

# Dissolution of Local Popular Councils as an Exceptional Mechanism in Algerian Law: A Study of the Legal Framework and Practical Implications'

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**Abstract---**In Algerian law, the dissolution of local popular councils is considered an exceptional mechanism, activated when the regular functioning of local public services is hindered, or serious legal violations occur. This procedure is subject to precise legal controls to ensure respect for the principle of legality and the protection of the will of the people, as well as the appointment of a temporary authority to manage local affairs until new elections are organised. This mechanism has significant legal and administrative implications, most notably the termination of the elected council's mandate and temporary state intervention. It serves as a corrective tool aimed at restoring balance and ensuring the continuity of public services. However, its use must be rationalised and preventive measures must be activated to avoid resorting to it except in necessary cases.

**Keywords---**dissolution, local popular council, exceptional mechanism, local communities, supervisory authority.

## Introduction

The system of administrative decentralisation is one of the fundamental building blocks of the modern state's administrative organisation. This system is embodied in local popular councils, which play a fundamental role in managing local affairs according to the principle of participatory democracy. However, the practical implementation of this system has revealed numerous instances of functional or legal imbalances within the councils, whether due to mismanagement, abuse of power or disruption to the normal functioning of public services. This has necessitated legislative intervention to establish

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exceptional legal mechanisms to ensure the continuity of local public services and protect the public interest. One of the most important of these mechanisms is dissolution.

This research paper is of significant legal importance as it highlights the delicate balance between the principle of legality and the protection of public interest and continuity of public service. The dissolution of local popular councils entails legal, administrative and organisational consequences that impact the fundamental structure of local authority and affect the relationship between the supervisory authority and local communities, and is not merely the termination of the mandate of elected bodies. This raises profound questions about the legal limits of administrative oversight and the safeguards in place to protect the will of the people.

**The central issue that this research paper seeks to address is therefore clear:**

To what extent has the Algerian legislator, through the legal framework governing the dissolution of local popular councils, achieved a balance between the exceptional nature of this procedure and the guarantee of the principle of legality and the continuity of public service?

**This central issue gives rise to several sub-questions, including:**

What is the legal framework that regulates the dissolution of local councils in Algeria?

What legal conditions and controls govern this exceptional procedure?

What are the legal and administrative consequences of dissolving local councils?

How can the continuity of public service be ensured in light of this procedure?

The fundamental hypotheses on which this research paper is based are:

- The dissolution mechanism in Algerian legislation is subject to precise controls and conditions to ensure it is not abused.

The dissolution of local councils, despite being exceptional, can ensure the proper functioning of public facilities and protect the public good.

The application of this mechanism results in legal and administrative consequences that may temporarily affect the functioning of local public services.

The effectiveness of this procedure depends on the clarity of the legal and procedural framework governing it.

To achieve the research objectives, a descriptive approach was adopted, defining the dissolution mechanism for the local popular council and outlining the characteristics that distinguish it. Additionally, the reasons for dissolving the local popular council will be outlined alongside an analytical approach to analysing legal and regulatory texts, particularly those governing local communities, the procedures for making dissolution decisions and methods for renewing the local popular council. Furthermore, an inductive approach will be used to derive practical results and implications of the dissolution of the local popular council.

**Section One: The Conceptual Framework of Dissolution as an Exceptional Mechanism for Addressing Local Popular Councils<sup>1</sup>**

Dissolution is one of the most serious measures that the supervisory authority can take against local popular councils, whether municipal or provincial. This has led the Algerian legislator to attach great importance to this procedure, as it threatens the stability of both the council and the state. On this basis, this section will outline the relevant controls.

**Subsection One: Definition of Dissolution as a Legal Mechanism for Terminating the Legal Existence of the Local Popular Council**

Although the Algerian legislator has not provided a specific definition of the dissolution procedure, they have organised the competent authority to issue and renew this decision. This includes the main reasons

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<sup>1</sup>- For more details, see: Rahima Ladghach, 'Administrative Oversight on Elected Local Councils', Heritage Magazine, vol. M, no. 19, September 2015, pp. 131–135.

for applying this procedure, the key actions involved in its implementation and the main consequences resulting from it.

