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Requirements for Advanced and Well-Governed Local Administration in Algeria

Requisitos para una administración local moderna y bien gobernada en Argelia

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Abstract
Securing the welfare of the citizen requires a modern local administration capable of meeting the citizen's growing needs in every area of life — economic, social, cultural, and political. This can only be achieved through sufficient financial resources and a competent, qualified, and accountable human element (both elected and appointed) able to manage the local institution in a modern way, together with a legislative text that is advanced and attuned to changing circumstances. To what extent are these elements present in Algeria's current local administration? And, where they exist, to what extent are they in harmony with one another?
Keywords: *Desired local development; financial resources; local investment; qualified human resources; governance of management; updated legal text.*
Resumen
Garantizar el bienestar de la ciudadanía requiere una administración local moderna, capaz de satisfacer sus crecientes necesidades en todos los ámbitos de la vida: económico, social, cultural y político. Este objetivo solo puede alcanzarse mediante recursos financieros suficientes y personal competente, cualificado y sujeto a rendición de cuentas, tanto electo como designado, capaz de gestionar las instituciones locales con criterios modernos, junto con un marco normativo avanzado y adaptado a las circunstancias cambiantes. ¿En qué medida están presentes estos elementos en la administración local argelina actual? Y, cuando existen, ¿hasta qué punto se articulan de manera coherente entre sí?
Palabras clave: desarrollo local deseado; recursos financieros; inversión local; recursos humanos cualificados; gobernanza de la gestión; marco normativo actualizado.

Introduction

Today's Algeria seeks to achieve comprehensive and sustainable national development in order to emerge definitively from the multifaceted crises it has experienced. This development can only be realized by proceeding from the base to the summit, placing local development at its foundation.

To give effect to this development, Algeria adopted the principle of decentralization in management, which rests on the existence of elected local authorities regarded as the most important means of achieving local development. This is evident from the broad powers entrusted to local authorities (the wilaya and the municipality)[1] through legal reforms at all levels — economic, social, political, and cultural — most of which converge on granting local authorities financial autonomy and an independent legal existence. Yet despite all these efforts, the financial reality on the one hand, the shortage of supervisory staff on the other, and the bureaucratic character of centralization in Algeria have left the role of local authorities weak in the field of local development. The State has remained primarily responsible for local development through direct intervention by means of Municipal Development Plans (PCD)[2] and Sectoral Development Plans (PSD)[3] within the framework of a national programme in which the role of local authorities is confined to making proposals. This has a negative effect on local development, since the State's policy in this respect is a comprehensive one that does not necessarily take local specificities into account. In light of the new economic changes, it has become clear that the scope of local authorities' intervention must be

[1]Law No. 11-10 of 20 Rajab 1432 AH (22 June 2011) on the Municipality; Law No. 12-07 of 28 Rabi' al-Awwal 1433 AH (21 February 2012) on the Wilaya.
[2]The Municipal Development Plan (PCD) is a comprehensive development plan and the most concrete expression of decentralization at the local authority level. It aims to promote local development and meet citizens' essential needs.
[3]The Decentralized Sectoral Programme (PSD) is a national-level programme covering all investments of the wilaya and the public institutions under its supervision. It is registered in the name of the wali (provincial governor), who oversees its implementation. The sectoral development plan is prepared by the executive authority, which examines its technical aspects after receiving the plans.

reconsidered — that is, the tasks of the State must be separated from those of local authorities — in addition to strengthening the latter's financial means.

To achieve the development objectives that Algeria is pursuing, sufficient financial sources must be sought to fund this development and to meet the growing needs of local citizens. Yet the financial requirement alone is insufficient unless accompanied by effective and capable human resources who rationalize its management, together with updated, clear, and flexible legal texts that drive the advancement of the local public service.[4]

To what extent are these elements present at the current time, and to what extent are they in harmony with one another? And does this availability and harmony lead to sustainable local development?

