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## **Reforming the Legal System of Local Elections as a Mechanism for Enhancing the Performance of Elected Local Institutions: Municipal Councils as a Case Study**

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## **Reforming the Legal System of Local Elections as a Mechanism for Enhancing the Performance of Elected Local Institutions: Municipal Councils as a Case Study**

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### **ABSTRACT**

Elections are the only democratic means to reach power or elected councils, and local groups are the representation of decentralization in Algeria. Therefore, we find that the Algerian legislator has established legal foundations to reach elected municipal and state councils, whether in electing the council as a whole or in electing its president. Among the problems that arise are the elections of municipal people's councils, especially since the municipality is the cornerstone of every development process.

**Keywords:** Elections, municipality, development, majority.

### **Introduction:**

Modern administrative organizations are based on the presence of a local decentralization system, which mandates the division of administrative functions between the central government in the capital and the local units or administrations in different regions of the country (governorates - municipalities). This system has been adopted by Algerian legislators, endowing local communities with constitutional value through their inclusion in fundamental legislation.

In this context, local communities have been entrusted with numerous responsibilities at the local level. Since municipalities represent the fundamental regional entity, they are tasked with a multitude of local functions, which are of significant importance as they are primarily responsible for delivering public services, meeting local needs, and advancing the public interest.

However, recent developments have revealed a decline in the performance of elected local communities, particularly municipalities, for various reasons and underlying factors. Consequently, the legislature has undertaken numerous reforms aimed at improving the performance of municipal councils, composed of locally elected representatives.

Reforming the legal system of local elections is one of the key mechanisms through which the performance of local institutions (municipal councils) can be enhanced. Within this framework, the research question to be addressed in this paper can be formulated as follows:

**To what extent does the reform of the legal system for local elections contribute to achieving effective local administration capable of efficiently addressing the aspirations and goals of the elected local councils?**

This problematic can be answered to through exploring the following key areas:

**First: The Conceptual Framework.**

**Second: The Necessities of Reforming the Legal System for Local Elections.**

**Third: The Means of Reforming the Legal System for Local Elections.**

### **First: The Conceptual Framework**

To assess the reform of the legal system for local elections and its potential for enhancing the performance of elected local institutions (municipalities), it is essential to start by defining the concept of local administration, clarifying the term "electoral system reform," and understanding the concept of improving the performance of local administration. This will be detailed through the following points:

#### **1. The Concept of Local Administration:**

Local administration is an integral part of public institutions and one of the administrative organization methods within the state. To comprehend this, we will start with the definition of public institutions and proceed to public administration, culminating in the concept of local administration, as detailed in the following points.

##### **A. Definition of Public Institutions:**

Public institutions have been defined in various ways, including being:

- Any entity, organization, or individual subject to state control in the pursuit of activities aimed at achieving the public interest of society<sup>(1)</sup>.
- Any activity regulated, organized, and monitored by the state, which is essential for achieving social solidarity, a goal that can only be realized through the exercise of public power.
- Any activity carried out by public authorities, either directly or indirectly through private organizations subject to public authority supervision, aimed at achieving the public interest.
- The institutions that are established by central or regional public authorities to carry out their traditional state functions in areas such as education, health, security, national defense, and are essentially public facilities that engage in purely administrative activity that falls within the scope of public service<sup>(2)</sup>.

Thus, we can conclude that the concept of public institutions pertains to those public entities (public facilities) established by the state, governed by legal regulations, and subject to state supervision, while they fulfill their functions primarily aimed at achieving the public interest, meeting public needs, and fostering development, and more.

##### **B - Definition of Public Administration:**

Public administration exists to provide public services to citizens, who constitute the most important stakeholders<sup>(3)</sup>. Public administration has been defined in various ways, including:

- The administration responsible for implementing the state's public policy through interconnected operations in a specific sequence.
- The collection of mechanisms (policies, rules, procedures, systems, organizational structures, and individuals, etc.) funded by the state budget, tasked with organizing government affairs and managing them. It also deals with its relationships with other stakeholders in the state, society, and external environments at both national and international levels. It manages and executes a range of government activities related to the enforcement of laws, regulations, and government decisions and the administration of public services at both national and subnational levels.
- Any public body, whether central or local, entrusted with the political authority to meet public needs in various forms, and equipped with the necessary means. This also includes the operational style of these entities and their relationships with one another and individuals.

The term "public" or "governmental" here refers to governmental administration, distinguishing it from other types of administration, such as business administration and private organizations.

Public administration is responsible for providing public services.

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<sup>1</sup>Salwa Tishat, "Prospects of the Algerian Public Service under the Application of the New Public Management in Light of Foreign Experiences: New Zealand, France, and the United States of America," Doctoral Thesis, University of Boumerdes, 2014/2015, p. 16.

<sup>2</sup>Hussein Fattish, a previous reference, p. 13.

<sup>3</sup>Amar Merzak, Public Management "Between Classic and Modern Approaches," Dar Jusur, Algeria, 1st edition, 2015, p. 7.

Public service is a technical service generally provided by a public organization in response to a public need, and its provision requires those responsible for its administration to adhere to principles of equality, continuity, and adaptation to achieve the common good<sup>(4)</sup>.

