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Is the Algerian Military mightier than the law?

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The Algerian military has become a supra-constitutional actor, no longer constrained by the constitution and thus contributing to the further entrenchment of the state's authoritarian tendencies. Though established with a purely defensive role in mind, the Algerian military has regularly intervened in politics, in particular during the 1990s and the extreme political violence of the country's "black decade". Today, the military plays a mixed role in the fields of security and stability as well as in the country's politics and economic growth/development.

The evolution of the Algerian military today is guided by three dynamics in particular. Firstly is the increased instability and terrorism threat faced by the country, both internally and as emanating from neighbouring countries and ISIS. These threats mitigate calls for reform by reasserting the need for increased military spending. Secondly, there are various efforts towards professionalisation of the army, including the increase in socio-economic benefits to veterans as well as the establishment of new structures to enter the global economic relations. Thirdly, the Algerian army's doctrine of defence remains intact, rendering the military unable and/or unwilling to participate in extra-territorial combat.

In order to meet the country's security needs while also contributing to democratisation and good governance, several reforms are suggested. The army can increase its commitment to professionalisation, in particular through the promotion of military academies that frame its role. The military can also respond better to security threats by developing internal divisions specifically dedicating to fighting current threats, while also developing a constitutional framework for involvement beyond the nation's borders.

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Introduction

In a constitutional system, the constitution establishes the legal foundation of the governing structure, determining the legal bounds of action for all entities within that structure. The Algerian military, however, has become a supra-constitutional actor, no longer constrained by the constitution. This has been the result of two dynamics:

- The military establishment is not accountable to constitutional institutions, resulting in a lack of transparency, justice, and rule of law.
- The military is above any form of constitutional oversight, either prior to or subsequent to its actions, under the premise that it is legally and constitutionally flawless and complete. In this view, the military possesses the mechanisms to automatically address its performance and course of action.

As a supra-constitutional establishment, the Algerian military cannot be held accountable; it is exempt from all standards of accountability, and above all laws and constitutions. Unfortunately, this has led to the further entrenchment of the state's authoritarian tendencies. Yet legal texts, like the constitution, executive statements, and presidential decrees that govern the affairs of the Algerian military have collectively created a military doctrine that unambiguously asserts its constitutionality. Indeed, these legal bounds clearly assign to the Algerian army a defensive role: the military's ideology views itself as a central pillar of stability, not interfering in others' affairs, and ensuring that it resolves the security problems of neighboring countries with a collective and non-intrusive regional approach.

As a result of the political and media turmoil that Algeria experienced in the 1990s, during which the question of "who is killing who" was prominent in many minds, questions about the military's role in the country today can be painful. Yet, the military is both one of the most important political and security strongholds in Algeria, and one that enjoys overwhelming approval, particularly in contrast with the inability of most political actors to mobilise public support.

The Algerian Military: A Fundamentally Defensive Army

Understanding the Algerian concept of national defence, involves looking at several texts, including the first text of the Algerian Revolution, a proclamation dating from November 1, 1954. Addressed to the Algerian people and activists fighting for the national cause, this text serves as a foundation to post-independence, contemporary Algeria, aiming to "gather and organise the Algerian people's full potential, to get rid of the colonial regime".

A second text, published by the Soummam Conference on August 20, 1956, firmly established the concept of "national defence." It states that Algeria's political future requires "recognising its independence and sovereignty in all areas, including national defence and diplomacy," and the protection of Algeria's territorial integrity. The Algiers Charter of April

1964 and the National Charter of 1976 also expanded the concept, rendering the People's National Army central to organising and promoting national defence.

In the 1976 Constitution, which was based on the National Charter of 1976, "national defence" is defined as in the texts above, with the addition of defensive and military duties, and a role for contributing to the country's development. In contrast to the 1976 Constitution and those before it, the Constitutions of 1989 and 1996 are significant in that they primarily support the People's National Army within the framework of its central aim: defending national sovereignty and territorial integrity. Yet the Constitution of 1996 also entrusts the army with non-military tasks, including contributing to the country's development (Chapter 3, Article 25, "General Principles Governing Algerian Society"), and requires that national defence be popularly oriented, comprehensive, integrated, sustained, and well developed.

