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Integrating environmental considerations into local urban planning tools in Algeria

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Abstract:

Development has many facets, the most important of which is urban development, which is one of the most significant areas related to and impacting the environment. The rise of environmental awareness and the emergence of the concept of sustainable development have contributed to the evolution of urban planning policies, which now extend to addressing the requirements of environmental protection. Consequently, these countries have updated their urban planning legislation to meet the demands of reconciling urban development with environmental protection goals. Initially, Algeria was not open to the idea of incorporating environmental considerations. However, by the beginning of the 1990s, the integration of environmental protection considerations had become a defining characteristic of urban planning policy in Algeria, and one of the fundamental principles upon which the legislative framework for this policy is based.

Keywords: Integration, Environment, Planning and Reconstruction Guidelines, Land Occupancy Plan.

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Introduction

At the beginnings of the second half of the twentieth century, and with the increase of environmental problems, anxiety started to seize human being and he turned his attention toward environmental issues, in an attempt to solve its problems and planning how to face it. The environment has become one of the most important contemporary issues that attracts attention and requires research and thinking about its problems, where international efforts at all levels started to accelerate in order to mobilize efforts to confront the serious deterioration that has affected the environment, especially after the United Nations Conference on the Human Environment which was held in Stockholm in 1972.

With states seeking to achieve development in various developmental areas, among the most important of which is urban development, which is considered one of the fields most connected and influencing the environment due to sharing the same scope of intervention, if the task of the regulation and planning rules is to control and organize land use, then the environment is the field in which these operations are practiced and influenced by them, which requires the putting of policies and urban plans that include the environmental dimension and commit to it.

The emergence of environmental awareness and the appearance of the concept of sustainable development has contributed to the evolution of the objectives of urban planning policies, where urban development has witnessed significant transformations, and has become stretching towards the necessity to respond to the principles and requirements of environmental protection. Therefore many countries have worked on updating their urban legislations to keep pace with the requirements of prudent management of the environment, and to reconcile the functions of urbanization and the goals of environmental protection, through local regulation and planning tools represented in the master plan of regulation and planning, and the land use plan, as the two local legal instruments through which commitment to the inclusion of environmental considerations is achieved.

At the beginning, Algeria was not among the states open to the environment, as it used to see—like other developing countries—that the idea of environment is just an imperialist capitalist maneuver, its aim is to stop the economic and social development of the third world countries, so it considered environmental concern as a secondary issue before the urgent necessity to achieve economic development. Thus, even till the end of the eighties, regulation and planning operations did not include environmental aspects in their concerns, except for some simple environmental considerations. With the beginning of the nineties, the integration of environmental considerations became one of the basic principles upon which the legislative framework for urbanization in Algeria is based.

Problem Statement: It revolves around the aspects and the extent of success of the Algerian legislator in integrating environmental considerations into local urban planning and regulation instruments, and in his success in achieving balance between urban development and the requirements of environmental protection?

First Topic: The Conceptual Framework of Environment and Local Urban Planning Instruments

The term “environment” is among the terms that finds resonance and almost overlaps in nearly all branches of science and knowledge, that is why, attempts to identify the essence of environment are considered one of the first difficulties that surrounded the term from the jurisprudential and legal side, as the meaning and implication of this word changes from one jurist to another, and from one scientist to another, and also among different legislations.

Also, urbanization is regarded as one of the most important developmental fields connected and influencing the environment, so the success of urbanization policies requires connecting planning instruments and the dimensions of sustainable development. For this, a group of urban planning tools was developed as tools to plan the space, forming a legal framework for organizing and producing the urban domain, and these local instruments are: The Master Plan for Regulation and Urbanization, and The Land Use Plan.

First Requirement: The Conceptual Framework of Environment

Given the paramount importance of the environment, it was necessary to surround and understand the environment, by showing its definition and from all its linguistic, terminological, and legal aspects, as well as knowing its components that are subject to legal protection.

