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The evolution of the institutional investment framework in algeria: rent administration versus private capital?

تطور الإطار المؤسسي للاستثمار في الجزائر: إدارة الريع مقابل رأس المال الخاص؟

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Abstract:

The Algerian economy configuration is describes as "Dutch disease" or as a "rentier state". The State of Algeria seems to use the distribution of the rent to cover up the poor quality of institutions. After the 1986's oil counter shock, Algeria implemented structural and economic reforms in its economy. The objective was to achieve the transition from a planned to a market economy, as well as from the rent economy to a productive one. However, the Algerian economy is still suffering from the crisis of productive investment (currently less than 3% of GDP in industry and services). This article is an attempt to assess the specificity of the institutional reform process that related to productive investment. It shows the influence of oil rent revenues fluctuation on this process. It reveals in particular that the State tends to involve private capital when oil prices drop, but does without it when they increase.

Keywords: Algerian economy, institutions, rentier State, economic reforms, investment code.

JEL Classification Codes : O43, L51

ملخص

عادة ما يتم تحديد الاقتصاد الجزائري من خلال " المرض الهولندي " أو "الدولة الريعية". يبدو أن الدولة في الجزائر تستخدم توزيع الريع للتمويه على رداءة نوعية المؤسسات. بعد الصدمة النفطية المضادة عام 1986، باشرت الجزائرفي إصلاحات هيكلية واقتصادية استهدفت تحقيق الانتقال من الاقتصاد المخطط إلى اقتصاد السوق، من جهة، والانتقال من الاقتصاد الريعي إلى الاقتصاد المنتج، من جهة اخرى. ومع ذلك لا يزال الاقتصاد الجزائري يعاني من أزمة الاستثمار المنتج (حاليًا أقل من 3٪ من الناتج المحلي الإجمالي في الصناعة والخدمات) .

هذا المقال يحاول تقييم خصوصية عملية الإصلاح المؤسسي المتعلقة بالاستثمار المنتج الجزائر. ويظهر تأثير تقلبات عائدات ريع النفط على هذه العملية. ويكشف بشكل خاص أن الدولة تميل إلى إشراك رأس المال الخاص عندما تنخفض أسعار النفط، و تستغني عنه كلما ترتفع.

الكلمات المفتاحية: الاقتصاد الجزائري، المؤسسات، الدولة الريعية، الإصلاحات الاقتصادية، قانون الاستثمار.

تصنيف جال: O43, L51

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1. INTRODUCTION

Algeria became independent in 1962. Until 1988, the country was a one-party State and a planned economy, with centralised public decisions. Since 1988, Algeria has undertaken a political and economic reform process, while, the essential of its income always comes from the export of hydrocarbons. After more than 50 years of economic development policy based on oil rent, the promise of "sowing oil to harvest development" seems increasingly uncertain. The Algerian economy’s configuration is more or less what economic literature describes as a "Dutch disease" (Gregory, 1976) (Corden & Neary, 1982) or as a "rentier state" defined by Mahdavy (Mahdavi, 1970), (Luciani & Beblawi, 1987) (Benabdallah, État développementiste vs État rentier : Qu’en est-il en Algérie ?, 2018). These theories try to explain the development constraints of the countries with abundant natural resources.

The reform process put into practice since the late 1980s, is still unachieved. The productive investment, which is seen as the main engine of development, is essentially concerned by these reforms. The institutional framework relating to investment, in particular the investment code, has undergone several changes since 1962, more or less profound and sometimes contradict each other. What are the logics of these reforms? Why more than 50 years of independence this institutional investment framework is are still described as incomplete?

It is true that the evolution of this framework cannot be separated from the global evolution of the Algerian economy. Knowing that the latter is strongly influenced by the political choices made after independence, namely the bureaucratic management of the economy and the “Jacobin” organization of the administration. We believe, though, that the rentier character of the economy has also played a major part in building the formal institutional framework of the economy. This is what the article will try to show.

Despite the fact that, Algeria has implemented reforms since the late 1980s to achieve a transition to a market economy, "residuals" of the old system cannot be entirely wiped out. The preponderant role of the state in the economic life is possible, because of the rent administration from which the state benefits widely. The management of oil revenues in Algeria tends to maintain the institutional “status quo” which in turn acts as a hindrance to the economic machine. In this work, we will try to answer the question: “to what extent does the state administration of the rent influence the conduct of the process of reforming the institutional investment framework in Algeria?”

Concerning the reform of institutional investment framework, we start with the assumption that the government has given priority to the control of oil revenues rather than to the private capital’s efficiency role. The latter is called upon only when the budget constraint of the state is tightened. But as soon as this constraint loosens, government plays its part as the main entrepreneur of the development, and relegates to the background the role of private capital in the development policy. When resorting to the distribution of the rent, which is an essential attribute of the rentier state, the Algerian state, succeeds to « hide» the poor quality of institutions and its economic failures.

