

The effect of joint ownership on the privatization of agricultural land in Algeria Study on the East Trara area

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Summary:

Our research aims to analyze the principle of joint ownership in agro-pastoral land in Algeria, particularly in the area of trara where the Melk land in undivided joint ownership is the subject of an opaque sharing between individuals, which led to conflicts between family members over arable land. During our investigation, it was found that the minority of actors have old property deeds dating back to Turkish times, and the others are based on manuscripts edited by the masters of the brotherhoods in the region and which are easy to falsify. . In the total absence of a cadastre in the region and the disinterest of the state towards mountain areas has left the field open to customary legitimacy, which complicated the land situation and worsened the problem of joint ownership in this region. To initiate the cadastral operation and regularize these types of land such as (limitation, land booklet), the Algerian state must first launch another effective and serious policy to deal with this land problem, especially in rural areas.

Keywords: Undivided-Privatization- Agricultural Land- Algeria

المخلص

إن دراستنا هذه تهدف إلى الكشف عن مبدأ اللانقسام للتترات الفلاحي بالجزائر، ولا سيما في منطقة ترارا حيث نجد العديد من أراضي "ملك" يسودها مبدأ اللانقسام الغير مسجل والتي كانت محل تقسيم مبهم ما بين الأفراد، مما نتج عنه صراع دائم ما بين أفراد العائلة حول الحيز الصالح للنشاط الزراعي. غير أنه ومن خلال تحقيقنا، تبين لنا أن أقلية من الأفراد المزارعة تستند على وثائق قديمة تعود إلى الحقبة العثمانية، أما البعض الآخر كان يرتكز على مخطوطات محررة من قبل مشايخ الزوايا بالمنطقة والتي أصبحت تفتقد شرعيتها من قبل الملاك الأصليين. ونظرا للغياب التام لمصالح مسح الأراضي وعدم اهتمام الدولة بالمناطق الجبلية، أصبح المجال مهيا للشرعية العرفية، الأمر الذي أدى إلى تعقيد وضعية الأراضي وتفاقم مشكلة الملكية المشتركة (مبدأ الانقسام) في هذه المنطقة.

الكلمات المفتاحية: مبدأ اللانقسام، الخصصة، العقاري الفلاحي، الجزائر.

Introduction:

The Algerian agro-pastoral heritage has known throughout history the succession of different legislative: customary law, Muslim law, colonial regime. The many laws after independence, the transition from one regime to another was not very successful, a very complex situation followed, sometimes with the superimposition of different legal statuses and the development of informal practices aggravating confusion over agricultural land. This "land lawlessness" is not perceived in the same way by the different actors. Likewise, the options for change are sometimes different to the point of antagonism.

Everyone agrees that the land ownership regime in Algeria is complex. But only insiders or specialists can measure this complexity exactly and know the real causes. Because the idea of complexity we are often tempted to associate that of the responsibility of the administration. The purpose of this presentation is not, moreover, to plead the latter's case and to demonstrate that everything she has done in this area is perfect. It will be up to the researchers to objectively distinguish between things and to distinguish, during such a study, among the

fundamental causes of this complexity or anarchy in the agro-pastoral land domain in Algeria.

It should be remembered that some sociologists¹ believe that the joint ownership system is strongly linked to the Algerian family structure of the past², that is to say, to know the principle of joint ownership, it is first to know the formation of Algerian society through history.

However, if we follow this question from a legal point of view, we will note that the constitution of 02/23/1989 established three categories of property ownership. Among these three categories, we find a citation of the untitled Melk land which dominates an area of 2,624,472 ha nationally. And this applies to our study area where there is an opaque division between individuals of an extended family who have long appropriated these lands through traditional law.³

From our field study, it was found that there has been a long-standing conflict between individuals of the same family over dominance over Melk property, and this dispute remains to this day. This is clear from statements by individuals or groups regarding the eligibility of the appropriate space “this land is mine and my ancestors”.

In the absence of a cadastre service and land titles in this area, the problem of joint ownership worsens. So, from this observation, that we will wonder about the fate of the common good which is dominated by the principle of indivisibility. Doesn't the law give importance to mountainous regions? However, if the authority is currently interested in rural areas, what solutions will it rely on to guarantee the rights of individuals and their status and put an end to conflicts?