First Section: The Linguistic Definition of Environment

First / Definition of Environment in the Arabic Language:

It was mentioned in Lisan Al-Arab: "Abatt in the place: I stayed in it. Bawaatuka a house: I made a house for you." And His saying, Almighty: "that you may settle for your people in Egypt houses", that is, make for them, and the two meanings are close (Ibn Manzur, n.d., p. 38, 39). And it was mentioned in Al-Qamoos Al-Muheet: "Baa to him: returned. Baa a house: settled him in it. And the noun, environment with kasra, is state and place." (Al-Fayrouz Abadi, 2008, p. 171) And in Mukhtar Al-Sihah, the original derivation of the word "environment" is "bawa" and "tabawa" a house, he occupied it. "Bawa" a house for him and "bawah" a house for him: he prepared and enabled him in it. Thus, the environment is the home or surrounding in which the living being lives, whether it is a human or an animal, and the being and its surrounding or house complement each other, each affects the other and is affected by it. (Al-Razi, n.d., p. 68)

Second / Definition of Environment in English and French Languages:

It was mentioned in Longman Dictionary that the word Environment means a group of natural and social conditions in which people live (Longman, 1988, p. 200). In Larousse Dictionary, Environment (Environnement) is the sum of natural and artificial elements that form the frame of the individual's life. (Petit Larousse, 1980, p. 345) In Robert Dictionary, Environment is the sum of natural, physical, chemical, biological, cultural, and social circumstances that have a direct or indirect influence, at a certain moment, and in a current or delayed way, on living beings and human activities. (Petit Robert, 1986, p. 664)

What can be summarized from the previous presentation is that the linguistic meaning of the word environment is almost the same in different languages, as it refers to the place or home, or the medium in which the living being lives, and as it refers to the state or circumstances surrounding that place, whatever its nature, which affect the life of that being. (Salama, 2003, p. 96)

Second Section: Terminological Definition of Environment

It is difficult to put a definition for the environment due to its broad and complex meaning, and due to the multiple perspectives from which the term is viewed. For a comprehensive understanding of the environment, it is necessary to look first at Ecology, which is the science that studies living beings and their relationship with their surrounding environment. This science has developed rapidly and suddenly. The word Ecology has been translated into Arabic as "علم البيئة", and was established by the German scientist Ernst Haeckel in 1866 after combining two Greek words: Oikos meaning house, and Logos meaning science, and he defined it as "the science that studies the relationship of living beings with the medium in which they live." This science is concerned with living beings, their nutrition, ways of living, and their presence in communities or populations. (Al-Masri, 2015, p. 5, 6)

The scholar Alexandre Kiss sees that the environment is not limited to natural and artificial elements only, but also includes the sites of cultural and natural heritage. Professor Michel Prieur pointed out that the separation between environment and urbanization exists only in the minds of those who think that the environment is limited to plants and animals; it is the physical medium in which man lives, including water, air, soil, living beings, and constructions built to satisfy his needs (Al-Helou, 2002, p. 31).

Professor Ahmed Abdel Karim Salama defines it as the totality of natural, chemical, biological, social, cultural, and economic factors that coexist in balance and affect man and other beings directly or indirectly. Abdel Aziz Tarih Sharaf says that what is meant by environment is everything that surrounds man or animal or plant of phenomena and factors that influence its upbringing and development and various aspects of its life, and in turn it is linked to human life in every time and place, especially regarding what affects life from the negatives, the most important of which are the health dangers resulting from pollution in its various forms. (Sharaf, 1997, p. 8-10)

Third Section: The Legal Definition of Environment

Despite the difficulty of precisely defining and determining the concept of environment, there were many attempts to define it, whether at the level of international conventions or at the level of domestic legislations.

First / Definition of Environment in International Conventions:

The first appearance of the term “environment” came during the preparation for the first United Nations Conference on the Environment in Stockholm, where in the preparatory works of this conference, the term Environment was used instead of the term Human Environment “Milieu du humain” (Amer, 1983, p. 681-682), which gave the word environment a wide understanding. It was defined as “the totality of material and social resources available at a certain time and place, to fulfil human needs and aspirations.” The conference also added in its preamble that environment is “that which ensures man’s physical power, and grants him the possibility for intellectual, moral, social and spiritual development,” and the conference declaration stressed that “the two elements of the environment, the natural element and the man-made element, are necessary for the well-being of the latter and for his full enjoyment of his basic rights, including the right to life itself” and that “the protection and improvement of the environment is an important matter and impacts the well-being of people and economic development around the world.” The conference gave a very broad understanding of environment so it became indicating more than mere natural elements (Al-Hamad & Sabarini, 1997, p. 42). The Belgrade Conference of 1975 defined it as “the existing relationship in the natural and biophysical world between it and the socio-political world that is created by man.” The Tbilisi Conference of 1977 defined it as “the set of natural and social systems in which man and other living beings live, from which they obtain their sustenance and within which they perform their activity” (Al-Awadi, 1985, p. 40). The United Nations Environment Conference defined it as “the totality of the natural and social resources available at a certain time to satisfy human needs” (Bashir, 2011, p. 11).

