



Transformations of the Algerian Rural Landscape under the Laws of 1846–1851

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Abstract:

Introduction

The French settler project in Algeria was seen as the only solution to the country's problems, particularly in the agricultural sector, due to its long-standing reputation in European society. Consequently, legal measures were employed to justify the exploitation of these lands, with numerous legislative laws being issued to provide various facilities and guarantees for settlers from different backgrounds, with the aim of achieving stability and development. Thus, the 1846 and 1851 laws were enacted to legitimise this initiative, as it became clear that the land was essential for ensuring the rural community's continued dependency on it.

1. Nature:

The latter is formed by the tribe, which forms the cornerstone of Algeria's social hierarchy. This structure comprises agricultural and pastoral communities, and the nature of social relations is determined by this structure, with land ownership forming the basis for these relationships. Property ownership varies according to different categories and is maintained for exploitation, benefit and defence. During the period of French colonialism, the Algerian country-side¹ became concentrated in the hands of a minority of Ottoman rulers who managed an administrative and political system alongside foreign groups brought in by the colonial authority through various incentives to promote development and stability. It is important to recognise the Algerian tribes, for whom the land is a symbol of identity and sovereignty. France therefore focused on undermining this concept by enacting property legislation aimed at the total exploitation of these holdings, regardless of the cost. This legislation was supported by the Ministry of War, the Governor-General and Arabic offices, as well as being funded by the state budget.

¹- Abdel Latif Ben Achenhou, *The Formation of Underdevelopment in Algeria*, Algeria, 1979, pp. 25–26.



2. Types of property ownership in Algeria

The first type is individual ownership, whereby landowners exploit their land directly and have the freedom to manage it as they wish². This includes the right to sell, lease, gift or bequeath the land to heirs. This type of ownership is particularly prevalent in coastal areas, Blida and Qal'a. This is governed by inheritance principles due to the close-knit nature of the community. Selling to outsiders is only permissible if no member of the tribe can purchase or benefit from it³. Additionally, communal ownership remains characteristic of families and communities, enabling landowners to manage their shares in accordance with Islamic legislation⁴.

The second type, known as the property of the Beylik, consists of the assets owned by the Turkish rulers, including the Dey and the Beys. Most of these lands are fertile and belong to the state. Often, the government grants land to specific tribes or individuals for use, but does not grant them ownership rights. This approach aims to secure their loyalty and place these lands under the supervision of a senior official. Utilisation methods are simple, involving ploughs, animals, and seeds⁵. This category also includes forests, reed beds, scrublands and grazing lands, which together cover vast areas known as the public domain⁶. The Beylik also possesses lands termed 'isolation' that are confiscated from tribes that rebel against its authority⁷.

Tribally owned land refers to communal lands or stable rural properties with titles that are respected by all. This is the predominant characteristic of most lands in Algeria that are subject to tribal or clan ownership, meaning that everyone has the right to benefit from them⁸.

Moreover, all members of the tribe participate in agriculture and grazing⁹, despite the lack of formal ownership documentation. Each tribe is free to organise its activities according to its needs or interests. The same applies to grazing lands, where community leaders allocate land to individuals for cultivation. These lands are also referred to as 'lands beyond authority' due to their distance from central governance¹⁰. The tribe has the right to manage these lands by transferring exploitation rights to another tribe member.

²- A.N.O.M., f. 80/522, 'Draft Decree on the Constitution of Property among Arabs'.

³- A.N.O.M., f. 80/522, 'ibid'.

⁴- Gaudin, *The Land Regime of Algeria*, Paris, 1930, pp. 239–240.

⁵- Calville, Marcel. 'State of Rural Property in Algeria'. André Emil Edition, Algiers, 1935, p. 7.

⁶- Djilali Sari, *The Dispossession of the Fellahs (1830–1962)*, National Publishing and Distribution Company, Algiers, 1975, p. 9.

⁷- Charles-André Julien, 'Muslim Algerians and France, 1871–1919', p. 2, p. 1296.

⁸- Gaudin, op. cit.

⁹- Ben Achenhou, *Formation of Underdevelopment in Algeria*, 1978, p. 27.

¹⁰- General Government of Algeria, *Commission for the Protection of Indigenous Property*, Algiers, 1899, pp. 6–7.



Another type of property is known as “ (endowments), which are associated with mosques and religious schools (zawiyas). These lands are designated for agricultural use and various charitable purposes and function under Islamic law. Thus, they cannot be sold, exchanged or mortgaged as they are dedicated to public interest¹¹ and charitable works.