### **C - Definition of Local Administration:**

Local administration is considered one of the main branches of public administration and has been defined in various significant ways, including:

- The transfer of the authority to issue administrative decisions to freely elected councils of the concerned population.
- Defined areas where activities are carried out by elected bodies of local residents under the supervision and control of central administration<sup>(5)</sup>.
- An administrative approach that divides the territory of the state into local units with local concepts. Each local entity represents the general public interest, and these entities operate with their own financial resources. They are regulated by the central government in accordance with the law.
- An administrative organization method that is based on the idea of dividing powers and functions between central and local bodies. This allows the central government to focus on formulating the state's public policy and managing national facilities, while local bodies efficiently manage their own affairs<sup>(6)</sup>.
- Local administration is a foundation of modern democracy. It means that the local population manages its local affairs and interests by themselves.
- Local administration means entrusting a portion of the administrative function of the state to regional bodies with independent legal personality, independent financial responsibility. These entities are created mainly through elections and exercise services with a local character. The central authority has the right to oversee the activities of these entities as necessary to ensure their independence<sup>(7)</sup>.

Local administration is an administrative entity for a relatively small geographic area (administrative units), and local administrations have administrative authority only within their geographical scope. They do not have the legislative authority that affects other local administrations<sup>(8)</sup>.

In Algeria, local administration (local communities) is represented by the wilaya (province) and the commune (municipality)<sup>(9)</sup>.

In this context, the municipality is the basic regional community that carries out a general mission, allowing it to operate in various fields within the legislative provisions<sup>(10)</sup>. It is managed by an executive body, the Municipal People's Council, and an executive body represented by the President of the Municipal People's Council, assisted by one or more deputies, depending on the size of the local community. The municipality is considered the fundamental regional community of the state, enjoying independent legal personality and financial responsibility, and is established by law<sup>(11)</sup>. It possesses a range of competencies and powers granted by the law and serves as the regional basis for decentralization and a place for citizen participation in managing public affairs<sup>(12)</sup>.

### **02 - The Concept of Electoral System Reform:**

To understand the reform of the electoral system (in Algeria), we must first define administrative reform and

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<sup>4</sup>The same reference, pp. 14 and 50.

<sup>5</sup>-(Fuad Ben Ghedaban, Local Development "Practices and Actors," Dar Safa, Amman, Jordan, 1st edition, 2015, p. 64.

<sup>6</sup>-(Milad Muftah Al-Harathi, Local Administration Organizations and Their Relationship with Regional Democracy, Dar Al-Kitab Al-Jam'i, Beirut, 2016, p. 45.

<sup>7</sup>-(Muhammad Farghali Muhammad Ali, The System and Procedures for Electing Local Council Members in Light of Jurisprudence and Law "A Theoretical and Applied Study of the Local Election System in Egypt and Western Countries," Dar Al-Nahda Al-Arabiya, Cairo, 1998, pp. 8 and 37.

<sup>8</sup>-The same reference, p. 22.

<sup>9</sup>-(Al-Sharaf Rahmani, Municipal Funds in Algeria "Deterioration - Deficiency - Good Management Control," Dar Al-Qasba for Publishing, Algeria, 2003, p. 11.

<sup>10</sup>-(Article 01 of Law No. 10/11 dated June 22, 2011, relating to municipalities.

<sup>11</sup>-(The same reference, Article 03.

<sup>12</sup>-(The same reference, Article 02.

then define the development of the Algerian electoral system. This will help us establish the relationship between administrative reform and the electoral system. The following points elaborate on this:

**A - Definition of Administrative Reform:**

Administrative reform has been defined by various definitions, including:

- A continuous and ongoing process of adapting administrative structures and functions to those of the state.
- Continuous alignment with the spirit of renewal and updating required by the dynamic political system.
- A process of cleansing the administration of its problems and finding suitable solutions that are in line with the spirit of renewal and scientific and technological advancements. This leads to the use of rational methods and techniques to achieve the management's goals, aimed at satisfying citizens' needs with maximum efficiency and effectiveness<sup>(13)</sup>.
- Development and improvement of administrative and organizational aspects to make administrative organizations capable of performing their administrative duties.
- Working on reforms in organizational structures and systems to make these bodies capable of implementing their functions in accordance with the defined plans, which include improvements in organization, working methods, and the optimal use of human and material resources.
- Developing the human and behavioral skills of administration users, translating into quantitative and qualitative growth in human resources within administrative systems and organizational structures, among other aspects<sup>(14)</sup>.
- Administrative reform signifies an ongoing effort to enhance current conditions and develop them into a unified entity capable of improving the administrative process.
- Reforms designed to organize and regulate procedures and controls to improve systems, relationships, and methods, and to develop the potential and capabilities of the administrative system.
- An ongoing and renewable process that helps find a balance between administrative results and economic, social, and political fields, among others<sup>(15)</sup>.