These fundamental national texts, adopted by Algeria before and after independence, also illustrate several central principles that defined its political trajectory with regard to defence and foreign affairs:

- Non-interference in other states' internal affairs; defence has a strictly national quality and a purely defensive ideology.
- Respect of people's right to self-determination and the demonstration of support to other national liberation movements.
- Promotion of relationships based on cooperation, friendship, good neighbourliness and peace with all nations of the world.

The Algerian Military's Evolving Structure and Guidelines

From the first years following independence, Algeria has strived to strengthen and improve its security and military establishments. The vast country was divided into seven regions, enabling the entire country to be covered by the armed forces. Different directorates for support and training centres were established, including combat directorates for the air force and navy. A national service was established (1969), along with large combat units and staff (1984). And separate commands for the armed forces were created, including the Ground Force Command, the Air Force Command, the Navy Command (1986), and the Territory Air Defence Force Command (1988).

In addition, relatively new tasks have been given to the armed forces for stability operations. Since 2000, the Algerian Ministry of National Defence has provided the following guidelines:

- Stability operations are considered a central task of the Algerian armed forces, and the Ministry of National Defence is prepared to implement and support these operations. These operations and similar combat operations have been given priority and integrated into all Ministry of National Defence activities.
- Stability measures are to be implemented to advance the interests and values of the Algerian state. Immediate goals include providing security to citizens,

restoring basic services, and meeting humanitarian needs. Long-term goals include helping develop local capacities to provide necessary services, as well as strengthening rule of law, democratic institutions, and a strong civil society.

- Stability measures are to be implemented more effectively by using local civil society experts. However, Algerian armed forces are to be prepared to undertake all necessary tasks to create and maintain order when civilians are unable to do so. The success of these tasks will help spread lasting peace, and help enable the Algerian armed forces to withdraw and return to their barracks when appropriate.

Stability operations saw a trend of increased allocations between 2013 and 2015, a result of developments in the Sahel region and the fallout of the Arab Spring revolutions. It should be noted that the defence budgets included in the overall budgets were approved by parliament without discussion, additions, or real scrutiny.

Despite these evolving structures and guidelines, the Algerian military remains under the supervision of the president. In contrast to all other constitutions in the Maghreb, the Algerian constitution entrusts the presidency with leadership of the military and the Ministry of National Defence, supporting the military command through direct supervision in both peace and war. The constitution states: “The President of the Republic, after having convened the Council of Ministers, having heard the High Council of Security, and having consulted with the President of the People’s National Assembly and the President of the Council of the Nation, shall declare war in case of effective or imminent aggression against the country, in conformity with the relevant provisions of the Charter of the United Nations. The Parliament shall convene, and the President of the Republic shall deliver a message to inform the Nation of this.”

The Military’s Future Constitutional and Political Role

The logic of “securitisation” will remain the central driving force behind Algerian military discourse, primarily due to increasing terrorism and the threat of radical armed groups allied with organised crime in the countries of the Sahel. Regarding terrorism, the danger of Algeria being declared a *wilaya*, or region, under ISIS following Abu Bakr al-Baghdadi’s audio-recorded declaration, remains present. Regarding organised crime, reports on Algerian security indicate rising crime rates and the fact that more criminal networks have begun to operate in southern Algeria where there is a deep crisis in the Sahel. According to these reports, 78% of Algerian military units have been stationed in the south since Northern Mali fell to armed groups. Officials will rely on these various sources of instability as justification to maximise the military’s funding.

