

## **Security Sector Reform in Algeria**

### *Introduction/Background*

After the war of liberation from France (1954–62), the National Liberation Army (ALN) took over the new state and formed a civil government reflecting its political line. However, the only task of the one and only party, the National Liberation Front (FLN), was to manage the symbolic gains from the liberation war. All issues of political importance were decided by the military leadership. After the outbreak of riots in October 1988 over corruption and miserable living conditions, the army had to accept the establishment of a multi-party system.<sup>1</sup> From 1988 to 1991, Algeria experienced a period of rapid democratization. When it appeared certain that the opposition party, the Islamic Salvation Front (FIS) would win the 1991 parliamentary elections, the military seized power again and canceled the balloting. This action set off a bloody civil war.<sup>2</sup> At the height of violence, from 1994 to 1999, Islamist anti-government groups committed massacres, rapes, kidnappings, bombings, and thefts against the civilian population. Military and security forces, and state-armed militias also engaged in gross human rights violations.

Since Abdelaziz Bouteflika was elected president in April 1999, civil violence has diminished significantly. There are now far fewer reports of police and security forces committing arbitrary arrests, torture, “disappearances”, and extrajudicial killings. Nevertheless, the civilian government cannot effectively subject police, military, and internal security forces to regular control and accountability. Since his re-election in April 2004 (Algeria’s first democratic, contested presidential elections), President Bouteflika has reshuffled some of the higher ranks of the military in order to reduce their influence in political affairs. He has publicly emphasized the importance of restoring the authority of the state, reforming the judiciary, and strengthening human rights. In addition, he has emphasized a plan for national reconciliation. Many of these reforms are seen as positive steps toward strengthening civilian control and rebuilding state institutions.<sup>3</sup>

### *Military and Ministry of Defense Reform*

As mentioned above, President Bouteflika is seeking to reassert the power of the civilian presidency over the largely autonomous military. Retaining the post of Minister of Defense, he nominated new commanders for military regions in August 2004. He also issued a presidential decree creating the position of General Secretary within the Ministry of Defense. Nevertheless, current and retired officers—often referred to as *le pouvoir*—remain important decision-makers.<sup>4</sup> In order to encourage

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<sup>1</sup> Addi 1998, pp. 46–49.

<sup>2</sup> Rubin 2001, p. 53.

<sup>3</sup> Dillman 2005, pp. 23–29.

<sup>4</sup> Dillman 2005, p. 37.

reform within the Algerian military establishment, Algeria receives US bilateral assistance from the International Military Education and Training (IMET) funds. The IMET program is a component of US security assistance that provides training on a grant basis to military and civilian leaders from allied and friendly nations. The latter are exposed to the US professional military establishment and the American way of life, including amongst other things, US regard for democratic values, respect for individual and human rights and belief in the rule of law. They are also exposed to US military procedures and the manner in which the military functions under civilian control. In FY2003, IMET funds were used to send Algerian officers to key Professional Military Education (PME) courses as well as selected technical training courses. In 2004, US Special Forces operated in southern Algeria to train, equip, and aid national forces in fighting the Salafist Group of Preaching and Combat (GSPC) and Al Qaeda. In FY2005, Algeria received US \$850,000 IMET funds for technical training, equipment, and military training to combat terrorism. Moreover, Algeria participates in the NATO-Mediterranean dialogue and in NATO naval exercises, and has expressed interest in participating in NATO's Operation Active Endeavor, patrolling the Mediterranean to detect and deter terrorist activity. Additionally, the African Center for Strategic Studies (ACSS) supports democratic governance in Algeria by offering senior civilian and military leaders a practical program in civil-military relations, national security strategy and defense economics.<sup>5</sup>

### *Police Reform*

The Algerian police is in the process of preparing for the post-terrorism era. Because the fight against terrorism has absorbed the full attention of the police force, the institution neglected all other infringements of the law during the 1990s