Administrative reform aims to achieve various goals, including:

- Working on developing positive attitudes towards work and fostering a sense of belonging and expanding areas of qualification, training, and development.
- Adopting modern patterns and approaches in organizational structures and redesigning them to enhance flexibility and responsiveness to changing requirements, developments, and adaptation to environmental factors and variables.
- Embracing performance evaluation comprehensively, focusing on the social responsibility of these organizations towards society, including the evaluation of performance aspects, completed work, financial costs, investment volume, employee performance, and linking them to the requirements of social development.
- Accommodating current and expected changes and the scale of human resources in the context of human resources in administrative systems and organizational structures, developing their capacity, fostering teamwork values, and encouraging creativity and progress.
- Embracing management strategies in various work areas by developing the capacities of organizational structures to deal with internal and external environments.
- Supporting efforts to increase production and productivity, quality, and the application of quality-related measures.
- Developing administrative work procedures, laws, and regulations related to achieving speed and accuracy in decision-making.
- Expanding the use of modern technologies and moving towards electronic systems while enhancing research and development.
- Developing the capabilities of institutions responsible for managing economic, social, and cultural development programs, supporting and enhancing their role in directing resources towards investments with a broader return.

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<sup>13</sup>-(Merzek Adman, Ibid, p. 143.

<sup>14</sup>-(Musa Al-Lawzi, Administrative Development, Dar Wael, Amman, Jordan, 2nd edition, 2002, p. 30.

<sup>15</sup>-(HashemHamdiReda, Administrative Reform, Dar Al-Rayah, Amman, Jordan, 1st edition, 2011, p. 9.

- Developing the self-capabilities of administrative institutions to cope with changes, diagnose and solve problems and obstacles, and plan for future developments by focusing on setting general goals in terms of quantity, quality, and timing to use planning methods and techniques to achieve these goals, based on the flexibility and ability to adapt to current and future developments<sup>(16)</sup>.

#### **A - Definition and Evolution of the Algerian Electoral System:**

The legislative system (legal) refers to the collection of constitutions enacted in the country, as well as the legislative organic, ordinary, and subsidiary laws, and so on, which are supposed to be in line with the constitution as they are ranked lower than it in terms of legal status. Algeria, like other countries, has a distinctive legislative system with a national character<sup>(17)</sup> in terms of its development, sources, and characteristics.

The Algerian electoral system is considered one element of the national legislative system in general. It refers to the collection of legal texts regulating elections, whether these texts are contained in the basic legislation, such as the constitution's articles, or in the organic laws related to the electoral system. This also includes decrees and orders specifying the conditions and procedures of the electoral process.

After the first pluralistic presidential elections in 1995, the legislative system for the electoral system in the Algerian state was developed. There were efforts to apply it and conduct elections in a free, fair, transparent, and legitimate manner under various national and international safeguards and mechanisms. During this period, a national strategy for electoral evaluation was developed, along with the pluralistic party system and parliamentary and judicial duplication. Additionally, mechanisms for protecting human rights and citizens' rights have been diversified and enhanced. This led to the enactment of organic laws related to political parties, the electoral system, the media, and parliamentary chambers and their relationship with the government.

The issuance of numerous laws related to the electoral system continued, through the amendment of election laws, like the 2004 amendment to the election law. New legislation was issued directly or indirectly related to the electoral system by pursuing the policy of reforms associated with this system. Some of these new laws respond to popular demands, democratic standards, and constitutional provisions. Examples include the organic law on political parties, the organic law on the electoral system, the organic law on the media, the organic law specifying the cases of conflict with the parliamentary mandate, and the organic law specifying the means to increase women's representation in elected councils<sup>(18)</sup>, as well as the organic law No. 16/10 of 25/08/2016 related to the electoral system.

#### **C - The Relationship between the Electoral System and Administrative Reform:**

Electoral system reform is the cornerstone of building a democratic system and is, in the words of Bartlemy, the reform of reforms<sup>(19)</sup>.

Therefore, if administrative reform encompasses a set of steps and procedures aimed at improving the performance of public administrative institutions in any political and administrative system, the electoral system is the means through which this reform is achieved.

In the field of local administration, it is noticeable that it relies on elected local councils to manage regional communities. Consequently, any flaw in the electoral system directly affects the performance of these elected bodies. Therefore, electoral system reform is the most successful mechanism in achieving and implementing administrative reform at the local level.

#### **03 - The Concept of Improving Local Administration Performance:**

Spreading the concepts of administrative decentralization and moving away from central decision-making and developing delegation skills among administrative leaders, enabling administration to take responsibility and undertake <sup>(20)</sup> ... etc., are among the means to improve local administration performance. Based on this, within this point, we will define what is meant by performance in the administrative field in general. Then we will define what is meant by performance at the level of local administration and the importance of improving

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<sup>16</sup>-(HashemHamdiReda, previous reference, p. 15-16.

<sup>17</sup>-(Nadia Khelfa, "Mechanisms for Protecting Human Rights in the Algerian Legal System: A Study of Some Political Rights," Doctoral Thesis in Legal Sciences, specializing in Constitutional Law, Faculty of Law and Legal Sciences, University of El-HadjLakhdar, Batna, Algeria, 2009-2010, p. 30 and beyond.

