



Property In Algeria During The Third French Republic (1904-1973)

Grine Abdelkrim Professor lecturer A, University of 8 May 1945 guelma (Algeria).
grine.abdelkrim@univ-guelma.dz

Gharbi Elhaouas Professor lecturer A, University of 8 May 1945 guelma (Algeria).
gharbi.elhaouas@univ-guelma.dz

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Abstract:

The importance of this historical study lies in the fact that it covers an aspect of French colonial history in Algeria, namely the conflict over land ownership. In this study, I aim to illustrate the policies of the French colonial administration in relation to land ownership in Algeria, particularly during the second phase of the French occupation - the transition from military to civilian rule. This includes detailing the various means used by the colonial authorities to seize Algerian land and to justify their claim as the legitimate heirs of the Turkish authority. The study discusses the legal arsenal and the various decisions aimed at controlling Algerian lands, whether they were crown lands, royal lands or other types of lands that existed in Algeria at the time, and attempts to transfer ownership from Algerians to the French authorities and finally to Europeans to become their property. This process is seen as a vital artery of colonial expansion. It is therefore essential to shed light on the French policy of property ownership in Algeria and its consequences during the period of the Third French Republic (1870-1940).

Keywords: Colonialism, politics, settlement, real estate, land expropriation.

Introduction:

The French colonisation of Algeria was a settler colonialism whose main aim was to seize and plunder the country's resources, to bind Algeria to France and to consider it a French province forever. While the French colonialists occupied Algeria and seized land through the power of force and violence, their thinkers and theorists understood that staying in Algeria could not be based on military power alone. They recognised that the spirit of Algerian resistance would ignite over time, leading to the emergence of means to break the grip of colonial weapons and equipment, applying the principle that Algeria was an inseparable part of France.

From the first days of the French occupation, Algeria experienced settler colonialism, which became an extension of French ideology, promoted by French leaders and institutionalised by the government, which provided all the necessary means to make it a real project.

This phase was characterised by a clash of interests and ideas. Whereas Algerians had previously enjoyed the freedom and space to exploit their land as they wished, they found themselves deprived of their rights in the presence of foreign settlers who made Algeria their home. These colonisers plundered and depleted the country's wealth and resources, exploiting the human potential available at meagre prices.

The pace of laws and decrees accelerated after the annexation law of 1834, which officially recognised the attachment of Algeria to France and allowed the actual practice of occupation. This marked the beginning of a conflict between various European elements and the local population in Algeria. This conflict took various forms, the most important of which was the issue of land expropriation and the employment of workers in hard labour for wages that were insufficient to meet basic human needs. In this atmosphere, political freedom was lost and individual freedoms of movement, livelihood and personal agency were reduced, leading to a deterioration in the conditions of Algeria in various fields due to its status as a French colony.

This raises a fundamental question: What was the nature of French land policy in Algeria during the Third Republic (1873-1904), and how successful was the expropriation of Algerian land?

First, French colonial policy before the Third Republic:

During the Second Empire, Napoleon III issued a decree creating the Ministry of Colonies (Deschamps Paul et autres, 1933, p. 179). This action by the French colonial authorities intensified settler activity at the expense of Algerian property and marked the beginning of a new wave of large-scale immigration to Algeria. In November 1860, Emperor Napoleon III abolished the Ministry of Colonies that he had previously created, and the following month he reinstated and strengthened the previous military system by appointing the new governor, Marshal Pellissier.

Since the visit of Emperor Napoleon III to Algeria in 1860, the outlines and main points of the land ownership and expropriation of Algerian lands had been established, leading to the drafting of a law to facilitate this process. He sent a letter to Marshal Pellissier on 6 February 1863, which is considered a preliminary draft of the *Senatus Consultum* law (A.N.O.M, F.M, Carton F80/1806)

After Pellissier's death in 1864, the new governor-general, Marshal MacMahon, succeeded him from September 1864 to 1870. Dissatisfied with this marshal's policies, Napoleon III decided to visit Algeria again to assess the situation and understand the problems on the ground. He travelled to various regions and visited several cities in the centre, west and east, making contact with various parties, including European personalities and Algerians, in order to gain a clear and accurate picture of the prevailing conditions in Algeria.

On his return to Paris, he wrote a letter summarising the new policy he intended to implement. In a letter to Governor General MacMahon dated 20 June 1865, he stated that "about fifteen systems have been applied in Algeria, which have only led to confusion, and it is necessary to rely on the good will of the Algerians for development...". Algeria is both an Arab kingdom and a French colony, as well as a European camp" (Yahi Bouaziz, 2007, pp. 19-20).

