

Challenges Confronting Local Authorities in Providing Public Services

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Abstract:

Despite the allocation of authorities and powers to local authorities by the Algerian legislator, they touch and affect all aspects of the local citizen's life. However, the success of these authorities in fulfilling their assigned tasks largely depends on their ability to access financial resources that can enable them to provide high-quality services to citizens, especially those in underdeveloped areas. This should be accompanied by granting citizens the freedom to exercise democracy by electing representatives to local elected councils.

By examining the financial resources of local authorities, we find that despite the legal framework set by the Algerian legislator for local authorities' finances through a financial document called the "Local Authorities Budget," these authorities face several challenges. These challenges primarily involve government interference in its preparation and distribution, either directly or through non-concentrated bodies empowered to manage local administration. Consequently, this leads to financial deficits significantly impacting the development and implementation of local development projects. On a legal level, local administration suffers from a weak level of local election representation from a political perspective, and administrative corruption and bureaucracy have emerged as notable issues.

These factors have greatly contributed to their inability to perform their intended tasks of providing citizens with the best services for a prosperous and happy life.

key words: Local administration independence, legal challenges, financial challenges, local funding centralization, election method, administrative division.

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Introduction:

According to the Algerian Constitution of 2020, local authorities, represented by municipalities and provinces¹, are decentralized bodies of the state. They play a crucial role in providing public services to specific population areas, whether these areas are municipalities, which represent the fundamental local community², or provinces, which represent the regional local community^{3, 4}. These services encompass both **traditional fields**, such as security and justice when the state was guardian and based on the principles of freedom and non-interference, and **modern areas**, including productive and service-oriented services when the state became involved, caring for all aspects of individuals' economic, social, and even cultural lives.

These decentralized bodies are the closest administration to citizens since their foundation stems from the people's will, as they are free to choose their representatives, and representation is limited only by the constitution and electoral law⁵. They serve as a means to convey the community's problems and needs on one hand, and solve and return them to the community on the other hand. Therefore, they act as a platform for local citizens to participate and contribute to managing their affairs and defending their rights by electing representatives to the elected local councils, as it is the framework through which the people express their will and oversee the work of public authorities, promoting participatory democracy in the state⁶.

Despite the diverse fields that local administration, represented by municipalities and provinces, seeks to cover in order to provide high-quality services in productive and service-oriented areas, and achieve public safety, public health, and general tranquility on one hand, and achieve economic and social balance for underdeveloped municipalities⁷, with special measures dedicated to them on the other hand, these local authorities may encounter several imbalances while carrying out their constitutionally and legally mandated tasks, which hinder their ability to provide public services to citizens.

Based on the above, we can raise the following problematic issue:

¹ Paragraph 17 of Political Resolution No. 20/442, which is in line with public opinion, corresponding to 2020.

² Article 1 of Law No. 11/10 related to the municipality.

³ Article 1 of Law No. 12/07, related to the mandate.

⁴ Article 1 of Law No. 12/07, related to the mandate

⁵ Article 12 of the 2020 Constitution.

⁶ Article 16 of the 2020 Constitution.

⁷ Article 16, paragraph 3, of the 2020 Constitution.

What is the impact of the challenges facing local administration on the provision of public services ?

To address the raised problematic issue, we have designed this simple plan according to the following axes :

- First axis: Financial challenges of local authorities.
- Second axis: Legal challenges of local authorities.

The First Axis: Financial Challenges of Local Authorities

Local authorities are defined by jurisprudence as "a group of individuals or funds united to achieve a specific purpose, recognized with legal personality¹." They enjoy financial independence, which is manifested in local finance². The latter holds a significant position in promoting the financial autonomy of local administration on the one hand, and in executing programs and projects related to local affairs on the other hand. The provision of local public services is closely linked to the availability of local financing resources³, which serve as the fundamental pillar for activating the developmental role of local authorities in various fields. The starting point of local development is public service, yet these administrative bodies, despite their recognition of financial autonomy from central bodies, have been allocated a substantial area by the Algerian legislator to regulate budget financing at the local level, in accordance with the laws of municipalities and governorates. Each municipality has been assigned the task of implementing its program for preparation and investment⁴, while the governorate is responsible for implementing its program for preparation and management⁵. Alongside the multiple sources of local financing stipulated in Articles 170 of the Municipal Law 11/10 and Article 151 of the Governorate Law 12/07, which primarily consist of tax revenues, property returns, financial aid, loans, bequests, and are mostly allocated to finance local development programs and operations in various

¹ Amara Boudief, "Al-Wajeez fi al-Qanoon al-Idari" (Concise Guide to Administrative Law), Dar Jusur for Publishing and Distribution, Algeria, 2015, p. 141.

² Local Finance: Local finance refers to the set of rules related to revenues and expenditures concerning local public entities. It includes all available financial resources that can be mobilized from various sources to finance local development at the level of local communities, aiming to achieve higher rates of development over time and enhance the autonomy of local communities from the central government in achieving desired local development. Source: Abdullah Abid and Haiba Boukhedouni, "The Problem of Limited Non-Tax Own Resources of Local Finance and Ways to Diversify Them - A Case Study of Blida Municipality," Journal of Humanities and Social Sciences, Volume 07, Issue 03, December 2021, p. 67.

³ Dahou Oued Kabilia, "Financial and Tax Reforms," Al-Fikr Al-Barlamani Journal, Issue 03, Algeria, 2013, p. 119.

⁴ Article 176 of Law 10-11 of Rajab 20, 1432 corresponding to June 22, 2011, relating to the municipality, G.G.D.