<sup>18</sup>-(SihamAbbassi, "Guarantees and Mechanisms for Protecting the Right to Nominate in International Charters and the Algerian Legislative System," Master's Thesis in Constitutional Law, University of Batna 01, 2013-2014, p. 42.

<sup>19</sup>-(Muhammad Farghali Muhammad Ali, previous reference, p. 01.

<sup>20</sup>-(HashemHamdiReda, previous reference, p. 15.

performance through the following points:

**A - Definition of Performance in the Administrative Field:**

Performance in the administrative field has been defined with several important definitions, including:

- A process that can be improved to increase the capabilities of individuals, a vision aimed at mobilizing all human and material resources and making them available to the economy <sup>(21)</sup>.
- The ability to accomplish a set of specified and measurable (administrative) tasks within the framework of (administrative) activity.
- The activity, skill, or effort made inside and/or by the institution with the aim of achieving the goals of the latter.
- The ability to perform tasks correctly <sup>(22)</sup>.

Thus, it can be said that the concept of performance in the administrative field is directed towards the process that includes the activity carried out by the administration to achieve the goals it was established to achieve.

**B - Definition of Performance in the Public Administration Field:**

The main reason for the existence of public institutions is to achieve human welfare, and at the same time, humans are the main means to achieve the goals of public institutions <sup>(23)</sup>.

In reality, performance in the field of public administration requires the ability to assess the contribution to making administrative decisions.

Performance in the field of public administration is the process made in order for the public institution to achieve its goals and face the problems that obstruct these goals.

It is a set of planned efforts throughout the entire public institution, aiming to increase its effectiveness and vitality through planned intervention that benefits from behavioral sciences <sup>(24)</sup>.

Therefore, we can say that performance in the field of public administration means the process that includes all the activities carried out by public administration to meet public needs, achieve public welfare, and local development.

**C - The Importance of Improving Local Administration Performance:**

If performance in the field of public administration is directed towards the process that includes all the activities carried out by public administration to meet public needs, achieve public welfare, and local development.

Moreover, the local administration is one of the largest means to achieve local development; therefore, the elected local administration must perform in a way that does not contradict the state's general plan, providing the greatest opportunities for citizens within the scope of each administrative unit to prepare for the greatest success in meeting their needs with the least cost and the least share of popular participation. Thus, local people are empowered to directly sense developments, changes, reforms, and major projects aimed at the state's development <sup>(25)</sup>.

Improving performance is the planned and continuous effort to change public administrative institutions to become more efficient and more concerned with human aspects, using the knowledge acquired from behavioral sciences to develop an organizational culture based on the institution's self-choice and readiness for change, with a focus on collective processes and interrelationships.

It is a set of processes and behaviors carried out to elevate the entire public administrative institution to the highest level <sup>(26)</sup>.

The importance of improving local administration performance lies in its contribution to achieving the goals of local administration, considering several areas, including:

Achieving more local development in all fields at all levels, with the aim of achieving prosperity and public welfare for local communities.

Connecting central administration to the popular base, as local administration is the real mirror of central authority in front of the public.

Ensuring fairness in the distribution of funding based on sound practical planning involving local

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<sup>21</sup>-(ManalTalaat Mahmoud, "Human Resources and Local Community Development," Modern University Office, Alexandria, Egypt, 1st edition, 2012, p. 93.

<sup>22</sup>-(Hussein Fneish, previous reference, pp. 77-79.

<sup>23</sup>-(Nour El-Din Haroush, "Human Resource Management," Dar Al-Ummah, Algeria, 2016, p. 03..

<sup>24</sup>-(The same reference, pp. 87 and 197.

<sup>25</sup>-(ManalTalat Mahmoud, previous reference, p. 129.

<sup>26</sup>-(Nour El-Din Haroush, previous reference, p. 198.

communities.

Local administration is a school for training leaders in executive, popular, and political work at the local level. Deepening the approach of good democratic governance <sup>(27)</sup>.

**Secondly: The Necessities of Reforming the Legal System of Local Elected Bodies:**

The ultimate goal of electing local citizens to local elected bodies is to create institutions or bodies capable of meeting all their needs and providing the services they require and the welfare they desire.

And the goal of adopting the decentralization system and thus creating regional councils is to work on bringing administration closer to citizens and addressing their public needs through what these bodies can offer in terms of public services. Since the elected local body is the interface of local administration (the elected body), this elected body is entrusted with achieving the goals of administrative decentralization. However, it is a fact that these goals have not been achieved by the municipal people's councils (whether by the municipal council's president or by the other elected members of the elected municipal people's councils), and therefore, reforming the legal system of the local elected (municipal) bodies has become an urgent necessity, which can be explained through the following requirements:

**1 - The requirements of attracting competencies and improving the performance of local institutions:**

The human element is the primary element in the activities of institutions in general, administrative institutions in particular, and elected local institutions in particular. It is the intelligent and thoughtful element and is the basic means to improve the work of institutions. Moreover, it is the conscience of the administrative institution <sup>(28)</sup>.