It is worth mentioning that most international and regional environmental conventions have adopted the broad concept of environment.

Second / Definition of Environment in Algerian Legislation:

We will discuss the most important legislations related to environment, starting with Law 83-03 related to environmental protection (Law No. 83-03, Official Gazette No. 06, 1983) which did not define environment, but only specified in its first article the basic objectives of environmental protection and also pointed to the principles on which this law is based. Article eight provided for the protection of nature and the preservation of animal and plant species and the maintenance of biological balances and the preservation of natural resources from all causes of deterioration. After that came Law 03-10 concerning the protection of environment within the framework of sustainable development (Law No. 03-10, Official Gazette No. 43, 2003). Coming back to this law, we notice that it, too, did not give a definition for environment, only stipulated the objectives of environmental protection in Article Two and only stipulated in Article Four the components of the environment. Perhaps this explains the legislator's desire to leave the definition of concepts to jurisprudence.

Second Requirement: The Conceptual Framework of Urban Planning Instruments

Aiming to balance the requirements of economic growth and the requirements of urbanization on one side and ensuring the maintenance and preservation of human environment on the other side, the Algerian legislator established legal means to regulate the process of planning and urbanization while integrating environmental requirements. This is mainly realized through what is known as planning instruments, which are plans that regulate the process of urban planning in Algeria. These are represented in both the Master Plan for Regulation and Urbanization, and the Land Use Plan, which are considered urban planning tools at the local level.

First Section: The Notion of the Master Plan for Urban Development (PDAU - Le Plan Directeur d'Aménagement et d'Urbanisme)

First / Definition and Objectives of the Master Plan for Urban Development:

Article 16 of Law 90-29 amended and supplemented, related to regulation and urban planning (Law 90-29, Official Gazette No. 58, 1990; Law 04-05, Official Gazette No. 51, 2004), defined the master plan for regulation and urbanization as “a tool for local planning and urban management, which determines the basic orientations for urban development of the municipality or municipalities concerned, taking into account planning designs and development plans, and setting the reference frameworks for the Land Use Plan.” Thus, the plan is a tool for planning the domain and managing urbanization in the light of the national policy of regulation and urban planning, specifying the general and basic orientations for urban development in the municipality or a group of municipalities. In general, the plan is concerned with organizing urban aggregation within the environmental and natural framework, and regulates the relations between it and all neighboring urban centers, in addition to drawing the borders and perspectives for their future expansion. Therefore, the master plan for regulation and urbanization is more comprehensive in planning the domain than the Land Use Plan, since it is a planning instrument while the Land Use Plan is an implementing instrument for it (Dairam, 2011, pp. 17,18).

Article 24 of Law 90-29 amended and supplemented stipulated the necessity of covering every municipality with a master plan for regulation and urbanization. As for its objectives, Article 18 of the same law specified that the plan:

- Determines the general allocation of lands over the entire territory of a municipality or a group of municipalities by sector.
- Determines the expansion of buildings and the concentration of services and activities and the nature and location of major facilities and infrastructure.
- Determines intervention zones in green spaces and areas that must be protected.

Law 04-05 amended and supplemented to Law 90-29 added other objectives, as the plan also aims to determine lands exposed to hazards resulting from natural disasters or those prone to landslides (see Article 4 of Law 04-05, Official Gazette No. 51, 2004; Benddine, 2014, p. 76).

Second / Content of the Master Plan for Urban Development:

This plan is based on preparing for the future by preparing suitable projects for the concerned municipality or municipalities; it is based on a series of assumptions expected to occur in the future within a certain period, through the division of the area concerned into a group of sectors defined according to Article 19 of Law 90-29 amended and supplemented (Mjadji, 2007, p. 113). These sectors are:

- Developed sectors.
- Sectors scheduled for urbanization.

- Sectors for future urbanization.
- Sectors not suitable for urbanization (Saidouni, 2001, pp. 147, 148).