In terms of professionalisation, the military has created a framework to enter the world of military industry and ally itself economically with international institutions, in order to create

45,000 new jobs. In this way, the military is contributing to the country's economy and development. At the same time, Algerian military doctrine will remain unchanged, refusing to engage in international military efforts, even Arab ones. Algeria refused to join in the Saudi-led Arab coalition for Operation Decisive Storm in Yemen, even though countries in the region joined, and refused to participate in French strikes on northern Mali.

It must be noted, however, that there is a real demand for reform of the Algerian military. In various independent investigations, including the special 2013 ARI Arab Barometer report, 78% of Algerian respondents demanded the implementation of gradual, non-radical reforms. This is perhaps a response to the successive crises and fragmentation that the Arab Spring countries have experienced. The government has spun this positively, carefully marketing it politically to encourage Algerians' confidence in the military. And indeed, according to researcher Isabelle Werenfels, the military is perhaps the last stronghold able to preserve the unity of the country and its people. As she argues, the political class and important segments of the population accept the army as the backbone of the regime. Nonetheless, the political role played by the Algerian army in the 1990s was surrounded by significant controversy, damaging the military's position.

Finally, there is real demand from within the army itself for increased social and economic benefits. We cannot discuss military and security matters in Algeria without touching on the protests and unrest instigated by municipal guard officers in 2014, as well as army and police protests, that reached the gates of the presidential palace. These took on an increasingly union-like dimension; their demands centred on improving their financial conditions, ensuring that retirement packages were commensurate to the sacrifices made during the years of terrorism, and improving their social conditions. What these retirees are saying in public many are saying in private: the military must become more professional, warning that any splits in Algeria's security apparatus could affect it as a whole.

Conclusion

Constitutionally, we can conclude that the Algerian military's symbolic and functional roles are based on legal texts, and that its affairs are governed by a fundamentally defensive military doctrine. The founding fathers of the nation had military backgrounds and, as French researcher Mireille Duteil observes, the military is a creation of the independent nation, and not vice versa. There is no single officer leading the military within an absolute hierarchy of command, which helps explain why there has not been a military coup, and indicates that decisions in the military are made collectively.

Yet there has been in the post-independence period an overlap between the military and politics. What is needed is a clear separation between the roles that the military performs in terms of security and its political influence or standing. Both regular citizens and the nation's elites hope that the military establishment will successfully perform its role in providing security, and that it will also help establish democracy and good governance.

To achieve such goals, several reforms can be undertaken.

- the military can increase its commitment to professionalisation through the creation of new organisational structures that will improve overall performance as well as the promotion of military academies that recognise the boundaries of the armed forces' role.
- in order to meet current security risks faced by Algeria, the military should be divided into different branches. There is a need to establish a professional operations room designated to combatting ISIS in particular. In addition, the reliance on the president could be avoided by amending Article 95 of the constitution to give Algerian forces the right to respond directly to any aggression against the country and consider the country in a state of war. Contemporary theory on war provides for such a position, based on the Charter of the United Nations, especially Article 51 (which guarantees the right to self-defence), and would not infringe upon international legitimacy. This enables countries under attack to protect themselves, respond to aggression, and preserve their territorial integrity.
- the constitution must regulate procedures on Algerian forces' involvement beyond the nation's borders in keeping with contemporary theory on war. It should establish strict constitutional regulations and procedures governing cases in which foreign forces would be permitted to cross Algerian territory, or through the country's airspace, to strike armies or armed groups in neighbouring or friendly countries. Likewise, the constitution should ensure that the Algerian army is able to intervene to rescue Algerian hostages kidnapped by terrorist groups or gangs in a foreign country when that country is unable or unwilling to rescue them.

Such reforms would serve to meet the current security risks and sources of instability facing Algeria while also helping ensure the army remains outside of politics. Furthermore by instigating such reforms through the constitution, Algeria would establish a legal framework that promotes accountability and good governance.