¹- Addi.Lahouari: from pre-colonial Algeria to colonial Algeria, Ed / enal, Algiers 1985, pp 65,70.

² - A.Merad Boudia: The pre-colonial Algerian formation, Algiers, Opu, 1981, p130.

³- Etienne. Leroy: Le pluralisme juridique, Ed / Dalloz, paris 1983, p 227.

2- Description of the region

The Trara massif is a coastal chain in the western extension of the Tell Atlas. In the Oran tell, it represents a real mountainous block whose access is very difficult. This massif appears as a mountainous arc embedded between the Mediterranean Sea to the north, the valley of Wadi Tafna to the east, Wadi Mouilah to the south and the valley of Wadi Kiss to the west which determines the Moroccan border. . This space represents a well-identified geographical entity given its rugged east-west orientation that runs entirely through the north of the wilaya of Tlemcen and the north-west of the wilaya of Ain Témouchent.⁴.

The massif administratively concerns eighteen municipalities, sixteen of which are in the north of the wilaya of Tlemcen and two in the wilaya of Ain-Temouchent. But it remains difficult to delimit the space of the Trara mountains.

The municipalities of the massif are divided into three geographical areas⁵, among them :

- The oriental trara which brings together the municipalities of Fellaoucen, Honaine, Beni Khaled, Beni Abed, Beni Ouerssous and Ain Fetah.

⁴- Canal: Monograph of the district of Tlemcen (Bulletin of the Archeology and Geography Society of Oran, t VIII, 1888, p 215-216).

⁵- ANAT: (national agency for spatial planning of Tlemcen).

3- Context and characterization of the space



Note:

Like other mountain areas in North Africa, this regional entity is marked by the human environment of Berber origin.⁶, very old and very conservative.

The tribes living in this space gathered since the Middle Ages in a confederation called Trara which bears the same name of this massif, composed of seven tribes of Koumia⁷ of Beni Faten and who are: Beni Mshel, Beni Menir, Beni Ouarsous, Beni Khaled, Beni Abed and Beni Rimane.

⁶ - Ibn Khaldoun, El iber, t, VI, History of the Berbers, p194.

⁷- Ibid., P 247.

4- Discussion

The history of land ownership marks the degree of historical development of a country and a people. This truth being thus recalled, it becomes possible to announce the plan which will be followed and will include three main parts:

- Land situation of Algeria before occupation.
- Land situation of Algeria during colonial times.
- During independence.
- Current situation.

The first part includes an outline of the Muslim legislation to which attaches not only a historical interest but also a current interest, since many lands are still placed under the statute of Moslem right.⁸

4-1 - Overview of Muslim legislation

Muslim law, which is not based on a codified text but on the holy book (the Koran), and on legal or scholastic oral tradition, does not contain any coherent regulation of land ownership; we only deduce from it various scattered and sometimes contradictory prescriptions.

One of the most famous commentators, Sidi Khalil ⁹, summarizes these rules as follows:

- The territories of the conquered countries become Wakf or habous, that is to say they are immobilized. In the case of capitulation, the inhabitants are maintained in possession, except payment of tribute; they can sell or dispose.
- The fact of appropriation, the lands which have not suffered from anyone are “dead” lands; they do not belong to anyone and are acquired by the first occupant

⁸- Zeys.E: Elementary treatise on Algerian Muslim law (Malikite school), A. Jourdan, Algiers. T1 1885.

⁹ - Khalil Ibn Ishaq al Maliki: The precise of Khalil, translated by Ahmed Harkat, Dar El Fikr, Beirut 1995.

