MUNICIPAL AND AUTARCHY POWER: COMPARATIVE ANALYSIS OF ELEMENTS OF LOCAL POWER IN BRAZIL AND ANGOLA

Poder municipal e autárquico: análise comparada de elementos do poder local no brasil e angola

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ABSTRACT

The present research has as objective the comparative study of the Brazilian municipal power and the Angolan autarchic power, very important structures of the local power. While the Brazilian municipality has almost 200 years of development in an independent State, Angolan autarchies are in the process of being implemented in a State that achieved independence less than half a century ago. Furthermore, Brazilian municipalities are a factual reality, while Angolan autarchies will be implemented in the short term, with their regulatory framework available for the time being. The deductive method and bibliographical and documental research are used, to investigate the hypothesis of a high municipal and municipal autonomy, comparatively. Therefore, the development of these institutions is analyzed based on their respective constitutions, taking into account the different types of State. In the sequence, the autonomy of the municipal and autarchic power is analyzed, concretely, in the self-organizing, political, administrative, legislative and financial dimensions. The results demonstrate the approximations and differences in the compared realities, concluding that the respective differences reflect the particularities and singularities of municipal and autarchic power, confirming, in part, the hypothesis.

KEYWORDS: Angolan local autarchies; Brazilian municipalities; local power.

RESUMO

A presente pesquisa tem por objetivo o estudo comparado do poder municipal brasileiro e do poder autárquico angolano, importantíssimas estruturas do poder local. Enquanto o município brasileiro possui quase 200 anos de desenvolvimento num Estado independente, as autarquias angolanas se encontram em processo de implementação num Estado que alcançou a independência há menos de meio século. Ademais, os municípios brasileiros se constituem em realidade fática, enquanto que as autarquias angolanas serão implementadas no curto prazo, a dispor, por enquanto, do seu arcabouço normativo. Utiliza-se o método dedutivo e pesquisa bibliográfica e documental, a perscrutar a hipótese de uma elevada autonomia autárquica e municipal, comparativamente. Para tanto, se analisa o desenvolvimento dessas instituições com base nas respectivas constituições, levando-se em consideração as diferentes tipologias de Estado. Na sequência, analisa-se, concretamente, a autonomia do poder municipal e autárquico, nas dimensões auto-organizatória, política, administrativa, legislativa e financeira. Os resultados demonstram as aproximações e diferenças nas realidades comparadas, a concluir que as respectivas distinções refletem as particularidades e singularidades do poder municipal e autárquico, confirmando-se, em parte, a hipótese.

Palavras-chaves: Autarquias locais angolanas; município brasileiro; poder local.

INTRODUCTION

The present article compares municipal and autarchic power in Brazil and Angola, respectively, based on the constitutional and infra-constitutional order of both countries.

The decentralization of local government in Angola is only a normative reality, since the local authorities have not yet been established, unlike Brazil, which has its own history of almost two centuries of municipal development. There is a forecast of autarchic elections in Angola in the short term - only not held due to the Covid-19 pandemic. By the way, one should always bear in mind that local autarchies correspond to the Angolan phenomenon correlated to Brazilian municipalities.

To advance this comparative study, it is necessary to define the elements of comparison, which is why, based on the Brazilian and Angolan constitutional and infra-constitutional order and on municipalist doctrine, we analyze municipal autonomy from a self-organizing, political, administrative, legislative, and financial perspective. Obviously, it is not possible to exhaust the comparative analysis in this article, however, it is fully possible to understand the main elements that bring together and separate the respective normative provisions on Angolan local autarchies and Brazilian municipalities.

The study is divided into two chapters. The first one, more succinct, addresses the development of local power in Brazil and Angola, diachronically, as well as the differences in the very conception of local power and the organization of the respective states, based on their respective constitutions. The second chapter, also with contributions from infra-constitutional legislation, presents the comparative grid of autonomy of local and municipal power, divided into five sections, each addressing its own perspective of local self-organizing, political, administrative, legislative and financial autonomy.

The particularities of the compared phenomenona - Angolan autarchies not yet effective and the Brazilian municipalities with almost 200 years of development in their own normativity - lead to a set of very different doctrinal and legislative references. While in Brazil the infra-constitutional order is very broad and diffuse, in Angola there are 9 laws that nuclearize the autarchic contours. Besides the countless bibliographical productions covering the Brazilian municipal power, there are no comprehensive studies of local autarchies based on the current and very recent governing laws, even because there are very relevant legal texts from the year 2021. Such factors should be duly taken into consideration, especially since the main objective of this research is to allow the comparative analysis of these local power phenomenona.

The deductive method is used, as well as bibliographic and documental research, to scrutinize the hypothesis of a high autarchic and municipal autonomy, comparatively. It is known that Comparative Law must analyze the "(...) unity of legal systems (...) present in addition to legislation, jurisprudence, knowledge of the social environment, contractual practice, the trend of legal technique." (PEREIRA, 1955, p. 37). Therefore, the risks of a comparative-legalistic analysis are well known, especially since municipalities in Angola do not yet exist as a factual reality, but only as a normative reality, although the Brazilian municipality can be analyzed more broadly. At any rate, we do what is possible and viable.

These reflections are based on more than two decades of legal studies and reflections on Brazilian municipal power and Angolan autarchic power in universities in Brazil and Angola. This is what is presented in order to enrich the legal study of municipal and local government, noting that the very close link between the Brazilian and Angolan people, historically and genetically intertwined, requires the study of these differences and approximations, in the certainty of many other studies in the future.

1. LOCAL POWER IN BRAZIL AND ANGOLA: A DIACHRONIC PERSPECTIVE AND THE STATE TYPOLOGIES BASED ON THE RESPECTIVE CONSTITUTIONS

A temporal mark is needed for the analysis of the development of local power in Angola and Brazil. This chapter compares the post-independence period of both countries, which already brings considerable differences, since Brazil has been an independent state for 199 years and Angola for 46 years.

The time difference itself represents a lot. Angola's independence occurred in 1975, the year in which the first Constitution was drafted, still under the Cold War, under socialist inspiration and a strongly centralized planning state under the leadership of the People's Movement for the Liberation of Angola (Portuguese: Movimento Popular de Libertação de Angola - MPLA). It was common in some constitutions of African countries after independence - in the second half of the twentieth century - to present a monist conception of power with a single party, an ideology of socialist character, a strongly present state, a collectivizing economic ideal, mitigated freedoms and the centrality of decision-making in the national assembly (MIRANDA, 2010, p. 2-3). In 1992, the second Constitution moves towards multipartyism and market economy, overcoming the idea of the State as a planner of economic activities, although a relevant role of guidance for national development is kept. A Democratic State of Law is instituted. According to Carlos Teixeira (2011,

p. 9-10), the 1992 Constitution charged the "State with the creation of conditions for the effective operation of the economic process, in other words, the market", a transition that did not occur so easily, because "new open and market economies, unaccustomed to operate in such a complex reality, naturally have a higher cost of adaptation" (MENEZES, 1996, p. 384) (free translation), essential for economic viability in a globalized economy.

The 2010 Constitution reinforces and deepens the democratic rule of law and, consequently, the commitment to democracy, fundamental rights, and market economy, already provided for in the 1992 Constitution. It is a constitution that affirms the Angolan state within the limits of a liberal democracy and in tune with the transformations of a globalized world, although it maintains a considerable state protagonism in favor of economic and social development.

The treatment of local power in these three constitutions has considerable differences. The 1975 Constitution refers to local administration, combining unity, local initiative and decentralization - art. 47. It also mentions local autarchies as bearers of legal personality and administrative and financial autonomy - art. 51. Due to its own historical and political context, it does not advance further without concrete efforts toward autarchic decentralization. The State remains unitary and with power strongly concentrated.

The 1992 Constitution, in turn, affirms the juridical-political category of local power with considerable emphasis, beginning by consigning as a fundamental clause the choice of local government leaders by universal suffrage - art. 159 - a matter of the normative competence of the National Assembly - art. 89. Local power is regulated in its own chapter - Chapter VII - which deals with the organization of the state at the local level through municipalities and local administrative bodies - art. 145. Autarchies are defined as "territorial corporate bodies that aim to pursue the interests of the population, having for this purpose elected representative bodies and freedom of administration of their respective communities", to be governed in detail by specific law - art. 146. Unlike the autarchies, which are the result of administrative decentralization, the local administrative bodies are the result of de-concentration of the State and are regulated by law - art. 147. Finally, the provinces, also a result of deconcentration, are disciplined, especially regarding the governor, who represents the central government and is also responsible for local issues - art. 148. The advance, however, is normative, without moving towards the realization of the autarchic phenomenon.

