

Legal Analysis of the Historical Evolution of Algerian Local Administration

Loucif Naouel¹

¹ University of Frères Mentouri Constantine 1, nawel.loucif@umc.edu.dz

Received: 26./01/2024

Accepted: 11./03/2024

Published: 15./04/2024

Abstract:

Algeria adopted a decentralized system during the colonial era, and upon gaining independence, it declared legal separation from French texts due to a legal and human vacuum. The reduction in local administrations established by France followed, initiated by Decrees 67/24 and 69/38 for municipalities and provinces, respectively. Unsuccessful, these decrees prompted Algeria to seek change aligning with societal and environmental developments.

Algeria's transition to political pluralism facilitated this change, allowing diverse opinions irrespective of political affiliations. Despite the richness of municipal and provincial laws in 1990, challenges in implementation arose. The impact of these laws was delayed after the civil reconciliation and the National Reconciliation Charter. Nevertheless, they prompted a serious reconsideration of Municipal Law 90/08 and Provincial Law 90/09. The Algerian legislator persisted, resulting in consecutive legal reforms in 2011 through Law 11/10 and in 2012 through Law 12/07.

Keywords: Algerian Local Administration; Decentralized System; Legal Separation; Societal Developments; Legal Reforms.

Corresponding author: Loucif Nawel, nawel.loucif@umc.edu.dz

1. INTRODUCTION

It is conventionally understood that the primary role of central administration is to formulate the state's public policy through managing public facilities. However, the expansion of the state's responsibilities from traditional to service and developmental tasks has burdened central administration, both organizationally and financially. The only solution was the adoption of the decentralized system, also known as local administration. This approach assumes that local administration efficiently manages these facilities to provide high-quality services to the public, coordinating with central authority while maintaining the unity of the state and the oversight of its central bodies¹.

Algeria, like other countries, has experienced this paradigm shift, prompting us to present an academic analysis that raises the following question:

What is the impact of local administration developments on the organization and legal status of local communities ?

In other words, this scientific paper aims to elucidate the seriousness of the Algerian administration's local development efforts in achieving progress, enhancing public services, and modernizing them. This will be addressed in two sections, starting with the transition from French to full Algerian sovereignty in administration and then discussing the link between local administration and local development under the title "Effective Regional Administration in Local Development."

2. Transition from French Local Administration to Full Sovereign Algerian Local Administration

During the colonial era, the Algerian administration was recognized as serving the French presence. Given the significance of municipalities in the administrative structure, France diversified their forms, (Civil municipalities located in the southern regions are characterized by military management. Mixed municipalities are overseen by an official from the colonial administration, usually holding the rank of civil status administrator. Algerian employees, by nature, assist them and are subject to French administration. They are typically aides who report to the European-elected members and some appointed Algerians on the municipal

committee. The third category consists of municipalities with complete autonomy in densely populated European areas, governed by French law²).

However, upon Algeria's independence, the focus shifted to building a fully institutionalized state with unquestionable legal frameworks. In light of these considerations, we will explore two aspects in this section. We begin by discussing the effective establishment of fully autonomous Algerian municipalities under Decree No. 67/24 in the first aspect. Then, we delve into the first legal appearance of provinces under Decree No. 69/38 in the second aspect.

2.1 Effective Establishment of a Fully Autonomous Algerian Municipality under Decree No. 67/24

The Algerian municipality before independence served as an aspect of a colonial administration catering to its interests rather than those of the Algerian people. This was evident in its human composition and the dominance of the French hand over it. However, with the breath of Algerian independence in 1962, it marked a new era for building an independent state with sovereignty over its land and people. Like any newly independent state, it faced challenges due to the lack of human resources and national laws.

Studies have shown that more than 1500 municipalities were incapacitated due to difficult financial, technical, and human conditions. This compelled the authorities at the time to create special committees to manage municipal affairs. Concurrently, the government reduced the number of municipalities to 676 from the original 1535 established by the French authorities to assert dominance and expand influence.

The Algerian government also formed committees to assist municipalities in performing their tasks. These included the Economic and Social Intervention Committee and the Municipal Council for revitalizing the socialist sector. The first committee included representatives of the population and technicians, providing opinions on the budget and any action conducive to social and economic development. However, these committees were not installed in many regions. The second council comprised representatives from the General Union of Algerian Workers, the

party, and the military. Its primary task was to organize and monitor self-managed projects³.