- by their vivification or enhancement. Vivification entails the right to enjoy an adjacent surface which extends to a distance equal to that which could be reached.
- Property is still established by means of concessions made by the Sovereign. But productive lands, in countries conquered by force, should be considered only as usufruct for the reason that the conquest immediately immobilizes them for the benefit of the Muslim community.
 - To revive a nearby land, other land already in use, we must first obtain the authorization of the sovereign. Without authorization, the occupant can be evicted by the sovereign. As for lands far from inhabited or cultivated lands, they can be revitalized without any authorization.
 - The property constituted to be acquired by prescription by justifying an exclusive possession of ten years vis-à-vis a foreigner and forty years vis-à-vis a parent, ally or partner. It can be transmitted by sale, donation or inheritance. It can also be immobilized, in other words constituted habous of a pious and disinterested intention.
 - Habous consists in giving usufruct of a thing, for a period equal to that of the thing.¹⁰
 - The buildings constituted habous are inalienable and imprescriptible. The founder may reserve the right to collect the fruits to distribute them among the beneficiaries. Little by little, thanks to this last provision, the habous was diverted from its original destination and used to derogate from the inheritance law instituted by the prophet.
 - The law of Chefaà, like the habous, weighed a considerable influence on property; this right allows any joint owner to force a foreign purchaser to retrocede to him, in return for reimbursement of the price, the part which was sold. Chefaà's right must be exercised within a very short period of time, especially in the event that the purchaser gives the co-owner formal notice to rule immediately after his

¹⁰- Mercier. Ernest: The Habous or Wakf code according to Muslim legislation, imp.D. Braham. Constantine 1899.

contract.¹¹ But the retractor is safe from any forfeiture and he can assert his right at any time if he is not aware of it; aggravating circumstance in the case of the sale, he is taken on his word on the condition of taking an oath.

As can be seen, Muslim legislation does not provide any precaution to protect third parties against fraud; it favors immobilization by habous and joint possession by Chefaà.¹²

4-2- State of property in Algeria during the Ottoman period

The de facto situation of Algerian property at the time of the French conquest had its origin in the "Kabyle kanouns, otherwise known as Azerf"¹³, Muslim law as we saw in the previous paragraph, the various customs resulting from the mixture of Muslim laws and Kabyle Kanouns, and doctrines established by the Turkish government. The various tribes which constituted independent social and ethnic units were not placed under an identical regime; they could be divided into four categories which are namely:¹⁴

- Which were established in Beylik or state land.
They were installed in Makhzen territories.
- They owned Melk territories.
- They occupied Arch or Sebeqa territories.

4-1-1- Beylik Territory

The Turkish government was the owner of vast territories, designated in the department of Constantine under the name of Azel, which it disposed of to the best of its interests: sometimes it received the income directly in the form of renting,

¹¹ - Busson de jenssens Gérard: Contribution to the study of Habous Publics algériens, typed thesis, Algiers 1950.

¹²- Worms: Research on the conditions of land ownership in Muslim countries. Asian Journal, Javier 1844.

¹³ - De Foucauld.Ch: Touerg-French Dictionary, Hoggar dialect, vol 4, Imprimerie Nationale, Paris 1958.

¹⁴ - Gallissot.René: The mode of ownership of Algerian lands in 1830, in BIH, n ° 01, Algiers 1965.

sometimes it allocated it. as the prerogative of a prince, an official or even a public service. The natives who occupied them were simple sharecroppers; they paid a rent (h'kor)¹⁵, plus tax. In addition, they owed a number of chores and more or less optional services. The beylik also had the disposal of dead lands as long as they were not the object of any vivification.

4-1-2- Makhzen territory

The military forces available to the Turks to keep the country under their domination were few; to make up for it, they had formed military colonies known as the Makhzen. Taking advantage of the disorders reigning in the country sometimes favoring them for the needs of their policy, they seized the territory of the rebel tribes or those who refused to pay the tax, confiscated it and the attribution to the people of Makhzen.¹⁶

A treaty then intervening between the representative of the government and the admitted indigenous families entered the Makhzen. Each head of the family received a lot of land, working tools, weapons and a horse. In exchange, he undertook to provide, at any requisition, a military service organized under the orders of the caïd, consisting in ensuring both the repression of insurrectionary movements and the collection of taxes.

The territorial concessions made to the people of the Makhzen, apart from being always terminable at the will of the government for failure to fulfill the conditions imposed, did not attribute rights to their beneficiaries by any uniform; in some tribes, the natives could dispose of the lands received known to their own property, alienate them, share them; in others, on the contrary, and this was the general rule, they were placed in the state of simple possessors, unable either to cede their right of use to a stranger, or to transmit them by death to others than

¹⁵ - Nouchi: Survey on the standard of living of Constantinian rural populations from the conquest to 1919, Tunis 1960.

