. The Ministry of Finance is currently the final determinant of the courts’ budgets, even though budget lines are protected.
Furthermore, although the judiciary’s independence would be more secure if an independent tribunal set judges’ salaries based on an accepted formula, a recent presidential decree increases judges’ salaries substantially and establishes a system of professional promotion categories.

257. The Supreme Court is the highest body of judicial power in the sphere of civil, criminal, commercial, and administrative legal proceedings. The court has a supervisory function, for it supervises, upon the request of participants, the activities of local courts by reviewing their decisions. Until 1997, the Supreme Court had three levels of hearing: a collegium level, a presidium level, and a plenary level. This changed in 1997, when the Constitutional Court decided that all judges should review decisions.

258. Before the 2003 constitutional changes, appeals to the Supreme Court were running at about 3,000 per year. The full bench heard about 1,100 appeals a year, an average of slightly more than 4 cases per working day. The other appeals were referred back to the originating courts. But the Supreme Court did not sit every working day; when in session, it heard a daily average of 20 to 30 appeals. The former Supreme Arbitrazh Court had been deciding about 300 appeals annually, of a total caseload of 2,500 appeals over the entire arbitrazh system. Considering that an increasing number of appeals were complex, it was thought that the former Supreme Arbitrazh Court could not do justice to its workload—which was significantly smaller than that of the current Supreme Court under the reformed system.

259. A key weakness of the Kyrgyz court system was that the Supreme Court, and the former Supreme Arbitrazh Court, did not hand down judicial decisions but merely recorded their advice, which was then remitted to the lower court from which the appeal had been made. The lower court was not governed by the advice; it had only to note it. Consequently, the lower courts could decide not to change their initial judgments, which often happened, and appeals could be resubmitted to the Supreme Court ad infinitum.

260. The cumbersome and inefficient procedure just described was improved by the 2003 constitutional changes. Not only was the number of judges on the Supreme Court increased by incorporating the former Supreme Arbitrazh Court judges, but the Supreme Court is now empowered to make final decisions.

261. Many legal specialists understood the originally proposed wording of Article 83 (2) of the Constitution, which deals with the Supreme Court’s power, as running counter to the July 2001 Report’s recommendation that steps be taken to enhance the finality of court judgments. Reasons for the specialists’ concern were:

(i) Part of the proposed change was positive; it specified that the Supreme Court may issue “new” judgments, which would presumably be “final” judgments (although the word “final” was not used). This reform was responsive to the July 2001 Report’s recommendation that finality of judgments be enhanced.

(ii) As originally drafted, however, Proposed Article 83 (2) provided in relevant part that “The court instances thus established within the Supreme Court considers [sic] cases over which they have jurisdiction in accordance with the law, they also consider appeals, in compliance with the established procedural norms, against court decisions of lower court instances both lodged by participants of the judicial proceedings and initiated as a matter of judicial overview with the right to render a new decision on the case.”
Although the Supreme Court ordinarily would be expected to monitor decisions of the lower courts, many commentator consider the right of the Supreme Court to review lower court decisions and change judgments (a right known as *initiativnyy nadzor*) even in the absence of the parties’ appeals or requests, as inconsistent, both with the notion of finality recommended in the July 2001 Report and with the concept of an adversary system set forth in proposed Article 85.

262. The group responsible for receiving public comments on the proposed changes was responsive to the concerns raised about finality of judgments, and eliminated the review (*initiativnyy nadzor*) issue. Furthermore, the current wording of Article 83 now empowers the Supreme Court to render final decisions. This reform is a major advance in judicial reform under the 2003 changes.

263. The costs of appeals differ for criminal and civil cases. Criminal cases do not incur costs. In civil cases, appellants must lodge 50% of the “first lodgment,” or the cost of having the case heard, for an appeal to be heard at the regional level, and 25% to be heard by a national appellate court.

264. The budgets of regular courts are protected, but the courts receive considerably less than they request. The Supreme Court, for example, estimates that it receives only about half the operating funds it requires. The salaries of Supreme Court and local court judges were recently raised and are reasonable, according to the judges interviewed. But they are considerably lower than what the judges might earn if they left the judiciary for the private sector.

3. Regional and District Courts

265. The courts in civil and criminal jurisdictions extend down to the district, or first-instance level (the former economic or arbitrazh court system had two levels of court, the regional, or second-instance, and the Bishkek City levels, in addition to the Supreme Economic Court). Bishkek City has its own first- and second-instance regular courts. The absence of economic courts at the district level was said to be disadvantageous to small entrepreneurs who need to resolve intercompany disputes and disputes with the Government, because they were required to travel to an regional center. That requirement will be eliminated after implementation of the 2003 constitutional changes.

266. A panel of at least three judges hears appeals in regional courts. Regional courts can change or overturn decisions of lower courts. Decisions are based on majority vote. Regional and district courts of general jurisdiction (civil and criminal courts) employ about 300 judges, distributed across regions (Table 13).
Table 13: Distribution of Judges in Courts of General Jurisdiction

<table>
<thead>
<tr>
<th>Region</th>
<th>Courts of General Jurisdiction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bishkek City Court (Second Instance): 15 Judges (+ nine Former Arbitrazh Judges)</td>
<td>four Bishkek City Courts: 42 Judges</td>
</tr>
<tr>
<td>Chui Region: 12 Judges (+ seven Former Arbitrazh Judges)</td>
<td>eight District Courts: 40 Judges</td>
</tr>
<tr>
<td>Osh Region: 10 Judges (+ six Former Arbitrazh Judges)</td>
<td>eight District Courts: 23 Judges</td>
</tr>
<tr>
<td>Batken Region: 7 Judges (+ four Former Arbitrazh Judges)</td>
<td>five District Courts: eight Judges</td>
</tr>
<tr>
<td>Jalalabad Region: 9 Judges (+ four Former Arbitrazh Judges)</td>
<td>12 Districts: 23 Judges</td>
</tr>
<tr>
<td>Talas Region: 7 Judges (+ four Former Arbitrazh Judges)</td>
<td>five District Courts: nine Judges</td>
</tr>
<tr>
<td>Naryn Region: 7 Judges (+ four Former Arbitrazh Judges)</td>
<td>five District Courts: eight Judges</td>
</tr>
<tr>
<td>Issykul Region: 8 Judges (+ four Former Arbitrazh Judges)</td>
<td>six District Courts: 16 Judges</td>
</tr>
</tbody>
</table>


267. District court judges do not have heavy caseloads; they seem to hear an average of 100 to 150 cases annually. Many cases concern minor crimes for which guilty pleas are entered. Even though the caseload is not high, the existence of courts at the district level does ensure most of the population reasonable access to the justice system. The budget cost, however, is high. But the cost could be decreased by implementing a system of circuit judges who travel from district to district.

268. A high level of convictions in relation to the number of registered crimes (Table 14) suggests a high success rate by investigating authorities (assuming the quality of justice dispensed is not an issue).