Upon reviewing the Law on Local Administration, it is evident that this procedure is stipulated in the Municipal Law from Articles 46 to 51, the Provincial Law from Articles 47 to 50 and Executive Decree 16-104, dated 21/03/2016, which specifies the procedures for renewing dissolved municipal and provincial popular councils.

Accordingly, dissolution can be defined as the central supervisory authority's oversight of the decentralised authority represented by the local popular council. This results in the dissolution of the local popular council before the expiration of its legal term, while maintaining its legal personality.

### **Subsection Two: Legal Characteristics of the Dissolution of the Local Popular Council**

The procedure for dissolving local popular councils, whether municipal or provincial, is characterised by features that distinguish it from other procedures. This is because it is one of the most serious forms of oversight applied to local bodies. These characteristics can be summarised as follows:<sup>2</sup>

1. Dissolution as a regulatory measure: the dissolution procedure targets local popular councils of local communities, represented by municipal and provincial popular councils.
2. Total termination of councils: it results in the complete termination of local popular councils, thus removing all the tasks assigned to them.
3. No impact on legal personality: The dissolution of local popular councils does not affect the legal personality of local communities, which remain in existence despite the dissolution of their deliberative bodies.
4. Conditional application: The procedure for dissolving elected local popular councils is applied only when one of the legally stipulated conditions is met, as set out in either the Municipal Law or the Provincial Law.
5. Purpose of dissolution: The dissolution of elected councils aims to preserve the purpose for which the supervised bodies were established. This purpose is defined by law and justification for the dissolution decision must be provided.

### **Subsection Three: Justifiable Reasons for Dissolving the Local Popular Council**

Dissolution is a serious process that threatens the independence of local popular councils by stripping their members of their membership and thereby limiting their ability to exercise their powers. It is a grave measure, leading to the council's complete dissolution<sup>3</sup>. Several reasons have been outlined for specific cases of dissolution, which are listed exhaustively in the Municipal and Provincial Laws<sup>4</sup>. First, these reasons will be clarified, followed by the main observations regarding these cases.

## **Section One: Reasons Specified in Local Community Law as a Basis for Dissolving the Local Popular Council**

Municipal Law 11-10, Provincial Law 12-07 and Executive Decree No. 16-104 state the cases for the total dissolution and renewal of the local council. Due to the importance that the legislator attaches to the dissolution procedure, these cases are provided exhaustively. The dissolution procedure is considered one of the most serious means employed by the supervisory authority against the deliberative body.

### **1. Violation of constitutional provisions**

This case is a new condition introduced by Municipal Law 11-10 and Provincial Law 12-07, unlike previous local administration laws which did not address it. It is an expected occurrence, as it is inconceivable to remain silent or refrain from intervention when a constitutional provision is violated

<sup>2</sup>- Wahida Guadouma, 'Dissolution of Local Popular Councils in the Algerian Legal System', *The Researcher's Journal for Legal and Political Studies*, Vol. 7, No. 1, June 2022, pp. 1787–1788.

<sup>3</sup>- Farida Meziani, 'Local Popular Councils Under the Political Pluralism System in Algerian Legislation', *Doctoral Thesis in Law*, Faculty of Law, Mentouri University, Constantine, 2005, p. 269.

<sup>4</sup>- Article 46 of Law No. 11-10 dated 22 June 2012 concerning municipalities (Official Gazette of the People's Democratic Republic of Algeria No. 37 dated 3 July 2011) and Article 48 of Law No. 12-07 dated 21 February 2012 concerning the province (Official Gazette of the People's Democratic Republic of Algeria No. 12 dated 29 February 2012).

by a local popular council. As the constitution is the primary source of legislation within the state, violating one of its provisions necessitates the immediate dissolution of the local popular council<sup>5</sup>.

## **2. Cancellation of the election of all members of the local council**

The cancellation of the election of all members of the local popular council, whether municipal or provincial, is one of the reasons for dissolving the council. This situation is regulated by Municipal Law 11-10, Provincial Law 12-07 and Executive Decree No. 16-104<sup>6</sup>. However, it has been observed that the reasons necessitating the cancellation of the election of all local council members are not clearly defined. This lack of clarity could enable the central authority to enforce this procedure even when the reasons are relatively minor and do not warrant the termination of the deliberative body, for example instances of electoral fraud.

