The Competences of Local Authorities and Their Applications Between Autonomy and Dependency: Algeria and Selected Comparative Legislations as Models

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Abstract:

The study of local authorities and the exercise of their competences constitutes a distinct field of inquiry within public law scholarship, particularly regarding the dialectical tension between their autonomy and their subordination to the state. This paper seeks to contribute to understanding the criteria that govern the powers and competences of local authorities under Algerian legislation, while also drawing upon selected comparative legislations—specifically the French and English models—to examine the principles that define the competences and autonomy of local authorities.

Keywords: Local authorities, autonomy, dependency, competences.

1. Introduction

The decentralized system represents the most appropriate framework within which local authorities exercise their powers and competences. Despite the diversity of their objectives and justifications, it is evident that these authorities operate within a distinct legal framework from which they derive their administrative and financial independence—an element that

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forms the foundation of their existence, establishment, and the scope of their functions. Local bodies perform executive functions as extensions of the state at the local level and, in certain domains, share responsibilities with the central government, while in others they hold exclusive competences by virtue of their decentralized and regional character.

Within this context arises a central question: What is the nature of the competences of local authorities, and what are the boundaries of their exercise? Do these entities genuinely possess financial autonomy and administrative independence, or are they ultimately subordinate to central authorities?

This autonomy is expressed through several dimensions[1], which are discussed in Section One, followed by the resulting implications addressed in Section Two. By examining these manifestations and implications, the nature of local authorities' competences and their presence across multiple domains within their territorial jurisdiction can be better understood.

Section One: Manifestations of the Autonomy of Local Authorities

The autonomy of local authorities is reflected in their capacity to perform administrative functions independently, stemming from their right of initiative and decision-making without the necessity of prior approval from supervisory authorities, except in cases explicitly provided for by law or regulation.

The foundation of this autonomy lies in their possession of legal personality (Subsection One), the electoral nature of their representative councils (Subsection Two), the existence of local interests that determine the scope of their competences (Subsection Three), the availability of local financial resources

[1] Ahmed Eid Al-Zahra Kazem Al-Falawi, *The Decentralized System and Its Applications*, Zain Publications, Al-Huquq, Jordan, 2013, p. 125 and following.

(Subsection Four), and finally, the presence of local public services, which will be examined in (Subsection Five).

Subsection One: Recognition of Legal Personality

A strong connection exists between the autonomy of local authorities and the recognition of their legal personality. The acknowledgment of legal personality for decentralized entities essentially arises from the existence of specific interests managed by local authorities through administrative activity[2]. Possession of legal personality constitutes one of the principal legal criteria distinguishing the decentralized regional system from centralized administration.

The jurist Hauriou asserts that decentralization is founded upon the existence of legal entities such as departments, municipalities, and public institutions.[3] In the same context, De L'Aubader maintains that for local authorities to manage their own affairs, they must possess financial capacity and a degree of freedom in managing their budgets. They must also have the right to undertake obligations, claim rights, and be represented before judicial bodies—therefore, they must possess legal personality.[4]

[2] Maspetiol and Laroque, *La tutelle administrative*, Paris, 1969, p. 17.

[3] Hauriou, "It should be noted that decentralized administrative mechanisms become legal persons under various names: departments, communes, public institutions," *Trait élémentaire*, 1927, pp. 50–51.

[4] De Laubadère, *op. cit.*, p. 145.

Similarly, Vedel affirms that "legal personality is a natural consequence of decentralization, insofar as it aims to recognize the existence of interests protected by law."[5]

Other jurists emphasize that "the foundation of local administration lies in the extent of its autonomy, whereby local authorities possess the right to issue binding decisions that are not subject to the control of central administration or its supervisory authority, particularly concerning the management of local services[6]," even when this autonomy is exercised vis-à-vis the central authority itself.