Table 14: Lower Court Case Loads, 1995–2001

<table>
<thead>
<tr>
<th>Year</th>
<th>Registered Crimes</th>
<th>Cases Listed</th>
<th>Cases Completed</th>
<th>Cases Returned to Investigators for Insufficient Evidence</th>
<th>Cases Listed But Not Heard</th>
<th>Not Guilty Verdicts</th>
<th>Convictions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1995</td>
<td>41,008</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>18,615</td>
</tr>
<tr>
<td>1996</td>
<td>39,623</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>18,719</td>
</tr>
<tr>
<td>1997</td>
<td>37,262</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>19,597</td>
</tr>
<tr>
<td>1998</td>
<td>34,287</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>18,484</td>
</tr>
<tr>
<td>1999</td>
<td>39,951</td>
<td>20,530</td>
<td>19,811</td>
<td>1,533</td>
<td>2,299</td>
<td>214</td>
<td>17,652</td>
</tr>
<tr>
<td>2000</td>
<td>38,620</td>
<td>22,887</td>
<td>23,593</td>
<td>1,869</td>
<td>1,577</td>
<td>334</td>
<td>20,168</td>
</tr>
<tr>
<td>2001</td>
<td>39,986</td>
<td>22,578</td>
<td>22,490</td>
<td>1,492</td>
<td>1,665</td>
<td>263</td>
<td>17,681</td>
</tr>
</tbody>
</table>

Source: Ministry of Justice.
Before the 2003 constitutional changes, the President had sole responsibility for appointing all lower court judges, and for relieving them of office. Currently, parliament must agree with those selections. The President also sets pay and other employment conditions for all judges, who are appointed for initial terms of 7 years (formerly 3 years) and if reappointed, for 7 more years.

In a 1999 massive rotation of judges, half were transferred to new posts; 70% percent of those judges were moved to different locations. A committee was established comprising the chairs of the Constitutional Court and Supreme Court, and the chief of the juridical department in the President’s administration. Proposals for appointments from the chair of the Supreme Arbitrazh Court were ignored. The basis for final appointments, particularly of regional court heads, was never explained. Many judges who were reassigned in 1999 could not take their families to the new locations because no housing was available.

Because of the 2003 constitutional changes, the People’s Assembly will now have a role in the selection of all judges. Although this reform will harmonize the appointments system, the mechanism by which nominations are made requires continued attention.

Even though the Supreme Court (and the former Supreme Economic Court) has had a supervisory relation to the lower courts, there is no direct supervision of judges. Although most decisions are recorded, only the judicial decision is usually given. The facts of the case on which the decisions are based are not necessarily recorded, nor are the legal reasons why judges reached the decisions. Decisions are not formally published; thus judges in one region or district are not aware of decisions made in other. Thus, similar cases can result in quite different judicial decisions in different courts. The appeal courts become concerned about particular judges only if their cases result in many appeals and complaints. The Supreme Court is aware of this deficiency, and is improving the recording and publication process through computerization and other means.

The capacity of courts to perform independently and thoroughly is circumscribed by their relationships with the executive branch of Government. At regional and district levels, judicial departments have been subordinated to the Ministry of Justice, which appoints their heads without reference to the judiciary. Judges who were interviewed indicated that budgets appropriated to their courts are not transparent, and that they have no clear idea of how much their judicial department at the regional level receives or how funding is disbursed. Little is spent on providing courts with the resources to run efficient and effective services. The region or district is responsible for providing judges with housing and a vehicle—although clearly, the number of judges who are unable to move their families to their newly assigned locations indicates limited public housing, and that judges are not considered high priority. Means to reverse these problems are being discussed, including transfer of lower court administration from the Ministry of Justice to the Supreme Court.

To be appointed a judge, candidates must have higher legal education and at least 5 years of service in their specialties. For military courts, prospective judges must also be commissioned officers. To become eligible, people with the requisite experience and credentials must satisfy an attestation commission, which consists of judges and representatives of the president’s administration, Parliament, and private citizens. Successful applicants are placed on a candidate’s roll, which means that they are qualified, and considered for appointments.
274. The merger of court systems that the 2003 constitutional changes requires is already underway. A complete reorganization will require revision of many laws that affect the judicial sector. The approximately 235 judges of the “regular” courts, and judges of the former arbitrazh courts, are already the subject of preliminary reorganization planning.

275. The Supreme Court and the local courts are now part of a unified system of courts of general jurisdiction, in accordance with the new "Law on the Supreme Court and Local Courts, adopted in June 2003. District courts consider those civil, criminal, administrative, and economic cases that regional courts do not consider. As courts of first instance, the regional courts consider criminal cases concerning crimes for which capital punishment has been meted, and civil cases for which claims of more than 50,000 minimum salaries have been established at the time a writ was filed. In the local court system, multi-district courts operate as courts of first instance and consider economic disputes between legal entities and/or individuals that concern amounts from 1,500 to 50,000 minimum salaries, and bankruptcy cases. Cases involving more than that amount are heard in newly created “multi-district” first-instance regular courts. Especially complex cases are heard as the matter of first instance at regional-level courts. Appeals from district-level or multi-district level courts go to the regular second instance regional courts, which assign economic and commercial cases to judges who were formerly on regional economic courts.

4. Reform of the Court System

276. The foundation of judicial reforms remain the Consultative Judicial Reform Group's report, which was accepted by presidential decree in July 2001, and the action plan to implement its recommendations, approved by presidential decree in October 2001 and amended to reflect 2003 constitutional changes.

277. The report made recommendations on the following general topics: extra judicial procedures for resolution of economic disputes, legislation to fight corruption, transparency (openness) of legal proceedings, development of a corps of judges, increased efficiency of judicial proceedings, decreased legal costs, and improved court funding and logistics.

278. The effect of the revised constitution and other areas of progress on judicial reform were subjects of a major conference on the judiciary, held in the Kyrgyz capital in February 2003. The President presided, and was present during the entire conference. The roughly 500 participants included more than 350 judges from all levels; the President’s representative to Parliament (who chaired the special group of experts making final revisions to the draft constitutional changes); many parliament members, including representatives of the opposition; the vice prime minister and the Minister of Justice; and the head of the legal department of the President’s administration.

279. The President’s keynote speech, which included a statement supporting a stronger, more independent judiciary, stressed the following points:

(i) Constitutional changes are intended to advance the recommendations of the July 2001 Report on judicial reform (including specialization of judges, and increased independence).
(ii) The constitutional basis for finality of judgment by the Supreme Court has been established.
(iii) A recent decree, signed by the President, increased judicial salaries by 50%.
(iv) A strong judiciary is essential for economic development and social justice.
(v) Eliminating corruption in the judiciary is essential.
(vi) Local judges’ initial terms have been extended to 7 years (longer than either the President’s term or the terms of parliament members). That should enhance judicial independence.
(vii) Third-party arbitration is an important means of resolving disputes, and should be supported.

280. The head of the Supreme Court gave a presentation on the merger, and on several other issues the judiciary faces, including those described above. She also discussed both the possibility of creating new administrative courts, and the need to revise laws dealing with the Republic’s judiciary.