The 2010 Constitution, when dealing with the Angolan unitary state, already affirms the respect for the autonomy of local government bodies - art. 8 -, active and passive citizenship, as well as universal suffrage for those over 18 years of age for local government bodies - art. 54.

Although it refers to the law, it makes reference to the taxes that fall under local government competence - art. 102. It reiterates the National Assembly's competence to regulate local power - art. 164 - and the deconcentrated action of the central power of the State with the instances of local power - art. 201. One title deals specifically with local power - Title IV - in three chapters. Chapter I, as general provisions, registers the correlation between democracy and decentralization by local power, which encompasses the local autarchies, traditional power and other forms of citizen participation - art. 213 -, a "three-dimensional valence, consecrating three organizational forms (...) local power, being in its dimension a political power, is not, however, sovereign, and must coexist with other powers, public and traditional and private, as well as other administrative powers of the State (...)". (TEIXEIRA, 2015, p. 72) (free translation).

Local autonomy is elevated to a constitutional principle and is the basis for the actions of the autarchies (art. 214), seeking equivalence between competencies and available public resources, part of which must be local (art. 215). As legal entities of public law it is assured to the autarchies to seek judicial protection to guarantee their autonomy - art. 216. Local autonomy can be considered a "(...) fundamental legal norm - a material principle of the Constitution - (...)" (MARTINS, 2016, p. 132) that is intertwined with decentralization and the democratic principle, so it can be considered both a fundamental right and an institutional guarantee (MARTINS, 2016, p. 143-146).

Chapter II is focused specifically on the autarchies, decentralized entities, conceptualizing them as territorial collective persons that pursue neighborhood interests through their own representative bodies, whose finances must be fairly shared with the State, with the correction of inequalities among the autarchic entities and the definition of revenues and expenses. Its regulatory power is safeguarded - art. 217. Although autarchies are organized in municipalities, they can also be supramunicipal or inframunicipal - art. 218. The autarchic attributions advance in several matters - art. 219.[1]

The bodies of the municipalities reflect Angola's atypical presidentialism, relying on a deliberative Assembly, a collegiate executive body - the Municipal Chamber - and the President of

[1] Constitution of Angola, Art. 219: "Local autarchies have, among others and under the terms of the law, attributions in the areas of education, health, energy, water, rural and urban equipment, heritage, culture and science, transport and communications, leisure and sports, housing, social action, civil protection, environment and basic sanitation, consumer protection, promotion of economic and social development, spatial planning, municipal police and decentralized cooperation and twinning." Such competencies should be interpreted with the principle of gradualism, which will cause the state to define the scope of these attributions in each of the autarchies. Moreover, the Organic Law of the Autarchies (Portuguese: Lei Orgânica das Autarquias) - Law 27/19 - presents new fields of competencies, while the Law of transfers of attributions - Law 22/20 significantly details the scope of each of these attributions in relation to the Central Administration and the autarchies, besides allowing flexibilities.

the autarchy. The Assembly follows the proportional representation in closed lists, with the presidency going to the head of the most voted list. The President, in turn, appoints the secretaries, all accountable to the Assembly. The party texture is opened so that lists of citizens, without party affiliation, can run in autarchic elections - art. 220. The administrative tutelage of legality is expressly referred to, allowing the dissolution of its organs for serious illegal actions or omissions - art. 221 -, although there is also a reference to the dangerous tutelage of merit in the observance of gradualism in the implementation of municipal power - art. 242. Finally, solidarity among the autarchic entities is required in the forms of cooperation and organization defined by law in order to reduce asymmetries and achieve national development - art. 222. Chapter III also deals specifically with traditional power, noting that its relationship with autarchic power must be regulated by law - art. 225. Finally, the constitutional and infra-constitutional order brings the principle of gradualism in the institutionalization of the autarchies, individually making the amplitude of autarchic attributions more flexible.

It is evident the much more robust constitutional conformation dealing with local government and local autarchies in the Constitution of Angola of 2010, compared to the Constitutions of 1992 and 1975. In the previous constitutions, the respective provisions can be considered generic guidelines, unlike the normative density of the current constitutional text, which brings considerable guarantees to local government, an important step towards its effectiveness as a political and institutional reality.

Brazilian history, in turn, goes back almost 200 years and 7 constitutions, from a unitary and monarchical state to a federal and republican state. Local power in Brazil is directly related to the municipality, the only instance directly so related in the country's constitutions. The first Constitution of 1824, following the historical tradition of the previous kingdom's ordinances, paid little attention to the municipalities, which were considered eminently administrative bodies, strongly tied to the provinces and with little autonomy. The Constitution of 1891, dealing with a republican and monarchical state, did little to change this condition, tying the municipalities to the states, which had ample freedom to regulate the municipal regime. The alteration to the Constitution that occurred in 1926 progressed by consigning municipal autonomy a constitutional principle that could even provoke the intervention of the Union in the state. The 1934 Constitution advanced by safeguarding municipal autonomy with more emphasis, as is the case of the consignment of more revenues to local entities, besides having also consecrated municipal autonomy as a constitutional principle. As it lasted less than three years, it was surpassed by the 1937 Constitution, strongly centralizing in the scope of a dictatorial State - the New State ("Estado Novo") -, which, in turn,

suppressed local freedoms. There were no conditions for any autonomous local development (MEIRELLES, 2021, p. 37-41; MONTORO, 1975, p. 28-56).

With the end of Estado Novo, the 1946 Constitution was elaborated, a positive landmark for municipal power, as it advanced in guaranteeing local political, administrative and financial autonomy. The electivity of mayors, vice-mayors and councilmen was guaranteed; besides the competencies expressly designed in the Brazilian federalism that advances toward cooperation, municipal action was reinforced in what concerns the peculiar local interest; more resources for municipalities were also assured. This constitutional order, in an environment of democratic consolidation, was highly favorable, overcome by the Coup of 1964 and the Constitution of 1967, which went backwards in the context of a dictatorial regime, consequently curtailing liberties and concentrating powers (MONTORO, 1975, p. 56-76; CORRALO, 2014, p. 93-98).

The constitutional environment favorable to municipal power returns with the 1988 Constitution, which also brings a democratizing agenda of social and power relations. The division of powers, more impacted by the advance of the federalism of cooperation, consigns a pool of local autonomies not seen in the country's history: political, self-organizing, administrative, legislative and financial (CORRALO, 2011, p. 54-55). Such details, however, will be properly detailed in the next chapter.

At any rate, it is important to note the difference in the organization of the Angolan and Brazilian states. The first one, as a unitary state, was thus constituted by the need to meet the demands of a conflicting post-independence environment, which resulted in a civil war of more than 25 years. The central power is strongly concentrated, so that at the regional level (provinces) and at the local level, there has been a process of administrative deconcentration, in which governors and municipal administrators are directly linked to the central and regional administration, respectively. This is the classic conformation of a Unitary State. However, as stated above, it is possible to notice an advance in the Angolan constitutions for the implementation of a strong decentralization process through local autarchies, whose autonomy is considerably protected in the constitutional and infra-constitutional order elaborated for its concrete implementation.

The Brazilian State, due to its longer post-independence historical period, has a more robust advance, despite the setbacks. From a unitary state in the first quarter of the 19th century to a Federation in the late 19th century to the present day. From constitutions that hardly protected local autonomy (1824, 1891, 1937 and 1967) to constitutions that more strongly guaranteed municipal power (1937, 1946 and 1988). From a dual federalism at the end of the 19th century to a strongly cooperative federalism, which not only seats municipal autonomy, but advances to be the only

Federation in the world to elevate municipalities to the condition of a member of the federative pact, allowing the consideration of municipal autonomy itself as a norm of fundamental law (CORRALO, 2006, p. 256-287).

The Angolan constitutional order makes express reference to local power, which includes the local autarchies and the traditional power, with no obstacles to other participatory instances. Local autarchic power has constitutional guarantees, properly outlined in the infra-constitutional order, to allow its effectiveness in the political-state reality. The Brazilian constitutional order makes express reference to municipal power, an instance of local power historically legitimized by Brazilian constitutions, in several articles, most expressly in articles 1, 13, 18, 19, 20, 23, 25, 29, 31, 35, 37, 39, 40, 52, 71, 100, 144, 149, 149-A, 150, 152, 153, 158, 159, 156, 162, 163-A, 164-A, 165, 167-A, 167-F, 169, 179, 180, 182, 195, 198, 206, 211, 212, 212-A, 216, 219-A and 219-B. Notwithstanding the detailed constitutional delineation of municipal power in the Brazilian Constitution, there is also the resort to the infra-constitutional order.