⁵ Article 176 of Law 10-11 of Rajab 20, 1432 corresponding to June 22, 2011, relating to the municipality, G.G.D.

services¹, local authorities still face several challenges and difficulties in this area, negatively impacting their management and the implementation of developmental projects².

Through this axis, we will address the financial challenges faced by local authorities, dedicating the first section to challenges related to the centralization of local financing and the second section to challenges related to the scarcity of local resources.

The first branch: Centralization of Local Financing

Despite the role that local self-financing sources play in achieving local development financing at the desired level, they have become ineffective at present. This is due to the fact that the internal resources provided by the government to local authorities do not even enable them to fulfill their basic developmental duties. As a result, local administration seeks support and intervention from the central government to obtain external resources³. However, the Algerian state still maintains its important position in the local financing apparatus, as external resources, including government grants, loans, donations, and gifts, remain subject to central authority oversight. This restricts the freedom and independence of local authorities in managing these resources, leading them to face challenges and difficulties in fulfilling their assigned responsibilities. This situation is referred to as central financing⁴.

In this context, we will address the challenges facing external resources. Firstly, we will examine the challenges related to government grants. Secondly, we will discuss challenges associated with loans. As for gifts and donations as external financial resources, the Algerian legislative framework, particularly in Articles 57

¹ Professor "Weaver" defined it as follows: "Local development simply means the use of the wealth of a particular region by its inhabitants in order to meet their own needs. The components of these needs are represented in: the region's culture, political power and economic resources."

² Dalali Abdel Jalil, Baya Abdel Kader, The Local Community Funding System in Algeria: Between Limited Own Resources and the Impact of Subsidies. The Algerian Journal of Law and Political Science, Volume 06, Issue 01, Tissemsilt, Algeria, for the year 2021, pp. 402-417.

³ These resources are called external resources because they come from outside the scope of local units, which include government grants, loans, donations, and grants. According to Ammar Alwani's work, "Financial Independence of Local Authorities in Algeria: Between Reform and Stage Challenges," published in the Algerian Journal of Financial and Banking Studies, Volume 06, Issue 01, June 2020, page 54.

⁴ The purpose of centralized funding is to express the will and desire of the central authority in leading local development, which leads to a shared policy between the central authority and regional communities. This has placed these local communities under the guardianship of the central authority. This information is cited from the work of **Rachma Chaklat**, titled "The Problem of Centralized Funding and the Independence of Local Communities," published in the Critique Journal of Law and Political Science, Faculty of Law and Political Science, University of Mouloud Mammeri, Tizi Ouzou, Issue 01, 2011, page 108.

and 05 of the municipality and wilaya laws respectively, allows for their acceptance but they are relatively rare occurrences.

Firstly: Challenges related to governmental funding

Government subsidies can be defined as financial assistance aimed at covering local development expenses. They are among the most important financial resources that support local communities in implementing local development programs and projects. These subsidies are allocated through various mechanisms, including:

- **Subsidies from the Fund for Solidarity and Guarantee for Local Communities¹:** This fund provides financial aid to local communities to support their development initiatives.
- **Subsidies provided by the state to local administrations :** These subsidies are outlined in Article 172 of the Municipal Law of 2011 and Article 154 of the Regional Law of 2012. The state offers these subsidies without requiring repayment.
- **Subsidies allocated to cover budget deficits:** Some subsidies are specifically intended to cover deficits in the management department of local communities.
- **Subsidies directed towards equipment and investment:** These subsidies are part of the Local Development Plan (**PCD**) and non-centralized sectoral programs (**PSD**)² and are aimed at supporting infrastructure development and investment projects.

These government subsidies play a crucial role in facilitating the implementation of local development initiatives and promoting the well-being of communities. However, their allocation and utilization can also be subject to challenges and constraints, as mentioned earlier, leading to potential interference and control by the central authority over the decision-making process and priorities of local communities.

What the central authority (the state) provides to the budget of local communities, aimed at covering their expenses, is subject to conditions, resulting in various imbalances. These local communities remain under scrutiny regarding their finances and expenditure, which undermines their autonomy and involves interference in their internal affairs. This situation hampers their ability to direct local decisions and allocate grants to local communities, as well as plan for development and monitor developmental activities. Consequently, they become

¹ Baghaoui Malouka, Jamal Zidan, Enhancing collective financial independence as an entry point for achieving local development, same reference.

² Dalali Abdel Jalil, Baya Abdelkader, The Local Community Funding System in Algeria: Between Limited Self-Resources and the Impact of Central Subsidies, Algerian Journal of Law and Political Science, Volume 06, Issue 01, 2021, pp. 402/417

practically under the control of the central authority. Here, we will briefly explain the most significant challenges that we consider as manifestations of the negative impact of external financing on the autonomy of local communities as follows:

I. Directing Local Decisions and Allocating Grants : The dependency of local communities resulting from central financing of their budgets has necessarily led to their inability to determine their decisions, except in matters related to general policy. This hinders their capacity to utilize their resources to achieve local interests independently¹. Consequently, the central authority retains the right of supervision and direction, which is considered a significant flaw conflicting with the key principle of decentralized governance – the free management of local interests². Additionally, central financing of local investments explicitly expresses the government's desire to direct local development, including the choice of financial expenditure and local needs. This implies that the decisions regarding local development are primarily made by the central authority, and local communities are left with merely offering non-binding formal opinions³.

As for the allocation of grants, although the legislator explicitly clarified their purpose, which is to achieve financial and accounting coordination and ensure the rational management of financial resources for local communities⁴, this privilege could transform grants from being supportive instruments into means of central administrative interference and imposing directives⁵. This could reinforce the centralization of authority, making local communities merely executors of specific programs determined at the central level⁶. Moreover, the state seeks to allocate grants to local communities in specific areas, allowing it to monitor the ways these funds are spent⁷.