Since the philosophy of local administration is based primarily on administrative decentralization and popular participation, they are the starting point towards a sound local management system capable of achieving local development goals in all areas, with continuous work to raise the efficiency of local services. Therefore, there are some points that form the core of this philosophy, including:

- Reaching a sound democratic system that allows every citizen to participate in determining the community's system they live in.
- Establishing elected popular councils (elected municipal councils for municipalities), through which administrative work can be managed in a way that serves the public interest of citizens.
- Achieving genuine decentralization by giving local units all the powers held by central authorities.
- Increasing the efficiency of administration through the participation of local residents. As cooperation and coordination between popular efforts and government efforts are fundamental necessities for the prosperity of facilities and the facilitation of their management <sup>(29)</sup>.

As elected local councils do not have elected members who possess a sufficient level of experience and competence, reforming the legal system of local elected members is one of the most important requirements for improving the performance of elected local institutions. This reform can ensure that elected local members have a sufficient level of experience and competence, which can enhance the performance of public services and achieve the public interest of the local elected councils.

**02 - Implications of Globalization and the New Economic Orientation:**

Local governance holds paramount significance due to the role that elected local bodies play in the development process. It is considered one of the primary platforms for fostering comprehensive development. Local governance distinguishes itself by virtue of its proximity to the populace, emanating from their midst. It possesses the capability to comprehend local conditions and needs, involving local residents in both ideation and effort to formulate purposeful programs aimed at advancing the local community. This is accomplished through the dissemination of awareness and persuasive arguments regarding the significance of these programs and their benefits for the local population and the state as a whole. Building upon this premise<sup>(30)</sup>, in light of the interconnection between local governance and the local citizenry, and in consideration of the impacts of globalization and the economic landscape, there arises a compelling need for administrative reforms, including the reform of the legal framework governing local elected officials, to better align with the

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<sup>27</sup>-(ManalTalat Mahmoud, previous reference, p. 132.

<sup>28</sup>-(Nour El-Din Haroush, previous reference, p. 03.

<sup>29</sup>-(ManalTalat Mahmoud, previous reference, pp. 132-133.

<sup>30</sup>-(Fouad Ben Ghedbane, "Local Development: Practices and Actors," Dar Safaa, Amman, Jordan, 1st edition, 2015, pp. 65-66.



imperatives of globalization and the new economic orientation.

The linkage between the reform of the legal framework for local elected officials and the enhancement of the performance of elected local institutions can be justified by several reasons, prominently including:

- The imperative to equip the general administration of local communities with contemporary tools and practical methodologies that align with economic developments and the ramifications of globalization. This necessitates an unequivocal affirmation of the expansion of the powers of municipal councils, thereby bolstering their independence within the boundaries prescribed by the law, and activating their role in local development and meeting local needs.
- The adoption of administrative reforms, particularly those relating to the local government system, with the overarching aim of rendering local governance capable of realizing the social, political, and economic reforms promulgated by the state as a whole, all the while ensuring efficiency and efficacy.
- Adaptation to the dynamics of the new global economic system and the reverberations of globalization and the global financial crisis, which may impact the objectives and institutions of the state. Consequently, it behooves these entities to devise strategies through which they can adjust local facilities, institutions, and units within the state to align with the manifold political, social, and economic transformations. The influence of globalization and the global financial crisis has engendered the adoption of novel economic policies, which must be universally followed by all agencies, institutions, and local entities within the state, including local communities.
- The prevailing transformations and circumstances in the regional and international arena, characterized by political and economic crises, necessitate a comprehensive review of several national dimensions. Among these dimensions, the imperative of administrative reform, including local government reform, is a preeminent facet aimed at enhancing efficiency and sagacity in the performance of these entities.
- The pursuit of economic growth is underpinned by the aspiration to ameliorate the modalities governing the augmentation of revenue and productive capacities within local communities in the future. This remains pertinent even if these augmentations are protracted. In this context, administrative reforms within the ambit of local communities will be attuned to the level and objectives of medium and long-term economic reforms. Different nations aspire to craft economic policies that efficaciously materialize growth and development, attaining the conceptualization of sustainable development, which necessitates the maximization of the gains of economic development while safeguarding services and the quality of natural resources across the temporal continuum.
- The fulfillment of the exigencies posed by developmental transformations across their multifarious social, political, and economic dimensions necessitates components such as swiftness, precision, and meticulousness in execution, a seamless course of administrative operations, and the enhancement of service quality. These requirements are twofold, stemming from the exigencies of addressing and contending with the global financial crisis on one front and responding to the economic reforms espoused by the state on another.
- Local governance is perceived as an extension of central administration in numerous domains that constitute primary competencies of the state, across its diverse institutions, including decentralized entities (local communities)<sup>(31)</sup>.

### **03 – Perseverance of Deficiencies in the Performance of Local Elected Bodies:**

Local governance facilitates citizen participation in matters of local governance, thereby nurturing fresh popular leadership embodied in elected local councils (municipal councils elected at the municipal level)<sup>(32)</sup>. Consequently, local councils at the municipal level are populated by local residents who have been elected by the people (elected local leadership).