In 1963, the constitution affirmed that the municipality is the fundamental regional, administrative, social, and economic entity⁴. Based on this constitutional document, the National Liberation Front party worked to prepare a municipal law project under the existing single-party system. It was later issued under Decree 67/24 on January 18, 1967, during the socialist and single-party system era.

The defined role of the municipality in the aforementioned decree was as follows: "The municipality is a name and a center, managed by an elected council, which is the People's Municipal Council composed of municipal deputies⁵." It is worth noting that candidacy for these municipalities was restricted to and monopolized by members of the National Liberation Front party, which dominated the political arena.

2.2 Wilaya (Province) under Decree No. 69/38

The issuance of the Municipal Law in 1967 served as an incentive for the Algerian legislator to enact the Wilaya Law, even though it was delayed, coming into effect nearly two years after the Municipal Law. This delay affirmed the legal independence of the Wilaya system from French law⁶.

The first legal appearance of the Wilaya Law was through Decree No. 69/38, defining the Wilaya, specifying the number of members in the Provincial People's Council, determining the number of sessions of the Provincial People's Council, and outlining the structure of local administration in the province with three bodies (Walis, Provincial People's Council, Executive Council of the Province).

This organization, whether related to municipalities or provinces, was merely an expression of the independence of local administration and the pure Algerian character. Through an analysis of legal texts and the circumstances of the post-independence period, it is evident that these entities underwent changes, modifications, and reforms, which will be elucidated in the second section.

3. Local Administration: A Catalyst for Local Development

The concept of local administration is closely tied to the administrative activities overseen by local authorities, serving as a tool to

implement and execute local public policies formulated and outlined by these authorities⁷.

Local administration relies on several elements, including recognizing the existence of distinct local interests and affairs, establishing elected and independent local bodies to manage these interests, and subjecting these bodies to the scrutiny of central administration when conducting their activities⁸.

Given the pivotal role of local administration, its historical shortcomings from the issuance of the decrees related to municipalities and provinces in 1967 and 1969 until 1988 prompted a constitutional reassessment. The constitutional amendment of 1989 aimed to enhance party pluralism dominating the composition of elected local councils. Legislative will then shifted towards integrating local administration into the local development process.

Local development's significance led to various definitions, each emphasizing different aspects. However, the common thread across these definitions portrays it as a planned set of activities aiming to enhance the economic, social, and cultural aspects of local life, whether at the municipal or provincial level. The process hinges on involving local community members, unifying their efforts with governmental initiatives, and leveraging local natural resources and human capacities in a comprehensive and coordinated strategy aligned with the overarching goals of national development⁹.

The current connection between local administration and local development is a result of factors and circumstances that have transformed municipalities from a symbolic pluralism into indicators of effective governance, as discussed in the first section. Subsequently, we will delve into the role of the province as the pinnacle of local administration in the context of the recent modifications in the second section.

3.1 The Municipality from Symbolic Pluralism to an Indicator of Efficient Management

The change that characterized the constitutional law, the constitution of political pluralism, imposed the abolition of the single-party system, and

consequently, the cancellation of the monolithic representation system in municipal bodies. This opened the way for the representation of various political spectra in local municipal elections. It necessitated the repeal of Order 67/24 under Law 90/08 related to municipalities, which provided another definition for the municipality: "The Municipal People's Council represents local democracy, is the basis of decentralization, and the place for citizens' participation in public affairs¹⁰."

The success of the municipality is contingent upon the success of its bodies, whether administrative or elected. The constitutional founder emphasized this within the framework of achieving economic and social balance for municipalities, especially those limited in development. This means that the municipality is a fundamental entity in the administrative structure¹¹. This concept made elections an indicator of the extent of awareness and democracy in the system during that period and afterward¹². This was evident through a series of legal amendments that affected the electoral process, contributing indirectly to activating the role of municipalities¹³.

The constitutional amendment of 1996 was accompanied by the issuance of Order No. 97/09, which includes the amended and supplemented Political Parties Law¹⁴¹⁵. However, this law was plagued by a set of shortcomings, the impact of which was evident in the functioning and operation of its rotating and executive bodies. Despite the calmness observed in the local elections at that time, as reported by the media based on statements from the Ministry of the Interior, the Algerian legislator adopted a similar approach for the Law of Provinces (Wilaya) by announcing the issuance of a new law in 1990. This law was established under the same social, economic, and cultural conditions existing at that time, without leaving a gap between its enactment and the Municipal Law, as was done previously.

