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Legal Frameworks and Agricultural Land Transformations in Algeria

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Abstract:

The study of real estate, in general, and agricultural real estate, is among the most significant modern legal studies jurisprudence neglected in previous eras. However, contemporary jurisprudence has shifted towards addressing real estate issues and analyzing their texts significantly as agricultural real estate's economic and social value has increased, and its problems have become more complex. The Algerian legislature has successfully addressed the legal approach to developing agricultural real estate through various legislations since independence. These legislations aimed to establish a legal framework for managing and utilizing agricultural lands owned by private individuals or the state. However, these legislations appeared contradictory due to their issuance in different political and economic contexts.

The legal approach to the evolution of agricultural real estate differs from the socialist orientation and the period of self-management of agricultural real estate, passing through the provisions of the Agricultural Revolution Law through Order 71-73, to the beginning of the free-market economic orientation and the impact of the 1989 Constitution in practical terms, with the issuance of the Real Estate Directive Law 90/25. The evolution of legal, political, and economic thought has led to the development of the legal approach to agricultural real estate, with each phase having its distinct characteristics. The study has expanded to encompass social and economic dimensions with a political context

keywords: Approach; Real Estate; Agricultural; Specificity; Social

Introduction:

Real estate holds immense moral and material value, driven by a complex interplay of social and political factors. Its value has historically been a catalyst for disputes, sometimes even escalating to full-blown conflicts between nations and tribes. Real estate has become a focal point for individual arguments in the contemporary landscape. Algeria, a country acutely aware of the significance of real estate and the associated challenges since its independence, has rapidly developed an intricate body of real estate legislation. This legislation has grown so complex that it has necessitated specialization among researchers.

Real estate takes on various forms, from developed properties to undeveloped land. The latter category encompasses agricultural land, land with agricultural potential, rangeland, and desert land unsuitable for farming. This discussion focuses on agricultural real estate, which has

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witnessed various theories, political perspectives, economic considerations, and legal ramifications in Algeria since gaining independence. The term "Agricultural Real Estate Crisis" has become ubiquitous in the real estate sector.

Throughout the evolution of Algerian legislation concerning the regulation of agricultural real estate, it is essential to emphasize that the Algerian legislator has alternatively adopted either an economic or legal approach to regulating this sensitive subject over the past five decades since independence. The monetary policy aimed to handle agricultural real estate, primarily focusing on achieving financial objectives and theories, mainly disregarding the legal framework governing agricultural real estate. In contrast, the legal approach, as evident in specific legislations, sought to regulate agricultural real estate based on clearly defined legal, jurisprudential, and legal-Fiqhi (Islamic jurisprudential) objectives, primarily centered on the option of land ownership for beneficiaries or restricting their rights to mere usufruct or privilege, as observed in recent stages of agricultural real estate legislation.

The legislator's choice between these two approaches The influence was indisputable. by a particular belief shaped by the circumstances and data prevailing in each era. This analysis aims to illuminate the underlying assumptions that guided the legislator at each stage of the legislative process concerning agricultural real estate and underscore the motivations, backgrounds, and impacts of each piece of legislation. This examination reveals the fluctuations and diversity of perspectives towards the legislative regulation of agricultural real estate in Algeria over the years.

Algeria, which endured over a century and a quarter of French colonial rule, was subject to French laws in official matters. Nevertheless, even during this colonial period, unifying the real estate legal system proved challenging due to deep-seated traditions, tribal customs, and Islamic principles that governed different regions and lands. These established rules and practices compelled the French colonial system to adapt, creating several legal texts in this direction.

Before this period, the reign of the Ottoman Empire saw the imposition of Islamic laws on Algeria, as the empire extended its dominion over almost all Arab territories. This subjugation had a profound influence on shaping the contours of the real estate system on various fronts.

Problem Statement:

To what extent did the Algerian legislature succeed in establishing the legal framework for agricultural real estate, particularly regarding its designated role? As for the study hypotheses, to address this central issue, we propose the following idea for examination: The legislative policy's inability to clearly define the significance and role of agricultural real estate due to a range of political justifications compelled the Algerian legislator to adopt a comprehensive legal approach, somewhat linked to the purpose of utilizing agricultural real estate. This approach aims to align with the intended purpose envisioned by the Algerian legislature. It is grounded in political, economic, and social justifications. This hypothesis sets the stage for multiple study objectives, which encompass shedding light on the role played by agricultural real estate in economic development throughout different phases, each marked by distinct political and economic characteristics. Additionally, it involves the evolution of legislative policy in shaping the concept of agricultural real estate and its overarching impact.

Study Framework:

As for the study's structure, we have initiated an introductory section outlining agricultural real estate's historical evolution and overall significance. We have divided the topic

into two sections for clarity and in-depth analysis. In the initial quote, we delve into the historical development of the real estate system in Algeria, subdivided into two categories. The first category covers the real estate system in Algeria before the French colonial era, while the second category explores property regulations during the French colonial rule.

The second section explores the post-independence real estate policy in Algeria. This section, too, is divided into two subsections. The first subsection delves into the agricultural real estate policy before the 1989 Constitution. Meanwhile, the second subsection investigates the agricultural real estate policy of the 1989 Constitution.