The expression local power, which in the understanding of Janaína Rigo Santin (2010, p. 423), is more in the sociological sphere, is adequate to identify the Brazilian and Angolan municipal and local government phenomena, stimulated by the attempts of legal and political elevation led by several authors. In Brazil, however, it is preferred to use the expression municipal power, more in line with the respective constitutional-normative context.

It is worth to mention the stimulus for cooperation among local entities. Both the Brazilian Constitution of 1988 - art. 241 - and the Angolan Constitution of 2010 - art. 219 - bring cooperation as a concrete possibility. Brazil has thousands of municipalities in consortium for the pursuit of common purposes, the most varied, following the terms of Law 11.107/05. In Angola, Law 30/20 disciplines the inter-autarchic cooperation. In both cases it is possible to create a specific legal entity for this purpose, called public consortium in Brazil and association of local autarchies in Angola. Both normative disciplines foresee the existence of a deliberative body that represents the collaborating entities. To a lesser extent and without the creation of a legal entity of its own, it is possible to have agreements between municipalities in Brazil and sharing agreements between the municipalities in Angola, for actions that do not require a new legal entity.

These initial considerations are crucial for a proper understanding of the differences in the development of the Angolan and Brazilian state with regard to local and municipal power. On to details, in sequence.

2. AUTONOMY OF THE BRAZILIAN MUNICIPAL POWER AND THE ANGOLAN AUTARCHIC POWER

It is important, in this study, to compare realities that are similar as a legal-political phenomenon. In this case, the Brazilian municipalities and the Angolan local autarchies. Even though only the former exist as a factual reality, the normative framework that will discipline the autarchic entities has already been elaborated, but not materialized due to the Covid-19 pandemic. In a broad sense, the idea of autonomy denotes "the power to self-determine, to self-regulate its own interests - or the power to give itself the norm, which essentially involves a certain capacity for self-regulation or self-administration" (ALEXANDRINO, p. 27) (free translation). In democratic states it translates the idea of powers exercised according to pre-established limits, far from any idea of absolute freedom (DALLARI, 2000, p. 124).

However, it is necessary to further specify the comparative table. We will use the study of municipal autonomy in five dimensions, which allows for greater precision: political, self-organizing, administrative, legislative and financial autonomy. An attempt will be made to analyze what brings these phenomena together and what distinguishes them. For self-organizing autonomy, it is important to have the competence to elaborate local constitutive charters and the discipline of local powers. Political autonomy refers to the analysis of the electoral process for choosing local governors and the possibility of annulling their mandates by the Legislative Power. Legislative autonomy requires the understanding of the norms elaborated and their position in the legal order. Administrative autonomy considers the organization and functionality of administrative activities (public services, fomentation, administrative police and intervention). Financial autonomy analyzes the local entity's own resources and those coming from transfers, especially obligatory transfers. (CORRALO, 2014, p. 191-235).

The Law - 27/19 - Lei Orgânica das Autarquias (Organic Law for Autarchies) - defines a pool of autarchic autonomies: regulatory, administrative, financial, patrimonial and organizational. Due to the adoption of the above described criteria of comparison, these autarchic autonomies will be properly framed in those, because they are more wide-ranging. This is because administrative, patrimonial and organizational autonomy can be well understood and compared in administrative autonomy. The regulatory autonomy in legislative autonomy, while financial autonomy is equivalent.

For this analysis, we will use the Brazilian and Angolan constitutions as a source. The Brazilian infra-constitutional legislation will also be used, fragmented in several laws. The normative base of Angolan autarchic power, on the other hand, is centered on laws drafted from 2019 to 2021: Laws 21/19 - Lei da tutela administrativa sobre as autarquias locais (Law of administrative guardianship over local autarchies); 27/19 - Organic Law on the organization and functioning of local autarchies; 3/20 - Organic Law on municipal elections; 12/20 - Law on the regime of fees of local autarchies; 13/20 - Lei do regime financeiro das autarquias locais (Law on the financial regime of local autarchies); 22/20 - Lei da transferência de atribuições e competências do Estado para as autarquias locais (Law on the transfer of attributions and competencies from the State to local autarchies); 30/20 - Lei sobre o regime geral da cooperação interautárquica (Law on the general regime of inter-autarchic cooperation); 36/20 - Lei dos símbolos das autarquias locais (Law on the symbols of local autarchies); and 2/21 - Lei sobre os actos e formas dos órgãos das autarquias locais (Law on the acts and forms of local autarchies' bodies). Onward, then.

2.1 Self-organizing autonomy and local powers

The self-organizing autonomy correlates directly with the status of the Brazilian municipality, member of the federative pact (art. 1 and 18 of the Federal Constitution), which also brings as consequences: a) the same constitutional status among political persons (Union, States, Federal District and Municipalities), without any hierarchical bond or guardianship among political persons; b) competencies defined only in the Federal Constitution; c) constitutive charter, called Municipal Organic Law, prepared by the municipality itself, observing the norms of art. 29 of the Federal Constitution.

The Municipal Organic Law, called municipal constitution by many publicists (SOARES, 1986, p. 16; NOVELINO, 2013, p. 55; FERRARI, 2005, p. 109; CASTRO, 2006, p. 50; CARAZZA, 2003, p. 156), besides conforming the municipal power in the constitutional molds, translates the local empowerment for its self-constitution. In addition, it figures at the top of the municipal normative system, condition of validity for the other local legal norms (CARAZZA, 2003, p. 156). Only the Municipal Chamber participates in the legislative process of drafting the Organic Law, which requires for its approval and amendment the approval quorum of 2/3 of the councilmen, in two rounds of voting, separated at least by the interval of 10 days between each vote.

The municipal powers must also be laid out and regulated in the Municipal Organic Law. There are two autonomous and independent powers - actually, living together in a relationship of

interdependence - the Executive and the Legislative. The first is unipersonal, headed by the Municipal Mayor, also known as the Head of the Executive Power, elected by the majoritarian system, in a slate with the candidate for Mayor and Vice-Mayor, which will be analyzed later on. The other power is called the Municipal Chamber, multi-personal, formed by councilmen - maximum of 55 members, as defined in the Organic Law and constitutional parameters, elected by the proportional system and by the respective political parties, in open lists. As Brazil is a presidential republic, the powers are autonomous, with the Executive predominating in the administrative role, while the Legislative is primarily responsible for legislating and monitoring the Executive. There are no other powers at the municipal level.

Besides carrying out the due legislative process, the City Council has effective instruments of control and inspection of the municipal administration: requests for information on municipal matters, constitution of a parliamentary commission of inquiry with powers of judicial authorities (the signature of one third of the members of the City Council, a fixed term and a determined fact are enough), suspension of normative acts that exceed the limits of regulation and summoning of municipal secretaries and authorities of the first level of public administration to provide explanations - which does not include the Mayor (CORRALO, 2020, p. 42-55; MEIRELLES, 2020, p. 42-56). 42-52; MEIRELLES, 2021, p. 499-501). Such instruments, existing at all levels of the Brazilian federation, should be reflected in the Municipal Organic Law, forging the relationship of reciprocal control between the powers - checks and balances, as taught by Montesquieu (2000, p. 166-167). There is no provision for the participation of the Executive Chief or secretaries in the meetings of the City Council.

Besides the vertical accountability, arising from the electoral process for the choice of mayors, vice-presidents and councilmen, the horizontal accountability, in addition to the inspection instruments above, also relies on the performance of the Courts of Accounts. Although the mayor's accounts are judged by the City Council every year, it is indispensable to have a prior opinion from the respective Court of Accounts, technically pointing to the approval or disapproval of the accounts, whose decision to the contrary can only occur with a vote of 2/3 of the councilmen. The accounts of the mayor are judged directly by the accounts body.

In Angola, the autarchic power is empowered by Law 27/19 to elaborate its own organic statute to define its "internal structures" and to achieve efficiency and effectiveness. This is an option, since the aforementioned Law 27/19 is configured as the Organic Law of Municipalities, significantly detailing the organization and functionality of local authorities, which shows considerable centralization. The normative uniformity of the autarchies is noticeable. Compared to

the Brazilian municipalities, even though they have the proclaimed self-organizing autonomy, there are many similarities between the municipal organic laws in Brazil, when compared, and even more so in small and medium sized municipalities. At any rate, the elaboration of an organic statute also reinforces the regulatory autonomy of municipal entities in Angola.