281. The judges at the conference adopted a resolution strongly supporting continuing actions to strengthen the judiciary, based on constitutional changes. Actions included revised laws that affect: the Supreme Court, local courts, and status of judges, civil procedures, and criminal procedures. The resolution also encouraged the Government and Governors to improve the financial circumstances of judges and courts.

282. The following areas should be considered in future studies:
(i) The lack of restrictions on appeals should be reviewed with a view to lowering court permit appeals only when they meet certain criteria and thus, to render finality of higher court judgments, if possible.
(ii) The setting of judges’ salaries would be enhanced if those salaries were set by an independent tribunal, based on an accepted formula, instead of by the President.
(iii) The budget allocations to, and administration of, the lower courts by the Ministry of Justice should be more transparent, and budgets should be based on acknowledged levels of service provided to judges. For example, the recording of evidence before a court should be improved significantly to provide judges with expeditious records so they can form more reasoned judgments, based on facts of a case.
(iv) The Supreme Court should create a supreme judicial council to hear the disciplinary cases of lower court judges. This council should have powers of dismissal.

C. Prosecution Agency

283. The prosecution agency is an executive state agency in charge of overseeing that legislation is implemented accurately and uniformly. Prosecution conducts criminal investigations and is present when courts hear criminal cases. The offices of the prosecution are part of one system, and are subordinated only to the higher levels of that system, and to the general prosecutor.

284. The Office of the General Prosecutor is the central prosecution agency. The President appoints the general prosecutor, with Parliament’s agreement. The President appoints the general prosecutor’s deputies, upon proposal of the general prosecutor, who reports annually to the President and Parliament regarding activities in prosecution. According to the constitution, the procurator not only oversees accurate and uniform implementation of legislation, but also conducts criminal investigations. Also, the office checks on activities of individual ministries and other central state bodies to ensure that their actions are in accordance with the law, and if not, formally protests to the minister.
285. A key function of the prosecution is to supervise the compliance of state bodies with legislation. In reality, the Office of the General Prosecutor seems to rely primarily on public complaints about government actions, and acts much like a conventional ombudsman. In 2001, the office received 14,981 complaints. This figure seems to be increasing. If complainants are not satisfied with the office’s response at the regional level, they can complain to the central office, which received 4,381 complaints in 2001.

286. Recent surveys of corruption indicate that most of the general public lacks confidence in at least some officers of the prosecution. But a large number of complaints also suggest willingness to work with the Prosecutor’s Office. As in most governmental areas where corruption is an issue, the base salary of officials is low: about $300 per year.

287. An important function of the prosecution is supervising actions of police and other state security services after an arrest. Immediately after an arrest, the arresting officer must inform the officer in charge of the local police, in writing, who then appoints an officer to investigate the case. The investigator has 72 hours to determine if evidence is sufficient to pursue the case. If so, he or she must inform the local prosecutor’s office, in writing. The arrested person, along with documents supporting a case for detention, must then be brought before a prosecutor. The prosecutor can (i) agree to detention of the arrested person, who then is transferred to a pretrial prison, or (ii) set bail on the basis of a sum of money deposited, or a signed document guaranteeing that the arrested person will not leave the district.

288. The police have 1 month to complete an investigation of minor cases, or 2 months for others. District prosecutors can extend investigations to 3 months; regional prosecutors and prosecutors of the city of Bishkek to 6 months; and the general prosecutor, to 9 months. Extensions can be longer for exceptional cases—but no more than 1 year. Before the police can prosecute, they must convince the prosecution that they have a case. The prosecutor is present when the court hears a case. The prosecution and defense present their cases. The prosecutor then presents his or her view regarding application of criminal law before the judge makes a decision. In civil cases, the prosecutor only occasionally plays a role, such as when a civil servant is involved. The potential for multiple layers of control comes into play at this point. There is potential for good, because an independent prosecutor can make it difficult for a corrupt judge to disregard facts of a case. But there is also a potential for ill, because a prosecutor can ensure that a government reaches a specific decision.

289. In 2001, about 22,500 cases were heard, and there were 562 prosecutors. Thus, each prosecutor had an average annual caseload of about 50. The general prosecutors’ recent submission to Parliament—that the office is understaffed—seems well-founded, when the number of complaints looked into and investigations conducted are added to the number of cases heard.

D. Police

290. The police are part of the Ministry of the Interior, which heads their command structure. Although such an arrangement can be used to harass anyone who embarrasses the Government, it might be justified if the police are the principal proponents of government and ministerial policy. Most countries, including the Kyrgyz Republic, have such a structural arrangement. But such an arrangement requires a robust system of police review by the Prime Minister’s office and the President’s administration. Alternatively, the police should be made a statutory agency.
291. The Ministry of Internal Affairs estimates that it investigates more than 90% of all crimes (the Office of the General Prosecutor, national security, and the Ministry of Defense handle the other 10%). The Ministry of Internal Affairs employs about 8,700 police to maintain the peace, to prevent crime, and to investigate crime for a population of about 5 million. That is a ratio of about one police officer for every 600 people, which is high by international standards. Indeed, the Kyrgyz Republic is relatively free of crime. Even though the high police presence might be a factor in the low crime rate, the Kyrgyz Republic might be able to decrease the police force significantly without causing a significant increase in crime.

292. The public can register complaints against the police through two avenues: the prosecution and the Department of Internal Security of the Ministry of the Interior. If the Ministry determines that an offence may have been committed, it sends the documented complaint to the its unit for crime investigation. The prosecution then supervises an investigation.

293. Lodging a complaint about the police can be difficult because, other than traffic police, officers wear no form of identification, such as numbered badges. All officers carry, and are obliged to show, written identification—but they rarely do so. This is a weakness in the system, especially considering that police discipline is poor in some areas. For example, prohibitions against being under the influence of alcohol while on duty are not always strictly enforced.

294. Quality is also a potential concern. Police candidates must have completed only grade nine. Recruits are given 4 to 6 months of initial training. Pay, including allowances, is similar to that of prosecutors, but police also receive a 50% reduction in utility bills. Police pay seems relatively high, compared directly with pay for the Office of the Prosecution. But pay is low, based on any other comparison. Low salaries probably support a culture that is excessively tolerant of rent-seeking on the part of its membership.

295. In light of the above, a decrease in the number of police officers might be considered. This would free government funds that could be used to raise unrealistically low salaries that encourage corruption. The police may also be made autonomous and free from direct government control. The Ministry of the Interior could then advise the Government on law and order policy. But such advice should recognize the need to consider human rights and a number of other issues when making policy decisions.

E. Office of the Ombudsman

296. The ombudsman is a new legal entity in the Kyrgyz Republic. The Law on the Ombudsman, which Parliament adopted in July 2002, defines how the ombudsman is elected, and how he or she can be removed from office. In September 2002, the first ombudsman, a former parliament member, was elected. The Office of the Ombudsman became effective only after the adoption of Article 40 of the Constitution in February 2003. As it gains experience, the Office may play an important role in the improvement of law enforcement and protection of citizens' rights.