¹⁶ - Pouyanne.R: Land ownership in pre-colonial Algeria, Jourdan.ch, Algiers 1954.

their male descendants. In short, in the Makhzen tribes, possession of the land was essentially precarious.¹⁷

4-1-3- Melk Territory

Melk lands belonged to the occupants of the land, they were free, alienable at the will of the possessor, subject to common law, giving the one who owns them the right to dispose of and enjoy them in the most absolute manner. . They were frequently owned in the state of joint ownership by a large family, especially in Arab countries, because on the contrary in Kabylia, the taste for private possession will manifest itself in the division, branch by branch, of a single tree. .¹⁸

Owing to the almost permanent state of war which existed among the tribes and the difficulties encountered in their preservation, the titles which established the ownership of these lands were few. This emerges clearly from our inspection of the archives of the region of trara, which confirms that certain families loyal to the Turkish regime, are based on old deeds of the properties which date in 1796, authenticated by Bey Ali Qarabaghli¹⁹We also mention the and the territory of the marabout tribes²⁰ acquired by the saints who dominated at the time the region of Trara, as well as the property of the Chorfa which was delegated by the population to the Sheikh and his descendants.²¹However, due to the frequent conflicts between farmers in the region, we concluded that most of the melk lands are drawn up by masters of the brotherhoods (zaouia), without official character and always suspected of falsification, they offered no guarantee. In addition, for lack of precise indications, they could only be applied on the spot with the broadest tolerance. Moreover, Melk property was based on a written title or on simple

¹⁷ - Saidouni.Nacerdine: Rural Algiers at the end of the Ottoman era (1791-1830), Dar El Gharb El Islami, Beirut 2001.

¹⁸ - Eugene.Daumas: Mœurs et Coutumes de l'Algérie, Ed / Sindbad, Paris 1982.

¹⁹ - Rousseau: Chronicle of Beylik d'Oran, Algiers 1854, in 8, pp 27-28.

²⁰ - Rinn, L: Marabouts de Khouans, Algiers 1884, ed. Adolphe Jourdan, p 15.

²¹ - See Pellissier de Raynaud, Annales algériennes, t III, p 188; canal, Monograph of the district of Tlemcen (Bulletin of the society of archeology and geography of Oran, t VII 1887.

possession, which was the most general case, its consistency was always poorly defined.

4-1-4- Arch or Sabega territory

We have defined this particular tenure as follows:

The bottom of the Arch or Sabega property was deemed to belong to the sovereign who left the use of it to the tribe.²² She used this enjoyment as she saw fit, but without being able to alienate the substance. Each tribe was free to adopt a particular mode of enjoyment, according to the needs or the necessity of the community.

However, the more or less general rule was that any member of the tribe was entitled to the enjoyment of the areas which he was able to develop. The first occupant retained this enjoyment of the land, as long as he could continue to vivify it, and he transmitted it under the same conditions to these male heirs in direct line. This transmission sometimes even took place in a collateral line in the absence of direct heirs.

There were therefore in Algeria, before 1830, two kinds of properties: on the one hand, the Melk, well owned privately, governed by the statutes of Muslim law, on the other side Bled el Arch, the land of the tribe, quite impersonal, possessed by communities and governed by local customs, resulting from local necessities.²³

4-2- Colonial legal situation of land

Before turning to the examination of the current situation of the land, it would be advisable to evoke and follow from the origin the evolution and the transformation of the legal status of the property.²⁴ This is what is commonly called the land history of Algeria and which consists in analyzing the various measures taken in

²²- Desne de Chavigny: *Collective land in Algeria and Tunisia*, imp. Central 1912.

²³ -Benachenhou.A: *Land regimes and agrarian structures in the Maghreb*, Algiers 1975.

²⁴ - Godin: *The land tenure of Algeria, in the legislative work of France in Algeria*, Paris 1930.

both the regulatory and legislative fields from 1830 to the present day. Three texts are of particular importance:

- The law of June 16, 1851, which defined the public and private domains of the state, departments and municipalities.
- The Sénatus-consult of April 22, 1863 which declares the tribes owners of the territories of which they had the permanent and traditional enjoyment in whatever capacity (Arch land) and prescribes the delimitation of their territories, their distribution between the different douars of each tribe , the determination of communal property and the recognition of state property, then the establishment of individual property.²⁵
- **The law of July 26, 1873, the purpose of which should be specified.**²⁶
- Put indigenous property under the regime of French law, recognize and establish individual rights in the Melk territory.
- Constitute individual property in collective territories.
- In either case, issue to the beneficiaries the titles forming the starting point of the property.

