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The limits of the Wali's powers in achieving public security

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Abstract:

If public security is one of the manifestations of the restoration of public order in cities, villages and neighborhoods, it achieves the protection of persons in themselves and their property. It falls within the original competence of administrative bodies at the local level. The Wali is one of these bodies. As the supreme administrative leader of the state, his powers have expanded by expanding the areas of his commitment to security, imposed by various legal texts and their various degrees, whether in normal circumstances or in exceptional circumstances. However, their exercise is linked to restrictions and controls imposed sometimes by these texts, so he is subject to the instructions and directives of the central authorities stemming from his being the mediator between them and local bodies, so he is their representative at the state level to perform this task, or he suppresses his powers in favor of the intervention of central bodies, so that they depart from his area of competence, and at other times stemming from judicial oversight as his administrative work, thus preventing any abuse of power, in order to achieve the legitimacy required in the state of law.

Keywords: Public security; public order; administrative control; prefect's powers; Law on the Wilaya.

Introduction:

The administration adopts its tasks in order to achieve the public interest in two ways, which translate the nature of the activity it performs, either in the form of material works or legal works. If the material works integrate into the normal work carried out by the administration without having a legal effect, the legal works, on the contrary, are characterized by legal effects, which are issued in two forms: either administrative contracts, which require the consent of the contractor with the administration, or those issued to the individual management of one of the competent administrative authorities in order to reach the achievement of public order, and therefore the most important of which, according to Mr. Ahmed Mahiou, is classified within the work of the "administrative police" la administrative through the act of prevention or prohibition⁽¹⁾. The rights and freedoms of the citizen are negatively affected in order to avoid the issuance of chaos that inevitably achieves the release of freedoms for citizens, because the known." As the well-known saying goes, "Absolute freedom leads to absolute corruption."

If the professors and jurists of administrative law do not differ in any way from the constant satisfaction emanating from the achievement of the general public system represented by the task of administrative control in that it includes public tranquility and public health, they do not disagree, but unanimously agree that public security is one of these elements; rather, some of them consider it the first element in view of the goal to be achieved.

Public security means the establishment of security and order in cities, villages and neighborhoods in order to achieve the public's reassurance about themselves, their children, their symptoms and their money from any danger they may be exposed to. The competent administrative authority shall undertake its investigation⁽²⁾.

Thus, it is an obligation on the administrative authorities as long as it is intended to achieve the general public order, although some law professors see the need to reduce these bodies and determine their powers accurately so that there is no restriction of public freedoms is the origin or the rule and the enjoyment of them (that is, freedoms) is the exception⁽³⁾, given the close link between public security, which is the most important element of the public order, and public freedoms, so the question arises about these bodies and thus the limits of their intervention to achieve security.

The determination of these authorities is linked to the local level, that is, taking into account the territorial limits in its achievement, if we take into account the meaning or organic criterion of the concept of administrative control. At the national level, it is based on the President of the Republic, the Prime Minister, other ministers and other central bodies, but if the field of its achievement is at the regional or local level, according to the law, the Wali is one of these bodies next to the head of the Municipal People's Assembly, but it falls within his competence, as it falls within the responsibilities entrusted to him, and this is confirmed by many legal texts, foremost of which is Law 12/07 of February 2012, which includes the Law on the Wilaya⁽⁴⁾ under Article 14, as it explicitly stipulates that the Wali is **responsible for maintaining public order, security, as well as public safety and tranquility**.

Thus, public security is one of the elements that the Wali is obligated to achieve within the authorities that

He enjoys it in his capacity as the representative of the state⁽⁵⁾ in coordination with the interests present on the territory of the state⁽⁶⁾.

But the question raised and the problem of our research presentation is about the limits of the powers of the Wali in achieving public security versus the challenges of the citizen's enjoyment of his fundamental freedoms, in the midst of the participation of other bodies in the performance of this task?

The answer to this problem can only be found by addressing the limits of these authorities in:

Normal circumstances and its powers in exceptional circumstances within the following two points:

Section One: Expanding the authority of the Wali in achieving public security at the local level:

If the wilaya is one of the local authorities of the state in accordance with the law⁽⁷⁾ besides the municipality, it expresses the consolidation of the true image of administrative decentralization, charged with managing and improving the affairs of citizens within the limits of its territorial competence, within the framework of bringing the administration closer to the citizen.

The wilaya is legally defined as the regional body of the state that enjoys moral personality and financial independence and is considered a link with the central administration, embodied by contributing with it to achieving development in all sectors, economic, social, cultural and even environmental⁽⁸⁾, and at the same time controlling the work of the grassroots community, so that its work is complementary to the tasks of the municipalities.

In order to perform these tasks, which make it of a special nature, by combining the system of centralization and administrative decentralization, the state is made up of two bodies⁽⁹⁾, an elected body represented by the State People's Assembly⁽¹⁰⁾ and the body appointed by the President of the Republic⁽¹¹⁾ by presidential decree and related to the Wali⁽¹²⁾.