The contents of the master plan for regulation and urbanization were set forth in Article 17 of Law 90-29 amended and supplemented, which indicated that the master plan for urbanization is embodied in a system accompanied by a guiding report and reference graphical documents. Therefore, the master plan for urban development consists of a set of documents prepared by the authorities entrusted with such control, in order to achieve its credibility and accuracy as a reference tool for surveillance over planning and urbanization works. These consist of: a guiding report, a regulatory list, and reference graphical documents (Dairam, 2011, p. 28). Article 17 of Executive Decree 91-177, which determines the procedures for preparing and approving the master plan for regulation and urbanization and the content of its related documents as amended and supplemented (Executive Decree 91-177, Official Gazette No. 26, 1991; Executive Decree 05-317, Official Gazette No. 62, 2005; Executive Decree 12-148, Official Gazette No. 19, 2012), addressed the content of the plan, which includes:

1- A guiding report presenting the following:

A- Analysis of the current situation and the main prospects for development in view of economic, demographic, and cultural evolution.

B- The pattern of planning proposed with regard to the special orientations of urban development.

2- Regulations determining the rules applied in each area included in the sectors mentioned in Articles 20, 21, 22, and 23 of Law 90-29.

3- Graphic documents

Third / Procedures for Preparing the Master Plan for Urban Development:

Preparing the master plan requires utmost accuracy and care, so the legislator required that the plan go through a series of stages and several procedures:

1- Deliberation by the Popular Municipal Council or concerned Popular Municipal Councils:

Article 24 of Law 90-29 stipulated that every municipality must be covered by a master plan for regulation and urbanization whose project is prepared on the initiative and responsibility of the president of the Popular Municipal Council. Article 2 of Executive Decree 91-177 added that this deliberation must show:

- The directions set by the overall picture of planning or the development plan for the concerned territory.
- The methods of participation of public administrations and associations in preparing the plan.
- The possible list of facilities of public benefit within the framework of Article 13 of Law 90-29.

Approval of the draft master plan for regulation and urbanization is done by deliberation of the concerned Popular Municipal Council or councils.

2- Notification of the deliberation:

The deliberation, according to Article 03 of the same decree, is notified to the territorially competent Wali and published for one month in the headquarters of the concerned Popular Municipal Council or councils. According to Article 08 of the same decree, the administrations and state services at the wilaya level are obligatorily consulted: urbanization, agriculture, economic organization, hydraulics, transport, public works, buildings and archaeological and natural sites, postal services and telecommunication, environment, urban planning, and tourism (Article 02, Executive Decree 05-317, Official Gazette No. 62), industry and investment promotion (Article 02, Executive Decree 12-148, Official Gazette No. 19, 2012). At the local level, the public bodies and services concerned are: energy distribution, transport, water distribution, land regulation (Article 02, Executive Decree 12-148, Official Gazette No. 19, 2012). They have a period of 60 days from the date of notification of the plan project approved by the Council or concerned municipalities to give their opinion, and if they do not reply within this period, their opinion is considered as agreement, according to Article 09 of Executive Decree No. 91-177 which determines the procedures for preparing and approving the master plan for regulation and urbanization. Article 7 states that the president of the Popular Municipal Council must inform the presidents of the Chamber of Commerce, the presidents of the Chamber of Agriculture, the presidents of professional organizations, and the presidents of local associations, and the recipients must announce their wish to participate in preparing the plan and appoint their representatives if their wish is confirmed, within a period of 15 days from the date of their receipt.

3- Public inquiry:

The public inquiry is a form of public participation, where the president of the Popular Municipal Council presents the preliminary project of the master plan for regulation and urbanization through a deliberation, and to inform the public, exposes the project for public inquiry for 45 days, allowing residents to give their opinions and observations, by administrative decision taken by the president of the Popular Municipal Council or presidents of the concerned councils according to Article 10 of Executive Decree 91-177 which includes:

- Designating the place or places where the master plan for regulation and urbanization project can be consulted.
- Appointment of the inquiry officer or officers.
- Indicating the start and end date of the inquiry period.

The decision which presents the plan for public inquiry is published in the headquarters of the concerned Popular Municipal Council or councils during the inquiry period, and a copy is sent to the territorially competent Wali according to Article 14 of Law 90-29 amended and supplemented. After the 45-day period, the inquiry register is closed and signed by the inquiry officer, who during the following 15 days prepares the report of register closure and sends it to the president of the Popular Municipal Council or presidents of the concerned councils along with the full inquiry record and his findings.