The municipality was included in the comprehensive political reforms announced on April 15, 2011, with the aim of providing further support to deepen democratic practices, enhance guarantees for the promotion and protection of human and citizen rights, and promote national administration and development. This was to consolidate the elements of good governance

in the Algerian state and adapt its republican democratic system to international standards of good governance and the positive aspects of globalization. The search for more effective decentralization and active participation of the grassroots in decision-making at the local level, and comprehensive national development starting from the grassroots towards the center, led to a change in the legal framework governing decentralized administration.

The Economic and Social Council notified the President of the Republic to oversee consultations and hearings with various civil society representatives regarding their concerns and local needs. Subsequently, the Council formulated approximately 48 recommendations based on the discussions, covering various topics, including the enhancement of participatory democracy, initiatives of civil society, improvement of the legal status of elected municipal officials, strengthening local finances, encouraging investment, promoting collaboration between neighboring municipalities, and other important recommendations that addressed the citizens' demands across various segments of society¹⁶.

The municipal reform was consecrated through Law No. 11/10 dated June 16, 2011, marking the culmination of a new phase and experience in decentralization. The reform addressed many fundamental aspects in line with the citizens' requirements, principles of good governance, and the comprehensive and sustainable national development.

The law comprised 217 articles, with some articles referring to regulations, totaling around 37 regulatory texts¹⁷. It introduced several updates in line with the evolving circumstances and the effective functioning of this institution. The reform touched every aspect of the organizational structure, including the People's Municipal Council and the Executive Body represented by the President of the People's Municipal Council and their deputies or assistants, depending on the situation.

This legislative duality became a distinguishing feature of this law by making the formation of the People's Municipal Council a fundamental element among the foundations of democracy. The law incorporated motivating incentives within the fundamental texts governing the elected

officials. This approach differed from the 1996 constitutional amendment, which did not explicitly address these aspects. Additionally, the law embodied the principles of the neutrality of administration and the integrity of the electoral process, ensuring transparency throughout the election process from candidate preparation to monitoring, result declaration, and any challenges. The same emphasis continued on affirming that the municipality is the grassroots community according to Article 17 of the 2020 constitutional amendment¹⁸.

3.2 The Province, the hierarchy of local administration under the new amendment

Local administration has been consolidated into two entities: the Provincial People's Council and the Governor, with an increase in the number of council sessions to four compared to the previous three sessions only. This increase is based on the consideration that the Provincial People's Council is a deliberative body for the province, relying on the efficiency of administration by granting the residents of the region the exercise of this task¹⁹.

It is worth noting here that despite the launch of the jurisdiction defined in the 1990 Provincial Law, this did not prevent the legislator from outlining the basic lines of the powers of the Provincial People's Council in various fields, including economic, social, cultural, and urban development²⁰.

The amendment to the Municipal Law in 2011 and the Provincial Law in 2012 came in response to a set of requirements²¹, the main goal of which is to align with the dimensions of the comprehensive development policy approved by the government. This falls within the framework of the necessity to reconsider the current laws (1990) and attempt to adapt them. In the current time, this aims to avoid and fill the gaps and loopholes in the laws that were previously in effect. Modernizing local administration and enhancing its human and financial resources have made both the municipality and the province arenas for sectoral participatory democratic practices. According to Law No. 12/07, the province is defined as the regional community of the state, enjoying legal personality and independent financial responsibility. It also serves as a non-centralized administrative

district of the state, forming a space for implementing solidarity and consultative public policies between regional communities and the state. It contributes, along with the state, to managing and developing the region, economic and social development, cultural protection, and environmental conservation. Its slogan is "For the people and by the people," and it operates according to the law.

Perhaps the most notable aspect of the current phase is the expansion of opportunities for women in elected councils²², which was not clearly defined in the text of Article 31 of the 1996 constitution:

"Institutions aim to ensure the equality of all citizens in rights and duties by removing obstacles that hinder the unfolding of the individual's personality and prevent the effective participation of everyone in political, economic, and social life."