THE FIRST TOPIC: The Historical Evolution of the Real Estate System in Algeria

Studying the impact of the previous systems that governed real estate transactions in Algeria on the current real estate system necessitates an examination of the foundations of each of those systems. [1]. Here, it is imperative to keep the investigation open to the boundaries of the legal texts issued during the French colonial period.[2] .

Moreover, the matter here should not be limited to the boundaries of the legal texts issued during the French colonial period. Instead, comprehending the foundations of the current real estate system in Algeria and any efforts to reform it requires, First and foremost, gaining an understanding of the system's historical origins; it is necessary to expand the scope of historical research to include the pre-colonial era., especially during the Ottoman rule. Recognizing the influence of traditions and customs deeply rooted in Algerian society is crucial, as they coexisted with various legal systems governing Algeria without erasing their impact on public life. We will delve into the real estate system in Algeria before French colonial rule and then explore property regulation during the French colonial era.

FIRST REQUIREMENT: The Real Estate System in Algeria Before French Colonial Rule

Before France occupied Algeria in 1830, the Ottoman Turkish Empire had extended its influence over the region. However, the political subjugation to Ottoman authority did not significantly impact the real estate system. The central administration, headquartered in Algeria, needed to establish its control over the entire territory. Instead, It primarily confines itself to coastal areas and some inland cities. Most inland regions enjoyed autonomy under tribal rule based on local traditions and customs.[3] .

Due to this dual system that prevailed during the Ottoman rule, property ownership and related regulations for property transactions, acquisition, utilization, and inheritance were not subject to a unified legal system, despite the efforts of the ruling authority at the time to standardize the rules. The coastal areas and some inland cities witnessed the application of Ottoman laws. In contrast, other inland regions and desert areas were subject to Islamic law or tribal customs and traditions.

Firstly, The lands are subject to Islamic law and tribal customs and traditions.

[1] Haji Naïma, Crown Lands and Agricultural Lands According to Algerian Law, Dar Al-Huda, Algeria, 2014, p. 70.
[2] Mohand Tahar alloum, le régime foncier en Algérie, impression moderne, Alger 2005, pp 9-10.
[3] Ismail Shama, The Legal System of Real Estate Guidance, Dar Home, Algeria, 2003, p. 09.

The Islamic system implemented after the Islamic conquests in the Maghreb region, including Algeria, served as the foundational and historical source of the rules that governed property ownership in the later periods. Property ownership emerged under Islamic law collectively, with most lands owned by families or tribes. It later evolved with the progression of religious thought towards recognizing individual property ownership[1] .

In the early Islamic era, a form of collective ownership that resembled primitive communal farming practices was prevalent in Algeria. Families or tribes shared land on a seasonal basis for utilization and exploitation, influenced by certain jurisprudential opinions within Islamic law that denied personal ownership rights, drawing from specific Quranic verses, particularly those emphasizing that Allah is the ultimate owner of everything and that human presence on Earth is limited in time and space. These opinions suggested that God created the Earth for the benefit of humanity alone. However, it soon became apparent that these views were superficial and lacked a strong foundation, given the Quranic verses and Hadiths contradicting them and the practical realities of property ownership[2] .

The Islamic system of social solidarity had an additional impact on shaping the rules that regulated property ownership. As a result of these rules, They categorized lands into two types: "terre mortes" (dead lands) and "terre vivantes" (living or fertile lands). We further divided both of these categories into "terre de dime" (tithed lands) and "terres de kharag" (taxed lands). In addition to these categories, there were also "terres about ou wakf" (waqf or endowment lands)[3] .

It is worth noting that even during the dominance of laws derived from Islamic Sharia before and during Ottoman rule, tribal traditions, and customs continued to be applied in certain regions. To this day, many ideas stemming from these traditions and customs still prevail in the minds of various tribes, local authorities, and even individuals who reject the concept of state ownership of ancestral lands[4].

1. The classification of land in Algeria according to the provisions of Islamic law and Islamic jurisprudence:

According to the opinions of Hanafi and Maliki jurists dominant in Algeria, actual property ownership was divided into three categories [5] .Each category is subject to specific rules that distinguish it from the others. These categories include tax lands [6] . And lands of the state and grounds of the religious endowment.

[1] -Mohand Tahar alloum, op- cit, page 15.
[2] - Amar Aloui , propriété et régime foncier en Algérie , ed houma , Alger , 2006, p 25.
[3]- Mohand Tahar alloum, op- cit, page 38
[4] -Muhammad Kamil Morsi, Real Estate Transactions – Agricultural Real Estate as a Model, Unpublished, Legal Publications House, Beirut, Lebanon, 1934, p. 73.
[5] -Mohammed Farouk Abdelhamid, "Contemporary Developments of the Theory of Public Finance in Algeria," University Publications Diwan, Algeria, 1988, p. 48.
[6] -After the Islamic conquests of the Maghreb region, including Algeria, the local inhabitants who converted to Islam retained ownership of their lands. However, those who did not embrace Islam were required to pay a property tax called "Al-Kharaj" on their real estate. The tax rate was considered by some scholars, including Al-Mawardi (974-1056), to be akin to a rent paid by the owners of these lands. Regarding the extent of these lands, Ibn Khaldun (1332-1406) noted that most of the Kharaj lands were in the hands of the Berbers. This type of land ownership diminished as Islam spread and was adopted by the various populations and tribes in the region.