The decision to cancel is issued by the competent judicial authority<sup>7</sup>, who will only issue this decision if significant violations are proven to have occurred during the electoral process. Additionally, unlike Law No. 90-09<sup>8</sup> according to Article 44/01, the Algerian legislator has not specified whether this cancellation is temporary or permanent. Nevertheless, Municipal Law 90-08<sup>9</sup> does not include this situation among the reasons for dissolving the local popular council.

## **3. Collective Resignation of Local Council Members:<sup>10</sup>**

The collective resignation of elected members of the local council is one of the reasons for the dissolution of the local popular council (whether municipal or provincial) stipulated in Municipal Law 11-10, Provincial Law 12-07, and Executive Decree No. 16-104. This can occur due to personal disagreements among members or financial difficulties hindering their ability to achieve objectives. When a significant number of elected members of the local council resign, it can greatly affect the council's ability to perform its functions effectively.

## **4. Maintaining the council as a source of serious imbalances:**

Keeping the local council unchanged can lead to significant imbalances in management and affect citizens' interests and reassurance. Failing to make changes to the local council can lead to deviations and excesses in decision-making. Furthermore, preserving the same composition of the local council can result in a lack of diversity of opinions, experiences and knowledge.

## **5. When the Number of Elected Members is Less than the Absolute Majority in the Local Council:**

By 'absolute majority', we mean that the total number of elected members must exceed half of the council's membership. If the number of elected members falls below this threshold, it suggests that the local council lacks the legitimacy required to effectively manage local affairs and make decisions. In this case, the supervisory authority may dissolve the local council and appoint a new one to take over local affairs. This procedure is carried out based on a series of legally stipulated actions, such as announcing the dissolution of the local council, notifying its members and announcing new council elections.

It is also worth noting that this situation rarely occurs in practice, since candidates typically compete for seats on the local council and require an absolute majority of votes to be elected. If no candidate receives an absolute majority, the relevant supervisory authority may dissolve the council and hold new elections to prevent any potential issues arising in future.

## **6. Occurrence of serious disputes among local council members:**

This situation is stipulated in Municipal Law 11-10, but not in Provincial Law 12-07. It is referred to as a 'stalemate', which occurs when the municipality is unable to fulfil its duties and responsibilities due to

<sup>5</sup>- Abdel Hamid Ben Aicha, 'The Evolution of the Administrative Guardianship System on the Municipal People's Council in Algerian Law: A Comparative Study', Algerian Journal of Legal, Economic and Political Sciences, p. 120.

<sup>6</sup>- Wahida Qaduma, 'Previous reference', p. 1789.

<sup>7</sup>- Same reference, p. 1789.

<sup>8</sup>- Law No. 90-09 dated 04/07/1990 concerning provincial law (Official Gazette of the People's Democratic Republic of Algeria No. 15 dated 11 April 1990, repealed).

<sup>9</sup>- Law No. 90-08 dated 04/07/1990 concerning municipal law (Official Gazette of the People's Democratic Republic of Algeria No. 15 dated 11 April 1990, repealed).

<sup>10</sup>- For further clarification, see: Rabia Bouguart, "The Impact of Administrative Guardianship on the Autonomy of Local Authorities: A Comparative Study Between the French and Algerian Models," Academy for Social and Human Studies, vol. 13, no. 01, 2021, p. 373.

internal or external factors. In this case, the municipality must take measures to overcome these difficulties and ensure the continued effective provision of public services.

As local councils are responsible for providing essential services to local citizens, severe disputes among their members can lead to delays in delivering these services and negatively impact citizens' lives in the local area. Therefore, it is crucial to avoid serious conflicts among local council members in order to maintain smooth operations and achieve the common interests of local citizens.

#### **7. Merging, Incorporating, or Splitting Municipalities:<sup>11</sup>**

This is considered a natural occurrence due to instability and variability in the number of municipalities. The legislator may decide to increase or decrease the number of municipalities and merge them, which would imply the dissolution of the affected local councils.