II. Development Planning and Control of Development Activities: Despite development plans being intended as tools for regional balance and regional

¹ Shaklat, Rahma. Previous reference, p. 109.

² Braza, Wahiba. "The Autonomy of Local Communities in the Algerian Legal System," Doctoral Thesis in Law, Faculty of Law and Political Science, University of Mouloud Mammeri – Tizi Ouzou, Date of Defense: 11/10/2017, p. 266.

³ Chikh, Abdel-Seddik. "Financial Independence of Local Communities in Terms of Actual Needs and Necessary Developments," Doctoral Thesis in Public Law, Department of Administration and Finance, Faculty of Law, University of Algiers 1, 2010/2011, p. 120.

⁴ See Articles 173 and 155 of Laws 11/10 and 12/07 for municipalities and provinces respectively, in the previous references.

⁵ These are considered the most stringent forms of control imposed by the central authority on local communities. See: Baraza, Hibah, previous reference, p. 267.

⁶ Tissambal, Ramdane. "Independence of Local Communities in Algeria: Illusion or Reality?" Master's thesis, Specialization: State Transformations, Mouloud Mammeri University, Tizi Ouzou, 2009, p. 114.

⁷ Abdel-Kader, Mouaffaq. "Financial Autonomy of Municipalities in Algeria," Journal of Economic and Administrative Research, Issue 02, University of Mohamed Khider, Biskra, 2007, p. 106.

reform, after selecting and regulating investments and prioritizing local needs, in order to provide a greater number of services to citizens and achieve various projects, it is required that they align with the national development plan¹. This is to achieve developmental balance. However, the elected local councils' role in this process has been marginalized. The central authority and the governors have been granted the authority to implement, monitor, and activate municipal development plans, leaving the local authorities with a role limited to providing opinions in the case of establishing an equipment or investment project at the municipal level or any other project within the framework of sectoral development programs².

III. Challenges Facing the Solidarity and Guarantee Fund: This fund is considered a public institution with an administrative character, possessing legal personality and financial independence, and it is placed under the supervision of the Minister responsible for the interior³. It was established by virtue of Executive Decree No. 14/116⁴ to replace the Joint Fund for Local Communities.

Despite the active role played by this fund in stimulating local development and highlighting the principle of justice among various municipalities and provinces in the country, it faces a number of challenges, the most important of which are⁵:

- Lack of specific, precise, and transparent criteria for providing financial assistance to local communities.
- Absence of legal regulations specifying the necessary procedures to be taken by local communities to benefit from the assistance provided by the fund.
- Deprivation of municipalities and provinces benefiting from this fund's assistance from managing it according to the specificity of each region, as they are subject to instructions from the central authority.
- Dominance of the central authority by determining development programs that are approved for local administration, as it falls under the authority of the Ministry of the Interior.

¹ Mostafa Karaji, "The Impact of Central Funding on the Autonomy of Local Communities in Algerian Law," *Algerian Journal of Legal, Economic and Political Sciences*, Part 34, Number 2, Faculty of Law, Algiers Mosque, 1996, pp. 344, 358.

² See Article 109 of Law No.: 11/10, dated: 06/22/2011, related to the municipality law, previous reference.

³ Ministry of the Interior, *Institutions under tutelage, Solidarity and Guarantee Fund for Local Communities*, website: gouv.interieur.www, accessed on: May 21, 2022, at: 13:23.

⁴ Executive Decree No.: 116/14 of March 24, 2014 establishing the Solidarity and Guarantee Fund for Local Communities, defining its functions, organization and functioning, Official Gazette, Issue No. 19, issued on: April 02, 2014.

⁵ Kadri Nasima, "The Solidarity and Guarantee Fund for Local Communities as a Mechanism for Financial Solidarity, Locally: A Face to Central Funding," *Academic Journal for Legal Research*, Volume 17, Issue 01, 2018, pp. 548-566.

Secondly, the challenges related to loans:

Borrowing is a necessary process for local administrations when their own local resources are not sufficient to cover the necessary needs for achieving local development at the desired level. **Loans refer to** the funds obtained by local communities from banks and financial institutions, with the condition of repayment to the lending institution according to the agreed-upon terms in the loan contract¹. The purpose of borrowing is to cover financial deficits, finance budgets, and carry out productive investment projects to generate revenues². It is considered an ideal option that encourages wealth creation and investments rather than relying on state assistance.

The system of loans provided to local communities was defined by Law No. 64/227³ related to the establishment of the National Savings and Reserve Fund. Later, Decree No. 85/85⁴ was issued, which established the Local Development Bank responsible for providing advances and loans in all their forms and contributing to the economic and social development of local communities as dictated by the government. Based on the aforementioned laws, Law No. 2011/2012 on municipalities and provinces stipulated that these loans should be used for productive revenue-generating projects⁵.

From this source, it can be deduced that the Algerian legislator has restricted the authority of local communities in seeking loans. The financial resource is allocated to cover and finance equipment and investment expenses, while it cannot be used for operating expenses. One of the significant challenges facing the borrowing process includes:

I. The authority to direct loans: This authority is vested in the central government and imposed on local communities⁶. This is evident from Article 4 of the decree establishing the Local Development Bank⁷, which allows local communities to borrow for local development and service provision but under the condition that it aligns with the government's policies. The legislator also requires

¹ Mohammed Rahmani, "Financial Sources of Municipal Budgets in Algerian Legislation," Journal of Law and Society, University of Adrar, Vol. 42, Issue 01, 2013, p. 193.

² Mohammed Rahmani, "Financial Sources of Municipal Budgets in Algerian Legislation," Journal of Law and Society, University of Adrar, Vol. 42, Issue 01, 2013, p. 193.