The aim of this work is to try to show that the rentier state philosophy has strongly marked the process of institutional reforms of the Algerian economy, implemented since the late 1980s. Particularly those relating to the non-oil investment code. This paper is split into three sections. The first section, entitled "theoretical context", which is devoted both to the presentation of the concept of "institutions" and their role in the economic development. We expose there the particularities of an oil revenues-based economy, through the concepts of "Dutch disease" and the "rentier state". The second section describes the methodology used in this research, while the third is devoted to the introduction of the results and their discussion.

Regarding the methodology adopted in this work, the review of the exiting literature on the subject allows us to put forward the different concepts used in our research: institutions, rentier state and Dutch disease.

The results of the analysis are obtained by using the following data:

- The statistics on productive investment expenditure in Algeria as shown by the Ministry of Finance data bases, allows us to expose the problem of the gap of the Algerian economy in terms of investment through the comparison of investment expenditure with national savings.
- Documentary and bibliographical resources, reports on the reforms of public enterprises, the role of the state and the business climate, also allow us to characterise the problem of the low quality of the institutional framework of the Algerian economy. More clearly, we will attempt an analysis of the current state of public enterprise reform and the role of the state in the economy. Subsequently, we will try to characterise the quality of the business climate in Algeria, based on the reports on global competitiveness produced annually by the World Economic Forum.

The investment regulations issued since 1962 (investment codes). These texts are available on the website "joradp.dz". The study of these regulatory texts makes it possible to understand the evolution of the private capital's place in the institutional and regulatory framework. By comparing the state budget constraint, which is itself dependent on the evolution of the oil's price on the international market, we will try to show the influence of oil rent's administration on the institutional investment framework's evolution in Algeria. The criterion used in this analysis is the opening / closing attitude of these regulatory texts with respect to private capital. Thus, whenever barriers are set up against the private domestic or foreign private investment, we qualify the attitude of the state towards private capital as "closure". As soon as these regulatory constraints are lifted, we then believe that we are in a context of opening up the state to private capital.

2. Theoretical context: abundant natural resources economies and the role of institutions in development

The role of institutions in the economy is underlined by several works belonging essentially to the new institutional economics. In the case of developing countries, with abundant natural resources, such as Algeria, the concepts of "Dutch syndrome" or "rentier state" are here below, put forward to explain the state of development.

2.1 Theoretical context: abundant natural resources economies and the role of institutions in development

2.1.1 The theory of Dutch syndrome

The Dutch disease model (Corden & Neary, 1982) and the subsequent contributions (Sid Ahmed, 1987) (Gylfason, Herbertsson, & Zoega, 1999) suggest two consequences due to the rent. Corden shows how a positive shock in terms of trade leads to a successive adjustment of relative prices of the boom sector, the labor market, industrial goods and the exchange rate which leads to de-industrialisation. This pioneering work has subsequently given rise to a theoretical and empirical work that establishes a negative causality between the resources rent and economic growth (Sachs & Warner, 1995). The weakness of economic growth is correlated to the weakness of the industry. The latter is seen as an important growth driver for its own development and for other sectors that will benefit from externalities. Gylfason concludes that: (i) countries that accuncemulate "natural capital" do so relatively to the expense of physical capital and human capital; and (ii) the increase in employment in the booming sector has a negative impact on growth of per capita GDP in PPPs. These findings are hardly confirmed by historical observations. Indeed, empirical observation points to developmental failures in both resource-rich and poor countries. The important part played by natural resources in the development of certain countries and regions belonging to the OECD area (USA, Canada, Australia, New Zealand and Scandinavia), provides a counter-example to the "resource curse." Some studies consider the importance of natural resources as an essential factor in the emergence of the US as a global economic power. The US, which produced around two-thirds of the world's oil in the forties and fifties, did not suffer from the Dutch disease. Wright's study of international trade also shows that American exports of manufactured goods had a very high content of non-renewable natural resources and that this content increased between 1880 and 1930. The exploitation of natural resources has made it possible to open up certain regions such as Alaska for example, to trivialise the automobile thanks to the low cost of fuels and to stimulate technical progress given all the applications that petroleum products receive. The discovery of oil in California has expanded the local market and whipped up economic growth.

To this day, many countries have escaped from the fatality described by the syndrome of Dutch disease. Brazil, Chile, Mexico and Indonesia have been able to reduce their dependence on raw materials (share in GDP and in exports) and are considered as emerging countries.

Other contributions (LEDERMAN & MALONEY, 2007), (Melhum, Moene, & Torvik, 2005), (Sala-i-Martin & Subramanian, 2003) and (Rodrik & Subramanian,

2003) agree with the pathology of the Dutch curse but highlight the shaping role of institutions in the good or bad use of rents linked to the subsoil. The variable "institution" slips between the rent and the poor economic performance of resource-rich countries. The rent itself does not cause the pathology of Dutch disease.