35 For comparison, a Kyrgyz citizen is nine times less likely than a citizen of Victoria, Australia, to suffer harm or a loss as a result of a crime.
F. Law Associations

297. The Kyrgyz Republic has more than a dozen societies that represent lawyers, including the Association of Kyrgyz Lawyers, the Society of Advocates (Kollegiy Advokatov), the Union of Advocates of the Kyrgyz Republic, the Young Lawyers’ Association, and Lawyers of Bakten Region. The most significant are the Association of Kyrgyz Lawyers, with about 450 members in February 2003, and the Society of Advocates, with about 230 working members, 20 nonworking members, and 130 private company members. Membership in the Association of Kyrgyz Lawyers was reduced significantly in March 2003, when about half of its members were dropped for not paying annual dues. Whether the dropped members will resume membership is not known. The Association of Kyrgyz Lawyers was registered in 1995 in response to an opportunity offered by a USAID project that provided the association a grant to run workshops and seminars.

298. The Society of Advocates has existed for 75 years. Until 1999, it was a professional association that admitted members based on an interview, a 9-month internship, and a professional examination. In 1999, the Government introduced a law regulating advocates and made the Ministry of Justice responsible for examining advocates and issuing licenses allowing them and their companies to practice. According to the law, the Union of Advocates of the Kyrgyz Republic must promote high professional standards and ethics. These changes have not necessarily improved governance in relation to law and order, because the Government can now withdraw a practicing advocate’s license. That could put at risk any advocate who acts in a case that involves a dispute with the Government. In at least one case, advocates have lost their licenses because they took court actions against government bodies. But experts in the Ministry of Justice think that the new licensing arrangements ensure both professionalism and professional protection of advocates.

299. The Society of Advocates has become a kind of club since losing its power to establish criteria for entry into the profession. Membership is now gained only after the Society has considered applicants’ track records. The Society also acts as a legal aid organization, providing legal services to citizens, particularly to the socially vulnerable. Services are generally free, although the Society charges those who can afford to pay. The Society also has a committee on professional ethics, which forced six members to resign in 2001.

300. Most observers think there is significant corruption in the judicial system, from senior judges down to the most humble advocate. One strategy to address the problem is to have one or more professional associations that impose clear and strict codes of conduct on their membership through strong disciplinary committees. Donors also have considerable influence. Donors could employed only members of approved professional associations, and direct that market power to associations that practice zero tolerance of unethical behavior. Peer reviews by international associations would substantiate the professionalism and standards of local associations.

301. Considering the above, the Government should reconsider its decision to make the Ministry of Justice the regulator of the legal profession. The ability of advocates to obtain

---

36 In this case the advocates challenged a judge’s impartiality. The advocates in question were reported to the Ministry of Justice, which withdrew their licenses. The Supreme Court upheld the decision.

37 As indicated before, the Kyrgyz President mentioned this problem in a keynote speech at the National Conference of the Judiciary, organized at the White House, USA, on 27 February 2003.
employment should not be compromised by the possibility, however remote, of withdrawal of their licenses if they represent plaintiff in cases against the Government. Professional associations that regulate membership may be a better alternative.

V. CIVIL SOCIETY

302. Liberalization of civil society in the Kyrgyz Republic seems underway. Surveys suggest reasonable satisfaction with most principal organs of government. Bureaucratic actions are unlikely to restrict press freedom. The Government also increasingly encourages nongovernment organizations (NGOs) to play progressive roles.

A. Civil Rights

303. The constitution states that elections shall be free and shall be held on the basis of universal and direct suffrage by secret ballot. In the 2000 presidential election, the international press questioned the arrest, just before the election, of a candidate who subsequently was not allowed to run. In that case, as with other occasional arrests of political figures, the official reasons for the arrest were substantial. But being able to accuse people of offences long after their alleged commitment does not seem healthy. It may be necessary to limit the number of years after which a particular offence can still be prosecuted. The major concern of independent election observers was that the Electoral Commission was less efficient than it should have been. But an NGO evaluated the election as generally satisfactory. Independent surveys also indicate that the President’s approval rating with the electorate is higher than that of any other part of the Government except the village government (Figures 8 and 9). The surveys also

![Figure 6: Respondent's Perceptions of the Reliability of Public Institutions](image)

suggest reasonable satisfaction with most principal organs of government.


---

304. The constitution states that each citizen has a right to free expression and dissemination of thoughts, ideas, and opinions; and freedom of literary, artistic, scientific, and technical creativity. The constitution also guarantees freedom of the press, and of transmission and dissemination of information. Furthermore, every citizen has the right to assemble freely and peacefully and to conduct meetings and demonstrations, provided that those who attend do not carry weapons, and that they inform the authorities in advance about meetings and/or demonstrations.

B. Media

305. The Kyrgyz Republic has about 1,000 officially registered media. About 850 are newspapers and 150 are electronic media. But in practice, only a few dozen seem functional. About 60% of the population watches television, 25% reads newspapers, and 20% listens to radio.

306. Of the television and radio channels, only one is state-owned, and all regions but one have independent channels. But commercial stations can never be truly independent as long as state bodies are a major generator of contracts for the private sector. The private sector relies on the Government for contracts, while commercial television relies on the private sector for advertising revenue. Thus, market reality seems to be that the Government has economic clout in parts of the media sector.

307. The public usually watches Russian, not Kyrgyz, television programs. This could cause problems for government efforts to influence public opinion, because Russian events and opinions are quite different from those of the Kyrgyz Republic. This gives the commercial television stations some power, because they can disseminate information of importance to the Government.

308. The Kyrgyz Republic has a number of independent newspapers. According to UNDP, 12 to 15% of the population reads independent newspapers, and only 2 to 4% reads newspapers...
considered government controlled.\textsuperscript{39} \textit{Betme Bet}, a newspaper with good contacts with the Ministry of the Interior, regularly publishes articles and information about corruption. Printed media are governed by the “Law on the Mass Media”.

309. Most newspapers operate on a shoestring budget. Many appear for a short time, then run out of cash and disappear. During economic downturns, advertising revenues dry up. Discussions with newspaper editors during fact-finding for this assessment indicated an always-present question of press freedom, although none had been contacted by Government officials wanting to suppress articles. Whatever fears they have are about what could happen after publication of an article that the Government does not like.

310. How far the press goes in reporting controversial stories is being extended by degrees. For example, newspapers are already exposing corruption among lower-level government officials. Journalistic investigations are often initiated through tips. But the press is somewhat reluctant to investigate higher levels of government because consequences are uncertain. Two of the biggest constraints to investigations are most newspapers’ inadequate finances, and the journalists’ low levels of competence (many journalists lack the training and experience available to counterparts in more developed countries). Libel charges are a major concern of both newspaper owners and journalists. Investigative journalism is in its infancy, so it is not surprising that newspapers have run articles for which the journalists, when challenged, could not provide supporting evidence. The newspapers were then sued and often, had to close, because they lacked the finances to pay settlements.

311. Self-regulation of the press is not practiced. No equivalent of a press council to regulate and control press extravagance exists. An Association of Independent Press was established, with foreign funding. But once the grant was made, the Association ceased almost all activities.