³ Law No. 64/227, dated August 10, 1964, concerning the establishment of the National Savings and Reserve Fund, Official Journal No. 27, issued on August 25, 1964.

⁴ See Decree No. 85/85, dated April 30, 1985, which establishes the Local Development Bank, Official Journal No. 45, issued on May 1, 1985.

⁵ See Article 174 of Law 11/10 concerning municipalities and Article 156 of Law No. 12/07 concerning provinces.

⁶ Wahiba Braza, the same reference as mentioned earlier, p. 268.

⁷ See Article 4 of Decree No. 85/85, which establishes the Local Development Bank, the same reference as mentioned earlier.

that borrowing be used for productive revenue-generating projects, limiting the freedom of local entities to manage local affairs and provide necessary services for citizens' well-being and prosperity.

Second Branch: Challenges Related to Weak Local Financial Resources

One of the essential elements of financial independence for local government is the possession of self-financed (internal) financial resources¹. These resources enable local governments to effectively implement their designated responsibilities without interference from the central government in their allocation. They consist of tax revenues and other non-tax revenues, and they serve as the financial backbone for municipalities and governorates. Through these resources, local governments can provide necessary services to satisfy citizens' needs across various sectors without having to rely heavily on the central authority. However, when these resources are insufficient or weak, particularly in terms of tax revenues, the principle of decentralization on which local governments are based becomes merely a nominal provision that does not manifest in reality².

Despite the significant role played by self-financed local financial resources, given their direct link to providing for citizens' needs and achieving local development at the desired level, they still face a range of imbalances that limit their effectiveness and hinder their intended purpose. In this branch, we will address, (firstly), the challenges faced by self-financed tax resources and, (secondly), challenges related to other non-tax self-financed resources.

Firstly: Challenges Related to Self-Financed Tax Resources

Local governments primarily rely on tax resources to fund and meet their various obligations, given their importance and stability compared to other financial resources. Tax³ revenues are considered one of the key components of local governance as they make up approximately 90% of the total revenues of local government budgets.

The latter serve as the primary funding source for local government budgets, covering both operational and developmental expenses. They serve as the fundamental gauge to assess the effectiveness of local financial resources and their

¹ "These resources are derived from local taxes and fees, in addition to the special resources resulting from the operation and investment of various local facilities." - Taken from: Mohamed Khether, Jamal Sadik, Challenges of Local Development in the Face of the Decline of Financial Aid Allocated to Wilayas and Municipalities in Algeria, Namaa Journal of Economics and Commerce, Special Issue, Volume 02, April 2018, p. 223.

² Braza, Wahiba, previous reference, p. 267.

³ "Taxation is a compulsory, cash, and automatic deduction exercised by the state on behalf of the public authority, aimed at covering public burdens after approval by the people, through their representatives in parliament." - Cited from: Wahiba Braza, the same reference, p. 248.

ability to meet various responsibilities¹, from determining the tax base to execution and collection. Article 139/F13 of the constitutional amendment in 2020 grants parliament the authority to establish taxation at both local and central levels².

Tax revenues are generated through taxes³ and fees⁴ imposed on individuals and entities operating within the jurisdiction of these local units⁵. Some taxes are fully allocated to (the municipalities), such as property taxes, purification fees, and residency fees, while others are shared between municipalities and governorates along with other entities. These shared taxes include professional activity tax, unique tax on turnover (IFU), and value-added tax (TVA).

The most significant challenges faced by self-financed tax resources are as follows:

1. State Monopoly over Key Tax Resources: The central government retains a large share of the tax resources shared with local governments⁶, with a lack of fair and objective criteria governing their distribution. For example, in the case of value-added tax⁷, the state's share tends to be significant, thus necessitating the need for tax revenue distribution based on objective criteria to achieve financial balance among various administrative units and address financial disparities⁸.

¹ "Abdul Sadiq Sheikh, Financial Independence of Municipalities, Scope, and Potential for Development, a Master's thesis in Law, Branch of Administration and Finance, Faculty of Law, University of Algiers, 2002/2003, p. 8."

² "Article 139/f13 of the constitutional amendment for the year 2020 stipulates: 'Parliament shall legislate in the fields allocated to it by the Constitution, as well as in the following areas... establishment of taxes, levies, fees, and various rights, and determine their bases, rates, and collection.'"

³ "It is a financial contribution imposed on taxpayers according to their contributory capacities, which is carried out by the authority by transferring the collected money definitively and without specific compensation towards achieving the objectives determined by the public authority." - Cited from: Yasmin Arielguati, Nour El Din Haroush, Financial Independence in Algeria and the Challenges of Development between Text and Reality, *Algerian Journal of Social and Human Sciences*, Volume 8, Issue 01, 2020, p. 126.

⁴ "It is a specific amount of money received by the public official representing the local unit in return for performing a certain service that benefits the fee payer, even if the public benefit outweighs this service." - Cited from: Yasmine Laghouati, Nour El Din Harouche, the same reference, p. 126.

⁵ Ibrahim Yama, the effectiveness of financial resources of municipal budgets in achieving development at the local level, *Journal of Financial, Accounting, and Administrative Studies*, University of Oum El Bouaghi, Volume 03, Issue 02, 2016, p. 254."

⁶ Widad Alou, the problem of financing local communities and the requirements of good governance in Algeria, a thesis to obtain a Ph.D. in law, specializing in local community law, Faculty of Law and Political Science, Abdelrahman Mira University, Bejaia, 2016, pp. 33, 34."

⁷ The state acquires 75% of the operations achieved internally, while the municipality benefits from 10%, and the Solidarity and Guarantee Fund is allocated 15%. As for import operations, the state acquires 85%, and the Solidarity and Guarantee Fund benefits from 15%." - Refer to: Wehibah Baraza, the same reference, p. 271.