The Wali is the supreme administrative leader⁽¹³⁾ of the state and its legal representative, who embodies the system of non-concentration, by achieving the role of mediator with the central authority, so you see him as the first official, as he is the only high official at the local level. This prestigious and sensitive center translates the performance of many tasks within wide and complex authorities, made by the law (the Wali) characterized by a complex situation that reflects the duality of jurisdiction. He is the government commissioner in application of Article 110 of Law 12/07 as a representative of the state at the state level⁽¹⁴⁾ and represents the executive body of the State People's Assembly, by ensuring the publication and implementation of the deliberations of the Council in accordance with the text of Article 102 of Law 12/07⁽¹⁵⁾, as well as representing it in administrative and civil affairs and in various official demonstrations, as a representative of the state.

One of the important competencies of the person who has a law is to explicitly stipulate the powers related to achieving security as mentioned above, which fall within the framework of his task related to achieving general administrative police or special administrative police. However, due to the importance of this role, this authority has been granted to him as a representative of the state, in this capacity, to ensure the implementation of state policy at the state level⁽¹⁶⁾ as well as his task in the application of laws and regulations⁽¹⁷⁾. He

is entrusted with the task of implementing the instructions and decisions of ministries at the level of the borders of his jurisdiction, as he is charged with ensuring the implementation of government instructions.

However, in the absence of clear and precise detailed provisions for the prerogatives of the Wali in the field of policing in general and in particular in the field of public security, his powers are vague; and they are not limited by legislative or at least regulatory provisions that prevent him from infringing the rights and freedoms guaranteed by the Constitution, which is why these prerogatives are discussed in legal texts other than Law 12/07, which includes the Law on the Wilaya.

Starting with the Constitution, what translates into the representation of the Wali of the state in achieving public security, since the state is constitutionally responsible for the security of persons and property, stems from the general principles described by the Constitution in assigning the state to protect the citizen, according to Article 28 of the Constitution, so that it is responsible for the security of persons and their property. This is what prompts us to say that the basic task granted to the Wali at the level of the territory of his state falls within the constitutional responsibility of the state.

It should be noted, however, that pursuant to the text of the Constitution and the Law on the Wilaya ⁽¹⁸⁾, the role of the Wali in achieving security includes persons and property, as it includes what achieves the reassurance of the individual on himself and his money as well, but also includes the emotional aspect and the sensory aspect of him, as long as the Constitution itself provides for the prohibition of any physical or moral violence or prejudice to the dignity of the citizen, and the punishment of all violations committed against rights and freedoms and any violation of human physical and moral safety, as the constitutional amendment of 2020 ⁽¹⁹⁾ insisted on this by detailing the punishment of torture and cruel and inhuman treatment that humiliates the citizen; more than that, the recent constitutional amendment took care to protect him as a consumer by stipulating the obligation of public authorities, including the Wali, to protect consumers to ensure his security and health safety, as well as their economic rights ⁽²⁰⁾. Thus, what falls within the financial rights of the citizen, which translates into the expansion of its role to include the security of property, the Constitution stipulates that the state guarantees the inviolability of the home ⁽²¹⁾ so that the state guarantees that the freedom of the home is not violated, as long as private property is also constitutionally guaranteed ⁽²²⁾.

In order for the Wali to achieve these competencies, as a representative of the state, the law allows him to take all necessary measures that would provide this protection, whether it is the security of persons or property, as he has at his disposal the security bodies that help him to ensure the implementation of the decisions he takes to achieve security; rather, the latter is obligated to inform him of all issues related to public security, as well as the need to submit periodic

reports to him by security services workers indicating the general situation in the state⁽²³⁾.

In the absence of explicit legal rules, as mentioned above, although Law 12/07 refers the organization to determine its powers in this jurisdiction, it is imperative to adopt the provisions of Decree 83/373 issued on May 28, 1983, which includes determining the powers of the Wali in the field of security and the maintenance of public order⁽²⁴⁾ in force to this day, which came in implementation of Order 69/38 dated May 22, 1969, containing the Law on the Wilaya⁽²⁵⁾, where the Wali obligated the need to take measures that would achieve public security by ensuring peace and reassurance⁽²⁶⁾, specifying his various areas of intervention that extended to economic, social and even cultural life, including hygiene, roads, telecommunications, buildings, and property, thus confirming the expansion of his role to include the safety of the citizen and his property, as mentioned above, as well as stressing the emphasis on ensuring public security within the framework of the administrative police. It should be noted, however, that the scope or limits of its competence were not determined exclusively in application of Decree 83/373, as long as it referred to everything that would enshrine the application of the laws and regulations related to the administrative police, that is, security.

Accordingly, one of the most important powers that reflect the role of the Wali to achieve this supreme goal, which was placed on him, so that many legal texts translate them, of different degrees, and in different fields, including:

1- What is related to the protection of public property and the preservation of persons:

Pursuant to Order No. 95/24 of 25 September 1995 on the protection of public property and the security of persons therein⁽²⁷⁾, the Wali is obliged to ensure the requirements of safety and security so that the law shows his preventive role by proposing complementary measures to achieve this. However, his authority extends to the need to intervene in the urgent situation and the imminent danger. Rather, it amounts to holding the competent presidential authorities to impose penalties on the head of the institution in the event of negligence or serious breach of the security measures⁽²⁸⁾ that he observed.