2. The classification of lands according to customs and traditions.

The customs and traditions in certain regions significantly impacted the land tenure system. Due to the deep-rooted nature of these customs and the strong attachment of the population to them, neither Ottoman rule, with its laws, nor French colonialism, with its colonial character, could erase their influence on the people. The areas most subject to these customs and traditions were the tribal regions and the desert or plain areas[1].

Secondly, Land and property classification during the Ottoman rule.

Upon their entry into Algeria, the Ottomans attempted to apply the same system in Algeria as they did in Turkey, especially the "Miri" land system, similar to the contemporary crown land system. Crown lands constituted a significant portion of the utilized land. The remaining grounds were either privately owned, dedicated to religious endowments (Waqf), or were oasis and desert lands subject to pre-Ottoman customs.

During the Ottoman rule, the lands could be categorized as "Baylik" lands, "Habs" lands, "Mulk" lands, "Makhzen" lands, and "Crown" lands, with each category having its legal system governing how the land was acquired, managed, transferred, and the nature of the taxes imposed on it.

1. Baylik lands:

The lands known as "Baylik" were some of the most fertile and located near major cities. They were further divided into four administrative regions: Dar as-Sultan, which included the city of Algiers; Baylik Titteri, with its capital at Médéa, encompassing eastern cities; Baylik Gharb, with its money initially in Mascara before moving to Oran, covering western towns. The state owned all these lands and was under the authority of the Dey residing in Algiers.

The properties within these Baylik regions consisted of unowned lands, lands confiscated from previous owners who did not pledge allegiance to the Ottomans, such as some tribes and some wastelands. The Ottoman administration would grant portions of Baylik lands to specific families and tribes loyal to it, known as "Azel" lands.

2. "Mulk" lands:

"Mulk" lands were dispersed within major cities and their peripheries, especially in mountainous regions, including tribal areas. Their utilization followed the principles of Islamic law, customs, and traditions, particularly in tribal areas. Unique "Mulk" lands were also found in

[1]- The nature of land in the desert and the possibility of individual or communal ownership are primarily determined by water availability. Lands that receive abundant water and are regularly irrigated are called "oasis lands" or "terres vivantes." These are the only types of lands that can be privately owned. On the other hand, lands located at the mouths of wadis and water channels, which are irrigated irregularly by the occasional rainwater, are known as "Jelf lands" or "terres bours ou daiat." These lands cannot be subject to private ownership and are typically managed collectively by a specific community, village, or another group.
There is some debate about whether these lands are the same as what is now called "crown lands." While some argue that they are indeed the lands later termed crown lands by the Ottomans and the French, others distinguish them from crown lands, considering them as a distinct form of communal ownership separate from crown ownership. For further information, refer to Mohand Tahr Alloum's work on this topic (op-cit, p. 21).

regions such as Oran, Mostaganem, parts of Tlemcen, Constantine, the Aurès region, desert oases, and the Chelif Valley.

The "Mulk" system is considered the original and natural land ownership system in Algeria, predating Ottoman rule, in contrast to the "Crown" system imposed by the Ottomans. However, successive invasions restricted the land under "Mulk" ownership after the original owners were dispossessed following the Arab or Ottoman conquests. Some "Mulk" lands were also formed in other areas based on sale or transfer agreements by the Beys or loyal families supporting Ottoman rule. Despite theoretical ownership granting total freedom for the owner to use and manage the land, common ownership was widespread, hindering the prevalence of real estate transactions, including sales, rentals, or any other form of property dealings.[1] .

3. "Lands of Habs" or "Waqf" lands:

The system of "Waqf" is unique to Islamic law and is known as "Habs" in the Maghreb region. It involves an arrangement in which the owner, under it, restricts the ownership and disposal of a property even after their death. The owner may dedicate the benefit of the property to a public entity, such as mosques, cemeteries, or religious hospices. This dedication is the most common form, but it can also take the form of a family or hereditary Waqf, in which the owner donates the benefit of their property to their descendants.

This practice often prevents colonization and rulers from confiscating their properties, as Waqf properties have a sacred religious significance. Some also employ it with the intent of depriving females of inheritance.

4. "Makhzen" lands.

These lands were parcels of land granted by the Ottoman authorities to Arabs who enlisted in the Ottoman army and pledged allegiance to it. The Ottoman presence aimed to reward every Arab individual who joined the military by granting them land, weaponry, and a horse. The size of the land donated depended on the number of family members of the soldier and the number of individuals they convinced to join and pledge loyalty[2], The right granted to the soldier was a right of usufruct, not ownership. The benefiting soldier paid a nominal fee known as "Hak al-Shubeir." The Bey, representing the Ottoman authority, retained the right to revoke the usufruct from the soldier if certain conditions were met. The granted usufruct allowed the beneficiary and their family to personally and directly cultivate the land without leasing, selling, or transferring it. In the event of the beneficiary's death, the usufruct would be passed on to his male children, provided they remained loyal to the Ottoman authority[3].

5. "alearsh" lands.

In the local tribal Algerian dialect, "Alearsh" refers to a group of families with common roots and origins who reside in one area as a tribal community. Each "Alearsh" had a vast expanse of land during Ottoman rule, which they collectively utilized like communal ownership.