Additionally, there are waqf properties from Andalusia intended to support displaced Muslims following Spanish Christian invasions. Over time, these endowments grew through the contributions of wealthy Andalusian migrants. There are also waqfs associated with the Janissaries and religious schools¹², as well as those intended for public facilities such as wells, springs and public roads. In desert areas, waqfs often allocate funds for organising irrigation due to the arid environment and climate¹³.

In French law, ownership is recorded in a registry which documents all relevant details, including dates, locations and specifications. By contrast, the title of ownership among Muslims is a lengthy document that records ownership rights and serves as a certificate of ownership (lettre de propriété)¹⁴. Every piece of property must be registered through a record (procès-verbal) and accompanied by a specific numbering system, a property plan, and a decree of ownership. A request regarding state domain or properties must also be submitted¹⁵. The ownership document includes the beneficiary's name, surname, profession, social status and health condition¹⁶, information which was often absent in rural areas.

Between 1830 and 1834, the French administration enacted numerous property laws that mandated the inclusion of all properties found by colonial authorities belonging to the city, including waqfs (endowments), and state properties, through a process of acquisition at low prices followed by resale at higher prices¹⁷. This was under the pretext that ownership is not valid for absent owners, prioritising those present. This period also saw the emergence of the contract system between Algerians and Europeans. The tribes that possessed the land did not hold ownership contracts and did not require written evidence for their plots.

France aimed to establish a military and civilian colony in Algeria, which attracted various European groups, especially since Algeria was in a state of mismanagement

¹¹-A.N.O.M., f. 80/522, 'Draft for the satisfaction of the indigenous people'.

¹²- Genty de Bussy, Establishment of Muslim Algerian Law, Algiers, 1885, vol. 2, pp. 180–182.

¹³- Khadidja Bakhtach, 'Endowments of the City of Algiers after the French Occupation', Cultural Magazine, no. 62, March–April 1981, Algeria, p. 77.

¹⁴- Annales de colonisation, op. cit., pp. 16–17.

¹⁵- Ibid.

¹⁶- Annales de colonisation, 1852, vol. 2, op. cit., pp. 336–337.

¹⁷- Ibid., p. 24.



and disorganisation due to most Ottoman administrative officials fleeing their positions¹⁸. This enabled the settler plan to succeed despite the challenges it faced.

The Law of 1 October 1844 was enacted as French colonialism expanded into various regions of Algeria. Recognising the difficulties in controlling the economic resources of rural society, along with the challenges of managing these properties, it became essential to formalise contracts and real estate transactions between Algerians and Europeans¹⁹. This was necessary to establish individual ownership, especially as European immigration continued and more land was needed for settlers. To prevent disturbances and issues related to real estate transactions, a committee was formed to gather relevant information and provide solutions in case of crises. Formed in 1842, this committee worked to stabilise and regulate transactions.

The 1844 law can be understood as legitimising various types of ownership concerning buying and selling. For example, the following table³ notes instances of consensual sales that occurred during the fourth phase of implementing this law in 1845 in the Algiers area:²⁰

| Seller's name and surname: | Location | Area | Date |
|-----------------------------|--|--------------------------------|-------|
| Mohamed Ben El Hadj Mohamed | - Warehouse on Abdullah Road, 1243, Blida | 16 metres and 75 centimetres | 09/18 |
| Dahman Fatima and El-Zahra | - Large house on Grenad Street, 7416, Algiers | 113 square metres | 11/26 |
| Ouled Khouja and Jalal | - 112 Grand Mosque, Bab al-Tasa Street, Algiers | 126 square metres | 11/16 |
| Mantoût | - Land on Soujima Street, 58–60, Algiers | 9 square metres | 11/26 |
| Sangti | - Land in Blas Darm, Blida | 369 metres and 44 centimetres | 11/06 |
| Dibotal | - Two residences on Fontain Street, 600, Cherchell | 388 metres and 25 centimetres. | 08/26 |

¹⁸- Emile Larcher, *Elementary Treaty of Algerian Legislation*, second edition, Paris, 1911, p. 25.

¹⁹- Maurice Pouyane, *Land Ownership in Algeria*, Typographie Adolphe Jourdan, Algiers, 1900, pp. 337–338.

²⁰- *Moniteur Algérien*, 20/02/1846, p. 738, fifteenth year.



The exploitation of land for public benefit, as set out in Articles 24, 25, 30, 32, 40, 46, 50, 51, 57, 64, 66, 68 and 72, focuses on the construction of centres and settlement villages. This emphasises public works that serve the public interest, such as roads, transport networks and public facilities²¹.