2- Concerning the acquisition of dangerous weapons and sensitive materials:

This area highlights the preventive role played by the Wali under the granting of licenses, as by virtue of Legislative Decree 93/16 of September 04, 1993, which defined the conditions for practicing the business of guarding and transporting sensitive funds and materials⁽²⁹⁾, companies that aim to provide security service or protect property, or to transport sensitive funds and materials are subject to a prior license, without the methods of delivery that he referred to the organization, in implementation of which Executive Decree No. 94/65 of March 19, 1994 was issued, which determined the modalities for handing over the

license to practice and supply weapons to guard companies and the transfer of funds and materials ⁽³⁰⁾, the Wali shall hand over the license of each of the possession and carrying of weapons⁽³¹⁾ after the company files the license application with the state departments if its activity is limited to the territory of one state ⁽³²⁾, after the approval of the national security and gendarmerie departments, based on the joint ministerial decision dated January 31, 1996, which specifies the conditions for the possession of guard companies and the transfer of funds and sensitive materials, firearms, their carrying, use and transport⁽³³⁾. The ministerial decision also stipulates the authority of the Wali to intervene to demand the public security services to secure The agreement to transfer these weapons whenever he deems it necessary⁽³⁴⁾, and when the special measures for the storage of weapons and ammunition by these companies specified by the joint ministerial decision of March 22, 1997 regarding the required standards for the storage of weapons and ammunition by guard companies and the transfer of sensitive funds and materials ⁽³⁵⁾ are not respected, the Wali issues a decision that includes the withdrawal of the license⁽³⁶⁾.

In this field, the Wali is also competent to apply Executive Order 98/96 dated March 18, 1998, which specifies the modalities for the application of Order 97/06 dated January 21, 1997 related to military materiel, weapons and ammunition⁽³⁷⁾, as amended and supplemented⁽³⁸⁾, by handing over licenses for the acquisition and possession of weapons and ammunition to agents of public administrations exposed to the risks of assault in the performance of their functions and those charged with transporting and accompanying values and assets, as well as users of shooting wards in exhibitions and scouts⁽³⁹⁾. However, the role of the Wali according to this legal text does not stop at granting licenses only, but also goes beyond performing the task of monitoring the activities of the manufacture or trade of equipment and weapons as well as the elements of weapons and ammunition by periodically inventorying them ⁽⁴⁰⁾. In line with opening the way for the retail trade in weapons and their repair through the so-called weapons under Executive Decree 04/304, which amends Executive Decree 98/96, Executive Decree 26/92 issued on January 31, 2026 specifying the conditions for practicing the weapon profession ⁽⁴¹⁾ stipulated the competence of the Wali to grant the license and in accordance with the conditions specified by this decree, how much can he temporarily withdraw the license in line with the requirements of achieving public order and security ⁽⁴²⁾. It is also concerned with issuing the final withdrawal decision, but in this case, it is limited to the cases stipulated in Article 35 of Executive Decree 26/92.

3- What is related to the exploitation of beverage shops?

In application of Order 75/41 of June 1975 on the exploitation of beverage shops ⁽⁴³⁾, the Wali is competent to grant licenses to open and exploit beverage shops of any kind, whether in situ or movable. The law also explicitly granted him the authority to temporarily close administrative beverage shops, but if he appears to be restricted to the conditions specified by the law, as the closure cannot exceed

6 months, when the licensee violates the controls specified by the legal texts or within the framework of maintaining public order, health or morals ⁽⁴⁴⁾, he is competent to take all precautionary measures and procedures with his wide authority to assess their inevitability to maintain public order and security in accordance with Executive Decree 94/215 issued on July 23, 1994 regarding the identification of public administration bodies in the state and its structures⁽⁴⁵⁾. This reinforces the role of the Wali in imposing administrative sanctions ⁽⁴⁶⁾.

4- Environmental Protection

The Wali's competencies vary due to the diversity and multiplicity of legal texts dealing with the protection of the environment, which stipulate that he should be included within his competencies that fall within the framework of achieving public security, starting from Law 03/10 of July 19, 2003, which includes the Environment and Sustainable Development Law ⁽⁴⁷⁾, where he is competent to grant licenses related to classified establishments due to the risks it may cause to security as well as public health and hygiene ⁽⁴⁸⁾. In addition, Law 19/01 dated 12 December 2001, which includes the management, control and removal of waste ⁽⁴⁹⁾, stipulates that the Wali shall be competent to hand over the license to each facility for the treatment of domestic waste and the like ⁽⁵⁰⁾.

