

**Expropriation and cantonment in colonial Algeria
1840-1860**

par

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Following the military occupation of Algiers. Large numbers of European civilians emigrated to the new colony. Most of those who came to Algeria between 1830 and 1870 were looking for a fortune and were deprived of private capital, hence they could not have thrown themselves into commerce or industry. Agriculture was most suitable for them. Especially when free land concessions had been promised to all colons.

But Algeria was not a no man's land – the Algerian population was estimated at 3 millions persons, and more than seventy five percent of them lived in the countryside-and the problem of procuring sufficient amounts of land for the growing colony of settlers occupied the minds of French administrators.

The first decision taken by the commander of the colonial army was to create the state domain; an act seen as the beginning of the expropriation policies. A decree promulgated on the 8th of September 1830; ordered the expropriation of the beylik lands and all the properties of the Turkish administrators and subjects who left the regency. For the same reason (properties without owners) it had ordered the expropriation of some habous lands and buildings in and around the occupied towns. The French were keen not to leave such considerable wealth into the hands of religious orders and respected families, which they suspected of hostility to French occupation.

In this way, 653000 hectares ⁽¹⁾ were incorporated into the state domain. They were generally very productive lands situated around Algiers, Oran, Constantine, Bone and the plains of the north.

However, after the fall of the Casbah and the anarchy which followed, all the registers and official statistics of the Turkish administration concerning the different categories of land disappeared, being destroyed or stolen by the French. This opened the way to the French colonial authorities to widen the range of categories of lands which could be integrated into the domain in the absence of official documents.

For this reason, a decree of 1 march 1833 imposed the verification of the acts of properties within the occupied territories. The lack of titles would cause the immediate expropriation of the lands in the hands of Algerians.

Many Algerians, convinced that the French were on the point of confiscating all their properties, sold some of their lands to the colons without being subjected to the presentation of written titles or to the legalization of commercial transactions. In this way, beylik, melk, makhzen and habous lands were thereby purchased by French and Jewish speculators.

Some lands and buildings were sold many times. Much of the land was acquired by speculators who had no intention of cultivating it and had been purchased only in the hope of gaining more profits on resale when the numbers of European immigrants would increase.

From this; resulted a chaotic situation and a wide confrontation between the two communities over land-holding. The ordinance of 1st of October 1844 came to bring an end to this in the civil territories. This decree had two main objectives:

1- to secure all the transactions made between Algerian proprietors and European purchasers since 1830; and to guarantee this type of purchase in the future as a way of encouraging land colonization through commercial transactions.

2- to procure more lands for colonization (besides sequestration and expropriation) while legalizing and consolidating such transactions.

This ordinance validated all acquisition made by Europeans, even if they were contrary to the interests of the native population and to islamic law. Thus, some habous, melk and arch lands and buildings became no longer inalienable and transactions made on these properties were legally recognized. Beside that, the ordinance advised and allowed European purchasers not to pay, in the future, the price of their acquisitions, as long as written titles were not presented to them and verified by the colonial administration. This encouraged the colonist to appropriate many parcels by force and to

justify their acts by the lack of titles amongst Algerian proprietors. The ordinance had also specified that such transactions between Europeans and Algerians would fall under French law and any problem arising would be tried before French courts.

Moreover, in order to extend the domain lands and to fulfill the purposes of colonization, the ordinance of 1844 ordered the verification of all titles and acts of properties held by Algerian parties and made before 1830. It dealt with incultivated land and provided that certain regions of the colony (around Algiers, oran, Mostaganem, Phillipville and Bone) were considered as areas of "obligatory cultivation". Within three months of the publication of this decree, all holders of uncultivated lands in these regions were obliged to present titles of property dated before the occupation. Lands not reclaimed, or whose titles were considered incorrect or insufficient, were declared state property and integrated into the domain.

Since the making of written titles was not very widespread amongst the Algerians for whom notoriety was proof of title; a considerable amount of pastoral lands belonging to native tribes were thus expropriated by the French. Titles of propriety made after 1830 did not prevent owners from expropriation because the colonial administration did not organize them. Moreover, a tax of 5 Francs per hectare was imposed on uncultivated parcels held legally by Algerians. This tax was extended afterwards to the *terres de parcours* and brushlands in an attempt to force owners to give up their rights.

The non – payment of this tax for a period of six months resulted in the automatic confiscation of these lands for the benefit of the domain.