However, Article 31, repeated in 2008, was clearer in its wording:

"The state works to promote the political rights of women by expanding the chances of their representation in elected councils, with an organic law specifying the methods of implementing this article."

Within the context of ongoing constitutional reforms, the promotion of political rights for youth and women at the level of elected councils is emphasized. This was embodied in the then-effective Organic Law No. 12/01 concerning elections²³. Consequently, this law aimed to empower elected municipal councils, liberate women, and involve them in the arena of participatory governance. In line with this, Organic Law No. 12/03 was issued, focusing on the methods to expand opportunities for women in elected councils²⁴.

It's worth noting here the extent to which the legislator, in further deepening these reforms, rectified Law No. 11/10 regarding municipalities²⁵ by correcting the terminology of the position (position of the municipal elected) to become (the basic law for the municipal elected). The latter provided a set of guarantees to activate the role of the municipal elected, starting with compensations that vary depending on the nature of the elected (permanent or regular). The Algerian legislator also granted them licenses to be absent from work to fulfill their representative functions and to attend

training sessions. These training sessions were made mandatory to enhance the scientific and practical level of municipal elected officials, aiming to improve their performance and elevate municipal work²⁶.

Therefore, the participation of women and youth strengthens the position of the municipal elected officials, contributing to a cohesive unit that fosters local development. This implies the involvement of local territories in the overall movement for national development within the framework of economic, social, cultural, and local added value. These contributions result from projects emerging from local territories, making local development a framework for political, economic, social, and environmental action. It relies on the interconnected programming of projects within a well-defined strategic framework²⁷.

For this reason, the province has engaged in urban planning, outlining urban fabric, and overseeing its implementation. It has also taken proactive measures to provide facilities that go beyond the capacities of municipalities. The initiatives include tasks related to the development of provincial roads, their maintenance, and classification according to established conditions, as well as engaging in actions aimed at breaking the isolation of rural areas²⁸.

The importance of local administration becomes evident on multiple levels. Politically, it allows citizens to choose their representatives through voting, embodying the democratic principle of "government of the people, by the people." Administratively, it eases the burden on the central authority and becomes a means for administrative reform, enabling it to withstand crises. Socially, it strengthens the social fabric of the state by meeting local citizens' needs and reducing their need to travel to the capital. Economically, it contributes to economic recovery in various fields through sustainable development plans. The local administration is also involved in urban planning, monitoring, and implementing urban fabric design, along with undertaking infrastructure works beyond the capacity of the municipality²⁹. Moreover, the local administration engages in road development works, maintenance, and classification according to established criteria, as well as initiatives to connect rural areas, breaking their isolation.

4. CONCLUSION

The Algerian local administration has experienced a series of historical, political, economic, and social conditions influenced initially by the dominance of the single-party system over the mechanisms of governance and management. Subsequently, it transitioned, under political pluralism, to representational diversity at the level of elected local councils.

Through these legal texts, Algeria has addressed a range of challenges, with the most significant being the promotion of local development in its various aspects. Naturally, these changes occurred due to historical, political, and legal developments. Since human will played a role in advocating for change, it is natural for these changes to carry both positive and negative aspects.

On each legislative occasion, the Algerian legislator has demonstrated awareness of the importance of this intermediary fundamental cell between the central authority and the people. This has turned it into a school for deepening democratic practice, with the foundation being the Municipal Law of 2011 and the Provincial Law of 2012. Although these laws each require review, they serve the following purposes:

- Activation of public service.
- Promotion of administrative work.
- Digitalization of administrative transactions.
- Bringing citizens closer to the administration within the framework of realizing genuine and effective participatory democracy.
- Popularizing digital citizenship by involving citizens in a digital space that allows them to submit complaints to ensure the continuity of public facilities or make suggestions in various approaches as a contribution to improving public service.