In an attempt to answer the above questions, the following plan has been adopted:

Part One: The Financial Resources Available to Local Authorities

Section One: The Own Revenues of Local Authorities

Section Two: Revenues from the Public Property of Local Authorities

Section Three: External Local Financial Resources

First: Municipal Development Plans (PCD)

Second: Subsidies of the Common Fund for Local Authorities

Third: Subsidies of the Guarantee Fund

Fourth: Subsidies of the Municipal Solidarity Fund

Fifth: Local Loans

Part Two: The Causes of the Deficit of Local Authorities

Section One: Causes Relating to the Taxpayer

Section Two: Causes Relating to the System

First: The Administrative Division of the State's Territory

Second: The Concentration of Taxation in the Hands of the Central Authority

Third: The Tax Incentive Policy

Part Three: The Structural and Legal Defects

Section One: The Structural Defect

Section Two: The Legal Defect

In addition to the adopted plan, I chose the descriptive-analytical method as the most suitable for studying the subject under research, and also relied on the findings of certain previous studies that were presented as papers at some conferences or published in some journals on the same subject.

Part One: The Financial Resources Available to Local Authorities

Carrying out their various duties requires local authorities to have large financial resources, increasing from one year to the next, and this has made the gap between diminishing resources and growing burdens ever wider. The growth of these burdens has produced a mounting financial deficit in many local bodies, municipalities in particular, which has affected the level of local development and, at times, even the performance of the simplest duties. The reason lies in the inability of local financial resources to keep pace with the continuous developments that increase their expenditure. We shall therefore review the most important financial resources available to the local authority in general, so as to identify where the defect lies.

Section One: The Own Revenues of Local Authorities

These resources were addressed by the municipality and wilaya laws of 1990 and were reaffirmed by the new Laws 11/10 and 12/07. They consist of local taxation (first), self-financing (second), and property income (third).

First: Local Taxation

It is divided into three types of taxes:

1. Taxes collected for the benefit of local authorities;
2. Taxes collected for the benefit of municipalities;
3. Taxes collected for the benefit of the State and local authorities.

1. Taxes Collected for the Benefit of Local Authorities

The most important direct taxes collected for the benefit of local authorities are the flat-rate payment and the tax on professional activity.

- **The flat-rate payment:** The flat-rate payment is classified among direct taxes and is regulated by the provisions of Articles 208 to 216 of the Code of Direct Taxes and Similar Taxes. This tax falls on legal and natural

[4]Noureddine Youcefi, "Local Taxation and Its Role in Achieving Local Development in Algeria" (PhD diss., Ahmed Bougara University, Boumerdès, 2010), 63.

persons and bodies resident in Algeria that carry on their activities there and that pay salaries, wages, allowances, and bonuses.[5]

This tax is levied by applying rates to the total annual payments subject to the tax:

- salaries, wages, allowances, and pay, including benefits in kind: 6%;
- pensions and life annuities.

The proceeds of this tax are divided among the municipality, the wilaya, and the Common Fund for Local Authorities.

- **The tax on professional activity:** This tax covers persons whose activities depend on individual intellectual work, such as doctors, lawyers, engineers, accountants, and the like.[6]

Like the flat-rate payment, it is a direct tax. It is levied at 2.55%, and its proceeds are distributed as follows:

- 0.75%: share of the wilaya;
- 1.66%: share of the municipality;
- 0.14%: share of the Common Fund for Local Authorities.

2. Taxes for the Benefit of the Municipality Only

- **The property tax:** Although modest, it is considered one of the most important financial resources of the municipal tax, under Articles 248 and 261 of the aforementioned Tax Code.
- **The sanitation tax:** The sanitation tax comprises both the tax on household waste collection and that on the discharge of water into sewers. It is calculated periodically in the name of the beneficiary of the sanitation service by the body or institution responsible for distributing drinking or industrial water.
- **The slaughter tax:** This is an indirect tax due to the local authorities that have slaughterhouses, and it has the character of an indirect tax because it is imposed on consumer products.
- **The residence tax:** This applies to non-residents in tourist municipalities, and is collected through intermediaries, namely private resorts, hotels, and inns.