Some Algerian tribes, concerned by the burden of this new tax preferred not to declare their rights of ownership on uncultivated lands and avoided presentation of titles or reclamations; and some of them ploughed their lands to give an appearance of cultivated properties. Thus, the size of the domain territories increased, and that of arch and makhzen lands decreased

subsequently .In other words, categorization as uncultivated lands became a sufficient cause for expropriation.

Another ordinance dated 31 October 1845 further enlarged the domain properties by confiscating much more Algerian land.

This decree on sequestration stated that the process of legal confiscation had gone,so far, through two stages:

1- the sequestration of 577 properties which belonged to exiled Turks and absent natives between 1830 and 1832.

2- The sequestration of 1702 native plots of land and buildings whose proprietors had fought the French since the beginning of military colonization. ⁽²⁾

Article 10 of the 1845 ordinance indicated the cause which would engender sequestration. Thus would be confiscated the properties of those responsible for:

- * Committing hostile acts against the French, their properties or their allied tribes; and for having directly or indirectly supported and helped tribes in revolt.

- * Abandoning, in order to join the rebels, their territories and the lands they cultivated.

In this case, anyone who abandoned his home and land for more than three months without the permission of French authorities, was considered as a defector and his property immediately confiscated.

Finally,the sequestrated lands and buildings were destined provisionally to the domain .If they were not reclaimed within a period of two years ; they turned into state property and granted to colons and allied tribes ,or sold to individuals.

The ordinance of 21 July 1846 further aggravated the situation of the indigenous peasants.Its ordered a general verification of all titles within selected areas; a fact which would lead to the validation of titles once and for all since the decree of 10 october 1844 had not been successfully applied .The arrondissements of Algiers, Blida, Oran, Mostaghanem, Bone, Constantine, and a few months later, la Calle, were subjected to this verification process.

The third article of the ordinance specified the period (three months) during which all written titles, acts of property, maps and whatever titles possessed (in Arabic or French) should be presented to the local receiver of the domain for verification .A special commission called the "*conseil du contentieux*" was charged to pronounce the approval or refusal of all titles presented.

Parcels regarded as free lands because of the "illegal nature" of their titles were expropriated by French colonial administration and added to the domain estate. The proprietors recognized as such after the verification of their titles, were asked to state the place, size and limits of their properties. Another special commission (for each region) had been created to delimit each parcel and to expropriate other lands considered illegally owned because their proprietors did not hold written titles.

Besides this, the uncultivated lands recognized as legally owned ,were taxed at 10 francs per hectare in addition to the other taxes still maintained (Islamic and non-Islamic).In that way,the threat of expropriation for cause of non-cultivation or non-payment forced many Algerian tribes and individuals to abandon their rights on these lands .

According to Rudey ⁽³⁾, in the Algiers and Blida areas around 168.203 hectares had been subjected to the ordinance by the end of 1850, and classified as follow:

European Owners	36.875 hectares
Algerians Owners	11.512 hectares
Domain	94.797 hectares
Still being disputed	25.019 hectares

In Oran province, out of the 13.064 hectares subjected, 5.326 hectares were owned by Europeans; 3.732 hectares by Algerians ; 925 hectares integrated into the domain, and 3.081 hectares still in litigation .Subsequently, the sequestration of lands

belonging to the tribes which joined Abdelkader's resistance increased the size of domain-owned lands by 49,007 hectares⁴.

The French administration had, in a relatively short period, succeeded in destroying some characteristics of the Algerian land regime such as inalienability; in disrupting the economy of the occupied people which was based mainly on extensive use of land resources; and in procuring a considerable amount of land for colonization, especially along the coast and around the towns.

However all these decisions-appropriation of beylik lands, confiscation of the properties of Turks who left the country, expropriation of large parts of the makhzen lands, alienation of some habous properties, confiscation of hostile tribes' lands, expropriation for public usage, verification of titles and so on, did not satisfy the colonial administration. Its needs for land increased more and more as a consequence of the considerable growth of the European community. The number of Europeans rose from 27,204 in 1841 to 112,607 inhabitants in 1850⁵.

French jurists: commanders and administrators therefore concentrated on finding other means to appropriate the necessary territories. To accomplish this task, it became necessary to extend the colonial land policy followed so far to the military territories of the interior⁶ especially after 1848.

Taking into account that the makhzen tribes had only a right of usufruct over makhzen lands, the right of ownership being held by the 'state'; the French jurists generalized this fact to the whole colony and considered that all the Algerian tribes had just an usufruct right over the land they occupied. They concluded the "Droit supérieur de l'état" over arch as well as makhzen lands.