1.1.2. The rentier state theory

"Rentier states" are countries that regularly receive substantial amounts of revenues from external rent (Mahdavi, 1970). Beblawi and Luciani have highlighted the fundamental characteristics of a rentier state: (i) rent supports the economy and there are no other important productive sectors in the economy, (ii) the origin of the rent is external to the economy, an internal rent is insufficient to characterise a rentier economy because it would testify the existence of a local productive sector; (iii) only a tiny part of society is involved in the origin of the rent, since most of the population is involved only by the distribution and use of this wealth. The government, therefore, is seen as the main beneficiary of the external rent, which allows it to play a central part in its distribution (Luciani & Beblawi, 1987).

This latter statement has implications on the quality of the institutions. Indeed, the rentier state is strong in its financial autonomy from the society, since the rent provides the funds it needs, it could have:

- Less motivation to promote the productive sector;
- Less incentive to be accountable to society (Luciani & Beblawi, 1987);
- Depending on the size of its available resources, the rentier state is mostly seen to fill an important, even hegemonic, place in the economy. Due to the fact that mining production (oil for example) is a highly capital-intensive activity, the state plays the role of mediator in the process of transforming mining revenues into services and jobs for the rest of society (Sid Ahmed, 2000). This favors the extension of the public sector (Matsunaga, 2000).

In the meantime, if the rentier state concept can be easily applied in the case of MENA region and Africa, it's not the case in some OECD countries such as Canada, Norway or the USA. From this point of view, the abundance of natural resources is indeed a blessing. What makes the difference between the latter and the former can also be analysed in terms of the quality level of their institutions.

2.2 Institutions as determinants of the development level

Neo-institutional theory, within which several authors have been awarded the Nobel Prize of economics, like Coase R. (1991), North D. (1993), Williamson O. (2009), highlighted the institution's role in economy, in general, and in economic development in particular. This makes a difference from the neoclassical theory that has rejected institutions in economic analysis for a long time. As we can see below, the empirical studies, inspired by neo-institutional theory, have tried to "appraise" (Rodrik & Subramanian, 2003) and formalise the role of institutions in economic development, especially within the framework of the notion: "good governance (Kauffman & Kraay, 2008)" (Kauffman, Kraay, & Mastruzzi, 2010).

2.2.1 In theory: the quality of institutions is put first

Since the 1980s, the institutions have occupied an important place in the economic literature. The work of Coase R. (Coase R. , 1987) (Coase R. H., 2000), (North D. , 1990) (North D. , 2005) and (Williamson, 1975) (Williamson O. , 1994), (Aoki, 2006), (Acemoglu & Robinson, 2008), are among the most listed works. An important part of this work is oriented towards theorising the links between the economic development and institutions. It explains the disparities in economic trajectories between countries (Rodrik & Subramanian, 2003) (Kauffman & Kraay, 2008) (Acemoglu & Robinson, 2012), (North D. , 2005) (North, Wallis, & Weingast, 2010) et (Ould Aoudia, 2006).

Furthermore, the failure of the economic reforms implemented, according to the "Washington Consensus" (Andreff, 2007), under the patronage of the international financial organizations (IMF and World Bank), in the developing countries, led them to develop the necessary instruments to improve the quality of their institutions in order to support their new development model.

North D. (1994) defines institutions as “the humanly devised constraints that structure human interaction. They are made up of formal constraints (e.g., rules, laws, constitutions), informal constraints (e.g., norms of behavior, conventions, self-imposed codes of conduct), and their enforcement characteristics. Together they define the incentive structure of societies and specifically economies”.

According to North and Thomas (1973), the difference between countries in terms of their economic growth depends on the differences in their institutions. New institutional economics attempts to provide an analytical and theoretical framework that can explain economic change (North D. , 1993) (North D. , 2005). It begins by questioning two hypotheses on which neoclassical economic theory is built; Knowing that institutions have no importance and that also, time is not taken into account. Secondly, it highlights the role of institutions in inciting actors to fight against uncertainty, disorder and coordination between actors. This could have no impact on the economic result (North D. , 2005). It means that the economic results are better. When the actors are more incited and better coordinated, the uncertainty and the disorder are reduced.