The colonial authority also worked to annex all lands involved in resistance against the French plan, as stipulated by Law 1844 and further supported by Law 31/11/1845. Article 11 of this law mandated the confiscation of properties belonging to rebellious tribes²². Furthermore, it penalised anyone who left their homes for an extended period without the consent of the occupying authority by immediately seizing their properties and incorporating them into state ownership²³. A long list of names and properties was compiled, including some notable examples²⁴.

The extensive lands jointly owned by Haj Hamid, Haj Belkacem, and the Bani Wanis tribe, which extended to Dasatbou El-Yet, Zaqaza, the borders of El-Khayada, Janah El-Froudj, Mamanfrana, Dharaa El-Mizan, Ghars Ben Hadouch in El-Mashtah, and the homes of the Ouled Ghanem, Kherbat Saadoud, Slaan land, Ain El-Chabane, El-Freifia, El-Dhahira, Ain Boukhayma, El-Aidan El-Gharbi, Takhta, and Farait. Other notable properties included those belonging to the Ouled Boukbout in Bouskerah and lands in Feddan El-Akhla, Hadou Kharda, Kherbat Mohammad Ben Saadi and El-Woustia El-Wostania²⁵.

The Law of 21 July 1846:

Until this year, properties remained in a difficult, unstable and somewhat obstructed state²⁶. As part of the ongoing colonial project, this law was enacted to identify underutilised²⁷ and undocumented properties that were spacious and commonplace. Consequently, most indigenous lands were not officially recorded in order to facilitate the transfer of land to European settlers and allow for its increase and confiscation to be incorporated into state ownership²⁸. Any contracts had to be registered before the occupation in 1830²⁹, but this was an unrealistic condition given that most tribal ownership was communal and governed by customary laws

²¹- Monnerville, Dictionary of Algerian Legislation, 1830–1860, pp. 577–581.

²²- Ibid., pp. 615–616.

²³- Estoublon, Robert, and Adolphe Lefebure. Annotated Code of Algeria, Vol. 1 (1830–1895). Adolphe Jourdan Librairie, Algiers, 1896. P. 78.

²⁴- Moniteur Algérien, 1846, op. cit.

²⁵- Ibid.

²⁶- G.G.A., Report on the Situation in Algeria in 1924, Administrative Printing, Victor Heinz, Algiers, 1925, p. 912.

²⁷- Djamal Kharchi, Colonisation et la Politique de l'Assimilation en Algérie, 1830-1962, Casbah Editions, Algiers, p. 71.

²⁸- Emile Larcher, op. cit., p. 37.

²⁹- Robe, Eugène. Essay on the History of Property in Algeria. Dagand Printing, Bore, 1849, p. 28.



and traditions. Thus, Law 1846 effectively handed their properties over to the legislative authority in Algeria on a silver platter.

To address this, the colonial administration formed a committee (Commission des transactions et de partages) tasked with dividing and settling transactions in the Algiers area. This area was divided into several neighbourhoods, including Ben Drina, Ben Shaush, Ouled Belhaj and Dakkana, and covered an estimated area of 2,023 hectares. However, the calculation process resulted in an average allocation of 1,367 hectares to the Arabs, leaving 656 hectares altogether annexed to state property³⁰.

The Law of 16 June 1851 aimed to broaden the scope of property division. Consequently, Law 1850³¹ was enacted, declaring all forests to be the property of the French government. This was supplemented by the Law of 16 June 1851, which defined all cases of property division³² and established the fundamental principles of property ownership in Algeria³³. The law included several articles, which are as follows:

Article One: Ownership is an unconditional right between indigenous people and the French, and is therefore guaranteed³⁴.

Article Two recognises that properties existing at the time of the French entry into Algeria are acquired rights for their original owners³⁵, referred to in the framework of domain ownership according to the first chapter of the law, which aims to return properties to French legislation.

Article Three confirmed, through the translation of Article 544, that every individual has the right to enjoy their property, except in cases of sale or purchase involving tribal ownership, where only the French authority may intervene if it serves the public good³⁶.

Article Four: Regarding exchanges among indigenous peoples, Islamic law governs these transactions. In contrast, civil French law governs such exchanges and dealings³⁷, leading the occupying administration to create additional laws under various pretences to infiltrate communal ownership, which is particularly prevalent in the eastern region where customary law prevails.