Granting legal personality to local authorities provides them with a degree of freedom in decision-making and reinforces the independence they must enjoy in relation to the central government. This recognition has led to the consolidation of the legal personality of local units both doctrinally and legislatively.[7]

The recognition of local authorities as legal persons is a well-established principle in most legislations applying the decentralized administrative system. In France, for instance, the legislator granted legal personality to departments (*départements*) under the law of May 10, 1838, and to municipalities (*communes*) as early as the third year of the

[5] "... This recognition of legal personality implies the existence of a community of interests among the inhabitants of a geographically defined portion of the territory, which is reflected in the emergence of local problems distinct from national ones. The stronger the territorial solidarity, the more numerous the local affairs." Débâche, *op. cit.*, p. 55.

[6] Roland Maspétiol and Pierre Laroque, *op. cit.*, p. 144.

[7] Suleiman Muhammad Tahawi, *Al-Wajeez fi Nuzum al-Hukm wal-Idara: A Comparative Study*, Dar Al-Fikr Al-Arabi, 1979, p. 369. See also Muhammad Fouad Mihna, *Arab Administrative Law*, previous reference, 1963–1964, pp. 115–116.

French Revolution. Moreover, the law of March 2, 1982, concerning the "Rights and Freedoms of Municipalities, Departments, and Regions," directly links the concept of local authorities with that of legal personality.[8]

In Algeria, Article 1 of the Municipal Law stipulates that:[9] *"The municipality is the basic local authority of the state, possessing legal personality and an independent financial liability."* The same applies to the province (*wilaya*)[10].

Subsection One: The Importance of Legal Personality

Legal personality carries both technical and legal importance, and its possession entails several consequences.

First: The Technical Importance in the Field of Administrative Organization

The technical importance of legal personality lies in it being the oldest and most effective means of structuring administrative bodies and institutions that constitute the administrative system, as well as in distributing competences between regional and central administrative authorities.

Second: The Legal Importance of Legal Personality in the Field of Administrative Organization

[8] Jacques Moreau, *Administration régionale, départementale et municipale*, 9th edition, Mémento Dalloz, 1992, p. 2.

[9] Law No. 11-10 dated July 22, 2011, concerning the municipality, *Official Gazette of the People's Democratic Republic of Algeria*, No. 37, 2011.

[10] Article 1 of Law No. 12-11 dated April 21, 2011, concerning the province (*wilaya*), *Official Gazette of the People's Democratic Republic of Algeria*, No. [missing number], 2011.

The role of bodies endowed with legal personality consists essentially in organizing the exercise of authority and the functioning of administrative entities. These entities, whether regional or functional, perform their duties within their respective jurisdictions through natural persons who act on behalf of and for the account of the legal entity. Therefore, the legal entity continues to exist even when its representative ceases to hold office.[11]

Subsection Two: The Consequences Resulting from Legal Personality

Legal personality is one of the pillars of decentralization. Its recognition in favor of local authorities grants them legal existence and entails both general and specific consequences.

First: General Consequences of Legal Personality[12]

The recognition of legal personality results in a set of consequences common to both public and private legal persons. This is stipulated in Article 50 of the Civil Code, which provides:[13]

"A legal person enjoys all rights except those that are inherently attached to the natural human condition, within the limits established by law. It particularly possesses: a financial liability; legal capacity within the limits set by its founding act

[11] Miziani Farida, Doctoral Thesis: *Local Popular Councils under the Multiparty System in Algerian Legislation*, Mentouri University, Constantine, 2005, p. 18.

[12] Tawfiq Hassan Faraj, *Introduction to Legal Sciences: The General Theory of Law and the General Theory of Rights*, Al-Dar Al-Jami'iya, 1988, pp. 771–772. Ishaq Ibrahim Mansour, *Theories of Law and Rights and Their Applications in Algerian Legislation*, University Publications Office, Algeria, 1987, p. 240.

[13] Ordinance No. 75-58 dated September 26, 1975, containing the Civil Code, *Official Gazette*, No. 57, 1975, as amended and supplemented by Law No. 07-05 dated May 13, 2007, *Official Gazette*, No. 31, 2007.

or determined by law; a domicile, which is the location of its principal headquarters; and, if its main office is abroad but it conducts activities in Algeria, its center of operations in Algeria shall be deemed its domicile for the purposes of domestic law. It shall also have a legal representative expressing its will and the right to litigation." — End of Article.