4- Stage of approving the master plan for regulation and urbanization:

After receiving the opinion of the Popular Provincial Council, the master plan is approved according to Article 27 of Law 90-29 amended and supplemented and Article 15 of Executive Decree 91-177 as follows:

- By decision of the Wali for municipalities or groups of municipalities with population less than 200,000 inhabitants.
- By joint decision between the minister in charge of urbanization and the minister in charge of local communities after consulting the relevant Wali or Walis for municipalities or groups of municipalities with population more than 200,000 and less than 500,000.

– By executive decree issued after consulting the relevant Wali or Walis and based on a report by the minister in charge of urbanization for municipalities with population more than 500,000.

Once the plan is approved, it becomes binding for administration and citizens, and all regulation and urbanization rules afterward are based on it, especially the granting of urbanization permits, and no permit or certificate in urbanization can be issued unless it conforms to the criteria set in the plan.

5- Stage of reviewing and amending the plan:

Urban dynamics are difficult phenomena to control and to predict, and a long-term forecasting tool such as the master plan for urban development, regardless of its quality, may become outdated due to effective urban dynamics. In this case, it must be reviewed to support urban planning procedures and urban evolutions that exceed its control (Saidouni, 2001, p. 153). Article 28 of Law 90-29 amended and supplemented stipulates the reasons for reviewing the plan: "The master plan can only be reviewed if the sectors intended for urbanization are nearing saturation or if the evolution of conditions or surroundings has made the urbanization projects for the municipality or urban structure no longer fit their intended goals." These reviews or amendments are approved according to the same procedures for approving the plan, as per the second paragraph of the same article.

Second Section: The Concept of Land Use Plan POS (Plan d'occupation des sols)

First / Definition of the Land Use Plan and Its Objectives:

It is known as the plan which defines in detail the rules for the use of land and building on it according to the framework of the directions specified and organized by the master plan for regulation and urban development. Also, it is defined as a document that specifies the legal rules governing the construction process and its external appearance as well as the servitudes imposed on it; it is a document that proves and determines the rules related to land use in addition to protecting urban, natural and sensitive spaces (Dairam, 2011, p. 42). Article 31 of Law 90-29 amended and supplemented stipulated that the Land Use Plan determinates in detail within the frame of the master plan directions the rights of land use and building.

Article 34 of Law 90-29 amended and supplemented stipulated the obligation to cover every municipality or part of it with a Land Use Plan. As for the objectives of the plan, Article 31 of Law 90-29 amended and supplemented specified the subject of "Land Use Plan" as follows:

- Specifying in detail the urban form and the rights of building and land use for all concerned sectors.
- Determining the minimum and maximum amounts of construction allowed.
- Setting the rules related to the external appearance of buildings.
- Specifying public spaces, green spaces, sites designated for public facilities and facilities of public interest, and also the planning and characteristics of roadways.
- Determining servitudes.
- Specifying neighborhoods, streets, monuments, sites, and areas that must be protected, renewed, and repaired.
- Determining the locations of agricultural lands that should be preserved and protected.

Law 04-05 amended and supplemented to Law 90-29 added further objectives, as the plan also aims to determine lands exposed to hazards caused by natural disasters or those exposed to landslides (see Article 4 of Law 04-05 amending Law 92-29).

It should also be noted that this specification must be carried out in compliance with the rules contained in the master plan, meaning that there must be harmony and no contradiction between the “Land Use Plan” and the master plan for regulation and urban development, as both are complementary means in the field of urban planning.

Second / Content of the Land Use Plan:

Article 32 of Law 90-29 amended and supplemented specified the content of the Land Use Plan as a system accompanied by reference graphical documents. Article 18 of Executive Decree No. 91-178 of 28 May 1991, amended and supplemented (Executive Decree 91-178, Official Gazette No. 26, 1991; Executive Decree 05-318, Official Gazette No. 62, 2005; Executive Decree 12-166, Official Gazette No. 21, 2012; Executive Decree 18-189, Official Gazette No. 43, 2018) stated that the structure of the Land Use Plan depends on two elements: the regulatory list and the graphic documents, so it consists of a written regulatory part and a graphical plans part, which are as follows:

1- Regulatory List:

The list is important with regard to graphic documents as it gives them meaning and legal content, so it must be clear, precise, and easy to read, leaving no ambiguity that would allow for multiple readings. It also determines the terms for construction and land use, the activities that can be established on them, the urban form, construction rights, and the density decided for them (Saidouni, 2001, p. 157). The list, according to Article 18 of Executive Decree 91-178 amended and supplemented, includes:

- An introductory note in which it is proven that the provisions of the Land Use Plan are consistent with the master plan for regulation and urban development, and also the approved program for the municipality or municipalities concerned according to their development prospects.