With this law was born the theory of francization according to which any francized land definitively passes under the real French status. It should also be noted that the francization of the land has no effect on the personal status of the owner when he is Muslim. The latter therefore retains its personal status which, as we know, governs in particular the status of persons, inheritance law, matrimonial regime, etc. Other texts would still be known, in particular the laws of February 26, 1897, August 4, 1926 and June 16, 1951.

The domain of the state: whose composition is indicated by article 04 of the law of 16/6/1951 includes:

²⁵ - Alain Sainte Marie: The Sénatus-Consulte application of 22/4/1863 in the province of Algiers, multigraphie thesis, Nice.

²⁶ - Carrete and Warnier: Notice on the territorial division of Algeria, table e the situation..., T.1844-1845.

The goods that the civil code attributes to the state, the goods coming from beylik, the sequestered goods, the woods and forests.

State property can be alienated, granted, leased or used for public services.

The communal domain: includes, apart from the buildings assigned to services, the goods declared communal property by French legislation, as well as the allocations taken from the state domain, which are made to them free of charge or at a reduced price. A very important area is that which, following the operations of the Sénatus-Consulte, was assigned to the douars considered by Algerian legislation as sections of municipalities with their own legal personality. These goods, which are for the most part made up of rangelands, cannot be alienated by the "djemââs"²⁷ and unless authorized by the Governor General or by decree following the building determined by expertise. They can also be rented.

Practically the duration of these rentals does not exceed 18 years.

The lands of private property: since the law of 07/26/1873 includes two main subdivisions: the French lands and the non-French lands.

French buildings, except for a few reservations, are subject to all the requirements of French law and disputes to which they may give rise are decided by French or Muslim courts. The character of French land is indelible. Contrary to what the legislator had decided on June 16, 1851, this character remains, even though the land passes from the hands of a French owner to those of a purchaser who remains subject to Muslim status. But among the French lands, a distinction is still to be made:

Some, in fact, are francized and purged; the others simply francized, thus making possible the conflict between the French legislation and the Moslem legislation which ignores the system of publication of the contracts so that the rights prior to the title continue to subsist without other conditions than those required by the Moslem law. This survival is moreover more theoretical than practical and should not exaggerate the importance which decreases with the effect of time.

²⁷-Peas. J: North Africa, the evolution of the natives; paris, puf 1964.

A piece of land, among which are many acquired in full by notarial means, is after a certain number of years protected from any claim based on a right prior to its francization. It is however correct that speculators or bona fide rights holders retain the possibility of asserting such rights.

4-2-1- The Melk lands:

The characteristics of this form of tenure are hardly modified, it is a question of the physical and legal identification which was always so imprecise with the joint ownership in Arab countries and the fragmentation in Kabylia following the increase of the population. We know that joint ownership is due to several causes: to the Muslim inheritance law which calls for a considerable number of heirs, to the constitution of the Muslim family which professes great respect for the patriarchal authority of its head, finally to the disposal populations which, by practicing a common life, can support themselves more easily. This situation is one of the main causes of the underdevelopment of the Melk lands. Moreover, it is not special to Algeria.²⁸

An evolved land tenure system obviously cannot accommodate such divisions. However, the investigation procedures instituted by the land laws and which have the effect of francizing the Melk lands only provide a temporary remedy to this situation. Clarified, often simply by the purge attached to said procedures, joint ownership does not take long to be reborn after a certain number of years. There is even the pretension that it was aggravated by the francization which operates, through title deeds, a way of crystallization of revealed quotas. The legislator therefore provided for the possibility of subjecting formerly francised lands to new inquiries, no doubt believing that the only solution to the problem could be found only in measures of periodic review and purges.