3. Taxes Collected for the Benefit of the State and Local Authorities

- **Value-added tax:** This is the tax applied to operations relating to real estate. It was adopted on 1 January 1992 for application, and the proceeds of this resource are distributed at 85% for the State, 0.5% for the municipalities, and 10% for the Common Fund for Local Authorities.[7]
- **The vehicle tax (vignette):** This is borne by every person, natural or legal, who owns a taxable vehicle, and the proceeds of this tax are distributed as follows:
- **State:** 20%;
- **Common Fund for Local Authorities:** 80%.

Second: Self-Financing

The wilaya and municipality laws (the two earlier laws, 12/07 and 11/10), in Articles 152 and 179, provide for the necessity of deducting from revenues an amount allocated to cover the expenditure of the equipment and investment section, ranging between 10% and 20%. The rate of deduction is determined on the basis of the importance of the operating revenues, consisting of:

- the importance of the Common Fund for Local Authorities;
- indirect taxes (for municipalities);
- direct taxes (for wilayas).

Section Two: Revenues from the Public Property of Local Authorities

Local authorities have diverse property revenues, which arise from the exploitation or use of their property by the local authorities themselves, as legal persons governed by public law, or from the collection of rights or taxes in return for its exploitation by private parties. Here we may mention revenues from the sale of agricultural crops, rental rights, rights to exploit venues such as fairs and markets, and the proceeds of the grant of concessions, in addition to the diversity of revenues, which are characterized by their capacity for renewal: revenues from the rental of real estate by public auction, for example, can develop rapidly owing to their flexibility, especially where competitive prices are adopted.[8]

[5]Law No. 76-101 of 9 December 1976 containing the Code of Direct Taxes and Similar Taxes, as amended and supplemented.

[6]Lakhdar Margad, "The Public Revenues of Local Authorities in Algeria," Journal of Humanities (University of Mohamed Khider, Biskra), no. 7.

[7]Basma Aoulmi, "A Diagnosis of the Local Administration and Local Finance System in Algeria," North Africa Economies Journal (Hassiba Ben Bouali University of Chlef), no. 4 (2006): 270–271.

[8]Moussa Rahmani and Ouassila Sebti, "The Management of Local Authorities in Light of Financial Reforms and Prospects for Local Development," paper presented at the International Forum "Management and Financing of Local Authorities in Light of Economic Transformations," University of Batna, 2003.

- **Financial exploitation revenues:** These consist of the returns arising from the sale of products or the offering of services provided by local authorities. These revenues are diverse, and their abundance is tied to the dynamism of the local authorities. They consist of:

returns from weighing, measuring, and gauging; the returns of fees for additional slaughter, namely the meat department or its preservation; as well as the revenues provided by public storage services, public museums, and public car parks. These are regarded as self-financing, property income, and exploitation revenues.

Section Three: External Local Financial Resources

When local authorities cannot cover all the needs of their inhabitants from their own resources — because the proceeds of taxes and fees and the revenues of public property are insufficient to carry out the projects and provide the services the population requires — this calls for the search for other sources of financing and of performing services beyond the scope of own revenues. These external resources consist of:

Government subsidies: In view of the insufficiency of local authorities' resources, the central authorities allocate subsidies to local authorities for the purpose of economic and social development, through which the State seeks to spread welfare and prosperity across the various regions so as to eliminate regional disparities. The most important of these subsidies are:

First: Municipal Development Plans (PCD)

Municipal Development Plans fall within the policy of regional balance, with the aim of giving every municipality equal chances of development. This State assistance responds to the concern of ensuring a relative economic viability for local authorities by complementing the activities undertaken within the framework of the deconcentrated plans approved by the walis, in the context of investments financed from the gross savings that municipalities set aside from their own resources.[9]

Second: Subsidies of the Common Fund for Local Authorities

In view of the deficit experienced by local authorities, the State resorted to establishing the Common Fund for Local Authorities in order to attain a stability, even if relative, of the resources of the local budget.