#### **8. Occurrence of exceptional circumstances preventing the installation of the local council:**

By 'exceptional circumstances', we mean any unusual or unforeseen situation affecting the local council's functioning and making it difficult or impossible to continue working as normal. These circumstances may include political or security crises, natural disasters or health crises, such as the recent pandemic caused by the SARS-CoV-2 virus.

If any of these situations occur, new elections are held to form a new local council. Central authorities must then provide the conditions necessary for fair and transparent elections and encourage citizens to participate actively in the democratic process.

The primary objective of dissolving the local council is to ensure stability and continuity of local council services, and to protect citizens in such circumstances.

### **Section Two: Legal Interpretations of the Reasons for Dissolving the Local Popular Council**

After studying previous reasons and situations, it is clear that there are reasons and circumstances that lead to the dissolution of a local popular council, whether municipal or provincial, and its replacement with a new council to manage its affairs. However, the formulations of some cases are ambiguous, leaving room for the discretionary power of the supervisory authority to take this action.

Provincial Law 12-07 and Municipal Law 11-10 stipulate different numbers of cases through which councils can be dissolved. Provincial Law stipulates seven cases, whereas Municipal Law allows for eight. This suggests that the supervisory authority exerts greater oversight over municipal councils than provincial councils.

The legislator did not clearly specify the reason for dissolving the local popular council due to violations of constitutional provisions, leaving the matter ambiguous. This affects the council's independence, keeping it under the dominance of the central authorities that oversee it. Rather than leaving it to the central authorities to determine these violations, the legislator should precisely define the nature of these constitutional provisions and how they may be violated. This would enhance the local council's independence.

- Cancelling the election of all council members is one of the ambiguous cases that can be used as a basis for dissolving the local council, according to what the legislator has established. However, the reasons that may lead to this situation and how it should be applied accurately were not clarified. This encourages the supervisory authorities to expand their oversight and increase their power.

Regarding the dissolution of the municipal popular council due to serious disputes among members, it has been observed that the legislator made a good choice in using the term 'dispute' instead of

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<sup>11</sup>. The term 'merging municipalities' refers to the integration of two or more municipalities into one, the modification of the boundaries of adjacent municipalities, or the redefinition of these boundaries, with the aim of improving performance and enhancing operations to achieve economic and social development goals. 'Annexation' refers to the inclusion of small neighbouring municipalities into larger ones, or the abolition of existing municipalities and their incorporation into a larger municipality, which retains the name of the larger municipality. Typically, the larger municipality is on the outskirts or close to other municipalities, benefiting from the numerous services and available expertise offered there.

For more detailed information, see: Safwan Al-Mubaidin, *Local Administration (Development Approaches)* with a Focus on the Case of the Hashemite Kingdom of Jordan, 4th edition, Dar Al-Yazuri, Amman, 2014, pp. 136+.

'Fragmentation' is the opposite of 'merging' and 'annexation', where a large municipality is divided into smaller ones and administrative responsibilities and public services are distributed among them. This process usually occurs due to residents' desire for more control over their local affairs and to manage them independently.

'difference', which was prevalent in the repealed Law 90-08. However, the legislator did not adequately define the nature or types of disputes, leaving room for the supervisory authority to assess their type and severity. This enhances the supervisory authority's desire to tighten oversight of local councils and diminish their independence.

Concerning the case of a collective resignation as a reason for dissolving the council, the legislator did not organise this situation well. The legislation did not specify to which authority the resignations should be submitted, nor did it clarify whether they should be submitted individually or collectively. This gives the supervisory authority discretionary power and negatively impacts the local council's independence and freedom of management.

- The situation in which exceptional circumstances prevent the installation of the elected council raises questions about the criteria for assessing these circumstances and their degree of exceptionality. These circumstances should be clearly defined and evaluated against clear criteria to ensure that discretionary authority does not interfere unjustifiably in the process of installing the elected local council, while also preserving the right of voters to be represented and to participate actively in the local democratic process.