5. Bibliography List:

- 1 - Hussein Freijah, Administrative Law, Second Edition, Algeria: University Publications Office, 2010, p. 109.
- 2- Nour El Houda Rouabhi, Reforming the System of Regional Assemblies: Municipalities under Law No. 11/10, a thesis submitted for the Master's degree, Faculty of Law, University of Algiers, (2012-2013), pp. 3-4.
- 3- *ibid.*, P. 04.
- 4- Constitution of the People's Democratic Republic of Algeria, issued on September 10, 1963, Official Gazette of the People's Democratic Republic of Algeria, Issue No. 64, 1963.
- 5- Article 3 of Decree 67/24 dated January 18, 1967, Official Gazette of the People's Democratic Republic of Algeria, Issue No. 7, 1967.
- 6- Decree No. 69/38 dated May 23, 1969, concerning the Wilaya (Province), Official Gazette of the People's Democratic Republic of Algeria, Issue No. 44, 1969, page 510.
- 7- Fadhila Khalafoun, The Role of Local Administration in Achieving Local Development in Algeria, The Researcher Journal for Academic Studies, Issue 10, 2017, p. 441.
- 8- Mohamed Seghir Belali, Algerian Local Administration Law, Annaba: Dar Al-'Ilm for Publishing and Distribution, 2004, pp. 9-10.
- 9- Fadhila Khalafoun, The Role of Local Administration in Achieving Local Development in Algeria, reference previously mentioned, p. 443.
- 10- As stated in Article 84 of Law 90/08 related to municipalities.
- 11- Article 17 of the 2020 Constitution, Official Gazette of the People's Democratic Republic of Algeria, Issue 82, 2020.
- 12- Musa Boudhan, Algerian Election Law, Algeria: Dar Meden for Printing and Distribution, 2006, pp. 7-10.
- 13- Order No. 21/10 dated August 25, 2021, amends and complements some provisions of Order No. 21/01, which includes the organic law related to the electoral system, 2021.
- 14- Order No. 97/07, which includes the Organic Law on the Electoral System, was published in the Official Gazette of the People's Democratic

Republic of Algeria, Issue No. 12, 1997, p. 14. It should be noted that this law has been amended by Organic Law No. 12/04 concerning political parties.

15- Ismail Al-Ayadi, The Impact of the Electoral System on the Formation of Local Councils in Algeria in the Context of Party Pluralism, Arab Journal of Political Science, Issue No. 12, 2006, p. 98.

16 - Nour El Houda Rouabhi, Reforming the System of Regional Assemblies: Municipalities under Law No. 11/10, reference previously mentioned, p. 08.

17- Law No. 11/10, dated June 22, 2011, concerning municipalities, was published in the Official Gazette of the People's Democratic Republic of Algeria, issue 01, 2011, pp. 4-28.

18- Presidential Decree No. 20/442, dated December 30, 2020, regarding constitutional amendments, was published in the Official Gazette of the People's Democratic Republic of Algeria, issue 82, (2020).

19- Ammar Boudayaf, Summary in Administrative Law, Algeria: Dar Rehanna, 1999, pp. 112-113.

20- Ammar Boudayaf, Summary in Administrative Law, Second Edition, Algeria: Jasur Publishing and Distribution, 2007, p. 254.

21- Law No. 12/07 issued on February 21, 2012, regarding the Province, the Official Gazette of the People's Democratic Republic of Algeria, 2012, pp. 5-24.

22- Abdel Nasser Gabi, Relations in Parliament and Civil Society in Algeria, Parliamentary Thought Journal, Issue 15, 2007, p. 156.

23- Ammar Yahiaoui, Political Rights of Women in Islamic Law and International Law, Algeria: Huma Publishing, 2003, pp. 25-26.

24- Organic Law No. 12/03 dated January 12, 2012, concerning the methods of expanding women's opportunities in elected councils, Official Journal, Issue 1, 2012, p. 46.

25- Law No. 11/10, issued on June 22, 2011, Official Gazette, 2011, pp. 4-28.

- 26- Amar Boudayaf, *Explanation of Law No. 12/07 on the Province*, 1st edition, Algeria: Dar Al-Jisr for Publishing and Distribution, 2012, p. 197.
- 27- Mohamed Chaouche, *Dimensions of Local Development between Governance Challenges and Local Territorial Planning*, Moroccan Journal of Audit and Development, Environment, Governance, and Growth in the Arab Maghreb, No. 38, 2014, pp. 5-6.
- 28- Amar Boudayaf, *Concise in Administrative Law*, reference previously mentioned, p. 256.
- 29- Hamoud Ben Yahia Al-Hamzi, *Local Administration System in the Modern State*, Algerian Journal of Legal, Economic, and Political Sciences, No. 3, 2009, pp. 156-160.