The local powers are the Assembly and the Chamber, both plural. The Assembly is the legislative and deliberative body, whose number varies from 25 to 55 members, elected by the proportional system in closed lists. The Chamber is the executive, collegiate body, formed by the president and secretaries. In fact, the President of the Chamber is the head of the party list that obtained the highest number of votes. Angola is a republic and its atypical presidentialism refers to the independence between the powers, notwithstanding the close relationship arising from an electoral process where the Chief Executive and the legislators come from the same closed party list.

The Assembly exercises regulatory power, under the terms of its internal regulations, and has inspection and monitoring powers over the activities of the City Council and its respective services, making it possible to request information on the autarchy's matters through the Assembly's Board. The administrative and financial supervision of the execution of the budget allows the Assembly to deliberate on ephemeral or permanent means of inspection, which is foreseen in Law 13/20.[2] The plenary meetings of the Assembly must have the representation of the Municipality, by its President or, duly justified, by a secretary, with the right to speak in the debates.

Vertical accountability is also present through the electivity of the mayor and members of the Assembly. Horizontal accountability, in addition to the supervision of the Assembly outlined above, also derives from Law 21/19 - Law of Tutelage, allowing the verification of "(...) compliance with the law, regulations and other normative acts (...)", which may lead to disciplinary, civil, financial and criminal accountability and the loss of the mandate or dissolution of the responsible body. It can also cover acts that may harm rights, the budget, acts that are foreign to the authority's powers, irregular expenses, administrative improbity, among others. The tutelage, exercised by the President of the Republic - which may be delegated - takes place through inspections, inquiries and probes. If the cause of the tutelage can lead to the removal of the Mayor or dissolution of the Municipal Assembly, there must be prior notification for the presentation of a reply within 30 days, with subsequent forwarding to the Constitutional Court. The guardianship body must have the

[2] It is important to point out that the administrative and financial inspection of the budget execution is the responsibility of the City Council, the Court of Accounts, the Autarchical Assembly and the tutelage body - Law 13/20.

cooperation of the municipal authorities, which have the duty to forward copies of various documents - minutes of the meetings of the Council and the Assembly, budget, annual plan, reports and accounts, and formalized agreements. There are acts that depend on tutelary ratification for their effectiveness: development plans, budgets, land use and land management instruments, disposal and encumbrance of assets, staffing, and contracting of loans. The supervising entity cannot change the acts subject to rectification and the refusal, subject to appeal, must be based on illegality or nonconformity with plans and programs that are binding on the autarchies. It is noticeable the extent of municipal control by the tutelary body and the importance of observing the legal limits to avoid entering into questions of merit of the municipal power, which could harm the autonomy of the local power. Law 13/20, in turn, brings the inspection tutelage - ordinarily once a year and extraordinarily when necessary - over the autarchies and their patrimonial and financial management regarding the fulfillment of the laws referring to the activities plan, budget and its execution, accounting, own revenues, indebtedness, patrimonial management and other legal obligations.

Law 13/20 also refers to the results of budget execution in quarterly trial balances, sent to the Assembly. The accounts of all the services of the municipality are prepared by the Chamber and sent to the Assembly by March 1st, comprising the results of the previous year's budget execution, analysis of revenues and expenses, treasury situation, patrimonial situation, public debt data, application of transferred resources, among other relevant information. By the end of February, the Assembly must appraise the management accounts. The Court of Accounts will also receive these accounts and send it, with its judgment, to the Autarchic Assembly and to the tutelage body.

Even without having the institute of tutelage, the Brazilian federation establishes extreme conditions in which it is possible for one political entity to intervene in another, in this case, the intervention of the State in the Municipality. According to art. 35 of the Federal Constitution, the State can only intervene in municipalities for non-payment of the founded debt for more than two years, except in the case of force majeure; for failure to render accounts; for failure to apply the minimum percentages in education and health; and when the Court of Justice grants an order to guarantee the fulfillment of constitutional principles or for the execution of a law, order or judicial decision. The intervention is subject to a high degree of control by the state parliament, since it requires its approval - with the exception when the intervention comes from the Court of Justice - and as soon as the causes for the intervention cease, the intervention process also ends.

2.2 Political autonomy

Political autonomy refers to the electability of local governors and the possibility of cassation of mandates by the local parliament (CORRALO, 2014, p. 201-205). In both cases, Brazil and Angola, municipal and autarchical leaders are elected by the population, however, the electoral process and its particularities change. The cassation of mandates by the local parliament is provided in the Brazilian legal system, without similar in the Angolan legislation, which provides this competence to the Constitutional Court. In both Brazil and Angola, the normative discipline of the rules that forge political autonomy is the responsibility of the central power, therefore, in national laws. Furthermore, the electoral rules are very broad and comprehensive, highlighting the greater complexity of the Brazilian electoral system, more detailed in the discipline of the electoral process, reason why it was decided to consider some central points of both models.

In Brazil, reflecting presidentialism at the local level, councilors are elected in municipal elections, together with mayors and vice mayors, every four years - the length of their mandates. They are the local governors, holders of an elective mandate. It must be emphasized that the secretaries appointed by the mayor to the respective municipal secretariats are also local political agents. The mayor and the vice-mayor are elected by the majoritarian system, by slate, which can be presented by political party or by coalition of parties. The party that receives the most votes is elected, except in the case of municipalities with more than 200 thousand voters, when a second round with the two candidates with the most votes is required if none reaches the majority of votes in the first round. The councilmen, on the other hand, are elected by the proportional system, in open lists presented by the political parties, where coalition of parties is forbidden, so that the parties that get the highest average of votes in relation to the vacancies get the highest number of seats in the City Council, a calculation that was influenced by the D'Hondt method. The citizen votes for the councilor candidate or the party, and the most voted candidates are considered elected, according to the number of seats attained by the party. Only candidates affiliated to a political party and nominated at a party convention are eligible. Thus, the citizen votes first for the councilman, and then for the slate of mayor and vice-mayor, without any link between these two votes. Both the mayor and the vice-mayor, as well as the councilmen, take office on January 1st of the year following the elections, which take place every four years on the first Sunday of October. The slates for mayor and vice-mayor must register their program of government. Voting is mandatory for those over 18 and under 70, and optional for those over 70 and 16, with no possibility of early voting. The direct campaign takes place over a period of approximately 46 days, observing the rules laid

down in the laws and resolutions of the Superior Electoral Court. Campaign financing includes public resources, personal resources of each candidate, of the parties, and donations from individuals. Law 9.504/97 - General Election Law - and Law 4.737/65 - Electoral Code, regulate the electoral process in Brazil, with the sum of several resolutions issued by the Superior Electoral Court for each election.

In Angola the local leaders are the members of the Assembly, the members of the City Council and its president. Angola's atypical presidentialism is also reflected in the autarchies. Voters vote for closed lists, with numbered candidates, presented by political party, coalitions, or citizens' group. The citizens' group requires a minimum signature of 200 citizens and acquires legal capacity with the registration of its statute. Thus, the Angolan citizen votes for a list, without choosing specific candidates. The entire list must be signed by citizens, whose number of signatures varies with the autarchy's residents. The list that obtains the largest number of votes has at its head the president of the council, who is also the president of the autarchy. Seats in the Assembly are won according to the proportionality of the votes for each list - using the d'Hondt method - and the position of those candidates. The majority system is mixed with the proportional system. The Assembly is the deliberative and legislative body of the autarchy, while the Council is the executive body. The president appoints his secretaries in the Council, who also equate to political agents. The candidates, even in the party lists, do not need to have party affiliation, which is obviously not required for the citizens' list, which, nevertheless, may have party-affiliated candidates - it is forbidden to participate in more than one list. Each list must present an electoral program or manifesto. Voting, considered a civic duty, is not mandatory, and is possible for people over 18. There is early voting in some specific situations. Campaign time is 20 days, with the observance of electoral rules, much less detailed than the Brazilian electoral rules. Campaign financing covers public resources, personal resources of the candidates, parties, individuals, legal entities, the electoral campaign itself, and non-governmental organizations. The Assembly of the autarchies, besides its elected members, will have the participation, without voting rights, of a representative of the traditional authorities and three representatives of the neighborhood committees, which is not similar in the Brazilian model. Law 03/20 brings the referred rules of the Angolan electoral system.