⁸ Hassan Berbahi, Mustafa Al Khattab, the series of local tax reform and the problem of financial independence of territorial communities, the 'I Want to Know' series, the New Success Printing Press, Casablanca, 2014, p. 67."

2. Inefficiency in Tax Collection: Despite having various taxes and fees allocated to local governments, they do not always result in enhancing local financial independence. Some tax resources have limited impact on local governments' revenues compared to the share retained by the central government. This inefficiency in collection is often attributed to issues like tax evasion and ineffective tax collection procedures.

To address these challenges, it is crucial to implement effective measures that enhance local financial resources. This includes improving tax collection systems, introducing new collection mechanisms, and implementing fair and objective criteria for revenue distribution. Empowering local governments to have greater authority in determining local taxes and keeping a higher share of tax revenues will enable them to meet their financial needs and achieve sustainable development¹.

Secondly: Challenges Related to Non-Tax Self-Financed Resources

In addition to the previously mentioned tax resources, local governments also possess other non-tax self-financed resources, which account for approximately 10% of their total revenues. These resources include income from property exploitation and properties owned by the municipality. Such income can be generated through property rentals, both real estate and movable properties, as well as through property sales. Another source of self-financing is achieved through allocating financial amounts from the management department to the investment department².

Despite the existence of these non-tax resources, their contribution to the budgets of municipalities and governorates is relatively low, representing only about 10% of their revenues. This challenge can be attributed to the following reasons:

1. Low Yield of Municipal Properties:

Despite being crucial resources for local governments, properties owned by municipalities suffer from various shortcomings, including³:

- Non-compliance with legal and regulatory provisions governing property management and utilization, resulting in their underutilization and failure to generate substantial revenue.

¹ For more details on the reforms adopted by Algeria in the local tax system, refer to: Widad Alou, the same reference, pp. 200, 202."

² Dellali Abdel Jalil, Baya Abd al-Qadir, the system of financing local communities in Algeria: between the limitedness of self-resources and the impact of central aid, the same reference."

³ Chaouki Jabari, Basma Aoulemi, mobilizing tax revenues as a strategic option to cover the financial deficit of Algerian municipalities, Algerian Journal of Economic Development, Issue 2, June 2015, the same reference."

- Renting out properties at rates significantly below market prices, as determined by civil and commercial laws, leading to substantial profits for tenants at the expense of local governments.
- Outdated or incomplete property registries at the local government level, lacking accurate and up-to-date information about real estate and movable properties owned by the municipality.
- Mismanagement and inadequate financial planning for projects related to municipal properties.

The Second Axis: Legal Challenges for Local Governments

Local administration is based on two fundamental pillars: the presence of distinct local interests (municipalities) alongside national interests and the administration of elected and independent local councils. These councils enjoy legal personality in managing their affairs, as granted by the law. Local governance operates on the principle of administrative decentralization, empowering local governments to supervise local community development, acting as a link between the state and citizens. They engage in developmental work, focusing on implementing local democracy while achieving local development across all sectors¹. The aim is to provide public services at the required level and align with the responsibilities and tasks assigned to them within their regions.

Despite having the functional and organizational independence, such as the division of the state into municipalities and governorates and the adoption of an electoral system to choose local representatives for managing local affairs, local governments face several legal challenges that limit their ability to carry out their designated responsibilities. In this axis, we will highlight the key legal challenges, addressing (firstly) the electoral system as the most prominent and important political challenge for local governments, and (secondly), the administrative challenges faced by local governments.

¹Local Economic Development: It is one of the most important areas of local development, aimed at improving and organizing the utilization of available material and human resources to increase the overall production of goods and services at a faster rate than the population growth rate, with the goal of achieving a moderate increase in real per capita income.

Local Political Development: It entails achieving stability in the political system through popular participation, represented by the citizens' right to choose their representatives to assume power by electing members of parliament and local or regional councils.

Local Administrative Development: This is achieved by enhancing human capacity in administration to achieve efficiency and effectiveness in administrative institutions, increasing their skills and capabilities in problem-solving and developing behavior that is conducive to achieving economic development.

Reference: Wahiba Bennacer, Local Finance and its Role in the Process of Local Development, Journal of Legal and Political Research, Issue 06, p. 97.

It is crucial to address these legal challenges to enable local governments to fully exercise their local authority and enhance their performance in meeting the needs of their communities and achieving local development goals effectively. This involves undertaking legal reforms, strengthening accountability mechanisms, promoting transparency, and ensuring that local governments have the necessary legal tools to fulfill their roles and responsibilities efficiently.

First: The Election Method as the Primary Political Challenge for Local Authorities

The original approach for gaining membership in local councils necessitates adhering to the election method adopted by the Algerian legislator, which is a fundamental element for establishing local administration and an essential condition for administrative decentralization. Despite encompassing two fundamental principles, first being the consolidation of the autonomy of local authorities, and second being the direct means that allows citizen participation in managing their local affairs, this method faces several challenges, including:

I. Weakness of the Local Elected Representatives:

The weakness of local elected representatives is linked to the inadequate level of services provided to citizens, both in terms of administrative services and developmental aspects. This weakness can be attributed to the following factors:

1. Lack of defined criteria for candidacy in local elected councils:

The Algerian legislator has not stipulated specific qualifications for holding membership in local elected councils in the successive election laws, including the Organic Law of 2016¹. This unrestrictive approach has negatively impacted the expected results of these councils, leading to the absence of qualified representatives with the expertise required for local affairs². Moreover, the absence of educational requirements for local elected representatives discourages highly qualified individuals with advanced degrees from assuming positions that serve their regions, despite their superior knowledge of their areas' needs.