Second: Specific Consequences Resulting from the Enjoyment of Legal Personality by Administrative Bodies

The enjoyment of legal personality by administrative bodies gives rise to several consequences, as detailed below:[14]

1. The possession of legal personality by administrative bodies does not mean that they are completely independent from the state. They remain bound by the limits established by the legislator through the founding law of each administrative body and remain subject to the supervision and control of the state.

2. Granting legal personality to administrative entities leads to the fragmentation of administrative power and the distribution of public authority and privileges between the state and these administrative entities. The latter exercise the prerogatives of public authority within their areas of competence—such as expropriation for public benefit and the conclusion of administrative contracts. The granting of administrative independence aims to create administrative entities vested with all the necessary powers.

[14] Suleiman Muhammad Tamawi, *Al-Wajeez fi Nuzum al-Hukm wal-Idara*, previous reference, pp. 47–50. See also Tuaimah Al-Jarf, *Administrative Law*, Cairo, 1963–1964, pp. 81–82.

3. The employees of local authorities and administrative bodies are public servants.

4. Administrative bodies manage and benefit from their own funds according to the methods of public administration.

5. The financial independence of public legal entities from the state entails their liability for any harmful acts committed by their employees. Local authorities therefore bear full responsibility for the consequences of their administrative activities.

6. Decisions issued by administrative bodies are considered administrative decisions that can be executed coercively and may be challenged for annulment before administrative courts.[15]

7. The right to litigation of administrative bodies is independent from that of the state. Every entity endowed with legal personality may claim its rights before judicial authorities,[16] meaning that it has the capacity to litigate. It may bring actions against the state, other local administrations, or individuals, and, conversely, may also be subject to lawsuits filed against it.

8. The possibility of accepting donations: a legal entity may receive gifts and donations following a simple procedure. However, this procedure represents a form of supervision and a restriction on the freedom of local authorities in exercising and

[15] Saleh Fouad, *Principles of Algerian Administrative Law*, Dar Al-Kitab Al-Lubnani, 1st edition, 1983, pp. 56–57.

[16] Abd al-Kabir Al-Alawi Al-Soussi, *A Brief on the Representation of Public Legal Entities and Their Defense before the Judiciary*, available at: https://www.marocdroit.com

disposing of some of their essential rights.[17] The exercise of this right remains conditional upon the approval of the Governor (Wali) for deliberations concerning such matters.[18]

Public legal personality may be granted either for territorial considerations or for functional (service-related) reasons. This leads to the existence of territorial public legal entities and functional (institutional) public legal entities.

Second Requirement: The Election of Local Councils

A considerable debate has emerged among jurists regarding the extent to which elections should be adopted as a condition for achieving and ensuring the autonomy of local communities. Some scholars have advocated for the formation of councils composed of elected representatives, while others have taken the opposite stance, rejecting this principle entirely and calling instead for the formation of local councils through appointment (of administrative officials) as a means to strengthen independence. Between these two opposing perspectives, a third, reconciliatory view has appeared—one that promotes a mixed approach combining both elected and appointed members. The following sections elaborate on these three perspectives in detail.

First Branch: Advocates of Election

A number of jurists have firmly upheld the necessity of forming local councils through elections, emphasizing that the electoral

[17] Ahmed Mahyou, *Lectures on Administrative Institutions*, translated by Muhammad Arab Saseela, 4th edition, University Publications Office, Algeria, 1986, p. 98.

[18] See, for example, Article 57 of the Municipal Law, *Official Gazette*, No. 37, 2011.

process is the most effective and essential guarantee for ensuring autonomy. True independence, they argue, can only be realized clearly and effectively when the members of local councils are chosen through direct and secret elections. Adopting the electoral method implies the existence of an independent decentralized local organization, whereas its absence signifies the loss of freedom and autonomy for local communities.[19]

The independence of legal persons representing local communities is reflected in their non-appointment by the central authority. Proponents of this principle present a variety of arguments—legal, psychological, administrative, and political—which are outlined below.