Elected local leadership emerges as one of the pivotal yardsticks for the success of governance. It embodies the indispensable element within the local administrative framework. A successful local governance

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<sup>31</sup>–(SalimHamidani and SihamAbbassi, "The Performance of Algerian Municipalities in Light of the New Economic Orientation: Problems and Solutions," presented at the National Conference on the Impacts of the New Economic Orientation on the Legal System of Local Administration, Faculty of Law and Political Science, Department of Law, University of Batna 01, April 12, 2018, p. 04.

<sup>32</sup>–(Fouad Ben Ghedbane, previous reference, p. 131.

framework should be distinguished by leadership characteristics, and possess the ability to innovate and thoroughly comprehend the local population's circumstances and needs. It should spearhead local programs and deliver unwavering leadership in day-to-day operations, as well as make local decisions<sup>(33)</sup>. Nevertheless, the reality has unveiled inadequacies in this regard.

This is corroborated by the presence of a plethora of issues that fundamentally impede the performance of elected local councils, notably:

- Sluggish Public Service Delivery: This results from the lengthy and intricate procedures and processes required for service production.
- Poor Public Service Provision.

Discrimination in service delivery due to the proliferation of intermediaries.

- Prevalence of bribery and corruption among many local elected officials.
- Lack of communication between elected local authorities and the service recipients, resulting in a gap between the actual service provision and the citizens' expectations.
- Lack of innovation and the rigidity stemming from planned and considered policies for changes in the production and delivery processes of public services.
- Complete absence of research and applied studies in local units, with no attention to leveraging such research and studies that are abundant in academic and research organizations.
- Weak monitoring and evaluation system for public services and the lack of effective oversight to ensure services reach citizens according to the regulated laws and legislation.
- Misuse of available organizational resources in the production and delivery of public services, either due to neglect, indifference, lack of experience, or corruption.
- The proliferation of administrative corruption in the administrative structures and organizational relationships of local units, which negatively impacts the performance of elected local councils.
- The inability to maintain a high level of public service due to the absence of quality control standards<sup>(34)</sup>.

The reasons for the aforementioned deficiencies can be attributed to:

- Weak technical capabilities of local elected officials: Many regional municipalities lack sufficient administrative experience to execute their assigned projects, which negatively affects their ability to provide public services.
- Inefficient local elected officials, especially in municipalities: This is because these individuals take on their roles based on election, rather than competence. Election laws do not require any competence or educational background for candidates in municipal councils, which has a negative impact on the performance of local officials and, consequently, on local development and public services.

### **Thirdly: Means of Reforming the Legal System of Elected Local Officials:**

The previous imperatives necessitate administrative reforms, especially concerning the legal system of elected local officials. These reforms are typically carried out through various legal and practical means, the most important of which include:

#### **Administrative Reform Policy:**

Administrative reform policy is among the most effective and successful methods for improving the performance of local elected officials, particularly in the elected municipal councils. This policy is implemented through the following reforms:

- The pursuit of articulating the objectives of government agencies in measurable, quantitative terms.
- Eliminating overlap and duplication in the execution of tasks and authorities of government agencies to specify responsibility for errors and violations, supporting the role of the accountability body in performance oversight.
- Directing control agencies to work through the objectives of control rather than control by procedures.

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<sup>33</sup>—(Milad Muftah Al-Harathi, previous reference, p. 34.

<sup>34</sup>—(Merzek Adman, previous reference, pp. 20-22.

- Adopting regulations for transparency<sup>(35)</sup>.

### **Training and Development:**

Training and development are fundamental aspects of administrative development. Consequently, they have received substantial attention from modern local administration due to their role in achieving local objectives<sup>(36)</sup>. Training or development is a positive modification process with specific behavioral sequences that are professionally job-oriented<sup>(37)</sup>. The objective of training is to achieve several essential goals:

- Developing knowledge, skills, and competencies.
- Enhancing the performance of administrative institutions.
- Improving the effectiveness of work methods.
- Facilitating adaptation to changes and enhancing the work environment<sup>(38)</sup>.
- Elevating the professional and social level of employees or local elected officials.
- Preparing employees or local elected officials to perform tasks with different characteristics and specifications than their current tasks, making them more competent, loyal, and dedicated to administration<sup>(39)</sup>.

Therefore, we can conclude that the objectives of training concern both the individual and the organization, aiming to achieve the organization's goals without neglecting individual goals by developing individuals and improving their performance<sup>(40)</sup>.

### **02 - Algerian Efforts in Improving the Performance of Local Authorities Through the Reform of the Legal System for Local Elected Officials:**

Given the importance of the relationship between public service and regional communities on one hand and citizens on the other, the Algerian authorities, as well as Algerian legislators, have taken an interest in the role of regional communities in providing public services for the benefit of citizens. On this basis, the focus on public services provided by regional communities to Algerian citizens has been among the most important key areas in the political reform process, including recent political reforms in Algeria.