The social and economic situation in Algeria deteriorated between 1866 and 1868 as a result of the spread of disease, famine and agricultural drought in the Algerian countryside. This led Napoleon III to set up agricultural investigation commissions, namely those of Le Hone in 1868 and Randon in 1869, which were set up after the famine to study this crisis. The first was chaired by Count Le Hone (le Conte Le Hone) and visited three provinces in Algeria (Algiers, Oran and Constantine). It focused its investigations on the agricultural aspect in the urban areas, where the population was sparse, as opposed to the military regions, where the population was dense and faced serious famine (Charles

Robert Ageron, 1972, p. 77). Napoleon wanted to calm the situation and allay the fears that prevailed at the time.

As for the Randon Committee, set up on 5 May 1869 (Yahi Bouaziz, *Al-Asal Magazine*, 1976, p. 51), it addressed written questions to Algerian deputies (Husseïn bin Brihimat for Algiers, Makki bin Badis for Constantine and Ahmed Ould Qadi for Oran), who rejected the settlers' claim that the famine was caused by Algerians' ignorance of how to cultivate the land. At the same time, they condemned the French colonial authorities' policy of dividing up crown lands.

The French colonial authorities enforced the law of collective responsibility in Algeria under the so-called criminal native law. The colonisers quickly applied the law of collective seizure of Algerian property, confiscating land after the 1871 uprising of Sheikh Mokrani. This law affected about 315 tribes and allowed the French administration to take advantage of the Mokrani uprising to obtain more than 500 hectares of land to establish individual property for the benefit of settlers (Sadiq Dahash, *Sources Magazine*, 2008, p. 2).

On 25 March 1871, a decree was issued by Lexis Lember to confiscate the property of Sheikh Mokrani and the tribes supporting him. One of the most significant results of this uprising, which affected the region, was the confiscation of some 313 collective properties, 146 of which were bought back at an average price of 50 French francs per hectare for agricultural land and around 10 francs for grazing land, in order to compensate France for its losses in the war with Prussia over Alsace and Lorraine.

With the beginning of the civil administration in Algeria, conditions changed with the establishment of the Third Republic, which was based on parliamentary decisions but governed by ministerial decrees. Algeria was integrated into the French ministries and the Governor General implemented the decisions of the Minister of the Interior.

Second - French land policy and the expropriation of Algerian land (1870-1900):

The year 1870 was a key year in French history due to events that changed the situation in France, which in turn affected conditions in Algeria. France's defeat by Prussia in 1870 had a clear impact on its internal situation and its policy towards Algeria. This defeat led to a change in the prevailing system in France, resulting in the establishment of the Third French Republic and the fall of the Second Empire. France was forced to cede the provinces of Alsace and Lorraine.

As a result, France faced increasing difficulties with a large influx of migrants and a worsening economic and social crisis due to the war and the widespread devastation it left behind. One of the most significant results for the Algerian colony was the change from a military to a civilian system, which replaced the previous system in Algeria. Most settlers were freed from the belief that the military authority was an obstacle to achieving their ambitions. In addition, the civil zone expanded at the expense of the military zone, which led to an increase in the number of migrants from Alsace and Lorraine, thus further expanding the settlement process in Algeria.

Under these conditions, the Third French Republic began to pursue a new policy in Algeria, which had two main objectives: to suppress the Algerian resistance and to strengthen French settlement in Algeria. This was facilitated by the promulgation of the Warani law on 26 July 1873 (A. Bleu, 1894, p. 13).

1. The Warani Law of 26 July 1873:

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A. Circumstances of its adoption:

With the fall of the Second Empire and the establishment of the Third Republic, the settlers were able to regain considerable influence and power in Algeria. From February 1871, they had representatives in the French National Assembly, giving them a voice in the French government. According to some French officials, the government had become incapable of withstanding the unpleasant influence of elements loyal to the Arabs. As a result, there was a strong backlash against the policies of the Second French Empire in general and against the 1863 law, which one settler representative claimed was an obstacle to the settlement process (Charles Robert Ageron, 2007, p. 150).

Amid increasing pressure from European settlers in Algeria on political circles in France to enact a new land law that would meet the ambitions and desires of the settlers, the government submitted a draft law to the National Assembly on 29 January 1872. This draft consisted of six articles concerning the creation and maintenance of property in Algeria. On 27 March 1872, a 31-article draft, known as the Procedural Code, was presented, laying down the rules for applying the future law. The two drafts were merged, leading to the promulgation of the law on 26 July 1873 (Laynaud.M, 1900, p. 74), known as the Warani law or the settlers' law, as it was designed to satisfy the settlers' desire and ambition to expropriate Algerian land.