It is worth noting that the educational backwardness in candidacy for local council membership serves as evidence of the representatives' inability to comprehend issues and their inability to make sound decisions, resulting in deviations in implementing decisions and a lack of respect for laws. Consequently, the central authority becomes necessitated to intervene through solutions, thereby strengthening the authority of the governor and the municipal secretary-general³.

¹ The Organic Law No. 16/10 dated August 25, 2016, concerning elections, was published in the Official Gazette, issue number 50, on August 28, 2016.

² Braza Wahiba, previous citation, page 180

³ Widad Alou "The Necessity of Strengthening Decentralization of Decision-Making at the Local Level in Algeria" the Academic Journal of Legal Research, Volume 11, Issue 2 (Special Issue) in 2020, page 323.

I. Non-subjection of the local elected representatives to training sessions:

Referring to the laws governing municipalities and provinces, it is apparent that the legislator stipulated the issue of training to improve the level of the elected members in the municipal councils, according to Article 39¹. However, this requirement was overlooked in the Province Law No. 12/07.

From this, we can infer that the Algerian legislator did not attach great importance to the training of local elected representatives, as the Province Law completely neglected to address their improvement and training. Although the Municipal Law No. 11/10 required the municipal elected representatives to undergo training, it failed to specify the procedures for its implementation, rendering this obligation insufficient to ensure the right of the municipal elected representatives.

It should also be noted that the lack of human supervision at the local level has negatively affected its funding. This is evident through the poor utilization of property resources and the lack of efforts to explore new financial resources², solely relying on state subsidies. This opens the door for central authority intervention through appointing administrators, which limits the autonomy of local communities. Reconstructing local frameworks that work in the interest of local affairs and imposing educational requirements on candidates becomes necessary³.

II. Dominance of appointed bodies at the local level: Due to the low level and limited experience of the local elected representatives, the Algerian legislator adopted both the electoral and appointment methods in selecting other bodies to manage local affairs instead of the elected councils, whose jurisdiction it originally was⁴. This constitutes a blatant violation of local administration by the appointed bodies, **especially the wali (provincial governor), who is granted the authority to interfere in managing the powers of the elected councils**, as outlined in Articles 103, 104, and 110 of the province Law 12/07. Additionally, assistant bodies such as the **chief of the district**⁵, **the secretary-general of the province**⁶,

¹ Reference to Article 39 of Law No. 11/10, which emphasizes the obligation of elected municipal representatives to attend training courses to improve their capabilities related to municipal administration.

² Dissertation by Abdessadek Chikh on "Financial Independence of Local Communities," submitted for the Master's degree in Law, Department of Administration and Finance, Faculty of Law, University of Algiers in 2003, page 35.

³ Dissertation by Abbas Radia on "The General Secretary of Local Communities," submitted for the Master's degree, Department of Administration and Finance, Faculty of Law, University of Algiers in 2001, page 45.

⁴ Belil, Zinab. "Elected Local Councils and Their Relationship with Local Development in Algeria," *Diaa Journal of Legal Studies*, Volume 03, Issue 01, 2021, p. 323.

⁵ Refer to Article 10 of Decree No. 82/31 dated 23/01/1982, which defines the powers of the District Chief.

⁶ Reference to Article 2 of Executive Decree No. 94/215, dated July 23, 1994, which specifies the structures and functions of the general administration in the province.

the deputy governor for the municipality¹, the provincial council², and the district council³ are authorized to assist the Wali in instilling a centralizing spirit in dealing with rotating bodies.

Secondly: Challenges Related to the Administrative Aspect of Local Communities

In this section, we will address the most significant challenges that hinder the achievement of developmental processes at the local level, specifically in the administrative realm. These challenges are as follows:

I. Regional Division:

The regional division of the Algerian state is fundamentally one of the most important pillars of decentralized administration. This division includes municipalities and provinces as crucial independent administrative units from the central administration, provided that they adhere to certain criteria, primarily related to the territorial area, population size, financial and economic resources, and the social composition of the population. The division is determined by the legislator⁴. Despite the significance of this division, it faces several challenges, including the following:

1. Randomness in the 1984 Regional Division: The Algerian legislator adopted this division primarily for security and political reasons rather than focusing on economic and developmental aspects⁵. The increase in the number of provinces and municipalities led to a worsened financial deficit for local communities, resulting in the emergence of financially and humanly deprived administrative units that are subject to central government authority.

2. Introduction of Administrative Districts: In an effort to bring the administration closer to citizens, Algeria adopted an administrative division known as "administrative districts" through Presidential Decree No. 15/140, which served as its administrative birth certificate, followed by Executive Decree No. 15/141, which outlines the organization and management of these districts.

¹ Reference to Article 2 of Presidential Decree No. 15/140, dated May 27, 2015, which establishes administrative districts in some provinces and defines their specific rules.

² Mention of Articles 17, 18, and 19 of Executive Decree No. 94/215, dated July 23, 1994, related to administrative structures and functions.

³ Article 10 of Presidential Decree No. 15/140, which establishes administrative districts within some provinces and defines the specific rules related to them, as mentioned previously.

⁴ See Article 139 p13 of Presidential Decree No. 20/442, which includes the constitutional amendment for the year 2020 approved by the referendum on November 1, 2020.

⁵ See Law No. 84-09 dated February 4, 1984, concerning the regional organization of the country, as amended and supplemented.

II. Administrative Supervision¹:

Local administration faces numerous pressures from various aspects, including organic aspects related to supervision over elected members and functional aspects related to oversight of the elected local councils. This supervision may extend to the elected local councils as entities.