[1]- Gabrial Marty et Pierre Rayaoud , les suretès la publicitè foncière en Alger , 1965 p 38.
[2] -Edward Eid, Real Estate Systems (Rural Real and Estate and Its General Framework), 2nd edition, Matni Printing House, Lebanon, 1996, p. 73.
[3]-Smaani Shameh, Legal Instruments of Real Estate Policy in Algeria Since 1990, Master's Thesis, Faculty of Law and Administrative Sciences, Ben Aknoun, University of Algiers, 1999, pp. 52-53.

The Ottoman administration dealt cautiously with this situation, and there is no clear evidence that the Ottoman authorities collectively dispossessed an "Alearsh" of their land. The term "Alearsh" lands were common in the central and eastern interior regions, while in the western areas, they were often referred to as "Sabga" lands[1].

SECOND REQUIREMENT: Property Ownership Regulation During French Colonial Rule.

During the colonial period, a dense collection of legal texts related to the real estate system was introduced, often undergoing frequent changes. This complexity and the property challenges were inherited by French colonial rule from the Ottoman period. As evidence of this, the French administration initially struggled to subject property transactions among the local population to French laws, which were ill-equipped to handle unfamiliar legal situations like "Habs" and "Alearsh" lands. Additionally, the colonial administration needed help conducting a comprehensive inventory of state-owned properties to integrate them into French state-owned assets despite issuing two decrees in 1830 with such provisions[2] .

What made the task of the French administration even more challenging was the disappearance of records from the Ottoman administration; before their departure, Ottoman officials had intentionally destroyed specific structures, leaving a complex void, mainly as unauthorized speculation emerged, where some locals engaged in the unlawful sale of rural properties to incoming settlers without being legitimate owners and holding proper deeds for these lands. This situation led to chaos and disputes, even among the immigrants themselves, due to the overlapping claims on the same properties[3]

Various legal texts and land policies were introduced to address this situation and subject it to legal regulations. These measures aimed to integrate a more significant portion of the lands into French state property and strip the locals of their lands. They often enticed the locals by issuing land titles, encouraging them to sell their properties to the incoming settlers.. [4] Generally, the texts issued during each phase of French presence reflected a single belief but were implemented through different methods and strategies.

The most significant legal texts that regulated property ownership in Algeria included the orders issued in 1844 and 1846, which aimed to Frenchify the laws applied to Algerian lands. A decree dated June 16, 1851, was introduced to rectify previous legislation deficiencies. The famous "Senatus Consulte" law from 1863 played a prominent role in shaping the colonial land

[1]-is pronounced as "sabga", and it seems to refer to lands granted to the crown due to the precedence of their utilization by ancestors. Given the unique nature of this system, the Ottoman administration did not heavily intervene in the exploitation and transfer of these lands, leaving it to the authority of local customs and traditions. Similarly, the French colonial powers treated this land with care during the colonial period. Contracts drafted by notaries at the time often labeled the land as a crown or "sabga" land, despite the absence of a recognized legal basis for this form of ownership.

[2]- Samia Fakir, "The Contribution of Local Communities in Regulating and Defining Rural Properties," presented at the Fifth International Forum on the Role of Local Communities in Organizing Rural Real Estate and its Impact on Development, Faculty of Economic and Commercial Sciences, University of Bachir El Ibrahimi, Bordj Bou Arreridj, April 17-18, 2018.

[3] -Hamdi Pasha Omar, Mechanisms for Cleansing Private Real Estate Ownership, Dar Home for Printing, Publishing, and Distribution, 2013, p 62-73.

[4] -Mohamed Farouk Abdel Hamid, op.cit, p 62.

policy. The law of 1873, amended in 1887, was the first to establish the concept of private property, replacing the civilian legal system with a military one.

The laws from February 126, 1897, and August 4, 1926, dealt with partial investigation procedures, property purification, issuance of deeds, and the establishment of the land conservation system. The laws from January 3, 1959, and March 26, 1956, aimed at what was called at the time "property modernization." However, these later laws were not implemented due to the outbreak of the War of Liberation[1] .

Firstly, the orders issued in 1844, 1846, and 1851

The period following the 1830 occupation of Algeria was characterized by widespread land speculation without regulation. Local inhabitants sold vast tracts of land to early settlers without formal ownership documentation. These early settlers often resold the land to others for profit without oversight from any authority. Land speculation and resale at higher prices after purchasing it at low prices became common. It was said that the speculators held less influence than the military officers in the social hierarchy.

After about fifteen years of chaos, colonial authorities decided to intervene and regulate real estate transactions, subjecting them to the rule of law and state control. In pursuit of this goal, they issued two decrees, the first dated October 1, 1844, and the second on July 2, 1846. These decrees aimed to convert as many lands as possible into private property for the settlers and secure their rights to these properties.

The October 1, 1844 decree was intended to rectify the status of all land transactions conducted by settlers, addressing any potential issues that might invalidate these transactions and thus prevent local inhabitants from reclaiming their properties. It also included provisions to abolish the prohibition on dealing with endowment properties. The obstacle for the settlers had been that the restriction against dealing with endowment properties only applied to transactions between locals and expatriates, not between locals and other colonists. [2] .

The exact order also allowed the colonial authorities to expropriate unused lands due to neglect by their owners among the locals or because they could not utilize them. Following this provision, many vast land parcels were merged into the ownership of the French state. The decree was issued on October 1, 1844; the removal of qualifiers made it more necessary to integrate lands into French state ownership, especially when the documentation provided by local inhabitants needed to be more comprehensive to establish ownership .