- Rules section that determines for each homogeneous area — and taking into account the special provisions applicable to some parts of the territory as specified in Chapter Four of Law 90-29 amended and supplemented — the type of buildings allowed or forbidden and their usage, building rights related to land ownership expressed by the land use factor, what is taken from the land with all possible servitudes. Also, the terms of land use related to access and roads, reaching networks, characteristics of land parcels, location of buildings in relation to public roads, location of buildings in relation to boundaries, location of buildings in relation to each other on single ownership, building heights, external appearance, parking places, empty spaces and gardens. Additionally, the regulatory list specifies the types, sites, and locations of public facilities, and determines the roads and various networks supported by the state as specified in the master plan for regulation and urban development as well as their execution deadlines.

2- Graphic Documents and Records

Second Topic: Contributions of Local Urbanization Instruments in Environmental Protection and Aspects of Integrating the Environmental Dimension

The emergence of environmental awareness and the appearance of the concept of sustainable development—a concept that includes all fields of human activity including the urban field—contributed to the evolution of the idea of sustainable urban development and the evolution of the objectives of urbanization policies in various countries. Urban development has witnessed significant shifts in its goals, which now consider the necessity to respond to the regulations and requirements of environmental protection, and to insert and update urbanization legislations in a way that protects the environment and reconciles between the latter and the urbanization functions.

By referring to Article 1 of Law 90-29, we find that among the goals of this law is balancing the function of housing, agriculture, and industry, as well as protecting the environment, natural surroundings, heritage sites and landscapes, and cultural and historical heritage; and Article 2 states that the exploitation and management of lands suitable for urbanization and the building framework should be according to the general rules and urbanization instruments. The principle of integration is also cited in Article 3 of Law 03-10 relating to environmental protection in the frame of sustainable development (Law 03-10, Official Gazette No. 43, 2003), which obliges the integration of environmental protection and sustainable development arrangements in the preparation and implementation of plans and sectoral programs; meaning that environmental protection and inserting it in urban legislation has become one of the main considerations.

First Requirement: Local Urbanization Instruments as Mechanisms for Environmental Protection

Among the objectives of urbanization law is to achieve environmental goals, and its means for that are urbanization plans, by specifying the ways of using and exploiting land while respecting environmental considerations and sustainable development requirements. What is noted in the provisions of the urbanization law is the legislator's effort to insert requirements for environmental protection in local urbanization plans, where Article 11 provides that the instruments of urbanization define the main guidelines for land development, specify urbanization prospects and rules, and define the conditions that allow rational use of spaces, protection of agricultural activities, and protection of sensitive spaces, sites, sceneries. They also define the terms for development and building to prevent natural and technological risks.

First Section: The Master Plan for Regulation and Urbanization and Environmental Protection

Environmental concern is embodied in the master plan for regulation and urbanization through the forward-looking vision for urban domains and urban management, by organizing spatial use in harmony with the nature and characteristics of land, where the domain is divided into sectors based on the principle of zones (Dairam, 2011, pp. 25, 26). The plan is also distinguished by its conceptual and assessment perspective, making it the most important tool for protecting the environment and preventing its deterioration. On another side, this plan (see Article 17 of Executive Decree 91-177, Official Gazette No. 26, 1991; Chapter Four of Law 90-29) gives particular attention to coastal areas including islands, slopes, hills, mountains, and wetlands. It also concerns regions of special natural and cultural features, high or good-yield agricultural lands, where conditions for construction are defined to guarantee the preservation of ecological, aesthetic, historical value, and also the economic benefits found in these areas (Aifaoui, 2020, p. 72).

Second Section: The Land Use Plan and Environmental Protection

The plan plays a major role in protecting the environment, which appears through its preservation of urban, aesthetic and environmental aspects, by specifying the rights to use land and build, the rules that regulate the urban and architectural form of buildings, respecting various urban standards, and determining the size of buildings, their height, their color, the type of materials used, and by protecting green spaces, sites, zones that must be protected, renewed and repaired, and specifying the locations of agricultural lands that should be safeguarded and protected (Article 31, Executive Decree 91-178). The plan also takes care of specifying zones and lands exposed to risks, besides ensuring the provisions of Law No. 02-02 on coastal protection (Aifaoui, 2020, p. 73; Article 18 bis, Executive Decree 05-318).