5- Meetings and Events

One of the most prominent tasks of the Wali in the field of security is the competence granted to him in accordance with Law 89/28 of December 31, 1989, related to public meetings and demonstrations ⁽⁵¹⁾, as amended and supplemented⁽⁵²⁾, where he intervenes to ensure public security at all stages of demonstrations, as the law stipulates that each meeting shall be subject to a prior declaration deposited before the Wali, including its purpose, place, day and hour in which it is held, its duration, and the number of people scheduled to attend, at least 3 full days before the date of its convening. The law grants the Wali the authority to request from the guardian within twenty-four hours of depositing the permit, changing the place of the meeting and proposing another place where the necessary guarantees are available for its proper functioning in terms of hygiene, security and tranquility ⁽⁵³⁾.

The Wali is competent to grant the license for the meeting or demonstration at the request of the organizers of the public demonstration eight full days before the date specified for the demonstration, provided that his decision is expressed in writing at least 5 days before the date specified for the demonstration. Due to the seriousness of the demonstrations on public security, the Wali intervenes in the details of their performance, as the installation of temporary or final fixed audio devices in the demonstration is subject to a prior license granted in accordance with the requirements of Law 89/28 ⁽⁵⁴⁾.

The Wali also has the right to prevent the meeting if this poses a real danger to public security and may even request to change another course that allows the normal conduct of the public demonstration⁽⁵⁵⁾.

6- As regards foreigners

However, the role of the Wali was not limited to citizens; it extended to foreigners because, according to Law 08/11 of July 25, 2008 on the conditions of entry, residence and movement of foreigners in Algeria, the regionally competent Wali may prevent the entry of foreigners to the Algerian territory for reasons related to public order and state security or to achieve what affects the basic and diplomatic interests of Algeria. The Wali is also competent to provide the residence card to the resident foreigner who meets the conditions specified by this law, or to place the foreigner in a waiting center until the completion of the procedures for his expulsion to the border or deportation to his country of origin. The law even allowed the Wali to impose a fine on the carrier who transports a foreigner to the Algerian territory without official documents such as a passport and a visa imposed on any illegal resident⁽⁵⁷⁾.

The Wali is also competent to deliver the professional card to foreigners accredited to the territory of the state in accordance with the provisions of Executive Decree No. 06/454 dated 11/12/2006 related to the professional card delivered to foreigners who engage in commercial, industrial and craft activity or self-employment on the national territory⁽⁵⁸⁾, where it is delivered by the regionally competent Wali who determines the whereabouts of the foreign beneficiary or the location of the commercial shop or company⁽⁵⁹⁾.

7- Other areas

The authorities of the Wali are varied in the areas related to the achievement of public security, which fall within his original competence, and it is impossible to detail all of them, however, we point out that they are prolonged:

In application of Law 12/06 of 12 January 2012 on associations⁽⁶⁰⁾ in granting accreditation to associations of a local nature, that is, state associations after the declaration of incorporation with the Wali of the state of the headquarters of the association, whose scope is determined by the territory of one municipality or several municipalities in one state⁽⁶¹⁾.

In addition to its pivotal role in the field of expropriation from public benefit in accordance with the provisions of Law 91/11 dated April 27, 1991, which specifies the rules of expropriation for public benefit⁽⁶²⁾ and Executive Decree 93/186 dated July 27, 1993, which specifies the modalities for the application of its provisions⁽⁶³⁾, according to which the Wali undertakes the task of appointing an investigation committee to prove the effectiveness of the public benefit, appointing an investigative Wali to conduct the partial investigation, and signing a numbered book to register grievances, as well as his task of issuing both the

decision to open the investigation and the declaration of public benefit, and is also competent to take the decision that the property and rights to be expropriated may be sold, and finally issue the decision to expropriate property in accordance with the conditions and procedures contained in Executive Decree 93/186 referred to⁽⁶⁴⁾.

In the field of traffic regulation, in accordance with Law No. 01/14 of 19 August 2001 on the regulation of traffic and its safety and security⁽⁶⁵⁾, as amended and supplemented, as well as Decree 06/381 of 28 November 2004, which specifies the rules of road traffic⁽⁶⁶⁾, as amended and supplemented⁽⁶⁷⁾, the Wali is competent to classify the intersections that fall outside the tranquility group into state roads, in addition to his role in delivering and converting numbering cards⁽⁶⁸⁾.

Accordingly, it is clear from the above that the Wali's broad authority included in many legal texts is linked to the achievement of administrative control, which is equal in its elements from general administrative control and special administrative control, which reflects his role in achieving public security as an element of public order, affecting various other areas such as the exploitation of mines, water, chemicals, commercial practices and others. However, it is worth mentioning that the competence and authority of the Wali did not stop at the authority of administrative control, but counted in the field of security to judicial control, which appears through the provisions of the Code of Criminal Procedure, in the event of a felony or misdemeanor against the security of the state. Although the authority he enjoys in this field is narrow, linked to the availability of the conditions set by the Code of Criminal Procedure is linked to informing the public prosecutor within the period specified by law to start the procedures, but the law authorized him to take all necessary measures to prove felts or misdemeanors or to assign the secretariat of the competent judicial police officers⁽⁶⁹⁾.