In Brazilian municipalities, the municipal councils can revoke the mayors', vice-mayors', and councilmen's mandates. The former in the case of committing a political-administrative infraction provided for in art. 4 of Decree-Law 201/67, to be followed by the aforementioned cassation procedure. The councilmen may have their mandate terminated in the case of behavior incompatible with parliamentary decorum, also in accordance with Decree-Law 201/67, although

the parliaments may define situations that give rise to a lack of decorum. It is important to note the broad autonomy for the removal of local mandates, by the plenary of the City Council, to enable judicial control only in the case of violation of procedural rules, without the re-examination of the merit.[3]

In Angola, the matter is defined in Law 21/19, which refers to administrative tutelage, and does not foresee the possibility for the Assembly to revoke the mandate of its members or the President of the Council. Loss of office may occur for the practice of acts contrary to the Constitution and the law, allowing the destitution of the President of the Council and the dissolution of the Municipal Assembly - there is a list of 13 provided situations in art. 19 of that law. In case of facts that justify the acts committed or exclude guilt there will be no destitution or dissolution. The competence for dismissal and dissolution lies with the Constitutional Court, which can also preventively suspend the incumbents with the nomination of a provisory commission, observing, in any case, the due legal process. If the President is removed from office, the second from the most voted list takes over, and so on. If the Assembly is dismissed, in addition to terminating the President's mandate, early elections must be held.

It must be emphasized that both Brazilian and Angolan legislation include several situations that lead to the loss of the mandate of local mandate holders, such as criminal conviction.

2.3 Legislative autonomy

The legislative autonomy is based on the elaboration of a local, autonomous normative system, reflecting the local particularities and singularities, under the terms of the competencies defined in the constitutional and infra-constitutional order.

In Brazil the municipalities have autonomy to manage the matters under their constitutional competence, as is the case of the common competence - art. 23 of the Constitution - together with the States and the Union. Moreover, art. 30 of the Constitution brings the matters of the municipality's specific competence - not forgetting the attribution of competencies in other parts of the constitutional text -, emphasizing the reach of the expression local interest, core of local competencies, which also enables the supplementation of the federal and state legislation and even enters the matters of the concurrent competence of the Union, States and Federal District disposed in art. 24 of the Federal Constitution. Basic health, infant and elementary education, territorial

[3] Municipal political agents in Brazil are also subject, cumulatively, to the most diverse criminal, civil, and administrative improbity liability, in the judicial instance.

regulation, local planning, water, sanitation, social assistance, consumers, environment, preservation of patrimony, security, housing, leisure, traffic organization, public transportation, sports, and stimulation of economic development are examples of matters under municipal competence. For this purpose, localities can have amendments to the Organic Law, complementary laws, ordinary laws, delegated laws, provisional measures, resolutions and legislative decrees, foreseen in article 59 of the Constitution - appropriate to the local legislative process - to regulate these matters. The legislative process, even though it may have specific contours, follows symmetrically the Federal Constitution. As already exposed, the Municipal Organic Law is configured in the hermeneutic *topos* of the local normative system as a validity criterion of the other norms. Finally, municipal norms are subject to constitutionality control, diffuse - by any judge in a specific lawsuit - or concentrated - before the State Court of Justice.

In Angola, the matters of competence of the autarchies are expressly provided for in the Constitution, among others that may be defined by law:

> Article 219. The local autarchies shall have, among other duties and under the terms of the law, attributions in the areas of education, health, energy, water, rural and urban equipment, heritage, culture and science, transport and communications, leisure and sports, housing, social action, civil protection, the environment and basic sanitation, consumer protection, the promotion of economic and social development, territorial planning, municipal police, decentralized cooperation and twinning. (free translation)

Law 27/19 - the Organic Law for Local Autarchies - also includes attributions in the fields of water, rural and urban equipment, culture and science, agriculture, livestock, forestry, tourism, and urbanism, and foresees the gradual expansion of municipal attributions. The referred law makes express mention to the regulatory autonomy of the autarchy for the creation of general and mandatory norms for the matters under its competence, also referring to "everything that concerns the specific interests of the respective populations" as a general criterion for local attributions. Law 2/21 - Law on the Acts and Forms of Local Authority Bodies - refers to normative, administrative and mere expedient acts of local authority bodies, which must obey the prescribed form.[4]

[4] Law 02/21 provides that the Assembly can create regulations and resolutions; the Council can create bylaws and resolutions; and the Mayor can issue ordinances and service orders.

2.4 Administrative autonomy

Administrative autonomy focuses on the constitutional and infra-constitutional powers of local entities, allowing the organization and functionality of local attributions to be defined by the entities themselves. According to Maria Sylvia Zanella Di Pietro (2017, p. 82-83), the subjective dimension of public administration refers to the ability of the municipal entities to have sufficient administrative organization for the implementation of the most diverse activities of its competence, either as the creation and/or extinction of public agencies and entities of indirect administration, or as the public agents themselves; whereas the objective dimension focuses specifically on the administrative activities that ground the very existence of the Public Administration and that must be implemented locally: public services, administrative police, fomentation and direct and indirect intervention.

Public services are characterized by meeting, directly by the state entity or by delegates, the essential and secondary needs of the population, under the legal regime of public law (CARVALHO FILHO, 2016, p. 339). The administrative police act in order to ensure that the legal limits to property and freedom are observed, either by monitoring, either by preventive action in issuing permits, or by imposing sanctions: "it is the power to discipline the exercise of private autonomy for the realization of fundamental rights and democracy, according to the principles of legality and proportionality" (JUSTEN FILHO, 2015, p. 573). The fomentation denotes the local impulse to economic and social development and stems from pacts with the third sector and incentives for the business sector. Intervention, in turn, can be direct and indirect. The latter refers to state regulation, a strongly present mark of the contemporary State, encompassing the most diverse economic and social sectors. Finally, direct intervention refers to intervention in the economy itself, which occurs through the constitution of companies for this purpose. We repeat the imperative need for such activities to be encompassed by local competencies (DI PIETRO, 2017, p. 87-89).

The Brazilian municipality provides a wide range of public services, foreseen in the Constitution and in the infra-constitutional order. The services can be provided directly by the government or can be granted or permitted to private parties. At the local level, the following services are usually provided - a non-exhaustive list: public transportation, public sanitation (water, sewage, drainage and waste collection), cab services, elementary and middle school education, health, social assistance, funeral services, civil defense and public lighting. The particularities of each locality and service define which are provided directly by the municipality and which are delegated to private entities. It is quite common for urban public transportation services to be

provided by concessionaires or authorized contractors, which also happens, in some situations, with water and sewage services. On the other hand, early childhood education, social assistance, civil defense, elementary school and health care are performed directly by the public power. However, there are municipalities that make agreements with social organizations[5] to carry out educational and health actions, just as there are municipalities that make agreements through public-private partnerships to improve public lighting.[6]

The administrative police will be exercised over the limits imposed on freedom and property in the local legal order, which requires a properly structured administration to supervise, prevent and reprehend. The imposition of sanctions follows the provisions of the law and includes warnings, fines, suspension of activities, interdiction, and seizure of goods, among others. Many activities require the issuance of a permit, as is the case of licenses, showing a preventive action by the government. The plurality of legal goods protected and limited by local legislation is considerable, as is the case of the building, sanitary, environmental, entertainment, urbanistic and event police, among others.

The development policies vary a lot from one Brazilian municipality to another. The most diverse social policies and actions are usually driven by agreements with civil society organizations, observing the specific procedures set forth in laws 9.637/98 - Social Organizations Law; 9.970/99 - Civil Society Organizations in the Public Interest Law; and 13.019/14 - Civil Society Organizations Law. According to the object to be agreed upon and the civil society organization to be contracted, a specific instrument is used - partnership agreement, management contract, collaboration agreement, development agreement, and cooperation agreement. Every public resource passed on requires the rendering of accounts.

The fomentation for economic development has a myriad of instruments to be used, most of them focused on structural actions, as is the case of donation or real right of use concession for properties, earthworks, asphalting, improvements, among others. With lesser impact, fiscal support is also possible with the exemption of local taxes, as is the case of the urban property tax - IPTU - and the service tax - ISS - which are applied to property and services, respectively, and therefore have no major impact on the industrial sector.