- The legislator did not specify the reasons for merging, incorporating or splitting municipalities, nor did they clarify the necessary procedures for doing so. Consequently, this matter has been left to be regulated in order to guarantee the dissolution of the local popular council.

## **Chapter Two: The Legal Process for Dissolving and Renewing the Local Popular Council**

A series of specified procedures and formalities must be followed before making the decision to dissolve. The renewal process varies depending on the circumstances and local laws. In this chapter, we will outline the procedures for dissolving the council and renewing elected local councils.

### **Section One: Legal Procedures for Dissolving the Local Popular Council**

To formalise the dissolution procedure relating to the municipal or provincial local popular council, the procedures outlined in Municipal Law 11-10 and Provincial Law 12-07 must be followed. According to Article 47<sup>12</sup> of both laws, these procedures are clarified, as is the case with Article 04 of Executive Decree No. 16-104. These procedures include the submission of a report by the Minister of the Interior and Local Communities and the issuance of a presidential decree containing the dissolution decision.

#### **Subsection One: Submission of a Report by the Minister of the Interior and Local Communities**

According to Article 47 of the Municipal and Provincial Laws and Article 4 of Executive Decree No. 16-104, the dissolution procedure is applied based on a report issued by the Minister of the Interior and Local Communities. In practice, however, it is observed that the governor prepares the report, as they have greater knowledge and expertise in local affairs, whether municipal or provincial.

#### **Subsection Two: Issuance of a Presidential Decree Containing the Dissolution Decision**

According to the laws governing local administration, the tool used to dissolve the local popular council is the presidential decree. This clarifies the authority responsible for dissolving the local popular council, as it is one of the President of the Republic's exclusive competencies. This procedure is also one of the guarantees established by the Algerian legislator to maintain the stability of the local council.

Examples include Presidential Decree No. 05-254, dated 20 July 2005, which dissolved 37 municipal popular councils in Béjaïa, 31 in Tizi Ouzou, two in Boumerdès and one in Bouira, and Presidential Decree No. 05-255, dated 20 July 2005, which dissolved the provincial popular councils in Béjaïa and Tizi Ouzou.

## **Section Two: Renewal of Local Representation in the Event of the Dissolution of the Local Popular Council**

The process for renewing a dissolved local popular council through a presidential decree differs between municipal and provincial law. The renewal process may involve conducting renewal elections

<sup>12</sup> Article 47 of Provincial Law 12-07 and Municipal Law 11-10 states: 'The municipal or provincial popular council is dissolved and renewed by presidential decree based on a report from the minister in charge of interior affairs.'

for the local council, depending on whether the circumstances are normal or exceptional. This will be explained further.

### **Subsection One: Under Normal Circumstances**

#### **1. Regarding Municipal Law:**

Elections to renew the dissolved municipal popular council must be held within six months of the dissolution date, and cannot be held in the final year of the electoral term<sup>13</sup>. Municipal Law 90-08 establishes the same procedure, stipulating in Article 36/04 that the legal period for conducting elections to renew the municipal popular council is six months, with membership of the renewed council extending until the date of the general renewal of municipal popular councils. However, Article 115/01 of Ordinance No. 67-24 states that the dissolution of the municipal popular council must be completed within two months, and that elections cannot be held less than four months before the regular renewal of the municipal council<sup>14</sup>.

#### **2. Regarding Provincial Law:**

In the event of the dissolution of the provincial popular council, elections must be held within three months of the dissolution decision being made, unless there are serious threats to public order. Renewal elections can only be held during the last year of the current term<sup>15</sup>. Provincial Law 90-09 does not specify elections for the renewal of the council in its articles, nor does it outline a timeframe for conducting them. Instead, it merely outlines the electoral period for the renewed council, leaving significant discretion to the supervisory authority to determine the timeframe for conducting renewal elections<sup>16</sup>. According to Ordinance 69-38, Article 45 stipulates that new elections must be held within three months of the council's powers ending.

In the context of electing a new local popular council, voters from the municipality and province where the council was dissolved by presidential decree are summoned to elect a new council 90 days before the election date<sup>17</sup>.