However, granting the Wali, the wide powers to perform these functions related mainly to the achievement of public order, especially public security, in application of the provisions of Law 12/07, which includes the Guardianship Law⁽⁷⁰⁾, requires, as mentioned above, to provide him with the material and human capabilities that help him to perform his duties, so that he works in coordination with the interests present in the region, his mandate as he is the primary responsible for achieving security within the limits of his geographical competence. The national security interests and the interests of the National Gendarmerie, as well as the civil protection interests, are placed at his disposal, the inspection, control and guarding cords present in the guardianship. Rather, the law enabled him, within the framework of achieving public order and security and increasing the effectiveness of security interests' interventions, to establish new sites for security interests.

On the one hand, Decree 83/373 defined the procedures that restrict the authority of the Wali in the performance of his duties, and obligated him to

respect them, related to those that would ensure the protection of persons and property and preserve the life of the citizen, as they fall within the basic task of the Wali in achieving security as well as ensuring the normal and regular functioning of public interests and preventing any form of disturbance of public order or obstruction of the normal exercise of power without prejudice to ensuring the application of laws and regulations of the public or specialized police.

However, if this role of the Wali appears to be fundamental and pivotal, does this mean that it represents the only authority in the state that carries out the task of achieving public security or shares it with other central bodies or even decentralization, i.e., regional?

Law 11/10 of 22 July 2011 containing the Municipal Law ⁽⁷¹⁾ stipulates that the President of the Municipal People's Assembly shall be tasked as a representative of the State ⁽⁷²⁾ and within the framework of respecting the rights and freedoms of citizens to ensure public order and the security of persons and property. Thus, the President of the Municipal People's Assembly represents the person or the second local authority that participates with the Wali in the task of achieving security. Law 11/10 affirms the need to strengthen the role of the President of the Municipal People's Assembly to work to achieve public order in all public places that gather people and regulate the control of roads on the municipal territory and ensure respect for instructions in the field of real estate, housing and reconstruction, as well as his competence to hand over building permits and retail demolition, all of which fall within the framework of achieving the security of persons and property. Moreover, the law gives the President of the Municipal People's Assembly the authority to impose penalties for any violation of public tranquility and all acts that violate it. This highlights the importance of the role of the head of the Municipal People's Assembly in the task of achieving security as the first and closest regional official to ensure stability at the level of the geographical borders of the municipality, but his powers narrow in favor of expanding the powers of the Wali through the demonstrations of control exercised by the latter over the heads of the Municipal People's Assembly by inserting him in all the competencies performed by the heads of the Municipal People's Councils, translated using the law in various terms, including: Notifying the Wali of this, under the authority of the Wali, the Wali's approval of the deliberations, sent to the Wali, who shall immediately inform the Wali, Under the supervision of the Wali ⁽⁷³⁾; moreover, Law 10/11 recognizes the authority to replace municipalities to take measures that would ensure the achievement and maintenance of security when the municipal authorities do not do so, especially with regard to elections, national service and civil status. Accordingly, the law has made it the highest authority responsible for achieving security at the municipal level, and the argument may be that the Walis will intervene in the area of competence of the heads of the Municipal People's Assembly, which indicates that the powers granted to the heads of the people's municipal councils shall be

revoked, as long as they are limited by the authority of the Wali, and they shall be concentrated in the hands of the latter.

However, these competencies enjoyed by the Wali and within the framework of the administrative hierarchy are mostly related to the recommendations directed by the Minister of Interior, as he is the central authority that undertakes the task of achieving security at the national level. Accordingly, the Minister of Interior can direct his orders to the Walis to force them to take measures to achieve the so-called general administrative police measure. Moreover, Executive Decree 18/331 dated 22 December 2018, which specifies the powers of the Minister of Interior⁽⁷⁴⁾, highlights the role of the Minister of Interior in maintaining public security, by ensuring the protection of people and property and ensuring calm and tranquility, as he monitors the passage across borders and within the ease of passage on streets and roads, and also ensures the proper conduct of demonstrations and meetings in order to achieve security during their performance.

However, it is noteworthy that in addition to restricting the authority of the Wali with the authorities and orders of the central authority as the government commissioner, his authority is restricted by the need to respect legal texts of all degrees, starting with the constitution and legislating into regulatory texts, as long as he is primarily responsible for implementing laws within the limits of his territorial competence.

As long as he issues decisions of an administrative nature, they shall be subject to appeal in accordance with the Constitution and legislation. As for the administrative judge⁽⁷⁵⁾, he cannot be immune from judicial control, where the administrative judge has the authority to control all his work in order to achieve the rule of law and in application of the principles of legitimacy, whether in the positive or negative actions performed by the latter, that is, he is responsible even in cases that fail to perform his duty to impose security within the limits of his mandate.

However, if the Wali is not responsible for taking defense and protection measures in those of a military nature, does this mean that his authority in the field of security is limited to normal cases without exceptional cases?

This is what we will answer in the next point:

Section Two: The limits of the prefect's authority in exceptional circumstances:

Law 12/07 states that the wali enjoys distinct powers in exceptional circumstances when it explicitly provides for harnessing⁽⁷⁶⁾; however, the

determination of these powers can only be determined to represent extraordinary exceptional circumstances.