4-2-2- Arch or sabega lands:

These are lands devolved to the tribes, by virtue of the principle laid down by the Sénatus-Consulte of 1863 according to which these communities were declared

²⁸- Yves. Married. Adeline: Algerian Memory, Ed / Ellipses Marketing, Paris 2005.

indisputable owners of the lands of which they had permanent and traditional enjoyment.²⁹

The tribu- or rather the douar- owns the eminent domain; members of the tribe by exercising the usufruct, special usufruct which can lead to private appropriation taking into account the special characteristics of the arch land. which can be summarized as follows:

- Inalienability.
- Obligation to invigorate the soil to preserve its enjoyment.
- Transformation of the earth from evil to male in direct line.
- Prohibition of any contract involving title to property.
- Exclusive competence of the administrative authority in the settlement of disputes relating to this category of land.
- Joint ownership rare or very reduced due to the method of devolution.
- Arch land can only become private property following a partial investigation requested by its occupant or by a European or Muslim purchaser; the acquisition can only take place under a suspensive condition. The title deed issued following this French procedure forms the starting point of the property. As the administration can also, when an overriding interest justifies it, proceed in collective territory to general inquiries leading to the issuance of property titles of force identical to those issued following partial procedures.

4-3- State of land ownership during independence:

The old land organization thus reconciled collective management of agricultural space and individual appropriation of the land. The colonial period will brutally disrupt this organization. The colonization of the territory will be based on the development of a so-called useful agricultural area specializing regions in speculative and cash crops.

²⁹ -Addi.Lahouari: from pre-colonial Algeria to colonial Algeria, Ed / Enal, Algiers 1985.

It will develop - land laws - a mode of land ownership which essentially aimed at transforming previous social forms of organization of agricultural activity (collective organization, family / tribal).³⁰It has encouraged the development of large land holdings in Algeria. The modes of exploitation and land ownership that were promoted by colonization have considerably slowed down or postponed the process of constituting an Algerian peasantry with permanent title deeds in the modern sense of the term. At the end of the liberation struggle, the peasantry is in the minority. The Algerian fellahs are represented by uprooted populations, formed mainly of agricultural workers, seasonal workers, rural unemployed and khammes.³¹In this sense, self-management and the collective mode of land use that they imposed in 1963 are not by historical accident.

The agrarian structures, the modes of land use as well as the forms of land ownership to promote evolve under the pressure of several factors, managed by two fundamental statutes.

4-3-1- Private status lands: evolved to around 5.4 million ha (65% of the UAA), they have been totally ignored by agricultural policies and the various development plans. These lands are generally of lower quality than those in the state domain or are located in difficult areas (mountains, low rainfall, etc.); this is what explains their non-appropriation by the colonists, they remain until now managed by the system of joint ownership, the only reforms that have affected them directly are as consequences:

4-3-1-1- The Agrarian Revolution of 1971: among other provisions, it introduced the limitation of large private property by nationalizing land to subsequently distribute it to landless peasants.³²These have benefited from a right of perpetual enjoyment for a cooperative operation. Let us recall that in the region of Trara,

³⁰- Hemlin.M: Colonial concessions, study on the modes of alienation of colonial lands in Algeria, Paris. Rousseau 1886.

³¹ - Djilali.Sari: The dispossession of the fellahs, Algiers 1975.

³² - Decree n ° 71/173 of 01/01/1971 on the law of the agrarian revolution.

nationalization affected only the plains located in the locality of Beni ouersous (La Tafna) and properties known as “absenteeists”.

4-3-1-2- The 1990 land orientation law: in addition to general guidelines, it lays down the principle of restitution of land to nationalized owners twenty years later.³³ This provision has also generated many conflicts between these initial owners, the beneficiaries who have exploited these same lands since their nationalization and the administration.

The main problems facing these private lands are:

- Their marginalization from national agricultural development programs for decades.
- Joint ownership, a fairly widespread practice among Algerian families, is a vestige of customary law and seriously blocks investment and the birth of a land market.
- Fragmentation, it results from previous divisions (after inheritance) following the application of Muslim law. As a result, large areas and sometimes entire regions are abandoned. In the absence of legislation protecting farming, the problem remains unresolved.

4-3-2-Public status lands: are considered agricultural land belonging to the state. Those abandoned by the colonists at independence and therefore declared "vacant property" and all those which were the property of the colonial power. Estimated at around 3 million hectares, they are the most fertile in Algeria and those which have benefited from the investments of the colonial power.