In this regard, the President of the Republic directed the government in a ministerial meeting held on February 3, 2011, to focus on improving the performance of public services, with particular attention to the role of regional communities in this matter. The main points emphasized were as follows:

1. Seizing the opportunity to study the Municipal Law project currently under parliamentary consideration (Law No. 11/10, dated June 22, 2011, related to municipalities) to highlight the role and contribution of municipal councils in responding to the aspirations of citizens at the local level. This also involves initiating a program to empower and support municipalities with competent personnel capable of enhancing the quality of public services.
2. Ensuring the uniformity of regulatory procedures applied by government departments and regional communities across the entire national territory in terms of their responsibilities related to regulation and maintaining public order.
3. Simplifying the structure of files and processing procedures whenever possible, and commencing the process of providing the required documents for document retrieval and adopting faster processing procedures.
4. Prioritizing quality, speed, and efficiency in services provided by government departments and public institutions, and the effective supervision of governors in achieving these objectives in their jurisdictions.
5. The necessity of listening to citizens and engaging with them.
6. The need for communication between central and regional administrations.

If changes cannot happen overnight, the objectives presented in the Cabinet meeting mentioned above give citizens the right to witness improvements and qualitative changes<sup>(41)</sup>.

The reality is that although the law for which the Cabinet met has indeed been issued, Law No. 11/10 dated June 22, 2011, it remains an incomplete law. This is because:

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<sup>35</sup> - (Merzek Adman, previous reference, pp. 80-81.

<sup>36</sup> - (Nour al-Din Harush, previous reference, pp. 71-72.

<sup>37</sup> - (Hussein Fneish, previous reference, p. 20.

<sup>38</sup> - (Nour al-Din Harush, previous reference, pp. 71-72.

<sup>39</sup> - (Hussein Fneish, previous reference, pp. 22-23.

<sup>40</sup> - (Nour al-Din Harush, previous reference, pp. 71-72.

<sup>41</sup> - (Statement of the Algerian Cabinet Meeting held on February 3, 2011, Presidency of the Republic, Algeria.

- It failed to reconcile the local needs with the roles assigned to elected regional communities, taking into account the financial resources available to these communities (municipalities). Financial resources are the most critical means by which municipalities can fulfill their assigned roles.
- Moreover, this law did not include provisions related to the qualifications of local elected officials, either by endorsing the list submitted by a political party that meets the legal requirements or by an independent list that has obtained the legal minimum of individual signatures. As a result, the reality has shown the election of local officials, even to the presidency of municipal councils, who lack the required expertise and educational qualifications suitable for leading an elected local council that is responsible for meeting local needs and working towards local development. These elected officials often struggle to perform effectively.

### **03 - Challenges Faced by the Algerian Local Elected Officials in Fulfilling an Active Role in Elected Institutions:**

Despite the many efforts made by Algeria to improve the performance of local elected officials at the municipal level and enhance their ability to fulfill their designated roles, the reality indicates that the desired goals of these reforms, especially those related to the reform of the electoral system for local elected officials, have not been fully achieved. This can be attributed to shortcomings in many aspects of these reforms on one hand, and the challenges that local elected officials face, preventing them from achieving effective performance, on the other.

The local elected officials face several challenges that hinder the improvement of their performance in carrying out their assigned roles. The most significant of these challenges include:

#### **A - Lack of Compatibility Between the Roles of Elected Local Councils and Their Mandated Responsibilities:**

The legislator has granted regional communities nearly open-ended powers, covering most activities relevant to local citizens. This necessitates the provision of substantial financial resources to address these activities, given the significant financial commitments involved. However, the reality shows a significant shortfall and a severe lack of financial means for regional communities, which is reflected in the increase in public services without a corresponding increase in local financial resources<sup>(42)</sup>.

As a result, regional communities find themselves unable to reconcile their ability to address local needs on one hand and the financial resources needed to implement local projects derived from legal texts on the other<sup>(43)</sup>. The absence of sufficient and stable financial resources for municipalities leads to their ineffectiveness in carrying out their designated roles<sup>(44)</sup>.

Financial resources are the lifeblood of local economic activity, and a municipality's possession of independent financial resources that contribute to its treasury and enable it to move toward financial independence is crucial. However, the analysis of the local financial reality in Algeria reveals that despite municipalities having their own financial resources, these are insufficient. This has led to a severe crisis that negatively affects their autonomy<sup>(45)</sup>.

The effectiveness of local administration is primarily dependent on the availability of financial resources. Forming local councils through direct general elections and granting them important and diverse powers without providing the necessary and sufficient financial resources renders local governments inactive. Thus, some argue that the success or failure of local administration depends on its financial resources<sup>(46)</sup>.

In the context of increasing public services and the basic needs of citizens, municipalities often find themselves unable to carry out their designated roles due to the stagnation or decrease in financial resources. This remains the case despite reforms to the electoral system for local elected officials, as the root cause is the need to reform the legal framework of municipalities to align their financial resources with their responsibilities, in parallel with the reform of the legal framework for local elected officials.

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<sup>42</sup> - (Salahi Abdel Nasser, "Regional Communities Between Independence and Subordination," Master's Thesis in Public Law and Public Institutions, Faculty of Law, Ben Aknoun, University of Algiers 01, 2009-2010, p. 69.

<sup>43</sup> - (Ismael Frajat, previous reference, p. 10.

<sup>44</sup> - (Hamza Brabeh, "Hukah and its Role in Improving Local Administrative Management and Application Requirements: The Algerian Model," Dar Al-Hamid, Amman, Jordan, 1st edition, 2018, p. 64.