Furthermore, the order above brought all real estate transactions between local inhabitants and European settlers under the jurisdiction of French law .

Subsequently, on July 2, 1846, another decree was issued to streamline the supervision of land documents. These documents, submitted by landholders, were now overseen by a specialized council known as the 'Conseil des Contentieux." This council would appoint an

[1]-Bouchnafa, Jamal. "Real Estate Month in Algerian Legislation." Dar Al-Khalidun, Algeria, 2006, p. 43.

[2]- some argued that the French administration had yet to make a clear decision regarding Algeria during this period. Would it continue to occupy it and proceed with that plan, or would it abandon it? For the same reason, the colonial administration did not make any effort in the early days of the invasion to search for property records and preserve them. These records were systematically held during the Ottoman days. The buyer did not purchase land while being confident that the seller owned it, and the administration needed to be made aware needed to be made aware of this purchase. See: Tahar, Mohand. "Op. Cit," p. 25.

expert to delineate boundaries, take topographical photos of the land, and register any potential objections. If the document presented did not meet the specified requirements, The council aimed to avoid the shortcomings of the 1844 decree by declaring it null and considering the land as the property of the French state.

In the same context and with the same principles, the colonial authorities issued a law on June 16, 1851, to establish protection for landowners whose documents were deemed valid, without distinction between local or European owners. This law reaffirmed the provisions specified by the decrees of 1844 and 1846, especially concerning the application of French law to transactions between locals and Europeans and abolishing the restriction on dealing with endowment properties.

This policy was implemented experimentally in the tribal and crown lands surveying process, and it revealed the practical difficulties in its application. As a result, it was only implemented on five crown lands, namely the lands of Ouled Belil (Bouira), Ouled Qoussir (Chlef), Ouled Sidi Abdelli (Tlemcen), and Ben Bacher (Skikda)[1].

Secondly, The "senatus consult" Law and the "Warnier" Law.

The "senatus consulte" law was issued on April 22, 1863, and it introduced a new political direction that seemed to benefit the local population. They created ownership deeds for the benefit of tribes and communities, transforming the right of usufruct over crown lands into collective ownership rights. The vast crown lands were divided among rural communities and individuals into four categories:

- Domaniales: State-owned lands
- .Pleine propriété: Private ownership.
- Collective de culture: Collective agricultural ownership for the benefit of the crown.
- Collective du parcours (communales): Municipal joint ownership for grazing.

As for the "warnier."[2] Law dated July 26, 1875, was introduced during a period marked by changes in French property policy after 1870. This policy aimed to bring all Algerian lands under French jurisdiction, including endowed lands previously subject to Islamic Sharia law. The first article of this law stated that property rights in Algeria, their preservation, and transfer through contracts would be governed by French law, regardless of ownership.

One of the key measures introduced by this law was that the council would declare the land null and consider it the property of the French state. This action aimed at avoiding the shortcomings of the 1844 decree. Before any property examination, public announcements were

[1]- Chama, Samain Shamah. "Legal Instruments for Real Estate Policy in Algeria Since 1990." op – cit,p.65.

[2] Some have criticized the provisions of the "senatus consulte" law, viewing them as part of the tactics the French colonial administration employed, which previously stripped the local population of their lands and incorporated them into state domains. They argue that through this new law, the French sought to grant ownership rights to tribes, communities, and individuals for lands that were never theirs. However, a closer examination of the law's objectives reveals that the French legislator's ideology remained unchanged. It aimed to establish land ownership, believing that granting ownership deeds to communities and individuals was the most effective means to introduce lands into the market, facilitating their sale to settlers through contracts that would later be difficult to challenge. This unspoken goal of the "senatus consulte" law becomes evident in this context (see Jamel Boushnafa, previous reference, pages 35-42).

made, calling residents to prepare their documents and witnesses presenting them to a special committee consisting of a supervising governor, a real estate engineer, and a translator.

Practically, the law required the supervising governor to visit the area for an initial assessment, listen to the rights holders and their witnesses, review their documents, and handle any objections if present. This information was summarised in a report, and a translated copy was submitted to Judge de Paix and the Kaid. Parties were given three months to express their comments or objections to the governor's work. Based on this, the governor made a second visit to attempt reconciliation or settlement between the parties, proposing final results. The Finance Department then prepared a temporary ownership document for three months, during which anyone with interest could register their objection with the French court. After the court's judgment, the final ownership document was prepared and recorded. [1].

It is worth noting that since the 1873 law, contracts drafted in the French language before notaries, based on this law, gradually replaced agreements written in Arabic, which were in the possession of the local population. The supervising governors played a significant role in mapping out the new land registry during the implementation of this law. However, some observed numerous abuses and arbitrary actions by these supervisors. Additionally, significant errors were made that created conflicts between the content of the deeds and the actual situation on the ground. As a result, many locals reverted to their old land utilization practices, giving precedence to community decisions on land division and disregarding the deeds. For these reasons, the 1873 law, supplemented by the 1887 law, did not achieve the desired results and was subsequently repealed by a decree issued on February 16, 1897.[2].