The role of the Wali was clearly shown in the state of siege witnessed by Algeria, which was announced by Presidential Decree 91/196 dated July 04 related to the report of the state of siege⁽⁷⁷⁾, but his role was exceptional and indirect, as long as what distinguishes the state of siege is the restriction of the powers of the civil authority that the Wali has in favor of the military authority, as his role was limited to the consultations, he provides in the field of achieving public order.

Unlike the state of emergency declared by Presidential Decree 92/44 of February 01, 1992, which includes the declaration of a state of emergency⁽⁷⁸⁾, in which the authority of the Wali is highlighted by expanding the powers of the civil authority, where he participates with the Minister of Interior to take measures to ensure the maintenance of public order.

This is because the main goal of establishing a state of emergency is to establish public order, better ensure the security of people and property, and ensure the good functioning of public interests. Therefore, it may be a means that enables Walis to invoke the pretext of achieving public security as an element of public order in taking what they deem appropriate at the expense of a clear restriction of freedoms and rights enjoyed by citizens, such as freedom of movement, issuing decisions that would prevent the passage of cars and people at certain times, or taking a decision to temporarily close entertainment halls as a precautionary measure to avoid political gatherings. However, the administrative judiciary emphasizes the need to achieve proportionality between the determination of the authority of the administration under these circumstances in order to face the exceptional circumstances without arbitrariness in taking them in line with the circumstances of that period. Therefore, as long as the decisions of the Wali under the exceptional circumstances are subject to judicial control, it is one of the guarantees that prevent arbitrariness in taking action compared to the wide powers it has become.

It should be noted, however, that the exceptional case or circumstances are not limited to the state of siege and emergency, but that public calamities and natural disasters fall within the unusual cases known to the state because they are also considered as an intermediate case between the exceptional case and the normal case, and as long as the normal functioning of the administration is not achieved under them, and therefore the authorities and administrative bodies expand their powers, including those of the Wali, until they face the difficulties of these circumstances, especially those related to achieving the protection of persons and property expressed in public security, where they are forced to use the police forces and the national gendarmerie.

The spread of the Corona pandemic (Covid-19) is the best example of the expansion of the powers granted to local bodies, especially to the Wali, in the field of achieving public order and public security, because despite the epidemic being linked to public health, it directly affected all aspects of the citizen's life, imposing a complete suspension of all activities, necessitated the need to control the authorities of public bodies, especially local ones, by issuing many legal texts at the time to confront the exceptional circumstance, related to determining the preventive measures against the spread of the virus that would determine the competence of all bodies active in achieving public order, and thus granted the Walis exceptional powers in line with the special circumstances that Algeria knew like other countries of the world, and therefore entrusted the Wali with the task of regulating transport under Executive Decree 20/69 dated March 21, 2020 regarding measures to prevent and combat the spread of the Corona virus (Covid-19) epidemic⁽⁷⁹⁾, as well as closing shops selling drinks and entertainment spaces⁽⁸⁰⁾.

However, the authority of the Wali may be limited in these unusual circumstances by the intervention of the National People's Army, by virtue of Law No. 91/23 of December 06, 1991 regarding the contribution of the National People's Army in the tasks of protecting public security outside the exceptional areas amended and supplemented⁽⁸¹⁾, as the recourse to the services provided by the National Army stops the intervention of the Wali when he simply notifies the regional competent authorities in the event of danger to the lives of persons and residents within the limits of his territorial competence in order to take action and take action in order to achieve public security and provide first aid.

Conclusion

The Wali plays a pivotal role in maintaining public security as a core component of public order. His powers, grounded in numerous legal texts, reflect a broad preventive and regulatory authority exercised through administrative police functions. Nevertheless, these powers are neither absolute nor immune from control. They remain subject to constitutional principles, legislative limits, central administrative supervision, and judicial review. Even in exceptional circumstances, such as states of emergency or public health crises, the principle of proportionality and legality continues to restrict administrative discretion. Therefore, the balance between public security and fundamental freedoms remains the essential legal framework governing the Wali's authority.

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- Law 08/11 of 25 July 2008 on the conditions for the entry, residence and movement of foreigners in Algeria, Official Gazette of 2 July 2008, No. 36.
- Law 10/11 of July 22, 2011 containing the Municipality Law, Official Gazette of July 3, 2011, No. 37.
- Law 12/06 of 12 January 2012 on Associations, Official Gazette of 15 January 2012, No. 02.
- Law 12/07 of February 2012 containing the Law on the Wilaya, Official Gazette of February 29, 2012 No. 12, p. 05 et seq.
- Decree 83/373 of May 28, 1983, determining the powers of the Wali in the field of security and the maintenance of public order, see the Official Gazette of May 31, 1983, No. 22, p. 1535.
- Presidential Decree 91/196 of 04 July on the determination of the state of siege, Official Gazette of 12 July 1991, No. 29.
- Presidential Decree 92/44 of 01 February 1992 declaring a state of emergency, Official Gazette of 9 February 1992, No. 10.
- Executive Decree No. 94/65 dated March 19, 1994, which determined the modalities for handing over the license to practice and supply weapons to guard companies and the transfer of funds and sensitive materials, Official Gazette dated March 23, 1994, No.16.
- Executive Decree 98/96 of 18 March 1998 setting out the modalities for the application of Order 97/06 of 21 January 1997 on war materiel, weapons and ammunition, Official Gazette of 25 March 1998, No. 17, p. 35 et seq., as amended by Executive Decree 04/304 of 13 September 2004, Official Gazette of 19 September 2004, No.60.
- Executive Decree 04/381 of 28 November 2004 setting out the rules for road traffic, Official Gazette of 24 November 2004, No. 06.