Article Five: There is a need to implement a policy of delineating properties applicable to the lands of the chieftaincy, the predominant characteristic of

³⁰- A.N.O.M., G.G.A., L35.

³¹- Ammar Amoura, Summary History of Algeria, 2nd edition, Algiers, 2002, p. 258.

³²- Collection of Government Acts, p. 305.

³³- Ibid.

³⁴- Arthur Girault, Principles of Colonisation and Colonial Legislation, vol. 2, 2nd edition, Paris, 1904, p. 24.

³⁵- Ibid., p. 306.

³⁶- Randolph Darest, On Property in Algeria, p. 68.

³⁷- Collection of Government Acts, op. cit.



indigenous ownership, while also recognising individual ownership within it³⁸. Therefore, there was a need to populate Algeria with Europeans by confiscating indigenous properties in order to stabilise the settlers, particularly since collective life predominates among Arabs. The aim was to integrate indigenous people with Europeans to achieve individual ownership³⁹.

Furthermore, Mr Dresta, a legal expert and attorney for the General Government, reported that Article 109, dated 4 November 1848, states that the territory of settlers and Algerians is French and will become so through the application of specific laws establishing it as a place of special development⁴⁰. The law of 16 June 1851 delineated real estate ownership and its legitimacy by preserving the rights of indigenous settlers and denoting the rights of indigenous people followed by those of French citizens⁴¹. Consequently, Law 1851 is considered a launching point that facilitated various aspects of French settlement in Algeria through the occupying administration.

The policy of restriction is based on the idea that the tribes were exploiting land beyond what was necessary for their population and needs. Therefore, it was deemed necessary to confine the tribe's population to a designated area of land, while the remainder would be transferred to state ownership, with the state being recognised as the sole owner of the land. In return, the tribe would have its ownership recognised over the portion allocated to it, allowing for later interventions by settlers. This gradually infiltrated the concept of the tribe and the chieftaincy's ownership⁴².

This is further confirmed by a statement from General Bugeaud on 10 April 1847, in which he said: 'My political view towards the Arabs is not to expel them, but to integrate them into our civilisation. It is not to strip them of their lands and distance them from them, but rather to confine them to the lands from which they have benefited for a long time — especially when these lands do not correspond to the number of tribe members⁴³.

The implementation of this policy largely fell to the officers of the Arabic offices and was carried out using studied methods. However, some of these officers realised that these actions were being carried out under various pretences, prompting them to rebel. This is evident in a statement from one of the officers, who said: 'Having

³⁸- E. Sawtayran, *Legislation of Algeria*, p. 99.

³⁹- *Annales de Colonisation*, 1852, op. cit.

⁴⁰- Ibid.

⁴¹- Ibid.

⁴²- O. El-Houari, *French Colonialism: Economic and Social Disintegration, 1830–1960*, 1st edn, trans. by Abdullah, Dar Al-Hadatha for Publishing and Distribution, Beirut, 1983, p. 62.

⁴³- L. Rouyer, 'Note on Colonisation and Indigenous Property', Adolphe Brahem Printing-Library, Constantine, 1900, p. 7.



served as chief officer in the Philippeville (Skikda) district for over five years and completed my duties regarding confinement, I am more aware than anyone of what happened there. I can summarise it in two words: theft and plunder'⁴⁴

3. The impact of the implementation of laws on rural society:

On the economic life:

Allocation of Lands Solely to the French

While the indigenous Algerian population was subject to the law, certain individuals with connections to the French authorities⁴⁵ were granted privileges. Additionally, many forest lands were assigned to settlers under the provisions of Law 1851, which encouraged migration to Algeria on the pretext of job availability and the possibility of settling and building homes. This was promoted through numerous slogans and official speeches published in various magazines⁴⁶, aimed at encouraging immigration and the subsequent establishment of settlement and agricultural centres.

Between 1846 and 1851, several settlement centres were established, including: Bornei, El-Affrane, Marengo, Hamra Al-Ain, Bourguiba, Wednesday, Rouffigo, Fordlo, El-Rassouta, El-Dar Al-Bayda, Oued Al-Alaïk and Bir Touta⁴⁷. The Algerian newspaper *Le Mentor* reported that Algeria established around 17 agricultural settlements⁴⁸ during this period. Clearly, by this time, the French authorities were no longer content merely to confiscate land and satisfy the demands of European settlers, as this contributed to an increase in their numbers in Algeria.