The law, issued on February 16, 1897, introduced new procedures for investigating individual ownership and streamlined the previous processes. It abolished the role of supervising governors and brought disputes related to crown lands under the jurisdiction of administrative courts. Disputes concerning lands that had been surveyed and for which individual deeds were granted fell under regular judicial jurisdiction. Any act granted under the 1897 law became the final and indisputable document, holding absolute authority over all parties, including those with previously established French or administrative deeds, as the procedures outlined in the 1897 law aimed to clear the property from prior claims.[3]

Finally, the law of August 4, 1926, served as a complement to the 1897 law by extending its provisions to apply to the lands of the Sahara and the southern regions that had undergone the preliminary procedures set out in the 1863 "senatus consulte" law. Additionally, the French legislator attempted, through the August 4, 1926 law, to introduce a land registration system and the adoption of property registers, drawing inspiration from the successful strategies implemented in Australia and Germany at the time, particularly the French model used in Tunisia.

Thirdly: New French Policy in Algeria

[1]- It is worth noting that the 1873 law only allows the investigating governor to determine private ownership for the locals within the boundaries that suffice the owner and his family for their personal needs and the grazing needs of their livestock. Anything exceeding that need is integrated into the properties of the French state.

[2]- Jamila Jabbar. "Regulation of Public Agricultural Ownership and its Legal Protection." Master's Thesis, Faculty of Law, University of Blida, 2002, p. 15.

[3] Muhammad Farouk Abdel Hamid. op –cit ,p. 69.

Following the outbreak of the liberation war on November 1, 1954, the French administration adopted a new approach to address the land situation: an economic approach. Various legal texts indicated that the goal of real estate legislation at this stage was to invest in land to meet the growing Algerian population's financial needs. In this direction, two significant legal texts were issued: Decree of March 26, 1956, and Order No. 59/41 dated January 3, 1959.

Concerning the first text, it encouraged friendly land exchange operations to reduce land fragmentation and division, introducing rural development measures (aménagement rural) and reassembling scattered land parcels. The second text aimed to overhaul the procedures for establishing property deeds, primarily by expanding upon the groundwork laid by France through its general land surveys in Algeria. This effort was supported by the issuance of Decree No. 60/555 dated June 3, 1960, which established what is known as property modernization boundaries to prepare a general survey plan for the Algerian territory. Following the order issued on June 3, 1959, the Land Court (tribunal foncier) was established to resolve disputes related to individual rights, making all rights and land subject to French laws.

A, a successful and precise land registration system was essential to provide further effectiveness to the mentioned order. Accordingly, the order issued on June 3, 1959, mandated the registration of all absolute property rights in the real estate register (fichier immobilizer) under penalty for invalidating these rights. The text also mentioned issuing a property booklet (livret foncier) to owners who registered their rights in the real estate register, serving as a final and definitive document of their rights and providing collateral for financial institutions. These are the texts that France attempted to implement in the later stages of its presence in Algeria but faced challenges due to the war and a need for more clarity in the French vision of property ownership. [1].

In conclusion, it is evident from tracking the French real estate system in Algeria that France needed to establish a successful one. The texts were primarily conflicting and ambiguous, resulting in a mysterious and disrupted real estate situation governed by imprecise legal texts. This complex situation was inherited by the independent Algerian state in 1962, which needed a comprehensive review of these laws and a reorganization of property rights.

THE SECOND TOPIC: Real Estate Policy in Algeria After Independence

Undoubtedly, the political and economic systems significantly impacted the agricultural sector. As the state went through socialist and capitalist systems, agricultural land also changed economically. However, from a legal perspective, the farm sector went through crucial legal phases regarding the legal relationship between the farmer and the land. It started with the self-management system, which did not grant any financial rights to the ground. Then came the agricultural revolution, which stripped landowners of their property, and the state monopolized land ownership for the sake of the socialist agrarian cooperative, subsequently revisiting land ownership through land reclamation in arid and desert areas. Later, farmers were granted perpetual usufruct rights through Law 87/19, followed by Law 90/25 on real estate guidance, and Law 95/26 amending and supplementing it, which introduced the idea of returning confiscated lands to their owners. It completely abolished the agricultural revolution law, putting state land under state ownership. Finally, the state shifted back to using the concession technique in arable land, as seen in Law 08/16, which extended the concession to all agricultural properties except

[1] -- Gabrial Marty et Pierre Rayaoud ,op –cit, p 27.

those governed by Law 83/18. In the end, Law 10/03 was enacted to regulate the use of agricultural real estate through the concession technique.

Throughout the evolution of the legal framework for agriculture, the farmers acquired various designations, including laborer, beneficiary, investor, holder of usufruct rights, reclaimant, and, ultimately, concession holder.

In the post-independence legal real estate legislation in Algeria, in general, it went through two main periods, with the pivotal event being the amendment and supplementation of the 1989 Constitution. This constitution introduced new principles and concepts that limited the state's monopoly over all activities and separated state administrative activities from economically liberal movements, lifting many previous restrictions. Therefore, the study of post-independence agricultural real estate legislation in Algeria and its adopted approach necessitates examining this legislation before the 1989 Constitution (Section One) and after its issuance (Section Two).

FIRST REQUIREMENT: Agricultural Real Estate Policy before the 1989 Constitution

The legal texts that regulated Algerian agricultural real estate after independence until the issuance of the 1989 Constitution were all enacted under socialist-leaning constitutions or charters, which significantly influenced the formulation of these texts, with few exceptions. The systems that prevailed at that time regulating agricultural real estate were governed by four major laws and references: the Self-Management Law for Farmers, the Agricultural Revolution Law of 1971, the Land Ownership Law of 1983, and the law known as the Agricultural Investors Law of 1987.