Annex 1: Military Balance of Power in Africa

Country	Active Troops	Reserve	Paramilitary	Total Troops
Egypt	450000	254000	405000	1109000
Eritrea	202000	250000	0	452000
Morocco	196300	150000	13500	359800
Algeria	127500	150000	60000	337500
Sudan	104500	0	95000	199500
Ethiopia	182500	0	0	182500
Nigeria	78500	0	82000	160500
Libya	76000	40000	3000	119000
Tanzania	27000	80000	1400	108400
Angola	100000	-	-	100000
DRC	83800	0	1400	85200
Rwanda	61000	0	10000	71000
Uganda	60000	0	1800	61800
South Africa	55750	-	-	55750
Zimbabwe	32000	0	21800	53800
Burkina Faso	6000	45000	1800	52800
Tunisia	35000	0	12000	47000
Burundi	40000	0	5500	45500
Chad	30350	0	4500	34850
Cameroon	23100	0	9000	32100
Kenya	24120	0	5000	29120
Côte d'Ivoire	17050	0	7000	24050
Zambia	21600	0	1400	23000
Madagascar	13500	0	8100	21600
Mauritania	15750	-	4500	20250
Guinea	9700	0	9600	19300
Senegal	9400	0	5800	15200
Namibia	9000	0	6000	15000
Sierra Leone	13000	0	0	13000
Liberia	13000	0	0	13000
Mali	7350	0	4800	12150
Republic of the Congo	10000	0	2000	12000

Source: Anup Shah, [World Military Spending](#), Global Issues, Updated: January 30, 2015

Annex 2: Defence and Security Budgets Compared to the Rest of the Budgets for 2015

47		الجريدة الرسمية للجمهورية الجزائرية / العدد 78	9 ربيع الأول عام 1436 هـ 31 ديسمبر سنة 2014 م
الجدول (ب)			
توزيع الاعتمادات بعنوان ميزانية التصبير لسنة 2015 حسب كل دائرة وزارية			
المبالغ (دج)	الدوائر الوزارية		
8.387.854.000	رئاسة الجمهورية		
3.618.099.000	مصالح الوزير الأول		
1.047.926.000.000	الدفاع الوطني		
549.809.342.000	الداخلية والجماعات المحلية		
31.196.709.000	الشؤون الخارجية		
74.707.836.000	العدل		
92.615.093.000	المالية		
44.010.067.000	الطاقة		
5.314.058.000	الصناعة والمناجم		
255.101.097.000	الفلاحة والتنمية الريفية		
252.333.450.000	المجاهدين		
26.500.459.000	الشؤون الدينية والأوقاف		
24.276.345.000	التجارة		
12.549.139.000	النقل		
21.144.492.000	الموارد المائية		
19.930.760.000	الأشغال العمومية		
22.600.480.000	السكن والعمران والمدينة		
746.643.907.000	التربية الوطنية		
300.333.642.000	التعليم العالي والبحث العلمي		
50.803.924.000	التكوين والتعليم المهنيين		
234.882.131.000	العمل والتشغيل والضمان الاجتماعي		
2.550.261.000	التهيئة العمرانية والبيئة		
25.789.795.000	الثقافة		
131.653.688.000	التضامن الوطني والأسرة وقضايا المرأة		
276.609.000	العلاقات مع البرلمان		
381.972.062.000	الصحة والسكان وإصلاح المستشفيات		
14.158.870.000	الشباب		
26.282.691.000	الرياضة		
18.871.461.000	الاتصال		
3.985.130.000	البريد وتكنولوجيات الإعلام والاتصال		
3.429.022.000	السياحة والصناعة التقليدية		
2.404.748.000	الصيد البحري والموارد الصيدية		
4.436.059.221.000	المجموع الفرعي		
536.219.273.000	التكاليف المشتركة		
4.972.278.494.000	المجموع العام		

About the author

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He has published numerous studies on elections and governance in court periodicals in three languages. He currently directs a research project on participatory democracy and a research unit on parliamentary development in North African countries at the Kasdi Merbah University of Ouargla. He is also editor in chief of the politics and law sections of the International Court Journal.

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