

Features of the French Colonial Trajectory in Algeria: Land Policy as a Case Study

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Abstract

The acquisition of Algerian lands constituted one of the foremost objectives of French colonial policy in Algeria. The colonial authorities did not confine themselves to employing various forms of coercion and violence to establish control over both the land and its inhabitants; they also resorted to expropriation and confiscation in order to deprive Algerians of their principal means of livelihood, namely land, through the implementation of an inequitable land policy.

In order to provide a legal framework for these practices of dispossession and confiscation, the colonial authorities enacted a series of land laws and regulations that granted them the legal authority to appropriate large areas of Algerian land. This policy gave rise to a succession of legislative measures, the most significant of which are examined in this study.

Keywords: French colonial policy; land legislation; land ownership; confiscation; settlement.

1. Introduction

As an inexhaustible form of wealth, land has, throughout history, constituted a fundamental source of conflicts and disputes among states; it was on account of land that some countries were occupied and others colonized. It is therefore not surprising to argue that the French fascination with, and pursuit of, land was among the principal motives behind the French occupation of Algeria.

The appropriation of Algerian lands represented a primary concern and an overarching objective for the leaders and theorists of the colonial enterprise. They devised various methods and adopted different policies in an effort to extend their control over Algerian territory. To realize these ambitions, the colonial authorities sought to dismantle the forms of land ownership that had prevailed during the final decades of Ottoman rule.

Accordingly, French legislators endeavored to incorporate Algeria, territorially and socially, into the French legal system by applying French law as a substitute for Islamic law. Their objective was to secure a substantial land base that would, on the one hand, facilitate the settlement of the army and, on the other, serve as an instrument for territorial expansion and deeper penetration into the interior. It would also contribute to dismantling indigenous forms of landownership and, consequently, destabilizing the existing social structure. Such a process was essential to the success

of the colonial settlement project, which could not be achieved without the systematic expropriation of Algerians from their lands.

The colonial land policy implemented in Algeria constituted one of the most prominent characteristics of the settler-colonial phenomenon. This policy was marked by the enactment of a series of discriminatory laws and coercive regulations intended to provide a legal façade for the plunder and confiscation of Algerian land.

These laws and regulations adversely affected Algerians and contributed to their impoverishment and deprivation. What were the principal laws enacted in this context? What were the consequences of their implementation and their repercussions for indigenous Algerian society? This study seeks to examine these questions.

2. The Law of 16 June 1851

The colonial authorities considered it necessary to remove the legal obstacles that had previously restricted real-estate transactions between Algerians and Europeans to the civil zone, which represented only a relatively small part of the total area of the Algerian Tell. In accordance with the requirements of the settlement project, the authorities sought to extend such transactions throughout the Tell. These circumstances ultimately led to the promulgation of a comprehensive law intended to regulate real-estate transactions throughout Algerian territory. This was the Law of 16 June 1851.

According to Louis Bandicour, this law was regarded as the first land legislation through which the processes of delimiting and defining collective and individual ownership within the tribes were effectively initiated. Its purpose was to remove the remaining obstacles to the growing demand for agricultural land, whether from European settlers already established in Algeria or from prospective migrants from various parts of Europe. In 1851, the European population in Algeria reached approximately 131,238 inhabitants, including 66,500 French nationals. At the same time, there were approximately 150 settlement centres, while 103,654 hectares had been confiscated in northern Algeria.

Although the law affirmed that the right of ownership was guaranteed to everyone without distinction between indigenous and French landowners, it nevertheless declared Algeria's forests vacant and subject to the state domain. This led F. Godin to describe it as a “theory of dispossession and plunder.” Under its provisions, the state appropriated the best lands, while the remainder was divided into small plots of between eight and ten hectares per family. Consequently, the French authorities acquired two-thirds of the land, amounting to 13,388 hectares out of a total of 19,813 hectares. They also acquired one-third of the land in the provinces of Oran and Constantine, obtaining 3,080 hectares in Oran and 3,345 hectares in Constantine. Under the same law, 200,000 hectares of forest land and 60,000 hectares of tribal lands were declared part of the state domain.

One of the most significant features of this land legislation was that Articles 1 to 5 defined the concept of the domaine in accordance with French law, distinguishing between the domaine départemental, the domaine communal, and the domaine de l'État. Articles 8 and 9 dealt with these categories, while Articles 10 and 11 recognized private ownership by both indigenous Algerians

and Europeans through the title deeds held by indigenous owners at the time of the colonial occupation. Article 18 established the procedures for compensating holders of property titles in cases of expropriation on the grounds of public interest.