C. Nongovernment Organizations

312. The Kyrgyz Republic is the clear leader in Central Asia in terms of number of NGOs operating within its borders. NGOs are governed by the 1991 “Law on Public Associations”, by the 1999 “Law on Nonprofit Organizations”, and by the 1999 “Law on Charitable Activities”. According to the legal framework, a noncommercial organization is a voluntary entity formed by citizens who freely join together on the basis of common interests, goals, and activities. The 1996 Tax Code states that “noncommercial” means “nonprofit,” but all associations, regardless of purpose, are taxed. In 2003, changes were made to the Tax Code to the benefit of NGOs. NGOs must now register with the Ministry of Justice, the State Statistical Committee, the local district tax inspectorate, and social insurances at the district level. Registration fees are marginal or nonexistent. NGOs must obtain a permit from the Ministry of the Interior for seal and stamp production.

313. More than 3,000 NGOs are currently registered in the Kyrgyz Republic; in 1997, only 400 were reported.\textsuperscript{40} Regions with the largest populations tend to have the most NGOs.\textsuperscript{41} The increase in registered NGOs since 1997 might partly be attributed to increased opportunities for paid work because of donor interest in funding activities through such organizations. If so, it is

\begin{itemize}
\item \textsuperscript{39} UNDP. 2000. \textit{Kyrgyzstan Voters View Wave III}. Bishkek.
\item \textsuperscript{40} This includes unions, employer associations, credit unions, condominiums, political parties, religious bodies, and other NGOs.
\item \textsuperscript{41} ADB. 2002. \textit{Study for ADB Cooperation with NGOs in the Kyrgyz Republic}. Manila.
\end{itemize}
probably not surprising that as much as an estimated 90% of NGOs are nonfunctional. A weakness of some NGO, in regard to funding from outside the country, is that they have few if any representatives of their constituent groups on their governing bodies. Thus, the interests of donors and of NGO staff may not coincide with priorities of intended beneficiaries. The World Bank\textsuperscript{42} found, however, that the NGOs that have appeared in towns and villages in recent years are perceived as positive forces that address pressing problems.

314. There is no established peak organization for NGOs, for too many NGOs suspect that any such an organization might act only in its own interests and prevent others from accessing funding sources. Nevertheless, some organizations work on behalf of the interests of groups of NGOs; these umbrella-type organizations include the Association of Non-Government and Non-Commercial Organizations, which was registered in 2000 to organize mutual help among its more than 300 members through constructive dialogue with the Government. Other NGOs provide support for smaller NGOs. There are also a number of Centers for Support of the Civil Society, established on initiative of the US–American NGO Counterpart Consortium. Other NGO groupings include a coalition of NGOs with strong links to human rights organizations in Europe that is raising the issue of governance and transparency on the part of multilateral organizations operating in the Kyrgyz Republic.

315. The laws governing NGOs give the Government the right to intervene in NGO activities, and to control the sector as a whole. The Government has never actively sought to exercise those powers and, when the legislative program permits, will doubtlessly amend the laws. The Government has demonstrated its preparedness to use NGO services, which played a major role in developing CDF and have helped implement numerous projects. All levels of Government use NGOs in work to alleviate poverty.

D. Civil Society and the State

316. The international press has probably given insufficient credit to the Kyrgyz Republic for its enormous improvements in press freedom, robustness of its NGO sector, parliamentary powers and freedoms to publicly investigate government performance, and academic freedom. As UNDP\textsuperscript{43} reported, “The use of international experience, a desire to cooperate, open-mindedness to progress, and positive globalization ideas all characterize the integration of Kyrgyz Republic into the world community.”

317. The robustness of civil society largely reflects the actions of the President and Parliament, and the relation between Parliament and the Government. The situation is still dynamic, with conservative and liberal forces competing. For example, in 1998 the Legislative Assembly passed a bill to amend the 1992 Law on Mass Media to require the media to publish its response to or comment on, any article that any state body thought did not accurately reflect a situation. The President refused to sign the bill on the basis that it limited freedom of the press. Also in 1998, the Government established the Committee on Morals, in the Ministry of Justice. The President dissolved the committee 2 months later, after it had initiated legal proceedings against two newspapers.

318. NGOs have been increasingly proactive in influencing the legislative agenda. For example, NGOs that focus on women’s rights reviewed legislation concerning those rights and


helped draft legislation on gender equality, reproductive health, and protection against domestic violence.

319. Cases of press harassment are still sometimes reported. Given the number of media organizations in the country, however, press freedom will probably not be restricted by bureaucratic actions against a small number of newspapers.

320. The Government has not yet fully developed its skills in informing the public of its programs and projects. But public affairs units in state bodies such as the President’s administration and the Prime Minister’s office have been established.

VI. KEY CONCLUSIONS AND RECOMMENDATIONS

321. Since independence, the Kyrgyz Republic has been engaged in a massive reform effort, which has been maintained despite numerous economic and social problems. Much has been achieved, under difficult circumstances, but challenges remain. This assessment attempts to identify both challenges and effective responses.

322. Regarding the system of norms, legislative developments have been pursued rapidly. As a result, laws and regulations are sometimes inconsistent, or conflict with treaty obligations. Other laws and regulations are declaratory, and lack clear implementation mechanisms. There is a general need to review the body of primary and secondary legislation, and shape it into a coherent architecture, through rationalization and consolidation. Considering these needs, it might be useful to establish a legal consolidation commission. Such a commission should be able to finish its work within 1 year.

323. Institutions also need consolidation. Sometimes institutions that reflect the Soviet legacy of control, and that lack the capacity to initiate, organize, or manage change, have to enforce legislation and sustain reforms. The time is ripe to increase efficiency and effectiveness of reforms by consolidating the framework of institutional implementation.

324. Many reform proposals are in the pipeline, including various projects and programs to be sponsored by development partners of the Kyrgyz Republic. The largest package is the CDF. The policy reform agenda of the CDF includes governance. CDF contemplates a smaller and more professional state administration that operates in a participatory mode. Objectives include building local capacity, decreasing constraints on resources, reinforcing the state’s efficiency and integrity, addressing corruption, enhancing professionalism in civil service, increasing transparency in decision making, and improving the enabling environment for private investment. CDF also underscores a more effective role for Parliament and the judiciary, and targets quality improvement and equity orientation in delivery of public services.

325. Recommendations made in this assessment could be integrated into the CDF, especially considering the many concerns on governance shared by the CDF and this assessment, because CDF would be integrated into the medium-term budgetary framework and its progress would be monitored regularly.

A. Central State Administration

326. The Prime Minister is responsible for implementing policies, so more autonomy in running the Government has often been suggested. Should greater autonomy evolve over time,
or should it be formalized legally? Three main reasons favor a gradual approach: (i) The Prime Minister’s office still lacks the capacity to review and evaluate policies; (ii) a civil service that supports the Government professionally is still evolving, and a primarily merit-based structure has not yet appeared; and (iii) there is lack of continuity in Government, and wider ranging powers would make the frequent Government reshuffling and restructuring even more detrimental.