B. Objectives:

From the outset, it is clear that this law complements the previous laws discussed in this research. Its objectives can be deduced from the report presented to the French National Assembly by the deputy Warnier (Auguste Hubert Warnier, 1810-1886), which is of great importance (Robert Estoublon, p. 395). We will therefore concentrate on some extracts from this report. Warnier's report, which gave the law its name, stated that the law had two main objectives:

1. To enable Algeria to regain its productive capacity through the principle of best ownership.
2. To put an end to the injustices

between the present population and those who might arrive through French or European immigration. The National Assembly therefore had to enact a law to protect individual and private property (ROBE, M. E, 1875, pp. 62-63).

The following points can be extracted from Warnier's remarks:

The purpose of the law of 26 July 1873 was to Frenchify Algerian land by placing all real estate transactions in Algeria under the authority of the French administration and French law. This is considered to be the most important aspect of this law, as all previous laws, including the law of 16 June 1851, stipulated that transactions between natives and Europeans, or between Europeans only, were subject to French law, while transactions between natives remained subject to Islamic law. However, the new law subjected all transactions without exception (VIVIANI, M. E., 1885, pp. 24-27).

- The purpose of this law was to abolish the collective ownership of villages and tribes, which had hitherto maintained collective ownership, thus preserving the local element of land ownership and preventing foreign encroachment. The Act was designed to penetrate these collective holdings and make them accessible to Europeans. This was confirmed by Governor General Cambon, who stated in a declaration before the Senate on 30 May 1893

that this law was intended to open up indigenous property, which by its nature and status was indivisible and had remained closed to our activities and to European capital.

C. Its results:

The Warani Law of 26 July 1873 aimed to establish individual ownership of Crown lands in order to transfer them into European hands. To achieve this, it was necessary to place real estate transactions in Algeria under a single authority, namely French law. This meant that all real estate transactions conducted according to Islamic practices were Frenchified. It can therefore be said that the 1873 law achieved a significant result by Frenchifying Algerian land according to French law.

The French colonial authorities paid considerable attention to the establishment of individual property rights in Algeria, allocating considerable financial resources, estimated at 16 million French francs between 1873 and 1891 (Vignon Louis, 1893, p. 137)

The results of this law can also be deduced from statistics showing the transfer of land from Algerians to Europeans and vice versa. The issuance of title deeds made it possible for property transactions to take place between locals and Europeans. A comparison can be made between these transactions before and after the enactment of the Warani law in 1873. According to Warnier's report, Algerians sold only 52,005 hectares of their land in nine years (from 1863 to 1871), while buying about 11,320 hectares from Europeans. This means that they only lost 40,685 hectares during this period. However, after the law was passed, Algerians lost an estimated 294,115 hectares between 1877 and 1885, while buying only 25,313 hectares from Europeans (Salah, *Algeria Under France and Settlers, 1830-1930*, 1999, p. 116). This means that the Algerians lost about 270,000 hectares, which is six times what they lost in the period before the Warani Law.

In addition, a report by Poivre, President of the General Council of the Province of Constantine, noted that the Hashim tribe in the province of Algiers had sold most of their land to European settlers after individual title deeds had been issued (Poivre, M, 1878, p. 8).

The most serious consequence of this law, however, was the opportunity it gave to speculators among the settlers and various employees of the French colonial administration. They took advantage of the misery of the Algerian population to seize the most fertile lands by illegal and unethical means (Djilali, 1975, p. 45).

A study of the law of 26 July 1873 shows that it did not achieve the settlers' aims and aspirations. Despite the fact that it dispossessed the natives of their lands, it did not satisfy the settlers and faced significant criticisms and shortcomings..

2. The law of 16 February 1897:

After confirming the failure of the previous laws mentioned above to address the issue of real estate in Algeria during that period, the French government decided to form a committee to find reforms to be introduced into the real estate system in Algeria. However, this committee did not come up with any new proposals but made some adjustments to the existing real estate legislation. This was followed by another committee set up in 1892 for the same purpose, chaired by John Ferry, which made important proposals, including the introduction of a land registry system in Algeria (Emile Larcher, 1911, p. 107).