Al-Taher Malakhso argues that this law was intended to differentiate between European and Muslim interests and to facilitate the unrestricted appropriation and seizure of property. Salah Himmer, for his part, considers that it paved the way for the policy of land delimitation and the disastrous consequences that subsequently befell Algerians.

Ady El-Houari points out that the law granted the state public authority, on the basis of the so-called arch land doctrine, ownership of the *nuda proprietas* of collectively held lands. This was based on the assumption that the tribes did not possess ownership rights over the lands they occupied, but merely usufruct rights. Such an approach seriously destabilized the social balance.

Since this law failed to achieve the desired results and did not introduce adequate measures to resolve Algeria's land question, another law was subsequently enacted.

3. The Senatus-Consult of 22 April 1863

As Rachid Farah observes, the Senatus-Consult represented a major development in the colonial conception of land legislation in Algeria. F. Godin described it as a political act marking an important moment in the history of individual ownership. Allard, meanwhile, attributed the motives behind the measure to the government's desire to reduce the influence of tribal leaders and the tribe itself. The French government justified the measure as an instrument of justice and reform toward the inhabitants of Algeria and as an indispensable measure for ensuring Algeria's peace and prosperity.

The Senatus-Consult constituted the cornerstone of what became the project for the expropriation and dismantling of tribal lands. It resulted in the fragmentation of tribes and the transformation of approximately 800,000 hectares of arch lands into private property. Its underlying objective was to undermine tribal unity, destroy the social fabric and familial bonds, and institutionalize territorial division. Thus, a single tribe was divided into several douars-communes, while areas formerly occupied collectively by tribes were transformed into what became known as communal public property.

The Senatus-Consult replaced the tribes' customary right of usufruct over arch lands with a system that subsequently required their division among douars and individuals. This process was intended to dismantle the tribal structure and prepare the ground for the establishment of an Algerian society organized according to the French model, in which the commune would replace the douar, and the latter would replace the tribe and the arch.

According to Ady El-Houari, implementation of the law involved three principal operations: (1) the delimitation of tribal lands; (2) the division of these lands and their distribution among the various douars; and (3) the establishment of individual ownership among the members of these douars.

The law further stipulated that individual ownership could be established in each village following the completion of the delimitation process. By the completion of the first phase of implementation in 1870, 372 tribal groups had been affected and divided into 667 villages.

Despite the large number of tribal groups dismantled and the results achieved through implementation of the law, Maurice Wahl viewed these developments with dissatisfaction. He argued that what had been accomplished had changed little and described the colonial presence during the period 1863–1870 as paralyzed. Transactions had become increasingly difficult, while indigenous institutions remained entrenched within their rigid frameworks.

The division of tribes into douars constituted a decisive step toward dismantling the tribal structure. Although the Senatus-Consult was primarily designed to serve colonial interests, it did not receive unanimous acceptance among the settlers. Indigenous leaders realized that they were its principal targets and protested against the new land procedures.

Ultimately, the law enabled Europeans to acquire additional agricultural lands by permitting the purchase of collectively owned property. It did not prevent the occupation authorities from confiscating additional lands; rather, it strengthened their claims over beylik and melk lands and reinforced their power and dominance. It therefore became one of the principal instruments for dismantling Algerian society. Its implementation did not improve the condition of Algerians; instead, it contributed to their further impoverishment.

4. The Warnier Law of 26 July 1873

Building upon the situation created by the Senatus-Consult, another law was enacted, named after its engineer, Warnier. It focused on the expropriation of privately owned lands belonging to Algerians that had not been covered by the preceding legislation. Warnier explicitly stated that the purpose of the law was to divide the land in order to dismantle the tribe through collective repression and to restrict collective usufruct as much as possible.

According to Charles-Robert Ageron, the Warnier Law was enacted in response to opposition among settlers to the existing imperial legislation. Its objective was to apply French law to all real-estate transactions, not only those between persons subject to different legal systems, but also transactions concluded exclusively among Muslims.

The law can therefore be regarded as a continuation of the previous legislative and administrative measures. Its principal objective was to facilitate the expansion of the settlement movement through the appropriation of lands on the pretext that they were insufficiently cultivated or exploited.

It also contributed to the Frenchification of Algerian land through the complete and definitive subjection of land transactions to French law. The colonial administration was thereby granted authority to supervise and regulate all forms of real property in Algeria, regardless of the status of their owners. This made it possible, on the one hand, to marginalize Islamic law and, on the other, to undermine the forms of cooperation and solidarity that characterized tribal communities.