327. The Prime Minister’s role might be expanded gradually by enlarging the list of cases for which the President must consult him or her before making decisions. The Prime Minister is already consulted, for example, on appointments of governors and heads of district administrations. The Prime Minister could also recommend their removal.

328. Furthermore, the Prime Minister should have a cabinet secretariat to deal systematically with the cases submitted to the Government. Such a secretariat would take minutes of discussions, note decisions, and follow up on implementation. It would also ensure that rules of business are followed, and facilitate coordination between ministries.

329. Ministries should be autonomous in management of institutions working under them, even though the chief executives of large and prestigious organizations should be appointed with the Prime Minister’s approval. Ministries should also be made increasingly responsible for initiating sector policies, which the Government should approve. The Prime Minister’s office might handle cross-sector policies, in consultation with relevant ministries.

330. There is a case for establishing statutory agencies, or authorities that carry out given sets of functions without requiring prior approval for their decisions, and independent of political direction. Conventionally, such authorities include environmental protection agencies, regulatory agencies, police and prison services, and corporations. Statutory agencies would be established by legislation and accountable to the Government, but would have the authority and responsibility to make decisions on operational matters without clearance from higher authorities. Such an approach would enable the Government to concentrate on policy work and monitoring agency performance. The approach would provide the political advantage of allowing distance between the Government and unpopular operational decisions.

B. Formulation of Policies and Programs

331. Underdeveloped capacities for policy and program formulation are crucial deficiencies in the Kyrgyz Republic. Capacity building in this area should, generally, precede shifting functions and responsibilities. The Government should be able to establish its own policy directions and priorities, and should be better able to review policy proposals that development partners make. Two approaches to developing officers with responsibility for policy and program formulation should be considered:

(i) A large number of competent officers must be built throughout the civil service. Developing such policy officers within agencies enables them to develop a deep understanding of the sectors in which they are involved. That is especially important, considering the small number of good policy officers.

(ii) The core of policy officers within the President’s and Prime Minister’s offices must be developed further, to establish broader understanding of the role of policy reviewers in these central agencies, as well as among policy developers in certain line ministries. Such an approach is more likely to quickly produce an urgently needed critical mass of policy capacity. These policy officers should be moved systematically among central agencies, line departments, and other
agencies. A lack of sector expertise can initially be overcome by hiring outside experts.

332. A comprehensive strategy to improve the capacity for policy and program development should include:

(i) reviewing the current process of policy and program development, including the roles of the Ministry of Finance and the President’s administration, as well as the policy framework in each sector;
(ii) developing rules of business for policy and program formulation that ensure systematic involvement of the President’s administration, the Ministry of Finance, and state bodies responsible for affected sectors, and assuring that decisions are communicated effectively;
(iii) improving the monitoring of policy and program implementation, so that performance monitoring provides relevant feedback to policymakers;
(iv) establishing a career structure for policy officers;
(v) identifying the competencies that policy officers need in research and analysis, report writing, negotiating and communicating, problem solving, and foreign languages; and
(vi) training staff in these competencies, focusing on current policy issues.

C. Legislature and the Executive Body

333. In addition to legislative functions, Parliament has the power to control implementation of legislation. According to the constitution, the Government is amenable to the President, but accountable to Parliament. Parliamentary committees can ask the President or Prime Minister, for example, to sanction a nonperforming minister. In fact, some committees have taken on a supervisory role for day-to-day running of ministerial portfolios. This causes confusion about the functions of the legislature and executive body, and weakens efficiency and accountability. Although the Parliament should have powers for annual review and reprimand, it should not manage executives on a day-to-day basis. Instead, the Parliament should make better use of (i) the state process for budget approval, (ii) the review of annual reports submitted by the Prime Minister and other state agencies, and (iii) its audit function.

334. The budget debate should be more analytical, which implies comprehensible documentation of the budget, and better professional support for members of Parliament. Currently, most committee members must do their own research. With regard to reports submitted and audits, only the Prime Minister and heads of state agencies that Parliament appoints currently report to Parliament every year. This practice should be extended to all ministries and state agencies. The public accounts committee is particularly important, as the main recipient of Chamber of Accounts audit reports. This committee’s directives should be binding. The public accounts committee should also have the authority to recommend punitive action in cases of corruption.

D. Central and Local Governments

335. Although it is often asked if a relatively poor country like the Kyrgyz Republic can afford four levels of government, no change is recommended at this stage, for two main reasons. First,
there are obvious problems with communication and access that result from the country’s terrain. Second, legislatures at the four levels have recently been elected, and should be tested over time.

336. The relationships between heads of departments at the regional level of government and their counterparts in ministries is sometimes complicated. Employees of regional and district administrations should answer only to their own administrations. For accountability and efficiency, having multiple channels of supervision and subordination is inappropriate. But it might be useful to have coordinating committees at the regional level, chaired by the governors, to facilitate consistency of policies between central ministries and local administrations.

337. Accountability at regional and district levels should gradually become more horizontal than vertical, because local administration is responsible for delivery of services to stakeholders within localities. Furthermore, half of the country is mountainous, which means considerable difficulties of access and communication. Under such circumstances, centralization tends to dilute efficacy of services, and to cause unwarranted delays in problem solving.

338. With regard to the correlation between functions and financial means, financial constraints make the discharge of all functions at the local level impossible. But this problem can be resolved through prioritization. The practice of shifting expenditure responsibilities to local governments, when they are able to collect larger revenues, should be discontinued, because it is a perverse incentive. Furthermore, governments below the regional level are not always aware of how categorical and equalization grants are allocated; rules and criteria for those grants should be published.

339. ADB has conducted a fiscal decentralization study that includes a number of recommendations. Before implementing fiscal decentralization, the Government must determine the form and functions of decentralized government. Reforms have already been introduced at the municipal level to permit direct election of executive mayors. Thought should be given to reviewing the size of village government, which also have elected heads, so they might become the rural equivalents of municipalities. But any changes should be gradual, and spread over, perhaps, a decade. Powers should be transferred progressively so that local administrations can manage new responsibilities.

340. The next stage of decentralization should address the following issues:
   (i) further delegating responsibilities for service delivery to local levels of government, and giving them the authority to set local rates and taxes;
   (ii) decentralizing revenue raising, to cover the costs of services, and developing policy to ensure that the poor can afford essential services;
   (iii) applying standards for service at the local level; and
   (iv) including civil society, especially the media, in the policy making process, so objectives are defined clearly and implemented effectively.

341. The system of categorical grants for local governments also needs refinement. For example, the practice of decreasing grants by levying user charges as soon as local governments increase their revenues provides a perverse incentive. Incremental resources should accrue to local governments without affecting their grants.

342. Municipal boundaries should be reviewed. The boundaries were determined in 1966, but cities have expanded enormously since then. There is confusion in many cities about whether peripheral areas should be provided public services such as water supply and sewerage. Village governments have limited resources and find it difficult to extend such services. Formal extension of village boundaries would enable them to levy municipal taxes.