Second Requirement: Manifestations of Integrating the Environmental Dimension in Local Urbanization Plans

Local urbanization plans are suitable instruments for integrating environmental concerns into urbanization. Their insertion of the environmental dimension is embodied through several participatory aspects, among them the process of environmental assessment and expanding the circle of participation in the preparation of local urbanization tools.

First Section: Environmental Assessment in Local Urban Planning Instruments

First / Environmental Assessment in Environmental Legislation:

The development of environmental legislation has led to the evolution of rules, principles, objectives, and technical aspects for studying the impact on the environment, and to adopting this study as one of the mechanisms to guarantee balance between environment and development (Abdel Maqsoud, 2000, p. 115). In Algeria, this procedure was included in the Environmental Protection Law of 1983, and it was addressed in more detail eight years later in Executive Decree 90-78 related to the study of environmental impact (Executive Decree 90-78, Official Gazette No. 10, 1990). The legislator also consecrated the principle of environmental assessment in the Environmental Law of 2003, by including it within the system for evaluating the environmental impacts of development projects, thus enshrining the study of impact and impact summary and adopting a different system and standards, as well as Executive Decree 07-145, which specifies the scope, content, and procedures for approving the study and summary of impact on the environment (Executive Decree 07-145, Official Gazette No. 34, 2007). According to these texts, the legislator obligated every person wishing to undertake a project that could damage the environment to include a study on the extent of impact on the environment (Mjadji, n.d.).

Second / Environmental Assessment in Local Urban Planning Instruments:

The plans were not mentioned in Executive Decree 90-78. The legislator stuck to his stance in the Environmental Law of 2003, as inferred from Article 15, and they were also not included in the lists attached to Executive Decree 07-145 mentioned earlier. This leads to the exclusion of local urbanization documents from the requirement to undergo environmental assessment, and perhaps this exclusion is due to the fact that these documents are subject to a special legal system requiring them to consider environmental concerns upon their preparation. From this standpoint, the legislator subjected local urbanization documents to a set of environmental requirements, where Article 11 of the Urban Planning Law emphasized the role of plans in catering to environmental goals such as rational use of space, protection of agricultural activities, protection of sensitive areas, protection of sites and landscapes, and prevention of natural and technological risks. These documents are also subject to a series of procedures involving consultation with decentralized environmental services of the state and environmental protection associations if they express their wish to participate, and a public inquiry to allow citizens to express their observations (Aifaoui, 2020, p. 229).

Second Section: Expanding Participation in Preparation of Local Urban Planning Instruments

Participation is considered one of the most prominent legal guarantees for integrating environmental considerations into local urbanization documents, since the principle of participation is one of the main principles of environmental law. Local urban planning is also among the areas most open to this principle. The principle of participation in the environmental field is linked to citizens, civil society organizations, and environmental protection associations, as well as to public administrations and bodies in order to protect the environment, by giving them the right to participate in making environmental decisions, within the framework of participatory democracy.

First / Participation of Administrations and Public Bodies:

Article 2 of both Executive Decrees 91-177 and 91-178 mentioned the participation of administrations and public bodies, as they are among the actors required by law to be involved in the process of local urban planning. Even though the task of local urban planning is entrusted to municipalities, the state continues to be present and

represented by executive directorates as well as some services that are locally represented. These bodies participate in the preparation stage of the local urbanization plans within consultation operations as mentioned previously and are obligatorily consulted: urbanization, agriculture, economic organization, hydraulics, transport, public works, buildings and archaeological/natural sites, postal and communications, environment, urban planning, and tourism; at the local level: energy distribution, transport, water distribution, land regulation. Some state services represented at wilaya and municipality levels have a consultative role where Article 15 requires the consultation of local user associations and chambers of commerce (Executive Decree 93-93, Official Gazette No. 16, 1996) and agriculture (Executive Decree 10-214, Official Gazette No. 54, 2010), and professional organizations (Aifaoui, 2020, p. 262) during the preparation of the plans.

Second / Involvement of Environmental Protection Associations and Citizens in Preparation of Local Urban Planning Instruments

1- Consulting Local User Associations:

Local associations have a consultative role with competent administrations when taking environmental decisions, or play the role of adviser on environmental matters for local councils, expressing their opinions when requested on projects with a large impact on the environment, and submitting their observations or suggestions concerning these projects (Lakhal, 2014, p. 155), including urban planning instruments where Article 15 of Law 90-29 mandates that local user associations must be consulted during preparation of the master plan for regulation and urban development and the land use plan. However, even though the Urban Planning Law requires opening the door for local associations to contribute to planning options, their involvement is conditional on the initiative of the president of the Popular Municipal Council to invite them.