The law declared as French property the real estate located in areas where property had undergone delimitation or registration procedures, as well as properties registered before notaries,

court clerks, or administrative officials, even when their titles did not necessarily require formal delimitation. The application of Islamic law to matters of property was consequently restricted essentially to inheritance.

Abdallah Maqalati considers the Warnier Law an instrument for destroying the agricultural property system and depriving Algerians of their means of livelihood. It authorized the disposition of Algerian lands through the application of French law to land-sale procedures and entrusted private bodies with the task of validating private property titles and delimiting arch lands. This opened the way for the acquisition of such lands through the establishment of individual ownership within collectively organized tribes, with the ultimate objective of destroying their unity and cohesion.

As a result of this law, the colonial administration transferred more than 400,000 hectares to settlers between 1871 and 1880, while the number of official settlement centres increased to 264.

Another consequence of the law was the loss by Algerians, between 1877 and 1898, of approximately 432,388 hectares. These figures were based on official statistics, although such statistics were not entirely accurate and did not include sales that had not been registered with notaries.

The law also resulted in the confiscation of approximately 20 percent of the lands in eastern and central Algeria and 40 percent of the lands in western Algeria.

Mahfoud Kaddache notes that peasants whose lands had been seized fell under the control of moneylenders, who charged interest rates ranging from 20 to 200 percent and demanded land as collateral. Although such land remained formally in the possession of its owners, it was frequently confiscated when debts could not be repaid.

The extent of the changes produced by the law may explain Maurice Wahl's assertion that it had remedied what he described as the "miserable policy" associated with the Senatus-Consult. Under the new system, the tribe no longer existed as a unified entity; its classification became clear and the information concerning it readily accessible. There was no longer any need for extensive delimitation procedures or direct state intervention. Colonial property could instead expand through the natural dynamics of purchases and sales.

5. The Law of 28 April 1887

One of the principal reasons for the promulgation of this law was the desire to reconsider previous land legislation and introduce amendments and modifications to the Warnier Law. For this purpose, a committee composed of several officials and legal figures was appointed. The committee submitted a number of reports in conjunction with the implementation of the Senatus-Consult, thereby indicating a return to that earlier decision, particularly Article 2 concerning the procedures for delimiting tribal and douar lands.

According to Ali Abboud, the principal provisions of this new land law may be summarized as follows:

- Agricultural real property was placed under French law with regard to all commercial real-estate transactions.

- The surveying commissioner was authorized to evaluate properties whose division could not be achieved either by mutual agreement or before the conciliatory judge.
- Creditors were required to re-register debt contracts in the name granted to indigenous owners.
- Article 6 of the Senatus-Consult, which prohibited the sale or transfer of arch property, was repealed.
- Islamic courts were excluded from procedures relating to the delimitation of property.
- The transfer of property to Europeans was facilitated after properties had been cleared of debts and mortgages.

The law also reinstated the procedures governing the delimitation of tribal and douar lands and required compliance with the forms prescribed by Article 4 of the Law of 22 April 1887 in cases involving the transfer or sale of jointly owned property through public auction, the division of inherited property, and the establishment of boundary markers intended to provide landowners and their neighbours with greater security. At the same time, Europeans were permitted to acquire real property within arch lands even before the procedures for establishing individual ownership had been completed.

6. The Law of 16 February 1897

Since the Law of 18 April 1887 had failed to achieve its intended objectives, a new law was enacted ten years after its implementation, on 16 February 1897, with the aim of advancing the process of land appropriation.

Following the promulgation of this law, practical instructions and procedures for its implementation were issued. These included the decree of 15 November 1897 and instructions issued by the Governor-General on 14 June 1897 and 7 March 1898, intended to clarify the procedures for its application.

This law has been regarded as a transitional measure that introduced several reforms designed to remedy shortcomings in the laws of 1873 and 1887. Nevertheless, it preserved the interests and gains of the settler population and, like its predecessors, sought to establish individual ownership.

Article 1 abolished the general and partial procedures established by Chapters II and III of the 1873 Law and replaced them with a single procedure detailed in Articles 5 to 8. Article 4 abolished all forms of discrimination between property owners on the basis of nationality or origin. Article 13 preserved the judicial administration's powers over properties classified as arch lands. Consequently, the law renewed the distinction between arch lands and melk lands that had been neglected under the laws of 1873 and 1887.