It was under these circumstances that the law of 16 June 1851 was promulgated. This law was the result of the mixture of two projects of different tendencies, one governmental prepared by the "Comité consultatif de l'Algérie" and the other presented by a commission of the "Assemblée Nationale".

The project of the government had basically recognized the inviolability of all properties, European and Algerian, as well

as the rights of property of the tribes. But the recognition of native properties was conditioned by the presentation of written titles or by proofs of possession for a continuous period of ten years. The lack of titles on tribal lands meant that the tribes had just a right of usufruct and that the right of ownership belonged to the state. In other words. This project divided the system of land-holding in two modes: mode of property and mode of usufruct.

The second project was different from the first one in its major idea which was the complete assimilation of land property in the colony with that of the métropole and the full application of the French laws in land matters.

The official law published on 16 June 1851 did not bring considerable changes in land legislation. Article 10 proclaimed the inviolability of individual property, but restricted it by imposing the right of the state to sequester properties in order to insure and protect colonization against hostile insurrections or rebellions. Article 11 specified that the law **"recognized, as they existed at the time of the conquest or as they were maintained or constituted and legalized by French administration, the rights of property and usufruct of individuals, tribes and small tribal groupings"**⁷. However, despite the legalization of these rights, the law of 1851 did not define precisely their nature. French jurists did not clear up whether these rights belonged to a person or to the collectivity, whether it was a right of propriety similar to that of the code civil of France or an usufruct or simply a grant, and what its main characteristics were?

It had left this matter to the judicial courts, which in practice, would decide according to the interests of colonization.

Article 16 of the ordinance stipulated that commercial transactions between Europeans and Algerians became the responsibility of French courts, and those between Algerian tribes were decided according to Islamic law by native judges.

Article 14 of the law declared that the right of property or usufruct of the tribes could not be purchased by Europeans. Only the state was able to acquire these rights for the benefit of

colonization, in that way, the law prevented the colonists from obtaining land in the territories under French military rule.

This decision was comparable with the policy applied by the military bureaux Arabes in Keeping the European settlers out of the military territories. But the most important idea was that of preferring the state domain to the colonists in acquiring native land.

Another article (18th) reserved to the state the right to create towns, villages, the establishment of military camps, and to build roads and fortresses on tribal lands. For this purpose, it had authorized the expropriation of the necessary lands for the military and public cause.

On the one hand, this law of 1851 did not succeed in transforming, by assimilation, the land regime of the colony as was expected by the colonists, but it maintained the previous ordinance and decree and tried to introduce some modifications which would favor mainly the state and The domain. On the other hand, the articles 11.14 and 18 of the law paved the way for another policy aimed at facilitating land expropriation and control of the Algerian population ; a policy of “refoulement” and “resserrement”, or in other word **cantonement**.

The first mention of the notion of cantonment had occurred in 1845. Prior to this time, the French did not interfere with arch lands in the interior, except for those subjected to punitive sequestration . It nevertheless happened that with the proliferation of land grants to colons, native melk-holders were increasingly subjected to expropriation whilst those dependent upon beylik lands were evicted from the lands that constituted their sources of livelihood. The constant eviction and pushing back of the Algerian peasants towards the desert created a climate of insecurity and led the colonial administration , for security purposes and the provision of cheap labor, to “resserre” them in controlled villages in the midst of the new European settlement such as the village of guerraoua in the mitidja plain. From this, cantonment developed gradually and master plans for an effective colonization of the most fertile plains appeared.

Bugeaud , commander of the French army 1841-1845 and then governor general 1845-1847, requested the commanders of the provinces of oran and constantine to prepare the necessary plans for their respective region , the direction des finances was also asked to work jointly with the bureau des affaires arabes of the province of Algiers .

The separate studies resulted in the production of three approaches to the question of tribal dispossession, and each plan was used for an experimental program in a particular region.

The plan of general de Lamoricière , commander of Oran province, which appeared in 1846 insisted that colonization should be the expression of the real submission of the colony: it would place the conquering and the conquered people in their respective positions. There ought to be no empty space between the French and the Algerians, who , under military surveillance , should provide the tribute of their labor and resources to the colonists. Such opinions assumed as a first principle that any lands needed for colonization should revert immediately to the domain, no matter what their origins and conditions were.