Third: Subsidies of the Guarantee Fund

This fund was established by Decree 86/266, and the reason for its creation was to guarantee the regular payment due to local authorities, so as to cover the shortfall in the tax estimates contained in the local budget.[10]

Despite the important role this fund played in financing local authorities, it was unable to cover the growing deficit in local budgets, which in 1994 exceeded 3.2 billion dinars and affected more than 800 municipal budgets.[11]

Fourth: Subsidies of the Municipal Solidarity Fund

This fund is bolstered by certain percentages of tax funds deducted from operating revenue and a certain share of the finances of the equipment and investment section. By virtue of these percentages and shares, the budgets of municipalities with weak resources are supplied with exceptional funds, in the event that they are struck by natural disasters, exposed to crises, or affected by other unforeseen incidents.

Fifth: Local Loans

To cover the expenditure of projects, local authorities resort to loans from the National Savings and Provident Fund, which was established by Law 64/227 of 10 August 1964.

The Fund was granted a monopoly on lending to local authorities by Ordinance 67/185 of 15 August 1967, and the interest rate on the Fund's loans is 5%, whereas the poorest municipalities may obtain loans from the wilaya treasury at a slight interest rate of 2%.

Finally come gifts and bequests, which do not constitute an important resource for local authorities; they are merely an exceptional resource that cannot be relied upon to finance local authorities.

It is observed from the foregoing that, despite the multiplicity of sources of financing for local authorities (internal and external) and the diversity of categories of financial resources, the local financial situation in Algeria is witnessing a serious deterioration in the face of the inability of many municipalities to cope.

Part Two: The Causes of the Deficit of Local Authorities

Although local taxation represents the most important resource in the budget of local authorities, it suffers an annual deficit, which has led to the declaration of insolvency in many of the country's municipalities.

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[9]Massoud Cheouhib, Foundations of Local Administration and Their Application to the Municipality and Wilaya System in Algeria (Algiers: Diwan al-Matbu'at al-Jami'iyya, n.d.), 170.

[10]Decree No. 86-266 of 4 November 1986 on the Organization and Operation of the Common Fund for Local Authorities, Official Gazette of the People's Democratic Republic of Algeria, no. 45, 5 November 1986. The Regional Fund for Local Authorities is an administrative institution responsible for managing the municipal and wilaya guarantee and solidarity funds.

[11]Rahmani and Sebti, "The Management of Local Authorities."

In the face of the weakness of the municipalities' internal revenues from local taxation and property revenues — which constitute only 8% of total local resources, being extremely weak owing to the disposal of property under the 1981 law on the sale of State property — the State has found itself, every year, confronted with the deficit of many municipalities.[12]

Section One: Causes Relating to the Taxpayer

The taxpayer plays a major role in the process of tax collection, because his observance of the rules governing the imposition of tax, the tax base, and tax rates has a positive effect on tax proceeds. However, the phenomena of tax fraud and tax evasion have prevented local tax proceeds from rising and have thus prevented a reduction in the level of local debts. The causes of both phenomena lie with the taxpayer and with the central authority, and consist of the following:

- The weight of the tax burden, which in most cases exceeds the rate of 15% agreed upon worldwide, as advocated by the scholar Laffer, leading the taxpayer to evade payment of dues.[13]
- The instability and, at times, obscurity of legislation, coupled with weak tax awareness: the legislator makes a practice of changing legislation annually, in addition to the multiplicity of taxes imposed and the instability of their rates; a decline in the rate of the flat-rate payment tax can be observed annually, by 1%.
- The rise in the number of economic agents subject to tax, and consequently the rise in the number of tax files; hence the tax administration has found itself unable to perform its growing tasks given the very small number of administrative agents responsible for oversight.[14]
- The taxpayer's lack of tax awareness, which serves as an incentive to evade the taxes imposed on him, and which is attributable to several considerations, among them:
- The prevailing belief that tax is an instrument for the extortion and plunder of the individual's money, to which individuals therefore respond with evasion, regarding it as a means of resistance.
- The understanding that the State steals individuals' money, as though the State had no right over individuals.
- The absence of trust in the State, as though the persons in charge of the tax, the law, and the legislation were imposing tax for their own account and not for the benefit of the public interest.
- The spread of illiteracy and ignorance in Algerian society, which has increased the prevalence of tax evasion and fraud.