- Executive Decree No. 06/454 dated 11/12/2006 related to the professional card delivered to foreigners who engage in commercial, industrial and craft activity or self-employment on national soil, Official Gazette dated 11 December 2006, No. 80.
- Executive Decree 18/331 of 22 December 2018 defining the powers of the Minister of Interior Official Gazette of 23 December 2018, No. 77.
- Executive Decree 20/69 of 21 March 2020 on measures to prevent and combat the spread of the Coronavirus (COVID-19) epidemic, Official Gazette of 21 March 2020, No. 15.
- Executive Decree 26/92 issued on January 31, 2026, specifying the conditions for practicing the weapon profession, Official Gazette dated February 10, 2026, No. 12.
- Joint Ministerial Decision of January 31, 1996, Determining the Conditions for the Acquisition of Guard Companies and the Transportation, Carrying, Use, and Transfer of Money, Sensitive Materials, and Firearms, Official Gazette of May 29, 1996, No. 33, p. 28.
- Joint Ministerial Decision of 22 March 1997 on the required standards for the storage of weapons and ammunition by guard companies and the transfer of sensitive funds and materials, Official Gazette of 20 August 1997, No. 55, p. 3 et seq.

Writings

- 1- Ahmed Mahiou, "Lectures in Administrative Institutions," Office of University Publications, Fourth Edition, 2006.
- 2- See: Nasser Labbad, "The Concise in Administrative Law," Dar Al-Mujaddid, 2010.
- 3- Dr. Ammar Boudiaf, "The Brief in the Administrative Law," Jusoor Publishing House, 2007.
- 4- Hussein Mustafa Hussein, "Comparative Local Administration," Office of University Publications, 1982.
- 5- Fariha Hassan, "Explanation of Administrative Law," Comparative Study, Office of University Publications, 2010.
- 6- By Hussein bin Al-Sheikh Ath Malloya, "Applications of Administrative Disputes," Dar Homa, 2019.

Articles:

- 1- Dayem Belkacem, "Legal Protection of Public Peace," Journal of Legal and Administrative Sciences, Tlemcen University, No. 2, 2004.
- Soltani Abdul Rahmani, Tibi Suad, "Legal Controls for Closing Beverage Stores," Sawt Al Law Magazine, No. 1, 2021.

Footnotes

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- 1- Ahmed Mahiou, "Lectures in Administrative Institutions," Office of University Publications, Fourth Edition, 2006, p. 397.
 - 2- See: - Nasser Labbad, "The Concise in Administrative Law," Dar Al-Mujaddid, 2010, p. 161.