4-3-2-1- Self-management in 1962: established as soon as the colonists left, it entrusts abandoned land to groups of peasants, ex-workers of colonial farms, who

³³ - Law n ° 90/25 of 08/11/1990 relating to land orientation.

are organized into "management committees"³⁴. These lands are inalienable, imprescriptible and elusive; even partial or total rental is strictly prohibited.

4-3-2-2- restructuring of the public agricultural sector (1981 to 1983) and standardization of legal ownership of the public sector (1984): the first aimed at restructuring the land holdings of farms by reducing the surface area³⁵; the new entities are called "socialist agricultural estates" or DAS. The second aimed to standardize ownership within the public sector (a single category, the DAS) and to establish the right of perpetual enjoyment of the land allocated with, however, an operation closely linked to the administration.

4-3-2-3- Reorganization of the agricultural public sector in 1987: in a context of creeping liberalization and to secure and empower and free the initiatives of farmers.³⁶

A law (87/19) which reaffirms the irreversible ownership of the State over agricultural land in the national domain, granting to producers constituted in collectives, a right of perpetual use over all the land allocated and a right of ownership over all property constituting the heritage of the holding other than land. These rights granted in joint possession and in equal shares between the beneficiaries are transferable, assignable and seizable. Of course, these changes are made after dissolution of the DAS. The new entities formed correspond to civil societies of natural persons and are called Collective Agricultural Enterprise (EAC). For practical reasons, individual companies are also created (EAI).

4- 4- Current situation:

This brief review shows a succession of agrarian reforms, but none have made it possible to improve the performance of national agriculture.

The public land heritage is still under the regime of the law of 1987, the 1990s marked by great political instability and a deterioration of the security situation in

³⁴ - Official Journal n ° 12 of 25/08/1962 (see decree n ° 02/62 of 22/10/1962).

³⁵ - Law n ° 18/83 of 13/08/1981 relating to the acquisition of property.

³⁶ - Law n ° 87/83 of 08/12/1987 on the methods of exploitation of agricultural land.

the country, saw great turmoil around land but without much publicity. This is how many texts have been drawn up without ever leading to their adoption. Broadly, they aimed to transform the right of use of land into a right of full ownership or what is called "sale of land". It should be remembered that this concerns the most fertile lands of the country. The argument put forward for the sale is that the maintenance of state property rights has shown its limits and that it is impossible to remove land from the dynamics of privatization of the means of production.

And besides, the current land tenure system for the agricultural heritage of the state is considered as an opening towards privatization under the social cover of strengthening the link of the farmer to the land and securing the land. For some observers, everything that has been done in land policy since the 1980s is only a prelude to inevitable privatization. Moreover, a secret privatization would, according to them, be well underway because the total failure of the administration in recent years in the control and protection of public agricultural land assets has led to numerous overruns that some hoping have been legalized.

In fact, in addition to the many imperfections of this law, the beneficiaries kept a report of suspicion with regard to the state owner; this feeling is all the stronger since it was reinforced by the restitution in 1990 of the nationalized lands. The perpetual, collective and relatively abstract right of enjoyment was therefore not at all reassuring. Moreover, in the popular imagination, the notion of "public" refers to a property over which one has no power, or even more seriously a property without an owner. Currently, and for several months, a new law is awaiting adoption. It eliminates the option of sale following the decision of the Head of State and recommends granting a right of concession to civil companies whose members receive transferable shares,

Conclusion

The question of agricultural land, like that of identity, language or school, gives rise to very violent exchanges between actors in conflicting positions.

The presence of customary law in rural society since pre-colonialism has left a vital principle in the memory of owners, it is the principle of undivided land ownership is widespread in most municipalities at the national level. , especially in the region of eastern trara.

To initiate the cadastral operation and regularize these types of land such as (limitation, land booklet), the Algerian state must first launch another effective and serious policy to deal with this land problem and which is based on our opinion on two main elements:

- The cadastre service must be extended with material and human resources.
- Raise awareness among owners in joint ownership with clearer and easier to understand information.

In the end, the decision not to sell the land is political and not the fruit of a consensus, exactly like the one taken a few years earlier for sales. It is clear that in this area, the part of the emotional is still important.

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