Regarding administrative supervision over elected council members, we find that local administration members may either be entirely elected, as in municipalities, or mostly appointed, such as the Wali (governor). For the elected local members, the supervision is exercised by the Wali, representing the state, in the case of municipalities, and by the Minister of Interior for the provinces. Additionally, administrative supervision has several methods, including:

1. Suspension:

Suspension refers to the temporary freezing of membership for reasons specified by the law, during which the elected member is unable to fulfill their electoral mandate until a final judicial ruling is issued. According to Article 43 of the Municipal Law for the year 2011, it is evident that the Algerian legislator has vested the right to issue the suspension decision solely in the hands of the Wali (representing the central authority) without being obliged to seek the opinion of the Municipal Council. This highlights the extent of the Wali's authority and supervision over the council². As for Article 45 of the Provincial Law, it states that the suspension of an elected provincial member occurs through deliberation by the Provincial Council, and the Wali appoints a replacement based on a justified decision from the Minister of Interior.

2. Exclusion:

Exclusion serves as a disciplinary measure associated with a penal penalty, which contradicts the continued presence of the member in the council. Referring to Article 44 of the Municipal Law of 2011, it is evident that the Algerian legislator, in the context of expanding the Wali's supervisory powers over the Municipal Council, has reserved the decision of exclusion for elected municipal members to be directly in the hands of the Wali. As for elected provincial members, their exclusion is governed by Article 46 of the Provincial Law for the year 2011 and is legally enforced. This occurs when an elected member is convicted by a final criminal judgment related to their mandate, which renders them ineligible for re-election. The Provincial Council is responsible for

¹ "It is the supervisory authority exercised by a moral person centrally on the decentralized entity as a whole, its activities, and its members, with the aim of achieving the public interest." - Ali Khattar Al-Shantawi, Local Administration, Dar Wael Publishing, Jordan, 2nd edition, 2008, p. 225.

² Meliani Saliha, Administrative Supervision on Municipal and Provincial Councils, Dar Al-Raya for Publishing and Distribution, Amman/Jordan, 1st edition, 2016, pp. 286-285.

deliberating on the exclusion, and it is confirmed by a decision from the Minister of Interior.

3. Voluntary Resignation:

Voluntary resignation is an additional provision introduced by Article 45 of the Municipal Law for the year 2011. It states that an elected member who is absent without a legitimate excuse is automatically considered to have resigned. The absence is declared by the Municipal Council after hearing the concerned elected member, and the Wali, as the supervisory authority over the municipal councils, is notified of the resignation.

The Supervision of Elected Local Councils:

The oversight of the elected local councils takes two forms: either approval or annulment, as follows:

1. Approval: The default is that the Algerian legislator requires the decisions of the deliberative body to be valid on their own¹, as stated in Articles 56 and 54 of the Municipal and Provincial Laws, respectively. However, the legislator stipulated that the approval of the supervisory authority is necessary for these deliberations. The supervisory authority can take two forms:

a. Implicit approval: In practice, implicit approval is far from reality because elected heads of municipal councils always wait for the approval of the supervisory authority, which has become a prerequisite for implementation. This shows a retreat by local elected officials in carrying out their duties for the benefit of the supervisory authority².

b. Explicit approval: Due to the sensitivity of certain matters discussed by elected local councils, explicit approval is required for some deliberations³. According to Article 57 of the Municipal Law for the year 2011, the Algerian legislator has specified certain topics that must receive explicit approval from the Wali (governor). These topics include budgets, accounts, and others. Similarly, Article 55 of the Provincial Law for the year 2011 explicitly states that the approval of acts or deliberations of provincial councils can only be implemented after the approval of the Minister of Interior, within a maximum period of two months.

2. Annulment (Cancellation): If the decision issued by the elected local bodies violates the law or contradicts the public interest, the supervisory authority can issue a decision to nullify the deliberations of the councils, either absolutely or relatively, as follows:

¹ Mohammed Al-Saghir Baali, Administrative Law - Administrative Organization, Administrative Activity -, Dar Al-'Ilm for Publishing and Distribution, Annaba, Algeria, 2013, p. 192.

² Meliani Saliha, Administrative Supervision on Municipal and Provincial Councils, Dar Al-Raya for Publishing and Distribution, Amman/Jordan, 1st edition, 2016, pp. 288-286.

³ Braza Wahiba, previous reference, p. 186.

a. Absolute annulment: Article 59 of the Municipal Law for the year 2011 grants the Wali the authority to issue a decision to invalidate deliberations of the municipal councils that are tainted by specific illegitimacy flaws specified in the aforementioned article. Similarly, Article 53 of the Provincial Law for the year 2011 states the annulment of deliberations issued by elected local councils that are legally binding and related to the provisions mentioned above.

b. Relative annulment: Article 60 of the Municipal Law for the year 2011 allows for the annulment of deliberations in which members of the municipal council, including the president, participate and have a personal interest or have a personal connection, such as their spouses or relatives. The Wali has the jurisdiction to annul this type of deliberations based on a reasoned decision¹. Article 56 of the Provincial Law for the year 2011 also contains similar provisions to Article 60 of the Municipal Law, and it is worth noting that the supervisory authority responsible for relative annulment is the Wali, as mentioned in Article 57 of the Provincial Law.

Thirdly: Supervision over Elected Local Councils (as a Management Authority)

The sole supervision that applies to elected local councils is the power to dissolve these deliberative bodies, which is one of the most critical procedures stipulated by the Municipal and Provincial Laws. This legal action officially terminates the existence of the local council, resulting in the removal of its members from their positions according to the procedures outlined in the law. To ensure consistency and avoid ambiguity, the Algerian legislator specified the dissolution procedures in both the Municipal Law of 2011 and the Provincial Law of 2012.