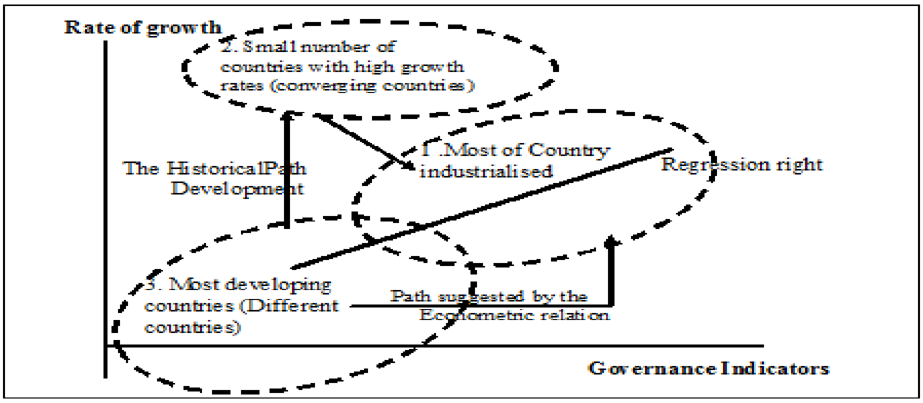
The institutions operate by defining the incentive structure of companies and economies that are capable (or not) of ensuring economic performance. According to North (2005), institutional incentive action can be particularly implemented by specifying the property rights, making an effective judicial system in order to reduce the cost of contract protection, establishing institutions which organise the scattered knowledge in a society, monitoring and measuring contracts, and finally resolving conflicts. The institutions can play a role in reducing the uncertainties related to the human condition and bringing more predictability (and visibility) into the relationships between humans. On the other hand, disorder increases uncertainty by making relations

in the political and economic markets unstable and by leaving the rights and privileges of individuals and organizations to “whoever taken them over” (North D. , 2005). The uncertainty would be directly related to the degree of reliability of the institutional framework. Similarly, institutions can help to reduce uncertainty about behavior, or behavioral uncertainty (Williamson O. , 1994), defining the nature of property rights and contracts by ensuring the compliance (Kauffman & Kraay, Governance Matters VII: Aggregate and Individual Governance Indicators 1996-2007, 2008).
The institutions can stimulate the competition in the marketplace, fostering innovation and economic growth. These institutions act on the cost of access to the information for the enterprises and the respect for property rights.

2.2.2. In practice: the difficulty of measuring the quality of the institutions

While focusing on the importance of the institution’s quality for development, empirical studies insist at the same time on the difficulty of measuring their quality. The World Bank has put forward the concept of "good governance", by identifying six global indicators. The "good governance" can be summarised by "the degree of formalization of depersonalization of rules" and "the importance of the role of the state in economy, political and social regulation". Others have broadened the analysis (Meisel & Aoudia, 2008) by defining the concept of "good governance" by a wider field of institutions. These authors have shown that the indicators of "good governance" are strongly correlated with the level of per capita income or the level of economic development. The correlation becomes, however, weak when it comes to the pace of development (per capita economic growth). This makes it possible to question the direction of the causality between "good governance" and the level of development: Does "good governance" lead to economic development or rather the latter who creates favorable conditions for the establishment of the good governance institutions? In fact, this question makes really, the "path" of development of developing countries in difficulty, as indicated by the World Bank.

Fig.1. Institutions and the "way" of development



Source: Khan M. H., State Failure in Developing Countries and Strategies of Institutional Reform, Working Paper, Department of Economics, SOAS, University of London, 2004, p.4

In terms of "paths to go" for development, another "more analytical" and "non-normative" approach is proposed in the database "Institutional Profile [1]" and the work of Khan M. (Khan M. , 2004) (Khan M. H., 2006). In fact, the classification of countries into three groups (developed, in convergent development, and in divergent development) brings out two types of institutional needs (figure 1): institutional needs for economic startup (for divergent countries) and needs for catching up the economy (for converging countries). Thus, for the former, the aim is to improve the "capacities for coordination and anticipation of states", while the latter must make an effort to raise the "degree of depersonalization of social relations" and to promote a Greater "formalization of rules".

Finally, despite the emphasis on the role of institutions in the conduct of development, the quality of institutions remains a difficult variable to measure as long as it is based on the personal "perception" of individuals. In this context, predicting any "path" leading to development becomes a difficult exercise.

3. Results and discussion

The Algerian economy is ranked 87th out of 138 countries surveyed, in the competitiveness index, according to the report of the World Economic Forum for the year 2016-2017, behind Morocco (70th) before Tunisia (95th).

The analysis of the reform related to the public enterprises, the role of the state and the business climate, constitutes the first assessment of the institutional framework related to productive investment in Algeria. The second assessment will cover the evolution of the place given to private capital in the Algerian regulatory texts related to investment since 1962.

3.1 The institutional framework for business in Algeria: the necessary completion of the reforms

3.1.1 De-industrialisation of the Algerian economy, a Dutch disease?

Although the study of the evolution of the Algerian economy since the 1970s shows an improvement in terms of trade every time oil prices rise in the international market, however, the de-industrialisation, which characterises this economy, does not conform to the principles of the Dutch disease model (Benabdallah, 2006). Thus, the study of the evolution of the Algerian economy over the 1974/85 period, which experienced two oil shocks at the origin of the improvement in the terms of trade, showed not quite analogous results to the teachings of the Dutch disease model. The reason is that the role of the state in the economy is so important that the sectoral breakdown of the model does not quite well reflect the reality of the Algerian economy. The state has often been assigned the role of regulator instead of relying on market mechanisms. The resources generated by the rent consolidated its role as the main contractor in the economy.