Since 1999, Algeria has embarked on a program to modernize its police force. Various measures were taken. The first measure consisted of instituting “positive rewards” and “punishment” within the institution to put an end to impunity and abuse. According to authorities, the government now annually expels 300 to 400 police officers from the force for violations of the discipline code or other unspecified shortcomings. Additionally, the government has introduced more stringent measures when recruiting police officers. The second decision was the importation of new, adapted armaments and equipment. Another solution that authorities resorted to was international cooperation, involving collaboration with Italian, French, Spanish, Turkish, Egyptian, Malaysian, and Japanese police.<sup>6</sup> The European Commission contributes to the reform process by means of a substantial bilateral program. The MEDA program *Support to the Modernisation of the Police or Police I* (budget: €8.2 million; duration: 50 months) started in January 2001 and aimed at upgrading the professional level of the national security policemen, including in the field of human rights in the exercise of their duties. Besides

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<sup>5</sup> DOS 2003, p. 1; Migdalovitz 2005, p. 6.

<sup>6</sup> Zoubir & Ait Hamadouche 2004, p. 77; Dillman 2005, p. 32; DOS 2005, p. 2.

providing specialized equipment mainly for the modernization of police laboratories, training was a very significant component of this project. Training was provided in the fields of criminalist techniques, specialized professional training for the Police Investigation Department (including methods and techniques such as hostage-taking incidents, armed robberies, weapons traffic and fight against all kinds of illegal traffics), ethical behavior, respect of human rights and communication.<sup>7</sup>

The new *Police II* project (budget: €10 million) is programmed for 2005–2006 in order to extend and supplement *Police I*. The specific objective of this project is to raise the level of controls on migratory flows<sup>8</sup> and the professional caliber of the border police. *Police II* comprises activities such as the creation and implementation of a special training scheme for dealing with clandestine immigration in Algeria; training for instructors in the field of combating clandestine immigration; technical assistance to develop skills so as to improve the capacities and organization of the services involved in combating illegal immigration, and the adoption of a specialized information network for greater control of migratory flows.<sup>9</sup> Algeria's police force shows a real desire to restructure its services as part of a constitutional state and with due respect for human rights. It aims to change from a repressive force to a people-friendly force.<sup>10</sup>

### *Judicial Reform*

Algeria's judiciary is not independent of the executive branch. The lack of impartiality and independence of judicial authorities is widely criticized. The president of the republic has considerable control over the judiciary because he is also the president of the High Council of Magistracy (the Minister of Justice is its vice-president). The High Council of Magistracy is the judiciary's regulatory body and is constitutionally responsible for assigning, promoting, and transferring judges. Thus, judges, prosecutors, and magistrates are averse to making judicial decisions contrary to government expectations for fear of imperiling their careers. Judges who criticize political manipulation of the judiciary have in some cases been sanctioned, suspended, or transferred. Public perception of corruption and bribery in the judicial system is widespread. Judges liberally abuse their power, magistrates typically overlook judicial irregularities. New judges receive adequate training at the National Judicial Institute, but frequently lack specialized training, particularly in the rising body of international agreements to which Algeria is a signatory.<sup>11</sup> President Bouteflika had already announced his intention to reform the system of justice after

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<sup>7</sup> European Commission 2005, p. 7.

<sup>8</sup> Algeria has become a transit zone for clandestine African immigrants having EU countries as their ultimate destination and interconnected criminal and terrorist networks may take advantage of the porous borders.

<sup>9</sup> European Commission 2005, p. 9; European Commission 2004, p. 20–23.

<sup>10</sup> European Commission 2004, p. 24.

<sup>11</sup> Carnegie Endowment, p. 5; Dillman 2005, pp. 36–37.

he was first elected in 1999. The National Assembly approved a bill to redefine the statutes governing judges, but the upper house long refused to approve the bill.