First: Legal Arguments

Election represents the legitimate legal foundation and the fundamental condition for reinforcing autonomy, as it departs from the mechanisms of public service typically associated with the appointive system.[20] Appointment, by nature, entails allegiance to the state and subordination to central authorities under a rigid hierarchical system. Some jurists have even denied the existence of decentralization within certain public institutions, considering them merely relatively deconcentrated bodies, precisely because one of the main conditions for true

[19] Muhammad Fouad Mihna, "The Independence of Governorates and Universities under State Sovereignty: Towards Expanding the Application of Administrative Decentralization and Strengthening the Independence of Governorates and Universities," article published in *Administrative Sciences Journal* issued by the Egyptian Branch of the International Institute of Administrative Sciences, Egypt, Vol. 23, No. 1, June 1982, p. 8.

[20] Khaled Al-Qabbani, *Decentralization and Its Application in Lebanon*, joint publication of Mediterranean Publications and Oweidat Publications, Algeria, 1981, p. 88.

decentralization—the electoral process—has not been implemented.[21]

Second: Psychological and Administrative Arguments

Election serves as a form of psychological liberation for council members. If appointed, they would remain bound by loyalty to those who appointed them and act primarily to please them or return their favor, which would inevitably undermine independence and compromise the public interest of local residents. Conversely, adopting the electoral method enhances the effective functioning of local administrative affairs, since elected representatives possess a deep understanding of the needs and realities of the communities they govern. Moreover, their personal and material interests are directly tied to the efficient operation of local institutions, making them naturally more committed to ensuring the success of local administration, as the outcomes directly affect them and their constituents.[22]

Third: Political Arguments

After many societies demonstrated relative success in practicing democratic governance through political elections, they began aspiring to extend this practice to the administrative sphere, thereby completing the democratic structure. Just as elections are a cornerstone of political democracy, they are equally fundamental to administrative democracy[23]. Election, in this sense, constitutes a training ground for democracy itself

[21] Massoud Chihoub, *Foundations of Local Administration and Its Applications in the Municipality and Wilaya Systems*, University Publications Office, 1986, p. 16.

[22] Massoud Chihoub, *Foundations of Local Administration and Its Applications in the Municipality and Wilaya Systems*, previous reference, p. 17.

[23] Massoud Chihoub, *ibid.*, p. 18.

and serves as an effective means to encourage public participation in managing collective affairs.[24]

Second Branch: The Opposing View to the Principle of Election

The proponents of this approach believe that appointing the members of local councils is a more effective means of ensuring their independence, rather than relying on elections. They argue that this system should be supported by a set of specialized technical and procedural safeguards that the appointing authority must observe—such as guarantees against arbitrary dismissal, among others.

The supporters of this approach justify their view through several arguments, which can be summarized as follows:

First: Legal Arguments

According to this view, adopting the appointive method does not undermine the principle of local autonomy, provided that adequate safeguards are in place to preserve it. Judges, for example, are appointed yet remain independent. Appointment is also regarded as a stronger safeguard for upholding legality, since elected officials are often more prone to violating legal norms due to their limited understanding of legal principles and procedures. Furthermore, the assumed link between appointment and subordination to central authority is merely hypothetical—it may or may not occur in practice. Moreover, election is not necessarily a prerequisite for establishing a

[24] Mustafa Karaji, "The Impact of Central Financing on the Autonomy of Local Communities in Algerian Law," article published in *Algerian Journal of Legal, Economic, and Political Sciences*, Faculty of Law, Algeria, Vol. 34, No. 2, 1996, p. 355.

decentralized system, as administrative autonomy can be achieved through alternative mechanisms.[25]

Second: Psychological and Administrative Arguments

Proponents of appointment favor this method over election, arguing that the latter entails risks that could negatively affect the proper functioning of public services. This is particularly evident in societies with lower levels of awareness and development, where local elected officials often tend to favor relatives, friends, or supporters who contributed to their electoral success. In such contexts, the electoral mandate is frequently perceived as a means to access positions of privilege and provide services to close associates, which ultimately undermines the quality and fairness of public service delivery.[26]