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[1] "Institutional Profiles" database of countries 2001, 2006, 2009, 2012 and 2016 (ongoing). See website http://www.cepii.fr/institutions/EN/ipd.asp

Since 1986, after the implementation of the economic reforms, the liberalization of prices, the opening up of foreign trade and the current convertibility of the dinar have simultaneously influenced the behavior of the Algerian economy. The latter, has seen a sectoral configuration increasingly similar to the one presented in the Model of Dutch disease (Benabdallah, 2006). Effectively, there was a substantial increase in the volume of investments in the mining (hydrocarbons) sector, which mobilised investment of $ 21 billion between 2000 and 2005, of $ 32 billion between 2005 and 2009. This was increased to 50 billion dollars between 2010 and 2014[2]. Significant growth in the "non-tradable" goods sector was noted, particularly in construction and services. On the other hand, there has been a decline in the industrial sector (tradable sector), particularly in the public sector, which has seen its output fall by half in 2016[3], compared with 1989.

However, the important improvement in the terms of trade during the period 1999-2012[4] was followed by a fall in the real exchange rate[5], contrary to the Dutch disease model. There is therefore no supposed relationship between the exchange rate and the terms of trade. This is due to the “systematic repression” of the foreign exchange surplus exerted by the Bank of Algeria, by sterilization measures in order to eliminate the influence of the money supply on the exchange rate. As a result, we can conclude that the contraction of the industrial sector (de-industrialisation) does not refer to a "Dutch disease" mechanism. The de-industrialisation that marked the economy cannot be entirely explained by the Dutch disease theory, neither in terms of sectoral breakdown proposed by the model and the role of the market (before 1990), nor in terms of the mechanics of exchange rate appreciation (recent period).

3.1.2 The state's role in the economy: rentier state behavior?

It is not easy to deny that the Algerian economy is not a rentier state, as explained in the first section. For example, over the period 1997-2015 (Figure 2), the petroleum taxation provides the main funding for the state budget (from 55% to 78%). The delay in structural reforms (see below) is a significant proof of the unwillingness of the state to carry them out. While the low degree of decentralization of public decision is indicative of the lack of accountability to the society. Indeed, the role of elected local assemblies in the process of government decision on development remains marginal, since most of the public funds are managed by those designated by the central authorities (Moulai K., 2015).

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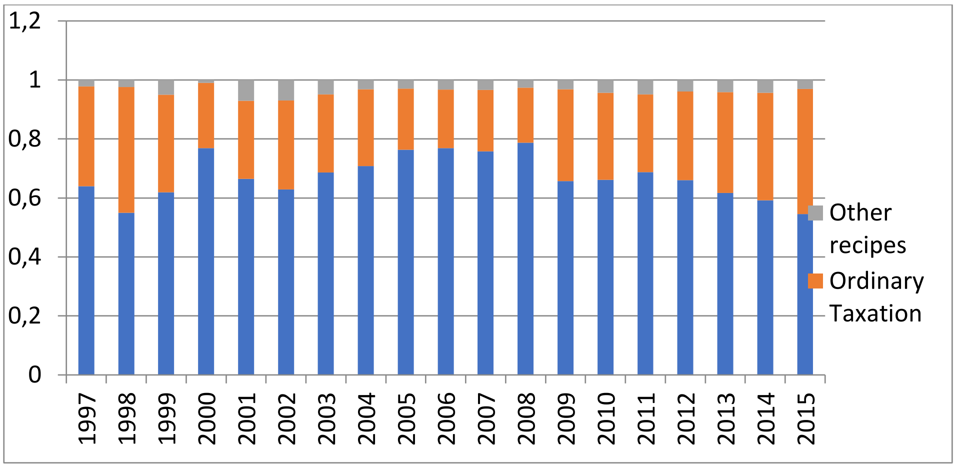
[2] Forecast by Yousfi Y., Minister of Energy, declared at a ministerial round table, moderated during the 21st World Energy Congress, Montreal / 12-16 Sept. 2010, in La Tribune on 18 - 09 - 2010: http://www.djazairess.com/en/latribune/40003, accessed 25-09-10.

[3] Index of industrial production of the public sector in 2016 (base 100 in 1989) was 51,12, according to the National Office of Statistics (ONS).

[4] More than 300 in 2012 base 100 in 1999 (World Bank).

[5] 84 base 100 in 1999 (World Bank).