Section Two: Causes Relating to the System

The taxpayer cannot be regarded as solely responsible for the weakness of local taxation; the central authority too bears a share in the spread of the phenomenon of the insolvency of local authorities, since the State contributed to reducing local taxation through the following:

First: The Administrative Division of the State's Territory

The administrative division and the large number of municipalities contributed to reducing local taxation. In the absence of criteria for delimiting the State's territory, the purpose of the administrative division is to bring the administration closer to the citizen — the municipality being a service institution — in addition to the desire to entrench the principles of administrative decentralization; but the government overlooked financial considerations, which increased the number of insolvent municipalities.

Second: The Concentration of Taxation in the Hands of the Central Authority

The Algerian Constitution entrusted the question of establishing taxes to the legislative authority, which establishes the tax base, its rates, and the methods of its collection. Tax is subject to specific rules within the framework of the annual finance law, which confirms the legitimacy of the tax; then comes the role of the specialized subsidiary laws. These laws make clear that the municipality has no hand in establishing tax; accordingly, the establishment of tax and the determination of its base remain the exclusive preserve of the legislative and regulatory authorities, which confirms the extent of local taxes' dependence on the central authority, which strips municipalities of financial initiative.

Third: The Tax Incentive Policy

This policy consists in granting tax privileges and facilities to economic agents, that is, young investors, in accordance with the investment laws. This policy has deprived the public treasury of huge sums, since the principal resource of the local budget consists of local tax revenues. The application of these facilities is overseen by public

[12]Youcefi, "Local Taxation," 162; Aoulmi, "A Diagnosis of the Local Administration and Local Finance System," 272 ff.

[13]Abdelkader Mouffok, "The Autonomy of Municipal Finance in Algeria," Economic and Administrative Research (University of Hadj Lakhdar, Batna), no. 2 (2007): 98–99.

[14]Khaidar Khenfri, "The Financing of Local Development in Algeria: Reality and Prospects" (PhD diss., University of Algiers, 2010/2011), 6.

administrative institutions endowed with legal personality, such as the National Agency for the Support of Youth Employment (ANSEJ) and the National Agency for Investment Development (APSI), whose scope of work has widened since the creation of local windows at the wilaya level under the name of the One-Stop Window of the National Agency for Investment Development (ANDI).

Part Three: The Structural and Legal Defects

Section One: The Structural Defect

Local authorities suffer from a structural defect in their makeup. There are numerous issues relating to the workforce, in terms of its performance, training, qualification, and motivation: the lack of technical expertise and the low level of competence of local administration staff, particularly in municipalities, in addition to the small number of engineers and specialists working in the local institution, are among the traditional problems facing local administration, and they persist.[15]

There is, in addition, an almost total absence of popular participation. The reasons for this absence are many, the most important of which stem from the ruling elites' monopoly over the management of public affairs that concern local communities and affect their lives directly. Despite the legal provision for popular oversight and the public character of sessions in both the municipality law 11/10 and the wilaya law 12/07, the sessions of the local councils are held far from any popular participation and are attended by only a few, which deprives those provisions of their value. Added to this is the inadequacy of local services, which has led to citizens' discontent and loss of trust, and in turn to the reluctance of many to participate in the membership of these councils and to contribute to their activities.[16]

Section Two: The Legal Defect

Among the obstacles to development from which local bodies suffer is the obscurity of the laws and legislation relating to the relationship between the center and the local bodies, namely the wilaya and the municipality.

The requirements of sound and effective administration necessitate the application of a decentralized system of government in which the relationship between the authority and the peripheries (local authorities) is characterized by relative autonomy rather than dependence and subordination.

Despite the texts that define the competences of local councils, particularly municipal councils, they do not enjoy genuine autonomy in managing their affairs. Moreover, so long as decentralized systems depend on direct central support from the central government, this leads to an imbalance in the relationship between the center and its peripheries.