[5] Social organization is the qualification of a non-profit civil society entity, which allows a management contract to be signed with the government for the provision of services with pecuniary retribution, also making possible the management of assets and public servants assigned. At the federal level it is regulated by Law 9.637/98.

[6] Law 11,079/04 regulates public-private partnerships between political persons - at all levels - and private companies, either in the sponsored or administrative form.

Municipalities also develop concrete actions of economic and social regulation, either directly by the municipality as a legal entity of public law, or through municipal regulatory agencies or similar entities. According to Celso Antônio Bandeira de Mello (2005, p. 155-156) there are five categories of regulatory agencies: a) public services; b) fomentation and inspection of private activity; c) regulatory activities of the oil industry; d) activities that the State performs but that are also allowed to private parties; e) regulation of the use of public assets. Such taxonomy reinforces the importance of local regulatory action, not only covering the activity foreseen in item "c". As a matter of fact, the regulatory role of the State nowadays does not require further substantiation, since we are discussing a new feature of the State's performance and administrative law, based on a smaller state intervention, greater economic freedom to the economic agents, privatization of state companies and revalorization of the civil society, which does not admit the abandonment or precariousness of the State's regulatory performance, on the contrary (ESTORNINHO, 1999, p. 29-84; CASSAGNE, 2006, p. 61-65).

Direct intervention in economic activity is more limited due to municipal competencies, since it is only in cases provided for in the Constitution, to meet the imperatives of national security or relevant collective interest provided by law that direct intervention, with the creation of a corporate legal entity of private law, may occur, under the terms of art. 173 of the Federal Constitution and Law 13.303/2016 - Statute of State Companies.

The analysis of Angolan local autarchies and the performance of administrative activities is quite limited because it is an eminently legal analysis, based on the normative diplomas, which have already been discussed. Important public services under the competence of the autarchies are foreseen in the Constitution and in Law 27/19 - Organic Law of Autarchies: education, health, energy, water, transportation, social assistance and basic sanitation. The scope of each of these services is foreseen in Law 22/20 - Law on the Transfer of Attributions and Competencies.[7] To the list of matters mentioned, we must add everything that refers to the specific interests of the population, without forgetting the principle of exhaustiveness, which assigns to the municipalities only those competencies that are expressly attributed to them by the legal system.[8] The President of the Municipal Council, the executive and collegiate body, must define the organizational structure

[7] For example, regarding education, pre-school and primary education are the competence of the municipalities, but the hiring and management of all education workers - teachers and other activities - in primary education remain with the State. The non-teaching staff for pre-school education is hired by the autarchy. As for health actions, the hiring and management of health professionals is the responsibility of the central administration, as well as the acquisition of medications.

[8] The principle of exhaustiveness is foreseen in art. 5 of Law 22/20 - Law for the transfer of attributions of the State to the local autarchies.

of the local authority, according to the needs of the population and local development, which includes its functionality, in consultation with the Council itself. In any case, the principle of gradualism, expressly foreseen in the Constitution and in the referred Organic Law, must be observed, since the State organ will determine the enlargement or reduction of the duties of the local autarchies, the use of merit tutelage, and the transition of the local administration from the State to the autarchies. The transfer of competencies from the State to the autarchies can vary according to the autarchy, which includes the transfer of resources, duly agreed upon, to allow the sharing of more than one autarchy in an inter-municipal program.[9] The concession of services and works can occur with the authorization of the Assembly. The collection of a fee for the concrete provision of a public service is foreseen in Law 12/20. However, since autarchies are not yet a factual, but a legal reality, the delineations of gradualism are not in place, which makes it difficult to better analyze the extent of local action in public services.

The administrative police is expressly provided for in the autarchic competencies - at the constitutional and infra-constitutional level -, whether when referring to the municipal police and its administrative nature for the enforcement of the norms in force, or to the autarchies' own legislation that brings limitations to freedom and property. It is linked to the enforcement of local norms, since the focus of the administrative police is the abstention of private individuals from disregarding legal limits. The collection of fees for the exercise of the administrative police is foreseen in Law 12/20, which deals specifically with the matter, as is the case with the issuing of licenses.

The social fomentation is foreseen in the social action and in the promotion of the economic and social development of the autarchies, allowing cooperation with the most diverse institutions of the civil society. For the economic development there is the provision of several promotion and support actions, which allows the deduction of a wide possibility of specific actions. The indirect intervention - regulation - is derived from the normative power of the autarchies in the areas of their competence. The direct intervention may occur with the creation of public companies, once authorized by the Assembly, to register the role of coordinator of the development developed by the State of Angola by constitutional determination,[10] therefore, with a more active role in economic activities.

[9] Law 22/20 - Law for the transfer of attributions and competences from the State to the local autarchies - defines several issues of this relation between the State and the autarchies.
[10] Art. 89 of the Constitution of Angola.

2.5 Financial autonomy

The autonomy of local entities must be based on the correlation between the competencies and the public revenues for its realization, because the "degree of accomplishment of the attributions committed to the municipalities depends a lot on the financial resources they can dispose of." (NUNES, 2011, p. 243-244) (free translation). Even though in Brazil municipal autonomy has a considerable amplitude, the analysis is fundamentally based on the participation in the national public revenue and on their own taxes or those derived from obligatory transfers. This is due to the fact that voluntary transfers have considerable power to mitigate local autonomy by linking it to public expenditures previously defined by the central government. While in Brazil it is more feasible to compare municipal attributions, Angolan autarchies have attributions defined in the Constitution and in the infra-constitutional order, however, the future application of gradualism does not allow us to foresee which attributions will fall to each one of the autarchic entities. Therefore, it is not possible to determine how much the municipalities will correspond proportionally to the total revenue of the Angolan State. Thus, the comparative analysis will be made with what it is really possible to compare.

In Brazil, of the total collected, 54.64% of the resources remained with the Union, 27.49% with the States and 17.87% with the Municipalities. The high concentration of revenue in the Union to the detriment of states and municipalities can be seen (BREMAEKER, 2013). Obviously, it is not possible to make such a prediction for Angolan municipalities.

Own taxes are those instituted and collected by local entities. They denote the effective exercise of a taxing power. In Brazil, municipalities can institute taxes, fees and contributions. The municipal taxes are expressly established in the Federal Constitution, limiting the local taxing power: property tax (levied on urban property), tax on services (levied on the provision of services) and taxes on the onerous transmission of goods between living people (levied on the onerous transmission of real estate). Even though there are limits in the National Tax Code and in specific legislation, as is the case of the tax on services - Complementary Law 116/03 -, it is understood that there is considerable legislative autonomy in the institution and collection of these taxes. Without *numerus clausus*, the municipality may also institute fees, either for the effective provision of public services or for the exercise of administrative police, which confers very high normative elasticity. Finally, there are the contributions, such as the contribution to fund public lighting - aimed at the cost and investment in lighting - the improvement contribution and the contribution to the pension funds of municipal civil servants. Such tributes reach, encompassed in the tax revenues, an average

of 22.99% of the collection of municipalities (BREMAEKER, 2020), with a greater impact on medium and large municipalities, since the taxes that have more impact - property and land taxes and taxes on services - significantly impact larger municipalities, increasing the dependence of small municipalities on constitutional transfers. It should be noted that 50% of Brazilian municipalities have less than 10 thousand residents.

Law 13/20 - Lei do Regime Financeiro das Autarquias Locais ("Local Autarchies Financial Regime Law") - is the main legislative framework on local finance. Municipalities are forbidden to create taxes or define their essential elements, under penalty of nullity. Compared to Brazilian municipalities, Angolan autarchies will hold the amount collected from taxes on assets: urban property tax (levied on urban property), property transfer tax (levied on the onerous transfer of real estate) and circulation tax (levied on the ownership of cars and motorcycles). They can charge fees for issuing licenses - administrative police -, for public services rendered or certain public utilities, and for the use of public property. The fees are established based on a proposal from the City Council, approved by the Assembly, and comply with Law 12/20 - Local Autarchies Fees Law, and must have an equitable value proportional to the cost and the activity performed, without prejudice to having an extra-fiscal character to discourage certain activities.

Both the Brazilian municipality and the Angolan autarchies can obtain revenues from fines - resulting from contracts or sanctions of police power, from the use of its patrimony, from the profits of the state company in which it has a participation, from the sale of assets, among others.