Fig. 2.The share of oil taxation in the state budget



Source: calculations based on Ministry of Finance data

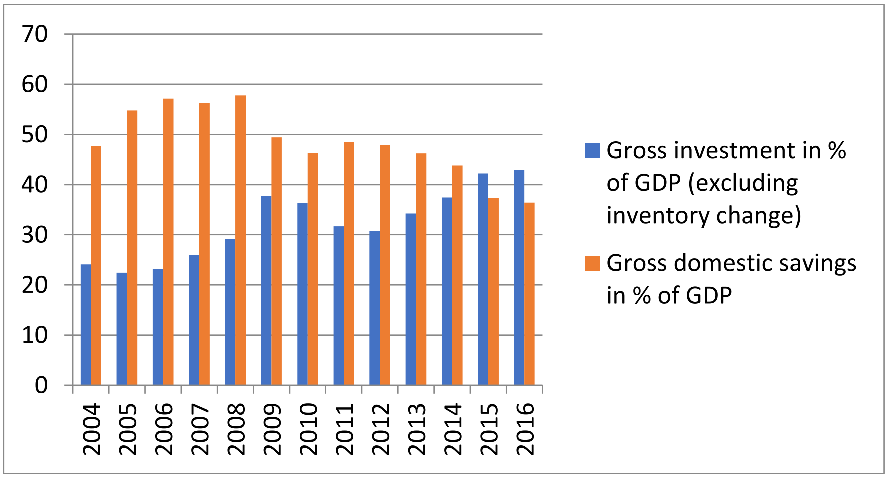
Moreover, the reform of the state's role in economy is a prerequisite for the transition to a market economy and a condition for other reforms affecting other economic agents. it is up to the modern state to accompany the transition to the market economy by defining the rules of the economic game and the role of each of the other agents. The Algerian experience in transition is a confirmation of this precondition (Dahmani, 1999). In 2001, reforms were proposed by the Committee for Reform of Structures and Missions of the State. These reform proposals are neither published nor implemented.

3.1.3 The investment gap: the quality of the institutional framework of the economy in question.

3.1.3.1The investment gap

During 2004 to 2012, which is the period of high oil revenues, the gap between the gross investment and the saving was high. In fact, the saving ranged from around 50% to nearly 60% of the GDP, while the gross investment did not exceed 38% of the GDP (Figure 3). The state had to resort to the sterilization of the surplus in order to control the inflation (Benabdallah, 2006). From 2015, we note the fall in the share of savings in GDP, pulled down by the decrease in hydrocarbon revenues. This reversed the situation.

Fig. 3. The investment gap



Source: calculations based on Ministry of Finance data

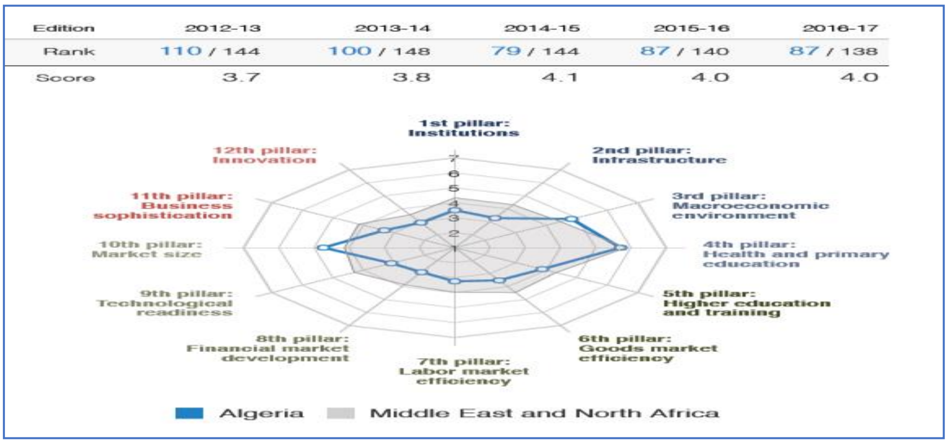
3.1.3.2.The "remediable" nature of the institutional framework

This character is declined according to the following elements.

- **A remedial business climate and competitiveness**

According to the report of the World Economic Forum for the year 2016-2017, the Algerian economy is still on the stage of extensive growth due to its institutional constraints and the constraints linked to human capital, innovation and the efficiency of the labor market (Figure 4).

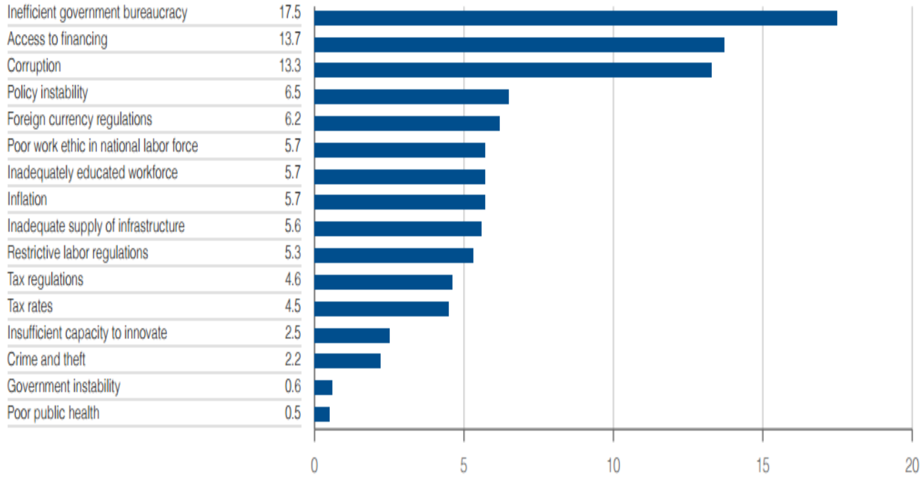
Fig.4. The development's stages of the Algerian economy seen by the WEF