Law 11/10 makes clear the breadth of the municipality's competences, yet they are shackled by the intervention of supervisory control.[17]

Conclusion

Local authorities today face many difficulties that impede their performance of an effective service and development role and that prevent the achievement of the desired goals. To meet these challenges, a number of proposals can be offered that contribute to activating local authorities and resolving their problems.

At the Social Level

- Mobilizing communities in the field of local development and creating local municipal awareness, by urging citizens to participate and by publicizing the problems of local authorities; here the role of local media in development and the dissemination of awareness becomes apparent.
- Activating municipal work at a smaller level and generalizing the concept of neighbourhood committees.
- Encouraging citizens to remain in rural and remote areas and strengthening agricultural and livestock development.[18]

At the Legal Level

- Activating the current legal texts relating to local authorities in the field of public services.
- Supporting municipalities by granting broader powers to the municipal popular councils.
- Guaranteeing the autonomy of the popular councils, defining their competences, and limiting the interference of governmental bodies.

At the Administrative Level

- Respecting the separation of powers at the municipal level and between the administration and the elected councils.

[15]Khenfri, "The Financing of Local Development," 6.
[16]Mohamed Abdelwahab, Bureaucracy in Local Administration (Alexandria: Dar al-Jami'a al-Jadida lil-Nashr, 2004), 175.
[17]Ammar Awabdi, Administrative Law (Algiers: Diwan al-Matbu'at al-Jami'iyya, 1990), 239.
[18]Ammar Boudiaf, "Administrative Oversight of the Deliberations of Municipal Councils in Algerian and Tunisian Legislation," paper presented at the Fifth International Forum "The Extent and Standing of Local Authorities in the Maghreb States," University of Mohamed Khider, Biskra, 3–4 May 2009, 24.

- Improving the level of administrators and elected officials and raising their skills and competences through training.[19]

The recent initiative of the Ministry of the Interior and Local Authorities to retrain local administration staff is a step forward in this field, which will contribute to improving their experience and skills and will raise the level of performance.

At the Financial Level

- Granting local bodies broader financial autonomy and enabling them to obtain a reasonable share of financial resources so as to keep pace with the requirements of local development.
- Giving local councils freedom to dispose of their funds by imposing taxes and fees, with provision to that effect in the forthcoming Constitution and its reinstatement in the current laws.

These councils should also take charge of collecting and disposing of them on their own, without State interference.

- Involving the private sector in local activities to lighten the burdens on local authorities and to develop and expand their financial sources. Such involvement requires providing the appropriate legal framework by reducing legal procedures, in addition to providing infrastructure and qualified national cadres.
- **Strengthening local investment:** Direct investment is one form of local investment, aimed at the accumulation of wealth and the creation of more employment opportunities. This type of investment is linked to multiple fields of financial investment and financial markets, relating to the purchase of a number of bonds at a guaranteed interest rate.

This experience has not yet been applied in Algeria owing to the lack of expertise and experience in this field; yet in light of the continuing reforms of the banking sector and with the exchange of international expertise, it is possible to enter into this type of investment in a direct, positive, and effective manner that serves the goals of development and yields financial gains enabling local authorities to carry out their development programmes.

Local authorities may likewise enter into partnership with public or private operators within the framework of a project in which rights and duties are defined on the basis of a schedule of specifications and charges,[20] and they may also establish companies in which they act as manager and bear responsibility and risk.[21]

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[19]Farida Meziani, "Local Popular Councils under the System of Political Pluralism in Algerian Legislation" (Doctorat d'État thesis in Law, Mentouri University of Constantine, 2005), 39–40.

[20]Ammar Boudiaf, "Administrative Oversight of the Deliberations of Municipal Councils in Algerian and Tunisian Legislation," paper presented at the Fifth International Forum on the Role and Standing of Local Authorities in the Maghreb States, University of Mohamed Khider, Biskra, 3–4 May 2009, in coordination with the Hanns Seidel Foundation, 21.

[21]Article 146 of Law No. 12-07 on the Wilaya; Article 153 of Law No. 11-10 on the Municipality, cited above.

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