Third: Political Arguments

Since the elected representative operates and acts within a specific political and partisan framework, they are inevitably exposed to the influence of other political forces within what is known as political dynamics. Consequently, their party's stance may sometimes align with those of other parties on certain political issues, while at other times, their positions may diverge entirely. Moreover, the representative's stance may merely reflect personal inclinations, particularly given limited educational attainment, restricted political training, and insufficient experience in administrative and financial management.

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[25] Adnan Amro, *Local Governance under the Palestinian Authority (1994–2003)*, Al-Maaref Establishment, Alexandria, 2004, p. 34.

[26] Massoud Chihoub, *Foundations of Local Administration and Its Applications in the Municipality and Wilaya Systems*, previous reference, p. 22.

These characteristics, among others, can distort the democratic process that the state, through its various institutions, seeks to consolidate. Even the unity and political foundations of the state are not immune to such threats, as any misunderstanding by elected representatives regarding the nature of decentralization may transform it into a form of political decentralization—especially since these representatives, by virtue of managing such bodies, share in the exercise of public law powers alongside the state.

Section Three: The Reconciliatory Approach

Between the school favoring election and the one preferring appointment, a third trend emerged seeking to combine and reconcile the two.

First: Advocates of the Mixed Approach

Supporters of this approach argue that both election and appointment should be employed in the composition of councils, thereby combining the advantages of each method. This would be achieved by forming councils composed primarily of elected members, supplemented by appointees designated by the central authority. Proponents of this principle also stipulate that the number of elected members must exceed half of the total membership to ensure the predominance of local representation, although this condition is not necessarily fixed or absolute.[27]

Second: Advocates of the Varied Approach

The essence of this approach lies in combining and applying all the previously mentioned methods, based on the principle of

[27] Abd al-Mu‘ti Muhammad Assaf and Nader Ahmad Abu Shikha, *Organization of Local Administration in the Hashemite Kingdom of Jordan: An Analytical Study*, Arab Organization for Administrative Sciences – Department of Research and Studies, Amman, Jordan, 1985, pp. 25–26.

heterogeneity among local entities. Accordingly, a fully electoral method should be adopted for developed local units whose populations are unquestionably capable of selecting their representatives through a competitive and advanced process. In contrast, a fully appointive method should be employed in areas where tribalism and sectarianism prevail. For local units considered to be in transitional phases of development, a mixed method may be adopted, with variations in the proportion of elected members according to the level of development within each community.[28]

Third: Evaluation of the Opinions and Arguments of the Previous Approaches

From the discussion above, it becomes evident that the local phenomenon is not merely a legal one; rather, its foundation is political and sociological before it is legal. It is therefore natural that scholars perceive it differently depending on their respective perspectives: the political scholar interprets it as an advanced manifestation of democracy; the sociologist regards it as a framework for fostering cohesion and social solidarity; while the jurist considers it the existence of independent entities endowed with legal personality and distinct competences under a supervisory system.[29]

Accordingly, the concept of election, in essence, remains a political consideration—serving no more than as a foundation or condition for regional decentralization, which in fact constitutes functional decentralization. A distinction must therefore be drawn between what constitutes a legal

[28] Abd al-Mu'ti Muhammad Assaf and Nader Ahmad Abu Shikha, *ibid.*, p. 26.

[29] Ibrahim Rabie, *The Autonomy of Local Communities: Limits and Guarantees*, Master's Thesis in Public Law, Faculty of Law, Annaba University, 2005, p. 48.

requirement for the establishment of local administration—namely, the possession of legal personality—and what constitutes a democratic method of governance. While elections are significant as a means of activating local autonomy, their role remains relatively limited, as they concern the administrative independence of the local entity rather than its overall autonomy, which is derived from its recognized legal personality.