Source: World Economic Forum (WEF), 2016

The institutions remain one of the pillars within which the Algerian economy should make efforts, regarding its rank: the 99th out of 138 countries. Indeed, in terms of the quality of its institutions, Algeria scored 3.5 points out of 7. It is outclassed by its neighbors Tunisia and Morocco. Tunisia is ranked 78th out of 138 countries and scored 3.8 points out of 7, while Morocco is ranked 51st out of 138 countries with a score of 4.2 points out of 7.In terms of business impact, issues related to bureaucracy and administrative procedures rank first, followed by corporate access to financing, then corruption, followed by other regulatory factors, and so on (Figure 5).These factors relate to what is called the business climate which is a prerequisite for the quality of institutions.

Fig.5. Adverse factors to business in Algeria



Source: WEF, The Global Competitiveness Report 2016-2017 p.96

- **The shortcomings of the reform of public economic enterprises**

In terms of autonomy of the public enterprises and the principle of commerciality, reality shows that the autonomy of public enterprises proclaimed on paper is not effective, since most of their management decisions remain dependent on other actors, in particular the state (Benachenhou A., 1998). In fact, through the management structures (the “Participation Funds”, the Holdings of Management of the stocks and shares of the State), the state continues to exercise a tutorship on the management of the public enterprises.

The principle of commerciality is limited by the article 20 of the Law that directs the Public Economic Enterprises (Law 88-01): “the property belonging to the enterprise, ie its net assets, is not assignable, alienable or seizable”. The theory of corporate governance tells that property rights play a fundamental role in economic performance (Williamson O. , 1996).It is important that these rights are clearly expressed, determined and defended. This is not the case for public enterprises whose sole owner is the state. Equity funds, Holdings or Societies of Management of the stocks and shares of the State, structures created by the state to play the role of shareholders, theoretically, are in fact virtual owners.

Moreover, the incentives for transparency and control are low. Transparency in management and control implies a periodic publication of management results certified by auditors and communicated to the appropriate persons. There is a confusion about accountability for results, auditors responsible for ensuring the judicious use of the Public Enterprises capital and the prevention of abuse of social assets have an ambiguous role, and for fear of retaliation, they avoid going too far in the logic of financial audit (Boutaleb, 2004).

- **The institutional and organizational environment of the private investment in Algeria**

The institutional environment for the private investment is characterised by:

- Instability in the regulatory framework. In fact, several investment codes have been published in 1963, 1982, 1988, 1993, 2001 and 2016, in addition to the provisions of finance laws which relate to investment;
- A multiplication of organizations involved in investment in Algeria such as the Agency for the Promotion, Support and Monitoring of Investment (APSI), the National Agency for Development of Investment (ANDI), the National Council (ANSEJ), the National Agency for the management of Micro-Credit (ANGEM), and the National Unemployment Insurance Fund (CNAC).

This instability in the regulation and the numerous participants in the investment policy makes the procedures complex and illegible and thus increases the uncertainty and transaction costs related to the act of investing in Algeria.

3.2 Private capital and the reform of the institutional framework for investment in Algeria

The investment reforms followed the fluctuation of oil prices on the international market. Thus, we can distinguish four major periods of decline and rise in the price of a barrel.

Table 1. Evolution of the barrel price

Period	1962-1986	1987-2001	2002-2013	2014- 2016
Barrel Price adjusted to the US inflation (2010) (in $ US)	20.78 - 99.11	15.93 - 38.57	27.62 - 92.57	Around 50

Source: 2000watts.org, http://www.2000watts.org/ (up to 2010 by our care)

3.2.1 Period 1962-1986: the sidelining of the national private sector

During this period, when the price of a barrel rose to 99.11 US dollars (Table 1), the private capital was simply marginalised by the investment regulations.

3.2.1.1 The investment code of 1963

The first investment code in 1963 excluded the national private sector, since it expressly recognised the freedom to invest only to "foreign natural and legal persons under the dispositions of public policy and rules of establishment" (Article 3). The intervention of the national private sector is limited to a concession by the state or state agencies (Article 24). Thus, while stating the socialist option of the economy, this code confirms the intervention of the state by the creation of national societies (Article 23).

3.2.1.2 Law 82-11 on the national economic investment

This law subjects the private national investments to the prior approval of a national commission or Wilaya (local), according to the priorities, objectives and forecasts of the national economic development plan (Article 4).Also, the law has capped the maximum amount of capital for private investment (Article 2).