Franck Chauveau was commissioned to draw up a draft, and on 29 March 1893 the French government accepted it as a serious project for reforming land ownership, but it took a long time. Given the urgency of the situation, Franck presented a simpler project on 8 June 1893, which was approved by the Senate on 21 February 1894 and officially published on 16 February 1897 (referred to as the French policy of purification in Algeria) (Maurice Pouyanne, 1900, p. 454).

A. Content:

The law of 16 February 1897 was not a law that revolutionised French legislation, particularly with regard to Algeria, but it was intended to correct and amend some of the shortcomings of the previous laws, in particular those of 1873 and 1887, and to try to deal with these problems. This law consisted of 18 articles, some of which will be mentioned here (JOURNAL OFFICIEL DE LA RÉPUBLIQUE FRANÇAISE, 1897, pp. 103-1065).

The first article of this law abolished all the general and partial measures established by articles two and three of the law of 26 July 1873 and the law of 28 April 1887 concerning private property and the establishment of individual ownership. The purpose of this was to safeguard the interests of the settlement, as it maintained some of the exceptions provided for in the 1873 and 1887 laws, pending the issue of title deeds. It also authorised the French Parliament to allow the Algerian authorities to carry out public enquiries in exceptional cases in the public interest.

B. Results:

Some French writings suggest that the law of 16 February 1897 aimed to achieve two main objectives or, in other words, to reconcile two conflicting interests: those of the natives and those of the settlers. The interests of the settlers had not been taken into account in the 1863 Senatus Consultum, while the interests of the natives had been overlooked in the 1873 law. Thus, the 1897 law attempted to preserve the positive aspects of the previous laws.

However, a close examination of the results of the application of the 1897 law shows that this double objective was not achieved, at least not for one of the parties - the locals - who gained nothing from the law. On the contrary, it has exacerbated poverty and misery in Algerian society. Here are a few points to illustrate this:

- The 1897 law did not bring anything new to the peasants; on the contrary, it intensified the process of dispossession and confiscation of their land. This is clear from a letter sent by members of the Saharan tribe to the Director of the Domain in Oran, in which they complained about the arbitrary measures resulting from the application of this law (A.N.O.M (SD) G.G.Carton1N/5.9).

In conclusion, the 1897 law did not provide the Algerians with anything tangible or serve their interests, as the French colonial authorities claimed. It did not alleviate the abuses caused by the above-mentioned laws and did not provide solutions to the real estate problem in Algeria, which would lead the French colonial administration to seek other real estate legislation. We will attempt to address this in our forthcoming research.

III. French land policy in Algeria between 1900 and 1904:

At the beginning of the twentieth century, settler expansion in Algeria intensified and the power of the settlers grew, along with their influence on the economic, social and political life of Algeria. The law of 19 September 1900 granted self-government to Algeria, allowing

it to manage its financial, economic and social affairs. However, the role played by the settlers within the French power structure, through their representatives in the French National Assembly, increased their influence and impact, enabling them to influence French political decisions and to enact laws that suited their desires and aspirations in Algeria.

At the same time, the failure of French legislation, particularly the latest law of 1897, to resolve the issue of land ownership in Algeria left the Crown lands vulnerable to seizure and plunder by speculators and monopolists, leading the natives to disaster. While it was expected that the French administration would issue a new law to address the issues raised earlier, it instead succumbed to the whims of the settlers who monopolised the administration of Algerian affairs.

1. The French colonial administration and its failure to protect indigenous property:

One of the consequences of the famine that struck Algeria in 1897 was that many Algerians were forced to survive on roots and scraps of vegetables, forcing them to sell their rights to Crown land - land that they had no right to even rent. This led to a significant increase in the number of land sales, providing opportunities for speculators and monopolists due to the facilitation provided by the 1897 law (Charles Robert Ageron, 2007, p. 225).

Here are some examples of how these settlers unfairly seized land from Algerians.

In the west of Oran alone, between 1898 and 1899, a petition was filed for a partial survey of land estimated at around 20,000 hectares. Bearing in mind that most of the Algerian Tell is communal property, the division of ownership between family members or between members of a tribe in respect of Crown land, in accordance with the partial investigation procedures laid down in the law of 1897, would inevitably lead to the destruction of the entire collective (E.F. Gautier, 1930, p. 76).

If we consider that the centres of settlement were established in the coastal areas, in the fertile plains and in the plateaus suitable for agriculture, which were subsequently acquired by a European minority, we can affirm that what remained of the land was left in the hands of the peasants, consisting only of small scattered plots, mostly in the high plains and mountainous areas. Subsequently, the French colonial authorities pretended to reform the situation of the peasants by developing means and methods in the local agricultural sector, promoting local industries, combating usury and granting loans to Algerian peasants, all with the aim of protecting indigenous property. In reality, however, this encouraged settlers to dispossess them of their land (Mustafa Al-Ashraf, 2007, p. 19).