From the foregoing analysis regarding the issue of elections, it is concluded that elections are neither a condition nor an essential pillar for establishing decentralization or the autonomy of local communities. Rather, they function as a mechanism to promote the administrative independence of local entities. Nevertheless, elections play an effective role in this regard, as the principle of election remains the most favored and reliable approach compared to other opposing or alternative methods. Moreover, its significance extends beyond administrative and technical considerations to encompass political and social dimensions.

In addition, other methods—whether opposing elections or attempting to reconcile election with appointment—have proven inadequate, both theoretically and practically, in fostering the autonomy of councils. The method of appointment remains deficient because, fundamentally, appointment implies subordination and compliance; no matter how many safeguards are instituted to prevent this, they remain insufficient and largely formalistic. Even the arguments advanced by proponents of this method are generally weak, as judges—whom they uphold as a model—continue to face unresolved debates regarding their independence from the executive branch.

Similarly, the mixed approach proposed as a reconciliatory alternative carries inherent weaknesses, as councils composed

of members from differing categories may lack cohesion, leading to conflict and, consequently, paralysis and collapse. Thus, proponents of this approach, after experiencing its shortcomings, have gradually reverted to the electoral method, insisting on granting predominance to elected members within the councils' composition.

The same applies to the varied approach, which, although comprehensive in form, has failed to prevent the subordination of councils to central authorities—particularly in regions where underdevelopment and lack of political awareness prevail over more advanced local areas.

However, despite all that has been said about the principle of election being the best and most effective means of activating the autonomy of administrative units belonging to local communities, this remains contingent upon the availability of a set of conditions and considerations that the official state authorities are obliged to uphold if they are truly committed to ensuring that autonomy. Among these conditions, we note the following:

- Opening candidacy for membership in local councils to all, by establishing legal and personal criteria while avoiding the imposition of ideological conditions that would restrict candidacy to a particular group.
- Defining electoral districts based on technical and objective criteria, rather than subjective or political considerations that favor one side over another.
- Proper preparation for the electoral process through regular updating of the electoral roll and the provision of the necessary human and material resources to ensure the smooth conduct of

the process in a safe and democratic competitive environment, while ensuring administrative neutrality and impartiality.[30]

- Educating and guiding voters through two types of campaigns: one organized and supervised to allow candidates to present themselves and their programs, thereby enabling voters to make the most informed choice; and another aimed at clarifying the overall importance of the electoral process, explaining how it is conducted, and emphasizing the significance and powers of local units.[31]

Section Three: Methods for Determining the Scope of Their Jurisdictions

It appears quite frequently that local communities, as legal entities, are called upon to exercise their powers within the framework of the Constitution and the law. However, the question arises: on what basis is this determined?

First Branch: The Formal Basis

The formal approach represents one of the methods for defining and delineating the powers of local bodies in relation to the organs of the state. What is its essence in the French system, and how does it compare with what is applied in Algeria?

1. The French System

This system is unique in that it does not define the powers of local communities in an exhaustive or restrictive manner. The

[30] Noureddine Fekair, "The Algerian Electoral System and the Neutrality of the Administration," article published in *The Deputy Journal* issued by the People's National Assembly, Algeria, No. 4, 2004, pp. 15–16.

[31] Massoud Chihoub, *Foundations of Local Administration and Its Applications in the Municipality and Wilaya Systems*, previous reference, p. 28.

general principle in force is that all powers exercised within the territory fall under the jurisdiction of local communities, except those explicitly excluded by law.[32]

By contrast, the French system grants broad powers to local communities while restricting those of the central authorities, which may not intervene in local affairs. However, the application of this system remains conditional upon the fulfillment of several requirements and limitations, namely:

- That these general powers are confined strictly within the local domain and limited to local—not national—public services.
- That local units are obligated to manage certain compulsory public services.
- That the freedom of local units to establish economic enterprises is restricted, in order to preserve private sector freedom and avoid conflict with constitutional provisions guaranteeing the freedom of investment and the principles of a free economy.