### **Subsection Two: Exceptional Circumstances**

Exceptional circumstances are addressed in Municipal Law, but not in Provincial Law<sup>18</sup>. The six-month timeframe for renewing the municipal popular council is not absolute, as exceptional circumstances or serious threats to public order may prevent these elections from being held. In such cases, the governor submits a reasoned proposal to the Minister of the Interior and Local Communities to postpone the elections. The Council of Ministers then decides on a later date for the elections to be held. Consequently, the council may be renewed after more than six months, potentially extending to one or two years. During this period, the governor appoints an administrator with the same legal powers as the council and its president. The administrator's duties automatically end upon the installation of the new council<sup>19</sup>.

## **Section Three: The Decision to Dissolve the Local Popular Council and Its Effects on the Legal and Organisational Structure of Local Communities**

The dissolution has several consequences that can be summarised as follows:

### **Subsection One: Loss of Membership Status**

<sup>13</sup>- See also Article 49 of Law No. 11-10 concerning municipal law and Article 7 of Executive Decree No. 16-104 dated 21 March 2016, which specifies the procedures for renewing the dissolved municipal and provincial popular councils (Official Gazette of the People's Democratic Republic of Algeria No. 18 dated 23 March 2016, p. 9).

<sup>14</sup>- Wahida Guadouma, 'Previous Reference', p. 1799.

<sup>15</sup>- See Article 50 of Law No. 12-07 concerning provincial law and Article 7 of Executive Decree No. 16-104 mentioned above (p. 9).

<sup>16</sup>- See also Article 46 of the repealed Law No. 90-09 concerning provincial law.

<sup>17</sup>- See Article 8 of Executive Decree No. 16-104 concerning the procedures for renewing the dissolved municipal and provincial popular councils (mentioned above, p. 9).

<sup>18</sup>- Article 51 of Law No. 11-10 concerning municipal law (mentioned above).

<sup>19</sup>- Djamal and Noufi, 'Mechanisms of Administrative Oversight on the Municipal People's Council in Algerian Legislation', *Journal of Law and Society*, Vol. 9, No. 02, 2021, p. 382.

The dissolution of the popular council, whether municipal or provincial, results in the immediate loss of membership status for the elected members upon the issuance of the dissolution decision, as set out in the presidential decree based on the Minister of Interior's report. Membership status is inherently linked to the existence of the council, so it is impossible for the status to remain valid once the council is dissolved.

### **Subsection Two: The New Body Managing the Dissolved Local Popular Council**

When the decision to dissolve the local popular council is made by presidential decree based on a report from the Minister of the Interior, specific individuals and entities are appointed to temporarily manage the council. This ensures the council's proper functioning and safeguards citizens' affairs, while maintaining state stability. After all, the elected council is a cornerstone of democracy. These temporary bodies were rightly established by the legislator, as outlined in both Municipal and Provincial Laws, as well as Executive Decree No. 16-104, which was previously mentioned.

During this period, the temporary council primarily focuses on essential and urgent administrative functions. They are not permitted to make financial commitments that exceed the resources available for current operations. It is also prohibited from preparing a budget or presenting financial reports for the previous council<sup>20</sup>.

#### **1. Appointment of an Administrator and Two Assistants under Municipal Law:**

The issuance of the presidential decree related to the decision to dissolve the municipal popular council and its publication in the official gazette results in the complete dissolution of the council, while the legal personality of the municipality remains intact. However, to protect citizens' interests and ensure the continuity of public services, the governor is required, within 10 days following the dissolution of the council, to issue a decision appointing an administrator and two assistants tasked with managing the municipality's affairs<sup>21</sup>. The duties of the administrator and their assistants automatically end upon the installation of the new council by law<sup>22</sup>. The administrator and assistants are appointed from among experienced and qualified public employees and agents in local public affairs management<sup>23</sup>.

The administrator and the two assistants are paid in accordance with the applicable regulations.