E. Civil Service Reforms

343. Civil service development is still in its initial stages in the Kyrgyz Republic. The country has begun to outgrow patronage hires, but merit and professional excellence have not yet set deep roots. No part of the Government is specifically responsible for the civil service. There is a need to establish a civil service agency with the objectives of (i) developing a personnel policy, (ii) strengthening the weight of merit in appointments, promotions, and training, and (iii) helping with career planning. The civil service agency should be protected against political pressures so that it can organize viable and solid support for the state administration. An independent chief executive, with recognized integrity, should be appointed head of the civil service agency.

344. A civil service agency should be accountable for performance and propriety. This can be achieved only if leadership is committed to professional achievement and merit. Measurable performance targets should be developed for senior personnel, and professional achievement recognized.

345. Civil service personnel lack protection against dismissal for political reasons. The proposed civil service agency should address this problem as a high priority.

346. A program should be drawn up to develop a management cadre within the civil service. A major objective would be to change management culture, which is still hierarchical and control-oriented, to a culture that establishes targets based on plans, and encourages managers to achieve those targets. Such a change requires good management planning, and reporting systems that are based on performance targets. Neither currently exists. A strategy to improve management capacity might include the following actions:

(i) changing the personnel system to recognize management positions, and reward managers appropriately;

(ii) identifying the competencies that managers should have in leadership, communication and negotiation skills, staff development, project and staff management, decision making, and creative problem solving;

(iii) training managers and their potential successors in those competencies;

(iv) adopting a development approach based on a combination of training and on-the-job coaching;

(v) developing a career planning system as part of the development plan for human resources, to ensure exposure of prospective senior managers to a range of experiences that will broaden their competencies; and

(vi) building competencies in two or three pilot institutions, which will be able to continue participating in the program despite decreasing external support.

F. Institutions in Law and Order

347. A broader law-and-order reform program would improve the performance of the criminal court system and police operations and thus, make life easier, especially for the poor. Measures might include:
(i) improving the management capacity of the court system by upgrading skills of chief court officers, sheriffs, and court writers, and giving them appropriate equipment;
(ii) providing a mechanism to ensure that judgments are circulated throughout the system;
(iii) providing adequate budgets for the court system;
(iv) promoting legal aid systems for the poor; and
(v) assisting the prosecution to better organize itself by
   (a) developing a process of expeditious handling of public complaints,
   (b) arranging special dealings for corruption cases,
   (c) arranging separate dealings for complaints against the police while maintaining the office’s current ability to investigate that agency,
   (d) circulating staff to prevent them from being captured by interest groups,
   (e) focusing on major crimes,
   (f) using salary savings from retrenchments to increase the salaries of various professional cadre, and
   (g) using information technology to store information about investigations and to monitor the performance of investigation staff.

G. Public Service Delivery

348. Access to basic public services and infrastructure such as running water, public sewerage, health services, and education can play a vital role to play in poverty alleviation, but has been deteriorating. The current delivery system still operates like a command structure. Consultation with stakeholders is limited. Service standards are not notified. A policy on public services is needed that will clarify objectives, targets, and costs, so the public knows what to expect in public service delivery. Official user charges should be introduced in large cities where some of these services can be commercially viable. Services for outsourcing should be identified and made subject to effective regulatory mechanisms to control standards and prices.

349. In education, more funds for nonsalary inputs are needed to improve access of the poor. Allocations should be provided for free supply of textbooks at the primary level, or at least, for a substantial decrease in rental charges for books. There are also needs to improve heating arrangements and to improve the regional distribution of expenditures. Merit scholarships should be considered to mitigate financial hardships.

350. The health reform program should be reviewed, because some of its elements have fallen into disuse. There should be a comprehensive review of regressive setbacks in health reform. There is also a need to give higher priority to primary health care, and to communicable diseases. A disproportionate amount of the budget allocations goes to hospitals; the budget should be balanced more equitably among preventive care, primary care, and hospitals.

351. Overall, a culture of value for money must develop. Finance is only an instrument: the real task is service delivery. Ministries and other state agencies should be held accountable for the quality of their services. Specific performance standards must be prescribed for those services.

H. Fiscal Management

352. As a matter of principle, the Ministry of Finance must be consulted on all matters with implications for the state budget. This is not always done. The CDF should spell out the
magnitude of financial resources and the feasibility of programs and projects. The NPRS must be integrated into the medium-term budgetary framework. Local governments at all levels have long lists of functions that are inadequately funded. Responsibilities and resources must be matched carefully.

353. The Ministry of Finance should also improve coordination, in terms of policy preparation and review, with the Office of the Prime Minister. Decrees and laws are sometimes passed with inadequate funding. Ministries sometimes agree to donors’ proposals for development infrastructure without provision of finances for operations and maintenance.

354. Accountability and public reporting of the financial and commercial performance of enterprises subordinated to state bodies should also be improved. Parliament should pay more attention to this need in the review process.

355. The Ministry of Finance plans to separate responsibilities of its budget department, which is in charge of budget planning, and the treasury department, in charge of disbursement. The objectives and skill requirements for functions differ. The authorities must address a number of issues in this area, including:

(i) adopting accounting standards throughout the public sector and developing programs to assist government accountants professionally so that they can implement improved accounting standards;
(ii) creating an internal audit function within the Government (the line ministries, with the sole exception of the Ministry of Labor, do not have such units);
(iii) synchronizing account and budget classifications;
(iv) developing good financial management reporting at all levels of government;
(v) demarcating responsibilities at different levels of local government with regard to service delivery and financing; and
(vi) presenting audited annual reports of all state bodies to parliaments at all levels.

356. Expenditure management is difficult because commitments are not recorded. That major deficiency prevents efficient expenditure control and complicates program design and monitoring. The deficiency is exacerbated because many records are not computerized.

I. External Audit

357. Audit could serve as a major force to attack corruption by targeting fraud, embezzlement, and financial misconduct. Audit is also the main parliamentary instrument to examine performance of the executive branch.

358. The Chamber of Accounts should make enhancement of its capacity for efficient audit a priority. Then the Government should consider more complex objectives, including:

46 The treasury function focuses on broad economic and financial issues that affect the health of the country. Its head needs extensive experience and training in economics; taxation; and banking, cash, and debt management in both the domestic and international financial markets. The controllership function focuses on ensuring effective financial control of operations and providing the decision support systems that managers need to effectively plan and deliver government programs and services. Its head should have extensive experience and training in financial and management accounting, information systems, internal controls, and performance management.
(i) supporting the work of parliamentary committees by enhancing their research capacities and providing information about how audit committees in other countries perform;
(ii) strengthening the capacity of the Chamber of Accounts for forensic audits;
(iii) developing an interim strategy to outsource effectiveness and forensic audits;
(iv) highlighting important audit findings through the media (the Chamber should also consider publishing an annual report, in a user-friendly format);
(v) reviewing the financial units that operate across the Government, with a view to using those units for internal audit, or disbanding them. If the financial units are kept for internal audit, a training program should be organized.