3.2.2 The period 1986-2001: public finance crisis and economic opening

During this period, the price of a barrel of oil fell considerably to reach the minimum price of 15.93 US dollars. In the context of a public finance crisis, three regulatory texts have been published within which the state decided to open the field to the private capital.

3.2.2.1 Law No 88-25 on the orientation of the national economic investments

This law has abolished the principle of "limitation", with respect to the private sector, as established by the previous law, taking in consideration the principle of "orientation" of the private national investments. Prior approval by the government of the private investment projects is also abolished.

3.2.2.2 Legislative Decree 93-12 on the promotion of investment

This Decree is the first law that institutes the freedom to invest in Algeria, without any reference to the development plan, and without prior approval. The investment declaration with the Agency for Promotion, Support and Monitoring of Investments (APSI) is the only prerequisite for their realization. The text also ensures equal treatment between domestic and foreign private sponsors.

3.2.2.3 Ordinance 01-03 regarding to the investment

This law has broadened the concept of investment “to take over activities” in the context of partial or total privatization, in order to accelerate the process of privatization of public enterprises.

3.2.3 The period 2001-2014: financial opulence and reframing of the investment

During this period, the state wanted to reframe the act of investing, especially the foreign investment. The 2009 Supplementary Finance Law introduced an amendment to the Law 01-03 by introducing a rule that refocuses on the property rights in the foreign direct investment. It stipulates that " foreign investments may be made only in the framework of a partnership in which the national shareholding resident represents at least 51% of the share capital.” This rule indeed limited the ownership rights of the foreign firms in their direct investment projects.

3.2.4 Beginning 2014: crisis in public finances

Following the fall in the price of a barrel and the consequent crisis in public finances, the investment code promulgated on August 3, 2016, simply abolished the state's right of pre-emption on foreign investments and the rule 51/49%, applied on this type of investment will be decided yearly by the Finance Act. To sum up, the regulation of productive investment in Algeria has gone through four historical phases (Table 2). The first, spreads from independence (1962) to the first oil shock. This period was characterised by a relatively loose fiscal constraint. Three regulatory texts were promulgated. These three texts have "locked the game" to the private capital. The second period started from the first oil shock until 2001. The budget constraint has narrowed, following the fall in the price of the oil. Three other regulatory texts have been promulgated, giving freedom of investment. Private capital was then much sought after. The third period began in 2002 and ended in 2014. It was characterised by financial opulence. In this period, it was promulgated the 2009 Finance Act which has reframed the action of the private capital, especially the foreign, in terms of investment. The fourth period, corresponded to that after 2014, the budget constraint of the state has tightened. The investment code has been amended and has been more open to the private capital.

Table 2. Evolution of institutional investment framework in Algeria

Period	Texts	Price of the barrel adjusted about the 2010 Americain inflation (in US $)	Budgetary constraint of the stat	State/private sector position
1962-1996	1963, 1966 and 1982 code	From 20.78 to 99.11	Loose	Closing (minimized private sector)
1986-2001	1998, 1993 and 2001 code	From 34.65 to 15.93	Tight	Opening (freedom to invest)
2002-2014	The complementary finance law of 2009	From 27.62 to 92.57	Loose	Closing (institution of rule 51/49)
Since 2014	2016 code	Around 50	Tight	Rule 51/49 not renewed

Source : developed by us

However, the attitude of "closing" of the institutional framework towards the private sector, because of the State's budgetary constraint, is not a total questioning of all the "acquired" in terms of economic openness towards private capital.

Therefore, in this case, the North's assertion that institutional change would be a gradual and a cumulative process that would be appraised, in the long run. Indeed, the constraints imposed by the institutional framework during the period (2002-2014) cannot be regarded as the same as those encountered by private enterprises during the 1970s, for example. More clearly, it is difficult to compare the "proved marginalization" of private capital over a period of planned economy (1970s) with the "reframing" of the freedom to invest for foreign companies by Rule 51/49, established by the Finance Act 2009, in order to protect the national economy. Thus, the control of rent by modifying the institutional framework for investment operates as a sort of counterweight to the process of economic opening up in general, and particularly to private capital.

4. CONCLUSION

Finally, we can say that the state in Algeria plays the role of both designer and entrepreneur of development (developer state), through the administrative management of the oil rent that it tries to control. As a result, the reforms are often slow, or even versatile, according to the evolution of the budgetary constraint. The latter depends on the price of oil which constitutes an exogenous variable to the national economy.

We ask whether reforms to improve the quality of business climate, the state and its role in the economy, and those relating to public enterprises do not suggest a political will, that Induce unbridled tendency to control the oil rent?

In conclusion, in terms of investment reform, the state tends to use private capital whenever the budget constraint is tightened, and “lock the game” in order to control the income of the rent, when the same constraint is loosened. This delays the reform process and pushes economic actors into a state of uncertainty.

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