#### **2. Appointment of a Provincial Delegation under Provincial Law 12-07:**

The issuance of the presidential decree to dissolve the provincial popular council, followed by its publication in the official gazette, leads to the council's complete termination, while the province's legal personality remains intact, as stated in Article 47. The legislator has clarified the ambiguity surrounding Article 45 of Law 90-09, which previously did not accurately specify the nature of the decree through which the local popular council is dissolved. To ensure the council functions properly and to prevent chaos between the dissolution decision being issued and the new council being installed, Provincial Law (Article 49) and Executive Decree No. 16-104<sup>24</sup> mandate the Minister of Interior to appoint a provincial delegation based on a proposal from the governor. This delegation is responsible for exercising the powers previously assigned to the dissolved council, in accordance with the law and within 10 days of the council's dissolution. The duties of the provincial delegation automatically end upon the installation

<sup>20</sup> Yassine Abdul-Razaq Samaily, 'Local Administration and Development Requirements', Master's Thesis, Specialisation: Public Administration Law, Faculty of Law and Political Sciences, University of Arab Ben Mehidi, Oum El Bouaghi, 2012–13, p. 155.

<sup>21</sup> Article 9 states: 'In the case of a municipal popular council, the governor appoints an administrator and two assistants by decision to manage the municipality's affairs within no more than ten days from the date of dissolution', from Executive Decree No. 16-104 concerning the procedures for renewing the dissolved municipal and provincial popular councils (mentioned above, p. 9).

<sup>22</sup> See also Article 48/02 of Law No. 11-10 concerning municipal law and Article 12 of Executive Decree No. 16-104 concerning the procedures for renewing the dissolved municipal and provincial popular councils (mentioned above, p. 9).

<sup>23</sup> See also Article 11 of Decree No. 16-104 concerning the procedures for renewing the dissolved municipal and provincial popular councils (mentioned above), p. 9.

<sup>24</sup> Article 10 states: 'In the event of the dissolution of a provincial popular council, the Minister of Interior Affairs shall, within 10 days of the dissolution, appoint a provincial delegation composed of a president and five members, based on a proposal from the governor, to exercise the powers assigned to the provincial popular council.' This concerns the procedures for renewing the dissolved municipal and provincial popular councils mentioned on page 9.

of the new council<sup>25</sup>, a new provision compared to Law 90-09. Members of the provincial delegation are appointed from among experienced and qualified public employees and agents in local public affairs management<sup>26</sup>.

As stipulated in the applicable regulations, members of the provincial delegation also receive compensation.

### **Subsection Three: Conducting New Elections to Install the New Local Council**

Following the dissolution of the local popular council, new elections must be held to elect a new council. Voters are invited to participate in the electoral process and elect new members to the municipal or provincial popular council. These elections can improve political representation and reinvigorate council activity. The timeframe for holding renewal elections varies between municipal and provincial councils, as specified by the successive local community laws governing the local popular council, as previously outlined.

### **Subsection Four: Conclusion of the Temporary Council's Duties**

Once the temporary council period appointed by the governor has ended, consisting of an administrator and assistants, the duties of the new municipal and provincial popular councils will begin, once the responsibilities assigned to the provincial delegation have also ended.

## **Section Four: Analytical reading of the mechanism for dissolving the local popular council: Observations and implications**

The procedure for dissolving the local popular council is one of the strictest methods granted to the supervisory authority by law during its oversight of the deliberative body. Due to the seriousness of this procedure in relation to the stability and functioning of the council, the law imposes a series of restrictions and controls to prevent the supervisory authority from using it at its discretion. Consequently, the following observations have been made after examining this mechanism:

The legislator has tightened the oversight mechanism exercised over the council as a whole, as represented by the dissolution procedure.

Regarding the reasons for dissolving the local popular council, compared to Municipal Law 11-10, it can be seen that the legislator has expanded the grounds for dissolution from seven to eight cases. However, Provincial Law 12-07 still only allows for seven cases.

- The timeframes for conducting renewal elections differ between the municipal and provincial councils: six months and three months respectively from the date of dissolution. This difference raises questions about the rationale behind it. It would have been better for the legislator to unify the renewal election timeframe for both municipalities and provinces, as the extended duration for the municipal council hinders its continuity and affects its performance.

- Exceptional circumstances hindering the conduct of renewal elections are addressed only in Municipal Law, not Provincial Law. Ideally, the legislator would have clarified these circumstances in the new reform laws related to local communities, specifying their nature and the procedures to be followed when they occur.