Transforming the agricultural economy into an industrial one

The French administration did not limit itself to enacting property laws. It also sought to formally link the Algerian economy to its own. This was achieved by exploiting all of Algeria's natural resources — vegetal, animal and mineral — and utilising them to serve a colonial plan aimed at benefiting settlers and developing the French economy. This included experimenting with cash crops such as tobacco, cotton and grapes, which were intended to meet the needs of European countries.

From 1846 to 1851, tobacco emerged as the leading economic activity for the French in Algeria, receiving significant encouragement from the colonial administration. It required approximately 32 hectares of land, with an estimated production of between 23,469 and 251,166 kilograms, equating to a value of

⁴⁴- Charles Robert Agéron, *Muslim Algerians and France*, vol. 1, trans. Mahmoud Haj Massoud and Bakli, Dar Al-Ra'id for Books, Algeria, p. 139.

⁴⁵- *Annales de colonisation*, vol. 1, 1852, p. 336.

⁴⁶- *Moniteur Algérien*, 1846–1851–1852.

⁴⁷- A.N.O.M., G.G.A., 5M7, *Agricultural Colonies, General Instructions, 1849–1857, Clearing*, 09/06/1849.

⁴⁸- *Annales de colonisation*, 1852, op. cit., pp. 143–144.



204,703 francs and 13 centimes. By 1851, production had surged to 746,000 kilograms in just one month⁴⁹.

Cotton cultivation was first proposed in Algeria on 26 November 1851, based on European agricultural standards. This included small seedlings and farming techniques imported from the United States, resulting in a yield of 3,000 kilograms. However, despite this initial success, cotton cultivation ultimately failed due to high costs, estimated at 995 francs per hectare, with a return of only 546 francs per hectare. This prompted the government and settlers to search for alternative products with which to compensate for previous losses.

These experiments led to the impoverishment and marginalisation of the indigenous population, as Governor Pelissier's statement highlights: 'Every time we expropriate land from the Arabs, maintaining the same pattern regardless of how small the amount we take might seem compared to what remains to them, we risk crossing the boundaries that allow them to secure their survival.'⁵⁰

On social life:

Dismantling the traditional social structure

The creation of divisions within society through land distribution and the formalisation of property rights has been significant, especially since the two laws complement each other. This has led to the dissolution of the community concept by fragmenting collective properties, as is recognised in French law⁵¹. Consequently, Algerian society, which had previously been genuine landowners, became mere tenants under French authority. This led to the disintegration of tribal unity and the emergence of divisions within social families, which had a negative impact on their social life.

Once land was expropriated, social cohesion began to erode, leading to the alienation and migration of family members. Furthermore, collective properties were affected by laws governing exploitation and fragmentation, causing community members to detach from the concept of community — an objective that the French colonial administration aimed to achieve in Algeria.

Spread of diseases and drought

One consequence of French policy was the onset of drought, resulting in the loss of approximately 2,500 heads of livestock out of a total of 15,000. There was also an outbreak of cholera, typhus, smallpox, yellow fever and other diseases, leading to widespread hunger. The population was reduced to subsisting on herbs and roots. Father Berzi noted that the hungry would rush to European centres in the cities, exhausted and naked, and that they had lost their human image, becoming mere

⁴⁹- Ibid., p. 40.

⁵⁰- Odi El-Houari, op. cit., pp. 62–63.

⁵¹- Émile Larcher, op. cit., p. 21.



skeletal figures⁵². He also said that it was difficult to identify the true number of victims, referencing a report submitted to members of the legislative council on 11 March which stated that the number of victims had reached 89,577 by 1857⁵³.

This was due to the lack of health precautions despite the number of doctors employed by the colonial administration, given the continuously increasing birth and death rates from 1846 to 1851.

Conclusion

The implementation of French legislative policies in Algeria had a profound impact on rural society, particularly between 1846 and 1851. During this period, the inhabitants of Algeria were in a state of panic and fear due to crises affecting their property and families. This was achieved by establishing an alien foreign community on Algerian land and creating job opportunities at the expense of the local population's lands and livelihoods. This led to significant migration to other areas in search of better living conditions.

The French colonial plan in Algeria targeted the core foundations of rural society by dismantling the authority of tribal leaders and elders and subsequently exploiting their lands through various means and claims. This process was accompanied by the erosion of human values and the loss of the essence of life in their homeland.

⁵²- Khadidja Bakdach, *French Legislative Movement in Algeria, 1830–1871*, National Printing Arts Foundation, Dhaleb, Algeria, p. 108.

⁵³- Khadidja Bakdach, *op. cit.*, pp. 106–108.