The process of judicial reform has now been underway since 2004. It includes the revision of the penal code and penal procedures; prison reform; review of competencies assigned to the Ministry of Justice; and review of the professional career structures of magistrates and judicial staff. Moreover, it aims at strengthening the independence of the High Council of Magistracy; allowing judges the right to form unions, and requiring magistrates to submit financial disclosure statements every five years. Additionally, a range of administrative laws and the 1975 Civil Code are being condensed into a new Code of Civil Procedure, which has been under discussion since October 2004.<sup>12</sup> The Algerian government utilizes international technical assistance for the reform of its judiciary system. The MEDA program *Support to the Reform of Justice* (budget: €15 million; duration: 36 months), signed in October 2004, aims at supporting the independence and the development of the Algerian judicial system by improving public service and organization, the promotion of justice, the qualifications of judicial agents and computerization. It provides technical assistance under the form of advice (management, judicial map, codification review) and training to the superior board of the magistracy and the Ministry of Justice. The setup of a database is also foreseen as well as the professional training addressed to the different actors of the judicial system (support to training centers and organization of specific workshops). More than one-third of the resources will be dedicated to the purchase of IT equipment.<sup>13</sup>

### *Penal Reform*

The Algerian constitution states that anyone charged with a crime is presumed innocent until proven guilty. It also recognizes the right of the accused to a lawyer and guarantees the right to defense in penal matters. However, the right to a fair trial is frequently undermined by the use of confessions under duress to produce convictions. Detainees suspected of serious crimes are routinely denied access to a lawyer, often held *incommunicado*, and prevented from contacting family members—all in violation of the penal code.<sup>14</sup> Preventive detention is still widely practiced. The code of penal procedure empowers authorities to detain a suspect for up to 48 hours before arraignment by an examining magistrate. Suspected terrorists or subversives can be held in pre-arraignment detention up to 12 days before seeing a magistrate, and those accused of the most serious crimes can be legally held from 20 to 60 months in pre-trial detention while a magistrate investigates their case. In 2004, approximately 4,000 people were held in long-term preventive detention.<sup>15</sup>

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<sup>12</sup> Carnegie Endowment, p. 6, Dillman 2005, pp. 36–37.

<sup>13</sup> European Commission 2005, p. 7.

<sup>14</sup> Dillman 2005, p. 37.

<sup>15</sup> Dillman 2005, p. 30; DOS 2005, p. 1.

Poor conditions prevail in Algeria's prisons. Most of the prisons were built during the French colonial period and are in a state of dilapidation, with lack of space and inadequate premises. Prisons are overcrowded because imprisonment is the main sentence used and very few alternatives are available. Although Algeria is one of the rare countries in the region with a permanent school for its prison staff, the training curriculum and the methods used require a thorough review and modernization.<sup>16</sup> Algeria has taken steps to amend its laws and penal code to place them in conformity with international human rights conventions. It has not carried out capital punishment since 1994 and has indicated its intention to eliminate the death penalty.<sup>17</sup> In October 2004, the government passed a new Penal Code legislation criminalizing torture for the first time.<sup>18</sup> On request of the Algerian government, Penal Reform International (PRI), an international NGO, began to work in the country in January 2002. The government asked PRI for support in its forthcoming justice reform process, including the penal and prison systems. A common project was swiftly drawn up based on the needs and priorities identified by the Algerian General Prison and Rehabilitation Direction (AGPRD). PRI's work comprises three main parts. One: prison staff training (for prison directors, technical professionals, such as doctors, psychologists, social workers and staff working not only but mainly with juvenile delinquents) and training of trainers programs to strengthen the Algerian prison staff training institutions. Two: training of magistrates and the promotion of alternatives to custody, and three: facilitating detainee rehabilitation through the development of classes and vocational and skills-training workshops inside the prisons. Since 2002, the following procedures to improve and modernize the penal and prison system have been created through the assistance of PRI:

- the central prison administration has been reorganized;
- requirements for the selection of prison staff, especially in terms of education, have been raised;
- the duration of initial training has been extended;
- rehabilitation has been officially introduced in the initial prison staff training curriculum;
- a large campaign of prison staff recruitment has been launched, with its emphasis on specific categories such as psychologists, doctors, social workers, and sports trainers;
- agreements have been signed with various ministries to improve the quality of services for prisoners, such as education
- partnerships with national NGOs have been initiated, and

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<sup>16</sup> Romdhane 2005, p. 71.