As for the obligatory transfers to Brazilian municipalities, foreseen in the constitutional order, there are 25% of the state tax on the circulation of goods and the rendering of interstate and intercity transport and communication services; 50% of the state tax on motor vehicles; 24.5% of the federal fund for participation of municipalities (composed of 24.5% of the income tax and 24.5% of the tax on industrialized products); 50% or 100% of the federal rural territory tax; 70% of the share of the federal tax on financial operations related to gold; 25% of the compensation for the ICMS exoneration of the States in the exports of primary and semi-finished products and rendering of services abroad; share on the royalties from petroleum and other natural resources; share of the contribution for intervention on the economic domain; transfers to the FUNDEB - Fund for Maintenance and Development of Basic Education and Valorization of Education Professionals and share in the compensation for the ICMS exoneration of the States in the exports of primary and semi-finished products and rendering of services abroad. In addition, there are also resources from the onerous assignment resulting from oil exploration auctions and resources for health actions.

In Angola, transfers to municipalities must be provided for in the general state budget and include the Local Government Fund, made up of 20% of the revenue from various taxes - Self-Employment Income, Employment Income, Industrial[11], The transfer must observe the Local Authorities Balancing Fund. The transfer must observe the Local Authorities Balancing Fund, which seeks vertical and horizontal financial balance, to count on three sub-accounts. The financial balance subaccount reaches 50% of the fund's resources, of which 90% are distributed equally among the autarchies and 10% constitute a financial reserve; the autarchies equalization subaccount has 30% of the fund's resources, distributed according to population density, social-economic infrastructure, and poverty index; the social autarchies subaccount, with 20% of the fund's resources, in order to promote the improvement of social conditions in health, housing, sanitation, and education. There are no objective criteria for the transfer of the values from this last sub-account.

In Brazil, the fiscal responsibility of local entities, as a result of art. 169 of the Federal Constitution, is defined by the Law of Fiscal Responsibility - LC 101/2000, with strict limits on spending on personnel and indebtedness, criteria for expenses of a continuous nature, and revenue waiver, among other matters. The Amendment to the Constitution 109/21 has also altered several articles of the constitutional order in order to implement fiscal control instruments, such as the fiscal adjustment mechanism - when the ratio between current expenses and current revenue is higher than 85%. In Angola the aforementioned Law 13/20 brings the specific fiscal regulation to be observed by the local autarchies, especially regarding indebtedness and financial rebalancing in the face of repeated deficits.

FINAL CONSIDERATIONS

I - The comparison of important elements of Brazilian municipal power and of Angolan autarchic power must take into consideration the different stages of development of these instances of local power, starting with Brazil in more than 199 years of its own post-independence history, while Angola has been writing its history autonomously for 46 years.

II - The Brazilian municipality has always been an important instance of state power, sometimes with more autonomy - Constitutions of 1934, 1946 and 1988 -, sometimes with less autonomy - Constitutions of 1824, 1891, 1937 and 1967. In Angola, local government was timidly

[11] With the exception of the Industrial Tax on Diamonds and Other Minerals.

foreseen in the 1975 Constitution, with more emphasis in the 1992 Constitution and, emphatically, in the 2010 Constitution.

II - The Angolan Constitution of 2010 establishes local autonomy as a constitutional principle and the autarchies are understood as instances of local power, together with traditional power and other forms of social participation. They are territorial collective persons pursuing neighborhood interests, autonomous, fruit of decentralization, strengthening democracy. Following the atypical presidentialism of Angola, the autarchies have two powers, one of executive character - the Municipal Council - and another of deliberative/legislative character - the Assembly -, which, despite being independent powers, are directly intertwined. This is because the President of the Council is the head of the list with the most votes in the municipal elections, in closed lists, whose proportionality leads to the seats in the Assembly. There is a provision for balance between municipal attributions and revenues, and for the exercise of a tutelage.

III - The Brazilian Constitution of 1988 was the one that most advanced in the consecration of municipal autonomy, so much so that it elevated the municipalities to the condition of participating entities of the federative pact. They have express competencies, based on local interests, in addition to competencies shared with other political entities. Following Brazilian presidentialism, there are two local powers, the Executive and the Legislative, independent and harmonious. The Executive is headed by the Mayor and Vice-Mayor, elected by the majoritarian system, in slates, the winner being the one who gets more votes, except in municipalities with more than 200,000 voters, which requires a second round for one of the slates to reach the majority of votes if this did not happen in the first round of voting. The councilmen, members of the Municipal Council, a legislative body, are elected through open party lists, according to the proportionality of the votes.

IV - Furthermore, one should note the differences between the states under comparison. Angola, as a unitary state, which seeks to accomplish an intense decentralization process with local autarchies, and Brazil, a federal state that has transformed its federalism, currently marked by high cooperation between political and federated persons of all levels: Union, States, Federal District and Municipalities. Both constitutions fight for instruments of cooperation among local entities, in Angola for the inter-autarchic cooperation (Law 30/20), in Brazil for the inter-municipal consortia (Law 11.107/05).

V - The comparative grid analyzes the political, self-organizing, administrative, legislative and financial autonomy of Brazilian municipalities and Angolan municipalities. As for self-organizing autonomy, the Brazilian municipality is empowered to draft its charter, called the

Organic Municipal Law, observing the constitutional criteria, which requires the approval of 2/3 of the members of the Municipal Chamber in two rounds of voting, without the participation of the Executive in the legislative process. The Organic Law, besides being at the apex of the local normative system as a criterion of validity of the other norms, also organizes and disciplines the local powers and their control relations. In Angola, the autarchies can elaborate their organic statute to define their internal structures, noting that there are already several laws detailing autarchic power, which have already been analyzed. The Assembly supervises the City Council and can deliberate on the means of supervision. The City Council - Executive - must be represented in the Assembly - Legislative - meetings, which does not occur in Brazil. The tutelage is a planned instrument, linked to the central government, especially for the legal review of various acts of the municipalities and can even lead to the removal of the mayor and/or dissolution of the Assembly, which requires a decision of the Constitutional Court. There are acts that require tutelary rectification to be effective. Brazilian municipalities do not face the exercise of tutelage, although in extreme situations and expressly provided for in the Constitution, which is very rare, the intervention of the States in the Municipalities may occur. Both in Brazil and in Angola the accounts of the Executive - Mayor and City Council - must be approved by the Legislative - City Council and Assembly, respectively.

V - Political autonomy focuses on the electability of local leaders and the possibility of removal from office. Note that in both cases the national legislation details the electoral process, much more detailed in Brazil. Closed lists in Angola can be presented by parties, coalitions or groups of citizens, with no need for party affiliation. In Brazil only candidates who are affiliated to political parties duly nominated in the party conventions can be candidates, and coalitions are only possible in the majority elections, since the proportional elections to the parliament take place in open lists, with the vote for the candidate or the party - no coalitions. In Angola there is a greater amplitude for the search of resources for campaigns - public resources, from individuals, from companies, among others -, since in Brazil there is a limitation to public resources and from individuals. In Angola the elector will vote for a single list, and the one with the most votes will have as its head of the slate the President of the municipality - Chief Executive in an instance that is also collegiate. In Brazil the voter chooses a slate for Mayor and Vice-Mayor - Head of the Executive in a unipersonal instance - and, in sequence, in a separate vote, the candidate for councilor or vote for the party acronym. In both cases the parliament - the Municipal Chamber in Brazil and the Assembly in Angola - is a plural and collegiate body. In Brazil voting is mandatory for those over 18 and under 70, and in Angola it is a civic duty. Moreover, the Assembly of the autarchies

will have the participation of a representative of the traditional power and three representatives of the neighborhood committees, with the right to vote, which has no similarity in Brazil. In Brazilian municipalities, the City Council can revoke the mandate of local political agents, while in Angolan autarchies it will be possible to remove the President and dissolve the Assembly by an act of the Constitutional Court.

VI – Legislative autonomy is based on the elaboration of a local normative system. Brazilian municipalities have several types of legislation available for this purpose - amendments to the Organic Law, bills, complementary laws, delegated laws, provisional measures, resolutions, and legislative decrees. It follows the due legislative process, symmetrical to that foreseen in the Federal Constitution, requiring, for most of the proposals that are considered by the parliament, the participation of the Executive (this is the case of the private initiative for some matters and the possibility of opposing a veto, which can be overturned by an absolute majority of the members of the legislature). These types are subject to diffuse and concentrated constitutionality control. Naturally, the matters must be covered by municipal competencies, based on the constitutional order. The Angolan autarchies, through their plural organs - City Council and Assembly - materialize the exercise of a regulatory power through regulations, resolutions and ordinances. Many matters combine the actions of the executive and deliberative bodies - Council and Assembly. There are matters subject to tutelary ratification for their effectiveness, besides the permanent tutelage of legality by the referred tutelary organ, besides the possibility of the tutelage of merit during the process of the institution of the autarchies. The matters subject to municipal legislative power are foreseen in the Constitution of Angola, in the Organic Law of Municipalities - Law 27/19 - and in the Law of attributions transfers - Law 22/20, always remembering the gradualism, which may mitigate the matters of municipal competencies.