2- Involving the Citizen in the Process of Preparing Planning and Urbanization Plans:

It is not enough to work on preparing comprehensive and coordinated planning schemes, but it is also necessary to instill the belief among those with decision-making authority that preparing urbanization documents based on the participation of all actors is a distinctive stage in establishing the foundations of participatory democracy. If the Law on Planning and Urbanization leaves the initiative in preparing urbanization documents to local communities, this preparation can be done by expanding the circle of participation, since the municipality is the framework for practicing citizenship and the participation of the citizen in managing public affairs (Boudrioua, 2013, p. 224, 425). From here, citizen participation in making environmental decisions takes great importance, as it serves as a procedural guarantee for practicing the right to a sound environment, and also, on the other hand, as an opportunity for the citizen to intervene and practice participatory democracy, whether by giving his comments or even discussions about the dimensions of the project, and dialoguing or perhaps negotiating with the administration. Thus, the citizen is considered a basic actor in protecting the environment. The involvement of the citizen happens through two procedures:

A- The Environmental Public Inquiry:

The public inquiry is considered one form of public participation, as well as a consultative procedure aimed at enabling the various actors in the environmental field to express their opinions or remarks about the different projects or schemes or programs. The legislator specified the method for the public inquiry process for local urban planning documents in the provisions of Articles 10 to 13 of Decree 91-177, as well as the same articles of Decree 91-178 mentioned above, which is a procedure we addressed earlier.

B- Wide Publicization of the Projects:

The Urbanization Law endorsed the necessity of presenting local urbanization documents to the affected citizens so they can express their opinions and comments, or even their suggestions and objections about the content of these documents. What is criticized of the legislator in this area—despite the huge development in media—is that he only relied on traditional methods for informing the public of the decision to open a public inquiry regarding the urban planning projects, which basically consists in publishing the decision at the headquarters of the concerned council or municipal councils.

Conclusion

The signs of attention to environmental aspects in the field of urban development began to appear after the shift that took place in the Algerian attitude at the beginning of the 1980s, where some environmental aspects were included in consecutive urbanization laws. The principle of environmental protection did not find its way to consecration except after the issuance of Law 90-29 on planning and urbanization, which is considered one of the most important urban legislation known to Algeria; as, according to it, the legislator adopted new plans for spatial management, represented in the master plan for regulation and urbanization and the land use plan, and in addition established the necessity of integrating environmental considerations in these plans clearly. But despite the immense number of legal texts attempting to manage the domain in the light of the principle of sustainable development, which are linked to local urbanization documents, reality proves that the participation of planning and urbanization in the efforts to protect the environment and improve the quality of life in cities remains modest and limited in its effect, because urban legislation and local urbanization instruments in their current situation, their organizational forms, and their tasks cannot in any way face the environmental challenges that exist.

Through the examination and analysis of the rules of the Urbanization Law of 1990 and its organizational decrees regulating urban planning instruments, it became clear that the forms of response to environmental issues in these texts are very limited, and the role of local urbanization documents in protecting the environment is characterized as rather weak, and that is due to the shortfall in the organizational aspect for the content of these documents in its environmental aspect, and the lack of strong guarantees that can truly guarantee the actual consideration of environmental dimensions in the process of local urban planning, not to mention the field obstacles encountered by those in charge of the planning and its implementation.

Results and Recommendations

- The legislator tried to integrate the environmental dimension within the urban planning and organization instruments in local urban planning.
- The current Urbanization Law should be abolished and a new law enacted that responds to and is in line with the developments and innovations in the environmental field, adapting it to the principle of sustainable development and the various principles related to environmental protection, like the principle of participation, and the principles of prevention and precaution, and others.
- Strengthening the aspects of participation of the various environmental actors in preparing these plans by opening up the field of participation to all actors, and involving them in the early stages of preparing the plan project, relying on new participatory mechanisms, especially the interactive ones,
 - with the necessity to reform the existing mechanisms,
 - Additionally, environmental associations should be given the right to request participation instead of waiting for an invitation to be addressed to them.

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Conflict of Interest

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