<sup>17</sup> Dillman 2005, p. 30.

<sup>18</sup> *ibid.*

- a new Prison Code confirming a complete change of approach and real and fundamental progress towards better respect for prisoner's rights has been adopted.<sup>19</sup>

However, overcrowding and insufficient medical treatment remain serious problems. Besides PRI, the UNDP works with the Algerian government to improve educational programs in prisons.<sup>20</sup>

*The National Consultative Commission for the Promotion and Protection of Human Rights (CNCPPDH)*

Although serious investigations into past human rights abuses are rare, the government has taken steps to account for thousands of individuals who disappeared in the 1990s and who are presumed to have been killed by security forces. In 2001, President Bouteflika created a nominally independent National Consultative Commission for the Promotion and Protection of Human Rights (CNCPPDH). In September 2003, Bouteflika announced the establishment of an *ad hoc* commission within CNCPPDH to identify cases of alleged disappearances and to determine the whereabouts of those who have disappeared. The head of the *ad hoc* commission estimated in November 2002 that the security forces and their allies are responsible for the disappearance of 7,000 to 12,000 individuals. However, the commission has made little progress in identifying the circumstances of the disappearances or in holding any officials accountable. It has no statutory power to compel testimony by government officials or force them to release documents.<sup>21</sup>

*Paramilitary Forces and Non-State Security Actors*

In order to encourage Islamist armed groups to renounce violence and lay down their arms, President Bouteflika promulgated the Law on Civil Concord. Approved by referendum in September 1999, the Law on Civil Concord offered exemption from prosecution to members of armed groups who had not committed serious crimes and who surrendered to authorities within six months. Militants who had committed serious crimes were offered reduced sentences. Moreover, Bouteflika signed an amnesty decree in January 2000, exempting militants from prosecution if they voluntarily surrendered to government authorities. Hundreds of members of the Islamic Salvation Army, the armed wing of the FIS, are believed to have benefited from this amnesty, deplored by human rights groups.<sup>22</sup> Because amnesty was granted under the Law of Civil Concord without due judicial process or legal control, external considerations relate to the contradiction between the Law on Civil

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<sup>19</sup> Romdhane 2005, pp. 71–72.

<sup>20</sup> DOS 2005, p. 4.

<sup>21</sup> Dillman 2005, p. 31; DOS 2005, p. 3.

<sup>22</sup> Dillman 2005, p. 30.

Concord and International Law.<sup>23</sup> However, it should be pointed out that the law applied only to Islamist insurgents who committed atrocities, not to state armed forces (police and militias). Those forces pose a serious problem.

From 1994 the military, as a result of the Islamist attacks, armed 150,000–200,000 people in militia groups and recruited another 80,000 as communal guards.<sup>24</sup> State-armed militias continue to carry out counterinsurgency operations and law-enforcement activities, often without adequate supervision by the authorities. The estimated 200,000 members of these self-defense groups—many of whom receive stipends from the Ministry of Defense—are accused of numerous abuses and extrajudicial killings. The government has initiated steps to disband some groups and recuperate some of the tens of thousands of small arms distributed to them in the 1990s but the process is haphazard and limited.<sup>25</sup> Recently, President Bouteflika announced a referendum to be held in October on the Draft Charter for Peace and National Reconciliation, an amnesty law that would grant exemption from prosecution to any member of an armed group, state-armed militia, or the security forces for crimes committed in the civil war. The Charter denies state responsibility for “disappearances” and claims that any wrongful acts committed by state agents have already been punished, but promises families of the disappeared compensations and recognition as “victims of the national tragedy”.<sup>26</sup> Internationally, Bouteflika’s “national reconciliation” is highly criticized. Unmistakably, it would be a grave error to implement national reconciliation—if this is really the intention of the authorities—without two indispensable conditions: justice and forgiveness. Without such preconditions, the penal code, no matter how enhanced with respect to terrorism, would continue to generate political predicament, entrenched internal political and societal divisions, and ingrained hatred and grudge because “impunity is contrary to morality, the principles of justice and of the law”<sup>27</sup>. Moreover, impunity is one of the most salient causes of political crises, economic difficulties, as well as of abuses in the name of security.