VII - The administrative autonomy leads to the empowerment of municipalities and autarchies to define the structure and functionality of their administrative activities: public services, administrative police, development, indirect intervention - regulation - and direct intervention in economic activity. These administrative activities, consecrated in the public doctrine, are present in both realities. The scope of these activities changes according to the municipal and autarchic competencies. While the Brazilian municipality has a broader scope of action, protected by the Constitution and detailed infra-constitutionally, the Angolan autarchies will depend on the implementation of the gradualism for the definition of the competencies defined in the constitutional order and respective laws. At any rate, one notices a greater possibility of direct intervention in

economic activity through the creation of state companies by Angolan local autarchies than by Brazilian municipalities.

VII - Financial autonomy has the same logical structure. There are tributes of local competence - taxes, fees and contributions. However, while Brazilian municipalities can institute and collect their own taxes, Angolan autarchies will benefit from the resources of their taxes, without being able to advance normatively. Municipal taxes are levied on assets and services, while municipal taxes are focused on assets. The fees, in both cases, are instituted and collected locally. There are contributions, in Brazil, which are not present in Angola. It is also common to collect resources from fines, from the use of property, and from the participation in state-owned companies in both situations. Besides own resources, there are transfers. In Brazil, due to a highly complex tax system, there are specific transfers from certain federal and state taxes and contributions, as well as transfers from funds, to be added to various and differentiated criteria. In Angola, the transfers come from a fund set up for this purpose, observing three distinct criteria. The impacts of the Brazilian model are quite perceptible, with a very high concentration of national public revenue in the Union, which is not possible to specify in the Angolan model. In both cases, there are rules to ensure financial and fiscal balance, with severe liability for managers regarding public spending that does not observe fiscal balance.

VIII – The comparative study of the Brazilian municipality and the Angolan autarchies, according to the academic, normative and legal limits already set, has as its main objective the better understanding of the normative and factual realities - as far as possible - of the phenomena studied. The countless singularities and particularities of these municipal and autarchic power structures must be taken into consideration because, despite a common past, present and future of brotherly peoples, there are considerable differences in the institutional development of the respective states. There are no shortcuts to institutional maturity, because institutions develop according to the designs and needs of each political-state organization. Brazilian municipal power has made considerable progress in its historical development. The Angolan autarchic power will soon begin its institutional process. Thus, the hypothesis is partly proven. May both prosper more and more.

BIBLIOGRAPHIC REFERENCES

ALEXANDRINO, José de Melo. **Elementos de Direito Público Lusófono**. Coimbra: Coimbra Editora, 2011.

BREMAEKER, François E. J. de. **Os Municípios Brasileiros**, 2013. Available in: <http://www.oim.tmunicipal.org.br/?pagina=documento&tipo_documento_i
d=1>. Access on: April 20, 2014.
BREMAEKER, Fraçoi E. J. de. **Despesas municipais com serviços, ações e programas de competência dos Estados e da União em 2019**, 2020. Available in: < http://www.oim.tmunicipal.org.br/abre_documento.cfm?arquivo=_repositorio/_oim/_documentos/54BB2D7B-C3C5-C7A2-2A71C1DD668B7F5A18102020092550.pdf&i=3172>. Access on: January 5th, 2021.
CARRAZZA, Roque Antônio. **Curso de Direito Constitucional Tributário**. São Paulo: Malheiros, 2003.
CARVALHO FILHO, José dos Santos. **Manual de Direito Administrativo**. 30ª Ed. São Paulo: GEN, 2107.

CASSAGNE, Juan Carlos. **Derecho Administrativo**. Buenos Aires: Abeledo-Perrot, tomo I, 2006.

CASTRO, José Nilo de. **Direito Municipal Positivo**. Belo Horizonte: Del Rey, 2006.
CORRALO, Giovani da Silva. **A Autonomia Municipal como um Direito Fundamental na Constituição Brasileira**. Tese de Doutorado (UFPR), 2006.

CORRALO, Giovani da Silva. **Curso de Direito Municipal**. São Paulo: Atlas, 2011.
CORRALO, Giovani da Silva**. Município: autonomia na Federação brasileira**. 2ª Ed. Curiutiba: Juruá, 2014.
CORRALO, Giovani da Silva. **O Vereador, a Câmara Municipal e o Combate à Corrupção**. Passo Fundo: Editora da UPF, 2020.

DALLARI, Adílson Abreu. Universidade Municipal: competência para legislar sobre os critérios de escolha do Reitor. **Revista Trimestral de Direito Público**. São Paulo, n. 32, p. 124-134, 2000.
DI PETRO, Maria Zylvia Zanella. **Direito Administrativo**. 30ª Ed. São Paulo: GEN, 2017.

ESTORNINHO, Maria João. **Fuga para o Direito Privado**. Coimbra: Almedina, 1999.

FERRARI, Regina Maria Macedo. **Direito Municipal**. São Paulo: Revista dos Tribunais, 2005.
JUSTEN FILHO, Marçal. **Curso de Direito Administrativo**. 11ª Ed. São Paulo: Revista dos Tribunais, 2015.

MARTINS, Evandra Luisa de Jesus. **Autarquias Locais em Angola**. Coimbra: Almedina, 2016.
MEIRELLES, Hely Lopes. **Direito Municipal Brasileiro**. 19ª Ed. São Paulo: Malheiros, 2021 (atualizada por Giovani da Silva Corralo).
MELLO, Celso Antônio Bandeira de. **Curso de Direito Administrativo**. São Paulo: Atlas, 2005.
MENEZES, Solival Silva e. **Dinâmica da transição de uma economia dependente colonial para economia centralmente planejada e sua inflexão recente para economia de mercado**. Tese de Doutorado. Universidade de São Paulo, 1996. Available in: <https://www.teses.usp.br/teses/disponiveis/12/12138/tde-09022011-121834/publico/Tese.pdf>. Access on: June 17th, 2021.
MIRANDA, Jorge. **A Constituição de Angola de 2010. Instituto de Ciências Jurídico-Políticas**, 2010. Available in: <

https://www.icjp.pt/sites/default/files/papers/a_eutanasia_sob_o_prisma_de_um_constitucionalista.pdf>. Access on: June 2nd, 2021.

MONTESQUIEU, Charles-Louis de Secondat. **O Espírito das Leis**. 2ª Ed. São Paulo: Martins Fontes, 1996.
MONTORO, Eugênio Franco. **O município na constituição brasileira**. São Paulo: Universidade Católica, 1945.
NOVELINO, Marcelo. **Manual de Direito Constitucional**. 8. ed. São Paulo: Método, 2013.

NUNES, Elisa Rangel. **Elementos de Direito Comparado para o Estudo das Finanças Municipais em Angola**. Luanda: Rolo&Filhos, 2011.
PEREIRA, Caio Mário da Silva. Direito Comparado e o seu Estudo. In: **Revista da Faculdade de Direito da Universidade Federal de Minas Gerais**, v.7, 1955, p. 35-51.
SANTIN, Janaína Rigo; FLORES, Deborah Hartmann. A Evolução Histórica do Município no Federalismo Brasileiro, o Poder Local e o Estatuto da Cidade. **Justiça do Direito** (UPF), Passo Fundo-RS, v. 20, n.1, p. 56-69, 2006.

SOARES, Antônio Carlos Otoni. **A Instituição Municipal no Brasil**. São Paulo: Revista dos Tribunais, 1986.

TEIXEIRA, Carlos. **A Nova Constituição Económica de Angola e as Oportunidades de Novos Investimentos**. Comunicação Proferida na Faculdade de Direito da Universidade de Lisboa, 2011. Available in: < http://wwz.fd.ulisboa.pt/wp-content/uploads/2014/12/Teixeira-Carlos-Nova-Constituicao-Economica-de-Angola.pdf>. Access on: June 5th, 2021.
TEIXEIRA, Carlos. **Manual de Direito Administrativo**. Coimbra: Almedina, 2015.

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