Evaluation:

It is observed that this approach aligns well with the concept of autonomy, as it grants local communities broad freedom to exercise their local powers. It also alleviates the legislative burden of constantly enacting new laws to confer local powers.[33] Furthermore, it ensures flexibility in local

[32] Massoud Chihoub, *Foundations of Local Administration and Its Applications in the Municipality and Wilaya Systems*, previous reference, p. 127.

[33] Bouamran Adel, "The Principle of Autonomy of Local Communities: Standards and Controls," article published in *Parliamentary Thought Journal*, Council of the Nation, No. 26, November 2010, pp. 102–103.

administrative work, allowing each body to operate within its territorial jurisdiction and financial capacity.[34]

However, the excessive breadth of this approach may lead to ambiguity and vagueness, which could undermine autonomy. The lack of clarity in defining powers, or delegating their organization to regulatory decrees, poses a risk to local independence—particularly since regulatory authority is reserved for central executive bodies, which may, in practice, restrict the scope of local powers.

2. **The Mixed System**

The essence of this system lies in combining the advantages of both the French and the English approaches (the latter being characterized by the clear delineation of powers between local and central authorities) in the distribution of powers. It is described as a system of *specificity following generality*, whereby local authorities are granted freedom to exercise all matters of a local nature, while simultaneously being assigned a specific set of powers by way of clarification. These specific powers usually serve as the starting point for the exercise of their broader local functions.[35]

Second Branch: The Conditional Basis

This principle stipulates that local communities may exercise their powers without conditions or restrictions in certain instances, while in other cases they are subjected to constraints and conditions—commonly referred to as the "system of conditional competences."[36]

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[34] Massoud Chihoub, *Foundations of Local Administration and Its Applications in the Municipality and Wilaya Systems*, previous reference, p. 123.

[35] Abd al-Mu'ti Muhammad Assaf and Dr. Nader Ahmad Abu Shikha, *ibid.*, p. 46.

[36] Abd al-Mu'ti Muhammad Assaf and Dr. Nader Ahmad Abu Shikha, *ibid.*, p. 47.

This approach poses significant risks to local communities, particularly when the determination of these conditional competences is entrusted to central authorities. It is assumed that such authorities may assert dominance over local communities by exercising broader powers that could restrict their freedom to carry out their functions, especially when these conditions are unfounded, lack local technical expertise, or conflict with the essential interests of the local communities.

Third Branch: The Compulsory Basis

This approach involves the imposition of mandatory competences upon local communities based on technical considerations deemed essential for development by central authorities. Local communities have no discretion to refuse or amend these competences, as they are obligated to implement them. Examples of such cases can be found in the Algerian Local Communities Law, where these competences generally take the form of technical, financial, and human assistance and subsidies.

They also include financial grants aimed at restoring the budgetary balance of financially struggling municipalities during the fiscal year (Subvention d'équilibre), with the condition that these financial subsidies be allocated primarily to cover mandatory expenditures, such as employee wages, social security, and insurance contributions, among others. Additionally, there are centralized development projects of a sectoral nature (Programme Sectoriel de Développement – PSD), which are implemented within the territorial jurisdiction of regional communities without involving local authorities in determining the nature of these projects or their relevance to the area.

Conclusion

This research paper addressed the possibility of establishing legislative, regulatory, or even technical and procedural mechanisms to manage the overlap in the exercise of powers between local communities and the state, along with its central institutions, in pursuit of both public and local interests. It became evident that certain sovereign competences, by constitutional nature, remain the exclusive domain of the state—such as national security, the military, and the judiciary.

At the same time, regional communities enjoy distinct competences within their financial autonomy and administrative freedom, possessing their own legal personality and specific legislative frameworks corresponding to their local missions, such as local development. Furthermore, shared competences exist that intersect with those of the state within a complementary, coordinated, and functional framework. Ultimately, it is clear that complete autonomy cannot exist under the system of administrative guardianship imposed on the activities of these entities. Nonetheless, this supervision constitutes one of the key legislative and judicial safeguards for local elected officials and their various acts, including decisions, deliberations, and public contracts.

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