### *Conclusions and SSR outlook*

There is no comprehensive approach to SSR in Algeria. Although most institutions of the security sector have undergone some changes since Bouteflika holds the post

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<sup>23</sup> The Geneva Convention of 1949 as well as the additional Protocols of 1977 and the International Covenant on Civilian and Political Rights unequivocally exclude impunity, guarantee the victim’s rights, and compel the state to open investigations before declaring any amnesty. See Zoubir & Ait Hamadouche 2004, pp. 81-82.

<sup>24</sup> Turshen 2004, p. 5; According to Cordesman 2004, p. 24, 60,000 recruits are in the army-controlled *gendarmerie*, 20,000 in the Directorate of National Security Forces, 1,200 in the Republican Guard, and around 100,000 in the Legitimate Defense Groups.

<sup>25</sup> Dillman 2005, pp. 29–30.

<sup>26</sup> Carnegie Endowment, p 11.

<sup>27</sup> Zoubir & Ait Hamadouche 2004, p. 83.

of the President, there has been no coherent strategy for reform. As a result, Algeria is making a slow, uneven, and incomplete transition from a military-dominated state toward democracy. Without doubt, through the initiative of Bouteflika and the assistance of several external actors, modest progress toward democratization can be observed. The military, the most significant political force since independence, has muffled its voice, has drawn back from the day-to-day political decision-making, and has focused on modernization and professionalism. With increased civic peace and the president's re-election, there has been a trend toward more civilian control. On the other hand, the National Assembly still has only limited powers to hold the executive, security forces, or the judiciary to account and some SSR efforts seem to be half-hearted.

The Chairman of the National Commission for Justice Reform confirms that there is no real willingness to reform the judiciary system. He denounces that reform commissions are created without any concomitant political action.<sup>28</sup> As far as civil society involvement is concerned, the situation has even deteriorated in the last years. The revision of the Penal Code in 2001 added severe sanctions for journalists and newspapers on grounds of defamation or insult of government figures, civil servants, judges, and military officers. Newspapers are not supposed to print security-related information unless the government has released it. Since early 2003, a number of journalists have been brought to court, fined, or imprisoned for alleged violations of the information code and other laws.<sup>29</sup> Additionally, the Algerian government currently denies international NGOs such as Amnesty International and Human Rights Watch access to the country. Most domestic NGOs face harassment, and it is illegal for them to receive funding from abroad. As a result of the state of emergency—in effect since the 1992 coup—political parties and organizations have to seek formal authorization to assemble and to stage demonstrations. Protesters are regularly detained and then released or sentenced on public order charges.<sup>30</sup> Regarding these proceedings, the Algerian population remains unconvinced about any qualitative changes that would make them feel safer or feel that the rule of law is taking hold. The denial of state responsibility for “disappearances” and the amnesty decree exempting Islamist militants from prosecution contribute to public mistrust in the SSR efforts of the Algerian state. Of course, most reform initiatives are still in their infancy, and it is too early to measure their success. But it is obvious that the SSR component of civilian control and oversight has been neglected by current SSR projects and has to be tackled as soon as possible to prevent Algeria from lapsing back into the old political patterns.

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<sup>28</sup> Zoubir & Ait Hamadouche 2004, p. 76.

<sup>29</sup> Carnegie Endowment, p. 9; Dillman 2005, pp. 28–29.

<sup>30</sup> Dillman 2005, p. 32.

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