Firstly, The Self-Management Law for Farmers

The self-management system was based on forming a group of laborers and farmers into an economic and legal entity governed by legal texts, subject to the supervision of the Ministry of Agriculture. The initial measures taken by the state after independence were protective, intervening after the departure of Europeans to define what is known as vacant agricultural properties and properties placed under state protection. The first text was Order No. 62/020 dated 24/08/1962, which stipulated the appropriate measures to protect and preserve vacant properties, granting governors extensive powers to achieve this. [1] .

To prevent real estate transactions on vacant properties and regulate them, measures should be implemented. Decree No. 62/03, dated 23/10/1962, was issued. This decree expressly prohibited all transactions (sales, rentals, farming) on empty properties. Contracts signed from 01/07/1962 onwards were considered void. It also allowed the review or annulment of sales contracts not involving vacant properties after 01/07/1962 for speculation.reasons

The decree dated 18/02/1963 defined vacant properties, while the order dated 22/03/1963 regulated the management of vacant agricultural exploitations. In general, the Algerian state addressed the issue of empty properties through two main procedures: firstly, integrating some of these properties into state-owned assets and placing others temporarily under state protection to prevent speculation. Secondly, the state recognized the legitimacy of some farmers' self-management of abandoned farms throughout the first decade after independence.

[1]- Shamah, Samain. "Legal Instruments for Real Estate Policy in Algeria Since 1990." op–cit, p. 66.

The first legal system was the self-management system, essentially an informal arrangement. After the departure of the elderly landowners and the vacancy of their lands, Algerian citizens, who were farmers, took over the land. The state temporarily recognized their right to self-management, creating an informal system without considering its consequences. Former farm workers administered this system, and the state recognized their rights through a decree dated 22/10/1962.

The rights granted to them were limited to use and exploitation, and they were prohibited from disposing of the properties or engaging in speculation, according to Decree 62/03 dated 23/10/1962. This system was effectively framed by a series of subsequent decrees in 1963, most notably Decree 63/88 dated 19/03/1963, which dealt with the restitution of real estate to elderly landowners and their associates. There was also Decree 63/95 dated 22/03/1963, which laid down rules and procedures for the self-management of agricultural lands.

Scholars have differed in their legal descriptions of this system and varied in their definitions. However, the underlying idea of the self-management system is that it transformed farmers into economic and leadership entities. Similar to independent labor organizations, this occurred without bureaucratic state intervention. Instead, a Workers' Council established this system to compensate the war's victims. The state recognized it as a payment for farmers who suffered during colonization. Nevertheless, the state promoted this system through its proposal in the Tripoli Charter and the Ministry of Agriculture's supervision of farms.

Evidence of the predominance of the economic and social approach over the legal process in this system can be found in the Algerian Charter, which states that self-management represents the will of working classes to enter the political and economic arena, forming economic and leadership forces. Self-management marked the end of exploitation. Alongside these elected bodies was an appointed director representing the ministry's interests and the central government within the farm. This director was responsible for monitoring property utilization, preventing manipulation, and overseeing the legitimacy of economic and financial operations. Although the law allowed for some coexistence between the independent Workers' Association and the state-appointed director, this coexistence did not last long, and a conflict arose in which the workers demanded the abolition of the director's position. The director, who had begun to wield extensive powers, depleted the content of self-management. What confirmed and solidified this was the establishment of the Agricultural Reform Bureau in 1963, which exercised centralized supervision over self-managed farms.

The distinguishing feature of the legal framework during this period was state ownership of agricultural real estate and farmers' ownership of the produce. This period saw the dominance of the collective management principle. However, the state's involvement continued until the self-managing workers turned into mere salaried employees of the state, receiving monthly wages from the farm's revenues. The self-management system eventually ended with the enactment of the Agricultural Revolution Law.[1] .

Secondly, The Agricultural Revolution Law

The beginnings of this law can be traced back to 1964 within the framework of the Algerian Charter of 1964, under the ideology of the socialist state. It stated, "The economic exploitation and the expropriation of foreign capital can only be achieved through the socialist

[1]- Rahmani Ahmed , les biens publics en droit algérien édition internationales , Alger , 1996 , p 33.

agricultural revolution that eliminates chaos and serves the interests of society." The authorities at the time introduced a draft of the Agricultural Revolution Law. However, it was delayed until June 19, 1965, and finally passed in its revised form as the Agricultural Revolution Law and Charter on November 8, 1971.

As implied by its name, the law's objectives signal a revolution against the existing order and its radical transformation through means that could be either violent or involve the exercise of authority. What set this law apart was that it was fundamentally political and social, more than a legal or economic system. It aimed to nationalize properties and place them in the hands of the state, redistributing them equitably. To a lesser extent, it had financial and legal goals, aiming for the final stabilization of the agricultural sector and freeing it from ambiguity and fluctuations under the self-management system.