The continued transfer of Algerian land into European hands proves the futility of all attempts to put an end to this phenomenon. The following table, which shows the evolution of Algerian sales to Europeans from 1900 to 1914, provides clear evidence of this.

2. Decree of 13 September 1904:

A. Circumstances of its adoption:

At the beginning of the twentieth century, the French colonial authorities found that the official settlement system was no longer able to meet the needs of the settlers, particularly in view of the privileges and influence that this group of settlers enjoyed after

monopolising the governance of Algeria. It was therefore necessary for the colonial administration to rethink and rejuvenate the legislation governing the settlement process in Algeria. The review of the previous legal texts, in particular the decree of 30 September 1878, revealed two main problems: the increasing number of foreign settlers at the expense of French settlers, and the reclamation of land by Algerians through purchase. As a result, the French colonial administration began to prepare a new law to alleviate the pressure on the settlers and address these two issues. This led to the promulgation of the decree of 13 September 1904.

B. Content:

The decree of 13 September 1904 consists of 34 articles organising the possession of the domain lands intended for settlement in Algeria. This decree includes four methods for acquiring land: sale at a fixed price, public auction, sale by agreement and free concessions in certain cases. We will clarify these four methods from the decree, focusing on the new procedures that resulted from it. However, before looking at these four mechanisms, we need to look at the general provisions set out in the first chapter of the decree, as they have serious implications for Algerian farmers.

Article 3 of the decree stipulates that two-thirds of the plots of land offered for sale at a fixed price or granted free of charge to migrants must be retained (B.O.A. Year, pp. 970-978). Article 4 is different in its interpretation of this matter and is clearer than Article 3, stating that the land offered for sale, whether for free or for a fee, could only be granted to French Europeans or naturalised persons who enjoyed full citizenship and had not previously benefited from such grants. An examination of these two articles shows that Algerian peasants were excluded from benefiting from their land, which was the aim of the decree. The remaining articles relate to the four mechanisms mentioned above, which we will not examine in detail.

The material examined reveals clear racism against Algerians, the rightful owners of the land. Article 12 states that before the end of the ten-year period stipulated in Articles 10 and 12, the settlers may not lease the land sold or granted to the natives in the form of concessions. Perhaps the most alarming provision of the 1904 decree is Article 32, which states that indigenous people can benefit from free concessions of up to 200 hectares, with no requirement to reside on them or to terminate the concession agreement. This was seen as a reward for the exceptional services they provided to the French colonial administration, with the concession being granted by the Governor General after consultation with the Council of Government (Salah Hamir, 2014, p. 223).

The question that arises here is: what is the purpose of granting these concessions, and what are the exceptional services that Algerian natives provide to France in exchange for this privilege?

It is clear that this article was merely a ploy by the French colonial administration to create a sense of betrayal among the Algerians by luring them with land they desperately needed. A study of the application of this law reveals the deception that the colonial authorities tried to hide behind the text of Article 32. Moreover, France's failure to keep its promises has been a hallmark of French colonial policy since the occupation of Algeria and its official annexation under the 1834 law. Numerous examples illustrate France's betrayal of its promises. For example, what happened to one of its clients, Morabito Torche Ahmed, who rendered important services to the French administration in Algeria during World War I. He was promised an exceptional reward but died before receiving it.

When his heirs asked the governor for the reward, he replied that it was intended for the individual himself (A.N.O.M., 15 September 1920).

In conclusion, the decree of 13 September 1904 was designed to create obstacles to the transfer of land to Algerians, while at the same time facilitating its transfer to settlers by various means. It thus served to promote the interests of the settlers and to fulfil their wishes and ambitions, to the benefit of France at the expense of the legitimate landowners.

Conclusion:

From this historical and analytical study, we conclude that the French colonial authorities in Algeria pursued a policy of repression, using various methods and means to achieve their desired goal: to expand the settlement process in Algeria. They did this by creating a legal arsenal that ostensibly served the interests of both the indigenous population and the settlers, but in reality primarily served the interests of the settlers and France, without regard for the welfare of Algerians of all social classes. This approach aimed to confiscate their land and undermine their resources, as evidenced by the laws enacted from 1873 until the decree of 13 September 1904, which was particularly detrimental to the peasant class.

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