There is a difference between the individuals and entities that manage the dissolved local popular council. Following the council's dissolution, the governor appoints an administrator and assistants within ten days to manage its affairs.

By contrast, within ten days of the dissolution, the Minister of Interior and Local Communities appoints a provincial delegation based on the report submitted by the governor. This delegation is responsible for managing local affairs temporarily until the new council is installed.

<sup>25</sup>- See also Article 49/02 of Law No. 12-07 concerning provincial law and Article 12 of Executive Decree No. 16-104, which also relate to the procedures for renewing the dissolved municipal and provincial popular councils mentioned above (p. 9).

<sup>26</sup>- See also Article 11 of Executive Decree No. 16-104 concerning the aforementioned procedures.

Souad Amiri, 'Oversight on Elected Local Councils in Algeria and Morocco (Oversight on the Elected Council and Its Deliberations)', *Journal of Legal and Political Research*, Vol. 6, No. 01, June 2020, p. 182.

However, who takes on the role of administrator in the municipal council and the provincial delegation of the provincial popular council? Is it any employee in the local administration sector, or someone from outside the sector? It would be beneficial if the legislator clarified this to avoid the same issues that led to the council's dissolution arising again.

Although Executive Decree No. 16-104 defines the legal framework for the administrator and their assistants, including their appointment process, and clarifies many points mentioned in Article 48 of the Municipal Law, it does not accurately indicate how this temporary body operates in terms of decision-making and its dependency on the supervisory authority. Furthermore, its specific tasks have not been defined, nor has it been specified whether it holds sessions like the temporary municipal council. In contrast, the competencies of the provincial delegation are clearly outlined in the same decree, enabling this body to exercise the powers assigned to the provincial popular council and adhere to the same operational regulations. Therefore, the legislator should maintain a collective approach to making local decisions related to the province.

Additionally, it should be noted that the legislator has introduced two guarantees surrounding the decision to dissolve the local popular council to limit the authority of the central administration when resorting to the dissolution of local councils, and to prevent the central administration from misusing this authority. These guarantees are providing justification for the decision to dissolve the local popular council, and specifying the timeframe for elections to replace the dissolved council<sup>27</sup>.

## Conclusion

The mechanism for dissolving local councils under Algerian law is an exceptional procedure carried out by the supervisory authority within a specific legal framework. It is intended to ensure respect for legal legitimacy and maintain the continuity of public services in cases where elected bodies violate their duties or are unable to perform their functions. However, despite its legitimacy, this procedure raises several issues relating to the clarity of the legal basis on which it is founded, as well as its implications for the principles of local democracy and popular representation. By analysing the legal framework governing the dissolution mechanism and its subsequent effects, a number of conclusions and recommendations can be drawn.

### First: Conclusions

The dissolution of local popular councils is an exceptional procedure, subject to specific legal controls. However, it grants the supervisory authority extensive powers that could impact the balance between administrative oversight and local autonomy.

The dissolution decision temporarily disrupts local popular representation, impacting the principle of participatory democracy and creating a representative vacuum in local governance.

The practical application of the dissolution decision reveals organisational gaps relating to the temporary management of public services until a new council is elected.

- The legal timeframes for reorganising elections after dissolution remain insufficiently regulated, resulting in various interpretations and inconsistencies in application.

The weakness of judicial oversight mechanisms on dissolution decisions is one of the main issues that could affect the principle of legality.

### Second: recommendations

- Reassess the legal framework for the dissolution mechanism by precisely and clearly defining its grounds, thereby preventing any unwarranted expansion in its application.

Enhance procedural guarantees before making a dissolution decision by granting local councils sufficient time to address legal and organisational issues.

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<sup>27</sup>- Hamdi Al-Qubaylat, *Administrative Law*, Part One, 1st edition, Dar Wael for Publishing, 2008, p. 206.

Achieve a real balance between the powers of administrative oversight and the autonomy of local communities, thereby reinforcing the principle of decentralisation and preventing the dominance of the supervisory authority.

Review the legislative system related to the dissolution mechanism, aligning it with the principles of good governance, the rule of law and participatory democracy.

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