<sup>45</sup> - (Adel Bouamran, "Municipal System in Algeria: Challenges and Perspectives," Parliamentary Thought Journal, Council of the Nation, Algeria, Issue 27, April 2017, p. 44..

<sup>46</sup> - (Fuad bin Ghadban, previous reference, p. 238.

### **B - Lack of Financial Stability for Municipalities:**

One of the greatest challenges leading to a decline in local services provided to citizens is the shortage of financial resources to meet local obligations. The law mandates that regional communities must ensure the availability of the necessary financial resources to cover their legally-mandated duties in all fields<sup>(47)</sup>.

Local financial resources as the foundation of local economic activity for regional communities require, as much as possible, their financial independence from central financial bodies. Local communities must be granted full authority in determining, collecting, and supervising their financial resources<sup>(48)</sup>.

Therefore, regional communities often find themselves unable to balance their capacity to address local needs on one hand and their financial resources to bring local projects to life on the other<sup>(49)</sup>.

In light of increased public services and the basic needs of citizens versus stagnant or decreasing financial resources, municipalities find themselves almost incapable of fulfilling their designated roles. Regardless of the nature of the reform in the electoral system for local elected officials, the municipality's inability to access the financial resources it requires hinders it from carrying out its role effectively. The legal framework for municipalities should be reformed to align their financial resources with their responsibilities.

### **C - Challenges Related to the Administrative Supervision System:**

In reality, regional communities often function as executive bodies even when they are elected. The nature of their oversight is not akin to the parliamentary level, necessitating the establishment of an administrative supervision system to ensure that these entities remain in their designated fields without deviating from their mandated responsibilities. This supervision is carried out in the context of implementing the state's public policy. Regional communities may diverge from this policy to appease their constituents, who constitute the total beneficiaries of public services provided by these communities. This could lead to harming the state's interests as a whole<sup>(50)</sup>.

### **Conclusion:**

In summary, this research paper has yielded several noteworthy findings that warrant consideration. These findings include:

1. The Constitutional Legitimacy of Municipalities: The Algerian constitution designates municipalities as statutory entities. This constitutional recognition endows municipalities with a unique form of constitutional legitimacy, setting them apart from many other state institutions.
2. Municipal Roles and Responsibilities: Municipalities, serving as the foundational regional units of the state, are entrusted with a range of significant responsibilities. Foremost among these is the pursuit of local development, the fulfillment of local needs, and the advancement of the public interest.
3. Administrative Reform and its Central Role: General administrative reform, specifically electoral system reform for local elected officials, emerges as a crucial instrument for enhancing the performance of municipal councils.
4. The Imperative of Attracting Competent Administrative Personnel: Attracting proficient administrative talent capable of delivering superior performance for local institutions, including municipal councils, stands as a critical necessity within the context of electoral system reform.
5. Globalization and Economic Implications: Globalization and economic trends play a pivotal role in prompting administrative reforms. This stems from the necessity of aligning public administrations, including local authorities, with evolving economic dynamics and globalization demands. These two elements exert a profound influence on numerous social, economic, and administrative dimensions.
6. Shortcomings in the Performance of Local Elected Officials: An inherent issue within the Algerian context is the limited capacity of local elected officials to effectively manage local administration. This deficiency can be attributed to their insufficient experience and qualifications for discharging the tasks of local administration, which represent a fundamental conduit for local development and service delivery.
7. The Complexity of Legal Reform for Local Elected Officials: Legal reform for local elected officials in Algeria encompasses a multitude of facets, including legal and procedural measures. Despite the concerted efforts by Algerian legislators, there remains a notable gap between the envisioned and

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<sup>47</sup>- (Suleiman Al-Eid, "Local Service Between Text and Reality," Seminar on Public Service in Algeria: Current Situation and Prospects, Faculty of Law and Political Science, University of Jijel, 2015, p. 07.

Adel Bouamran, previous reference, p. 38.<sup>48</sup>-(

Ismael Frajat, previous reference, pp. 08-10.<sup>49</sup>-(

-(<sup>50</sup>)Ismael Frajat, previous reference, pp. 07-10, as appropriate.

realized improvements in the performance of local elected officials. Several entrenched challenges continue to impede their administrative performance within municipal councils.

In conclusion of this research paper, we would like to emphasize that finding a local representative (member of the Municipal People's Council or the Municipal People's Council President) in Algeria capable of effectively performing local administrative functions is challenging under the current electoral system. The current system lacks any specific requirements that should be met by local representatives, especially the Presidents of Municipal People's Councils and their deputies. This leads to the dominance of political interests over local interests and results in the election of local representatives who may not possess the necessary experience and qualifications to fulfill their administrative duties.

Based on this premise, we believe that the legal reform of the local representative system should include a set of conditions for candidacy for membership in Municipal People's Councils, or at least for the position of Municipal People's Council President. These conditions should not omit the necessity of having sufficient educational qualifications (at least a high school diploma) and the essential professional experience for the elected local representative who will lead the Municipal People's Council. This is in recognition of the nobility and significance of the responsibilities these individuals undertake, which are fundamentally connected to the local interests of the local citizens.

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