Among the principal provisions of the law was the designation of the Tell region as the geographical area to which it applied, in accordance with Article 12. It also provided for the regularization of properties acquired by settlers in order to prevent disputes resulting from the implementation of the 1873 and 1887 laws, as stipulated in Articles 14 and 15.

Rabah Lounès identifies several consequences of the implementation of this law:

- The area of Algerian agricultural property declined from approximately three million hectares in 1880 to about 1.4 million hectares in 1940.

- Algerians were expelled from lands that had constituted their principal source of livelihood.
- Algerians were transformed from landowners into khammāsa labourers, day labourers, or seasonal workers.
- The income level of Algerian families fell to levels among the lowest in the world.
- Livestock holdings were severely damaged as a result of the establishment of individual ownership, while the social and economic structures of Algerian society were subjected to profound disruption, exposing Algerians to disease and epidemics.

Recognizing that land constituted the fundamental foundation upon which any society was built, the French colonial authorities sought to undermine these foundations through the enactment of land legislation. These laws functioned as instruments through which colonial rule legally institutionalized the dispossession of landowners and penetrated the social structure of Algerian society.

Yet the imposition of colonial land policy did not put an end to resistance. The long struggle waged by the peasantry to recover lands seized by the occupation authorities and by major Algerian landowners continued. This resistance took various forms, including refusal to pay taxes and resistance to French medicine and education.

Other forms of resistance also emerged. Algerians sometimes attempted to repurchase their lands from settlers whenever circumstances permitted. Petitions and complaints submitted individually or collectively to the colonial authorities likewise became an arena of confrontation and a means through which Algerians expressed their strong attachment to their land, which they regarded as an “identity and a unifying factor” before considering it a source of material income.

Among the petitions submitted by Algerians was one signed by 214 Algerians and addressed to the Queen of Britain in April 1871, in which they complained about the seizure of their lands. Another petition, signed by a tribal shaykh in 1872 and addressed to members of the French Parliament, denounced the acts of dispossession affecting Algerian lands.

Qa'id Yahya Sharif Ben Suleiman likewise condemned the laws of 1863, 1873 and 1887 and the harm they had caused. In 1878, several Algerian notables denounced the Senatus-Consult and Warnier Laws. Similarly, the inhabitants of the communes of Oued Seguen, Gattar El-Ayache and Ain Smara expressed their profound dissatisfaction with the consequences of these laws.

The same position was expressed by several indigenous members of the general councils in their response to the report of Mr. Treille. They stated that most Algerian lands had become “a body without a soul.” The notables of Constantine likewise declared their opposition to the establishment of individual ownership because they considered it incompatible with the customary practices of the ‘arūsh and their traditional system of collective usufruct of land.

7. Conclusion

Tracing the French colonial trajectory in Algeria with particular reference to the land policy pursued by the colonial authorities leads to the conclusion that the appropriation of land constituted a fundamental driving force of colonialism. Land became an arena of conflict between its

“wronged” owners and the “oppressor” who sought to dispossess them. Consequently, colonial land policy became a central component of French policy in Algeria.

This policy focused on eliminating collective ownership and replacing it with individual ownership in order to facilitate the appropriation of Algerian lands and ensure the success of the settlement project, which could not be achieved without dismantling the landholding system that had prevailed prior to the French occupation.

To legalize the processes of dispossession and plunder affecting Algerian lands, the colonial authorities enacted a series of laws and regulations that provided a legal framework for these practices. These laws complemented one another, with each legislative measure providing the foundation for the one that followed.

These laws produced a profound rupture in the landholding structure of Algerian society and contributed to the destruction of its social and economic foundations. Their overall orientation was toward serving settler interests at the expense of Algerian interests. On the one hand, they contributed to the displacement of the indigenous population and to the difficult conditions into which Algerians were pushed as a result of the contraction of their property holdings. On the other hand, they facilitated the expansion of colonial landownership.

It may therefore be argued that French land policy in Algeria was characterized by both duality and racial discrimination. It sought to dispossess Algerians of their lands through various methods and under multiple pretexts, while simultaneously granting settlers access to the most fertile lands at negligible prices and, in some cases, without payment.

Despite the success of French colonialism in establishing control over land, Algerians continued to defend their property. This resistance manifested itself in various forms, ranging from petitions and complaints submitted to the colonial authorities in Algeria and to the central administration in Paris, and even to foreign heads of state, to acts of retaliation against settlers, as well as attempts to repurchase the confiscated lands whenever circumstances allowed.

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