J. Transparency and Accountability

359. The ability to minimize corruption is an acid test of good governance. People are willing to undergo the rigors of poverty and poor service delivery if the system is based on merit and justice—but not for a corrupt system. Corruption also has an economic cost. It leads to leakages of state revenue and discourages investment, especially foreign investment. Thus, an effectively targeted drive against corruption, focusing on police, courts, and prosecution agencies, could have a powerful effect. Anticorruption work in the Kyrgyz Republic has often been noted to be entrusted to tainted agencies. The personnel composition of such agencies warrants a thorough review.

360. Other measures to address corruption include
   (i) using information technology to monitor how expeditiously public complaints about corruption are addressed, and surveying to monitor progress of anticorruption programs;
   (ii) further reviewing systems and procedures to minimize discretion, to simplify tariffs, and to curtail direct dealing with the public;
   (iii) monitoring collections and assessments, to detect anomalies in the work of individual officers and to promote the application of uniform standards;
   (iv) training human resource management to work with incentives, promotion systems, and recruitment; and training personnel in improved systems and procedures; and
   (v) moving the tax system away from one in which honest taxpayers fear being pursued zealously by investigators. Arbitrary intervention by the tax police should draw speedy retribution.

361. Many Parliament members are involved in businesses. Public statements of their business interests would improve transparency. Equally important, parliament members should also disclose assets that immediate family members own. Administrative arrangements should be streamlined to ensure regular and effective examination of such declarations.
### VII. PROJECTS AND PROGRAMS OF DEVELOPMENT PARTNERS

362. Past and ongoing projects and programs of external funding agencies cover a large range of governance issues, including poverty alleviation, institution building, civil service reform, judicial reform, tariff policy, budget policy, tax policy, and NGOs. The World Bank Group has decided to support a major public sector reform program, which, through its Governance Structural Adjustment Credit and Governance Technical Assistance Credit, will primarily target personnel management and development and service delivery. UNDP is interested in continuing work at the level of national government, but with limited funding. USAID has, among other programs, those in the area of law and order. Table 15 gives information about ongoing and planned projects and programs.

#### Table 15: Ongoing Core Governance Projects and Programs
**Financed by Development Partners of the Kyrgyz Republic**

<table>
<thead>
<tr>
<th>Creditor</th>
<th>Description</th>
<th>Commitment ($ million)</th>
<th>Implementation Period</th>
<th>Sectoral/Capacity Building</th>
<th>Public Finance</th>
<th>Public Administration</th>
<th>Clean Government</th>
<th>Law and Regulatory</th>
<th>Civil Society</th>
<th>Poverty</th>
<th>Participation</th>
</tr>
</thead>
<tbody>
<tr>
<td>IDA</td>
<td>Governance Structural Adjustment Credit</td>
<td>20.00</td>
<td>2003-2005</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>IDA</td>
<td>Governance Technical Assistance Credit</td>
<td>7.70</td>
<td>2003-2005</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Subtotal</strong></td>
<td></td>
<td><strong>27.70</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TA Grant Projects:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ADB</td>
<td>Strengthening Corporate Governance and Judicial Reforms</td>
<td>0.70</td>
<td>2001-2004</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>DFID</td>
<td>Institutional Development of NGO Sector</td>
<td>3.08</td>
<td>2001-</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>DFID</td>
<td>Development Statistics to Support the Comprehensive Development Framework and the National Poverty Reduction Strategy</td>
<td>1.23</td>
<td>2001-</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>DFID</td>
<td>Tariff Policy and Utilities Reform</td>
<td>1.53</td>
<td>2001-</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>IDA-IDF</td>
<td>Court Information and Management System</td>
<td>0.35</td>
<td>2002-</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>IDA-IDF</td>
<td>Institutional Strengthening through Support to the National Procurement Training Center</td>
<td>0.35</td>
<td>2003-</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>IDA-TF</td>
<td>Institution Building for Poverty Reduction Strategy</td>
<td>0.46</td>
<td>2001-</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>EC-TACIS</td>
<td>Program on Customs (establishing the training center under the Custom committee)</td>
<td>0.22</td>
<td>2001-</td>
<td></td>
<td>x</td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>EU-TACIS</td>
<td>Support to the Civil Service Reform</td>
<td>1.75</td>
<td>2004-</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>EU-TACIS</td>
<td>Support to the CDF Implementation</td>
<td>1.25</td>
<td>2003-</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>UNDP</td>
<td>Political and Administrative Management at the Level of Local Self-Governments</td>
<td>1.00</td>
<td>2001-</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>UNDP</td>
<td>Political and Administrative Management at the Level of Central Government</td>
<td>0.30</td>
<td>2001-</td>
<td>x</td>
<td></td>
<td>x</td>
<td></td>
<td></td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>USAID</td>
<td>Increased Soundness of Tax and Budget Policies and Administration</td>
<td>13.92</td>
<td>1994-2005</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Subtotal</strong></td>
<td></td>
<td><strong>26.13</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>53.83</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
363. ADB has been engaged in various aspects of improving governance in the Kyrgyz Republic. Capacity building for better governance has been incorporated in a large number of TA projects and loans, especially in agriculture, water management, infrastructure, education, and health. By far, most engagement has been through grants. Furthermore, ADB has provided a considerable TAs for more specific governance work. These TAs have focused on (i) aid coordination and management, and related budgeting matters; (ii) strengthening of the planning capacity of central agencies; (iii) various aspects of preparation and monitoring of the poverty reduction strategy; (iv) governance assessment studies; (v) judicial reform; (vi) accounting; and (vii) legal professional development.

364. ADB has thus far provided the following TAs supporting reforms in core governance areas:

(i) TA 2876–KGZ, Strengthening the Economic Policy Making and Monitoring Capabilities of the Prime Minister’s Office;
(ii) TA 3204–KGZ, Strengthening Aid Coordination and Management;
(iii) TA 3249–KGZ, Strengthening Capacity in the Office of the President;
(iv) TA 3382–KGZ, Strengthening Capacity in the Ministry of Finance for Financial Management and Planning of the Public Investment Program;
(v) TA 3458–KGZ, Support to the National Strategy for Poverty Reduction;
(vi) TA 3505–KGZ, Preparing the Second Phase of the Corporate Governance and Enterprise Reform Program;
(vii) TA 3658–KGZ, Governance Assessment Study for Sound Development Management and Poverty Reduction;
(viii) TA 3767–KGZ, Strengthening Capacity of the Ministry of Finance for Financial Management and Planning of the Public Investment Program, Phase II; and
(ix) TA 3996–KGZ, Strengthening the Capacity to Manage and Monitor Externally Assisted Projects.

365. Two program loans and one TA loan provided to the Kyrgyz Republic have included sizeable components on judicial reform and accounting, even though the focus of interventions is on corporate governance. ADB is also supporting, in the area of customs, governance reforms through a loan, a TA, and a regional TA.

366. ADB stands ready to continue playing a role in close consultation with the Government and other development partners of the Kyrgyz Republic. The following four areas might be of special interest in this context:

(i) supporting judicial reform and strengthening targeted institutions in law and order while working within current government structures;
(ii) strengthening audit functions to support government anticorruption initiatives;
(iii) incorporating certain structural reforms at local levels of Government into work already done on local finance; and
(iv) addressing corruption in a number of targeted programs by transforming the environment in which it flourishes.