- Dayem Belkacem, "Legal Protection of Public Peace," Journal of Legal and Administrative Sciences, Tlemcen University, No. 2, 2004, p. 99.
- 3- Dr. Ammar Boudiaf, "The Concise in the Administrative Law," Jusoor Publishing House, 2007, p. 373.
- 4- See: Official Gazette dated February 29, 2012 No. 12, p. 05 et seq.
- 5-Because it falls under Chapter Two entitled "Powers of the Wali in his capacity as representative of the State" of Part Three entitled "The Wali".
- 6- See Article 115/1 of Law 12/07.
- 7- As long as the constitutional founder uses the term local communities in Article 17 of the constitutional amendment of 2020, while Law 12/07 uses the term regional community based on the 1996 Constitution under which the law was promulgated.
- 8- See Article 1, paragraph 2 of Law 12/07.
- 9- See: Article 2 of Law 12/07, which includes the Law on the Wilaya.
- 10- See: Article 12 of Law 12/07.
- 11- See: Article 92, Paragraph 10 of the Constitutional Amendment 2020.
- 12-In addition to the establishment of the State People's Assembly Office, in application of the provisions of Article 8 of Law 12/07.
- 13- See: Hussein Mustafa Hussein, "Comparative Local Administration," Office of University Publications, 1982, p. 146 et seq.
- 14- It is the same as what was mentioned in Article 92, paragraph 1, of Law 90/09, which includes the old Law on the Wilaya.
- 15-In addition to what was referred to in Article 103, 104 of Law 12/07.
- 16- Fariha Hassan, "Explanation of Administrative Law," Comparative Study, Office of University Publications, 2010, p. 184.
- 17- See Article 113 of Law 12/07.
- 18-Under Article 24 of the Constitutional Amendment of 2020, and Article 114 of Law 12/07.
- 19-In application of the provisions of Article 39 of the Constitutional Amendment 2020.
- 20. In application of the provisions of Article 62 of the Constitutional Amendment of 2020.
- 21. In application of the provisions of Article 48 of the Constitutional Amendment of 2020.
- Article 47 of the Constitutional Amendment of 2020.
- 23- Refer to Articles 115 of Law 12/07 and Articles 5 and 9 of Decree 83/373.
- 24- See the Official Gazette Dated May 31, 1983, No. 22, p. 1535.
- 25. Official Gazette of 23 May 1969, No. 44, p. 520.
- 26- Refer to the text of Article 1 of Decree 83/373.
- 27. Official Gazette of September 27, 1995, No. 55.
- 28- Refer to Articles 25 and 26 of Law 95/24.
- 29- Official Gazette of December 5, 1995, No. 80.
- 30. Official Gazette of 23 March 1994, No. 16.
- 31- Refer to Article 2 of Executive Decree 94/65.
- 32- However, if its activity exceeds the geographical boundaries of the state, the Minister of Interior shall assume this competence.
- 33- Official Gazette of 29 May 1996, No. 33, p. 28.
- 34. Refer to Articles 7, 15 and 27 of the Joint Ministerial Decision of 31 January 1996.
- 35- See the Official Gazette dated August 20, 1997, No. 55, p. 3 et seq.
- 36-In application of the text of Article 14 of the Joint Ministerial Decision of March 22, 1997.
- 37- See the Official Gazette of March 25, 1998, No. 17, p. 35 et seq.
- 38- By virtue of Executive Decree 04/304 of September 13, 2004 (Official Gazette of September 19, 2004, No. 60)
- 39- Pursuant to the text of Article 61 of Executive Decree 98/96.
- 40- Refer to the text of Article 40 of 98/96.
- 41- See the Official Gazette of February 10, 2026, No. 12.
- 42- Applying the text of Article 34 of Executive Decree 26/92.
- 43- See the Official Gazette of July 11, 1975, No. 55, p. 782.
- 44- Refer to the text of Article 10 of Order 75/41.
- 45- See the Official Gazette of July 27, 1994, No. 48.
- 46- See: - Hussein bin Sheikh Ath Mallawiya, " Applications of Administrative Disputes," Dar Homa, 2019, p. 93 et seq.
- Soltani Abdul Rahmani, Tibi Suad, "Legal Controls for Closing Beverage Stores," Sawt Al Law Magazine, No. 1, 2021.
- 47- See the Official Gazette of July 20, 2003, No. 43.
- 48. Pursuant to Articles 18 and 19 of Law 03/10.
- 49- See the Official Gazette of December 15, 2001, No. 77.
- 50-Pursuant to the provisions of Article 42 of Law 19/01.
- 51. Official Gazette of 24 January 1990, No. 4.
- 52- Amended by Law 91/19 of December 02, 1991, cf. Official Gazette of December 4, 1991, No. 62.
- 53- Refer to Articles 5 ,6 and 7 bis of Law 89/28, as amended and supplemented.
- 54- Refer to Articles 17 of Law 89/28, as amended and supplemented.
- 55- Provided for in Articles 18 of Law No. 89/28, as amended and supplemented.
- 56- Official Gazette of July 2, 2008, No. 36.
- 57- Refer to Articles 35 and 36 of Law 08/11.
- 58. Official Gazette of 11 December 2006, No. 80.
- 59- Refer to the text of Article 5 of Executive Decree 06/454.
- 60. Official Gazette of 15 January 2012, No. 02.
- 61- Refer to the text of Articles 8 and 9 of Law 12/06.
- 62-Official Gazette of May 8, 1991, No. 21.
- 63- Official Gazette of August 1, 1993, No. 51.
- 64- Refer to Articles 3, 6 ,7 ,8, and 9 of Executive Decree 93/186.

- 65. Official Gazette of 19 August 2001, No. 46.
- 66-Official Gazette of 24 November 2004, Issue 06.
- 67. Amended by Executive Decree 25/109 of 22 June 2025, see Official Gazette of 13 July 2025, No. 43.
- 68. Refer to articles 169 bis and 177 of Executive Decree 25/109.
- 69- Refer to Article 38 of Law 25/14 containing the Code of Criminal Procedure, see the Official Gazette dated August 13, 2025, No. 54.
- 70- Refer to the text of Article 14 of Law 12/07.
- 71. Official Gazette of 3 July 2011, No. 37.
- 72- Refer to the text of Article 94 of Law 11/10.
- 73 See Articles 51 ,57 ,68 ,73 ,99 ,89 ,99,
- 74- Official Gazette of December 23, 2018, No. 77.
- 75- According to the provisions of Article 168 of the Constitutional Amendment and Articles 800 and 801 of the Civil and Administrative Procedures Law.
- 76- Refer to the text of Article 116 of Law 12/07.
- 77-Official Gazette of July 12, 1991, No. 29.
- 78. Official Gazette of 9 February 1992, No. 10.
- 79. Official Gazette of 21 March 2020, No. 15.
- 80- Refer to the text of Article 4 and 5 of Executive Decree 20/69.
- 81. Official Gazette of 7 December 1991, No. 63.