In Constantine General Bedeau , while asking for indemnification for the dispossessed tribes and the constitution of private property on tribal lands, emphasized that this system of cantonment should associate the native population to the colonization process. He also asked for the granting of domain lands to tribes , and the gradual change of arch lands into melk parcels in order to grant a half or a third of this reconverted land to the European settlers.

The main idea of Bugeaud's plan was to "resserre" the natives within parts of their tribal territories wherever numbers "seemed disproportionate to the land occupied ; then to divide the remaining lands into private properties and execute works of general utility (roads, military camps, fortresses, etc..., useful for colonization) before making them available to colonies.

However, the implementation of such plans was unsuccessful for they were introduced in a merciless period of revolts and encountered strong tribal resistance to cantonment

practices. The revolution of 1848 in France and the governmental changes both in Paris and Algiers temporarily halted the policy of cantonment. But the law of 16 June 1851 enabled this system to reappear, and to reach its fullest manifestation in the 1850's.

In the search for additional sources of land, the colonial theorists and administrators made a lot of efforts to devise other legal mechanisms by which the natives might be dispossessed of their lands. The new idea of cantonment came from the concept of the "*droit superieur de l'etat*" over makhzen and arch lands. The state, considering itself the legal proprietor of the arch land, imposed partition between the domain and the tribes which were regarded as usufructuaries. This partition resulted in the deduction of the most fertile parts of arch lands for colonization while the rest was left to the tribes which received the full right of ownership over the soil they were assigned.

A juridical critic of these concepts would reveal sharp contradictions between cantonment policy and French law. Indeed according to the French code civil imposition of land partition by the state on the tribes was illegal and inadmissible on cultivated lands, since the possessor had a right of use.

Moreover, French law stipulated that as long as the usufructuary cultivated the land and paid taxes, he could not be evicted or cantoned in a small parcel of that land⁸.

The statistics of the cantonment experience showed that in 1850 the gharabas a makhzen tribe living on 72.400 hectares south and east of Oran, were cantoned collectively on 33.000 hectares of which they became full proprietors. The domain increased consequently by 22.400 hectares of agricultural land while the forest service came into possession of 17.000 hectares of woodland⁹. The zmella and douair tribes were also moved to the south-east of Oran; and by 1854 the douair had lost 35.240 hectares of their best lands to colonization while the zmella had lost 14.742 hectares by 1855¹⁰. On a smaller scale, other tribes were cantoned in other parts of the colony. According to Rouire, from 1851 up to 1857;

The commissions of cantonment working in the three provinces decided to canton 16 tribes composed of 56.489 persons occupying 343.387 hectares, 64.633 of hectares of which were reverted to the colonial administration. This represented the fifth of the total amount ¹¹.

Although cantonment was the product of the July monarchy, it has been considered as the main characteristic of the second empire, for it seriously harmed the Algerians during the 1850's. It had disastrous effects on tribes and individuals, who became more and more threatened with dispossessions, expropriation and cantonment, Napoleon III, during one of his visits to the colony, became aware that these practices would result in a dangerous situation for the colonization process because of the strong resentments of the Algerians and the resistance they showed to these policies.

In order to the colonization process forward, the emperor decided to substitute the cantonment by a more subtle but no less dangerous policy of expropriation of native land and atomization of Algerian society:

The Senatus –Consulte of 1863.

Notes:

- 1- rouire. " les indigènes Algériens" revue des deux mondes, 49, 1909, p.432.
- 2- Dareste, Rodolphe. **De la propriété en Algérie, loi du 16 juin 1851, senatus-consulte du 22 avril 1863**
2 nd édition, paris, 1864, pp 225-226.see footnote.
- 3- RuedyJ, **Land policy in colonial Algeria. The origins of the rural public domain**, university of California press, Los Angeles, 1967, pp.96-97.
- 4- ibid., pp98-99
- 5- Sari, Djilali. **La dépossession des fellahs 1830-1962.**
Second édition, s.n.e.d., Algoers, 1978, p19.
- 6- adminidtatively, Algeria was divided into two territories: civilian and military. The civilian territories were those inhabited by a large European colony and were situated in the north along the coast, while the military areas were those situated in the interior and were still under the process of military occupation.
- 7- Pouyanne, H. **La propriété foncière en Algérie.**
Edouard Duchemin, Paris, 1895,P 183
- 8- Ibid, pp 189-190.
- 9- Ruedy. Op cit, p 91.
- 10- ibid, p 92.
- 11- op cit, p 426.