I. In the case of dissolving a municipal council: Within ten days following the dissolution, the governor appoints an interim administration and assistants to manage municipal affairs until the new council is installed. Once the new council takes office, the duties of the interim administration cease to exist, and the new council's term will end at the remaining period of the municipal council's mandate. New elections must be held within six months from the date of dissolution, as explicitly stated in Articles 47, 48, and 49 of the Municipal Law of 2011.

II. In the case of dissolving a provincial council: Within ten days following the dissolution, the Minister of the Interior, upon the governor's recommendation, appoints a delegation with the authority to exercise the powers delegated to them according to applicable laws. The delegation's duties end once the new council is installed, as stipulated in the content of Article 49 of the Provincial Law.

¹ Mohammed Al-Saghir Baali, previous reference, p. 193.

Additionally, the dissolution and renewal of the provincial council are carried out through a presidential decree.

It is worth mentioning that the Algerian legislator included guarantees in the dissolution procedures to ensure that this mechanism serves as a supervisory tool to pressure elected representatives, and not merely to protect local interests from being compromised. These guarantees include specifying the reasons for the dissolution and making the dissolution and renewal of municipal and provincial councils subject to a presidential decree, as explicitly stated in Article 48 of the Provincial Law.

Thirdly: Corruption and Bureaucracy

Achieving effective and adequate local development is closely linked to providing the best services to citizens through local administration, considering them the cornerstone of society. However, local communities face various administrative challenges that hinder their ability to fulfill their responsibilities and assigned authorities. These challenges negatively impact the role of elected local representatives, employees, and those involved in managing local administration. Two significant challenges that hinder local development are corruption and bureaucracy.

I. Administrative corruption as a hindrance to public service delivery:

The Algerian legislator does not explicitly define corruption in Law No. 06/01¹; instead, it refers to specific forms of corruption, including bribery, embezzlement, unjustified privileges in public contracts, abuse of power, illicit enrichment, and hidden financing of political parties. Corruption is an undesirable phenomenon that involves misusing power, violating regulations, laws, and ethical standards. Within the framework of corrupt local administration, various forms of corruption emerge, such as corruption in education, finance, healthcare, culture, and the economy...etc. We also cannot control its manifestations, as it is multifaceted and diverse, expanding numerically and varying in type². Some prevalent forms include favoritism, nepotism, bribery, and especially tax evasion, which is exacerbated by complex legal and regulatory procedures governing the taxpayer's relationship with the tax administration. This has detrimental effects on the general treasury's finances, depriving local communities of substantial revenues and leaving them unable to fulfill their essential duties towards their citizens.

¹ Law No. 06/01 dated Muharram 21, 1427 AH corresponding to February 20, 2006, concerning the prevention and fight against corruption.

² Bouziane Rahmani Djamal, Administrative Reform as an Approach to Reduce Manifestations of Corruption in the Public Sector, *Shua'a Journal of Economic Studies*, Volume 06, Issue 01, 2022, p. 433.

Consequently, local governments may rely on alternative funding sources, such as central grants¹.

II. Bureaucracy:

Bureaucracy, originally intended to ensure efficient administration according to Max Weber, has evolved into a negative connotation, characterizing the Algerian administration. The negative aspect of bureaucracy within local administration is highlighted by certain behaviors that hinder its efficient operation, namely administrative routine and negligence². **Administrative routine involves** repeating certain behaviors, leading to intellectual and nervous lethargy among administrators, resulting in neglect of public service. **Negligence occurs** when employees fail to adhere to their prescribed duties, whether laid down in the civil service law or other regulatory laws. This is accompanied by **mistreatment and ill-treatment of the public**.

Conclusion:

By examining our domestic legislation, we can see the efforts made by the state through its local policies to bring administration closer to citizens and improve public services across various facilities, addressing the concerns of the citizens through a successive legal framework.

However, despite the abundance of legislation and the diverse range of fields that provide public services, we still suffer from poor and inadequate public services for individuals. This can be attributed to the limited financial resources of local authorities, resulting from the central authority's control over their budgets. This situation has deprived them of financial independence, rendering local representative bodies powerless.

The relationship between service provision and financial aspects is integral and complementary. Providing the best services to the local community is directly linked to the availability of budgets for local authorities and their independence in allocating funds to various aspects of citizens' lives. This is essential for achieving the main goal of local development, which is to improve individual lives in all areas and develop the local community to ensure a dignified life. However, the challenges facing local services extend beyond financial aspects and involve administrative and political dimensions, such as the weakness of local representation and the emergence of bureaucracy and administrative corruption.

¹ Laamari Zine Eddine, Regional Communities between the Principle of Independence and the System of Administrative Supervision in Algerian Law, Master's thesis, specialization: State and Public Institutions, Faculty of Law, University of Algiers 1, 2017, p. 42.

² Harshaw Meftah, The Impact of Bureaucracy on Improving Public Service in Algeria - A Study of Local Administration in the Province of Ouargla -, Master's thesis in Political Science, specialization in Local and Regional Government Administration, University of Kasdi Merbah, Faculty of Law and Political Science, Ouargla, 2015/2016, pp. 69-71.

To support local public service and serve the public interest at the level of local communities, we recommend the following:

1. Reform the legal system of local authorities and clarify the relationship between local bodies and central oversight agencies by defining the competencies of each.
2. Improve public service by adopting principles of good governance, including transparency and participatory local administration, alongside the establishment of administrative digitization that the Algerian state is striving to achieve locally.
3. Grant local authorities sufficient freedom and independence to manage their financial and tax resources, especially for the benefit of local affairs and to provide the best services.

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