The Agricultural Revolution Law emphasized state ownership of real estate, aiming to eliminate bourgeois entities and the quintet system. This policy was executed through a social and economic approach involving direct farmers' supervision to increase production. However, the state remained the property owner and decided not to relinquish ownership, as stated in Article 22 of Order 71/73, regardless of the exploitation.[1] .results

The state acquired land ownership from the date of integrating the ground into the Agricultural Revolution Fund, which was done through two methods. The first is a mechanical approach related to lands initially owned by the state, and the second is through nationalization, involving privately owned lands in exchange for financial compensation. The prevailing opinion about the Agricultural Revolution Law is that it adopted a straightforward legal approach with a political dimension. The law was built on nationalizing the lands to make the state the owner of almost all agricultural lands, following a pure Leninist socialist direction. The economic approach was merely a secondary slogan, as economic growth and agricultural development remained a slogan to cover the main goal: The state's monopoly of agricultural property was later explicitly expressed in the 1976 Constitution.

To achieve the goal set by this law, political speeches imbued the concept with revolutionary significance, resulting in the stigmatization of those who opposed its provisions and ideas. Many landowners even voluntarily donated their land to the fund to avoid being labeled as traitors and gain favor with the authorities. All of these actions came at the expense of the prevailing economic approach.

Regarding the methods of utilizing agricultural property under the implementation of the Agricultural Revolution Law, there were three patterns:

- We are retaining the self-management system with greater independence for farmers.
- We are opening the cooperative system by establishing agricultural cooperatives operating under a specific administrative framework.

[1] - Law 71/73 dated 08/11/1971, which includes the Agricultural Revolution. J.R., 1971, No. 97 - The most crucial aspect of this law for our research is the principle of personal and direct exploitation of agricultural property to avoid the exploitation of small agricultural property owners by large landowners. It also establishes the principle of "land for those who cultivate it," by the law's first article: Abdelaziz Mahmoudi. "Mechanisms for the Purification and Settlement of Private Property Ownership Documents in Algerian Legislation." Baghdad Publications, Algeria, 2010, pp. 34-35

- It regulates private exploitation and abolishes one person's exploitation by another.

As for the results of implementing this system, it is impossible to pass judgment on its success or failure in enhancing the role of the farmer and limiting the part of the private sector in agriculture. The private sector continued to grow despite various government departments' restrictions, complexity, and bureaucracy. All of this weakened the sanctity of the relationship with the land, and farmers began to feel that they were merely a means of production. Some critics argued that the law attempted to present itself as a revolution when it was a process of popular action rather than a rule. This perception contributed to a decline in agricultural work. People moved to cities to work in factories that were widespread at that time. There was also a trend to relinquish land use rights due to the need for more profitability caused by the monopoly of the self-management farms over fertile lands and the limited availability of Agricultural Revolution lands on barren grounds.

Moreover, beneficiaries could not fully utilize the farm's property, as most of these cooperatives exceeded 1,700 hectares in size, leading to later considerations of restructuring the right of use granted to the beneficiaries of the Agricultural Revolution farms by dismantling these farms and reducing their areas. In addition, a resistance movement against nationalization emerged through appeals filed against nationalization decisions. These appeals were based on two main reasons: either absentee ownership of the land or significant private ownership. The resistance took the form of either legal requests, which exceeded half the number of nationalized properties, or through deceptive methods in collusion with members of the local councils responsible for land surveys.

Thirdly, Law No. 83/18 Regarding Property Ownership through Reclamation

Some argue that Law 83/18 was introduced to privatize agricultural property, thus overturning the principles of socialism and the nationalization of agricultural lands, transitioning to the opposite approach. However, some believe that the law was primarily enacted to expand the area of farming lands and combat desertification. This belief is based on the fact that the law is only applied in desert and arid regions owned by the state and not in use. If the legislators intended privatization, they would have extended the law's scope to cover all lands, regardless of location.[1] .

Some argue that the Parliament should have realized the true objectives of this law, and the government managed to convince them of the stated goal, which is to expand the agricultural land area. However, in reality, its objective was the privatization of agricultural lands, ultimately overturning the provisions of the Agricultural Revolution Law. Mainly, the government used the pretext of reclamation to pass this law. At the same time, the government aimed to gauge various reactions to the privatization concept, especially since this law came after the successful privatization of built, residential, commercial, and professional properties through Law 81/01 dated 07/02/1981. However, fearing a backlash from supporters of socialism, the state restricted the application of this law to desert and arid areas similar to them, excluding self-management lands and lands of the Agricultural Revolution Fund, as stated in Article 02. For this reason, some view Law 83/18 as a deceptive privatization law, as Article 14 grants ownership of the lands to individuals once the dissolving condition is met.

[1] -Samain Shamah. "Legal Instruments for Real Estate Policy in Algeria Since 1990." op–cit, p. 69.

It is worth noting that this law did not align with the prevailing constitutional principles of the 1976 Constitution, which did not allow the state to relinquish its agricultural properties. This misalignment was not due to a lack of insight from the drafters of Law 83/18 but rather the difficulty of introducing a constitutional amendment that touches on the concept of state ownership and, more broadly, the socialist economic system.

In the face of criticism and condemnation, ..., the state decided to gradually implement privatization while attempting to reconcile legal and economic approaches. It recognized ownership for individuals under Law 83/18 while linking it to a financial system, where the request would go hand in hand with reclamation. However, some considered Law 83/18 unconstitutional for denying constitutional and civil law principles and the principles of the Agricultural Revolution Law.

Regardless of the legitimacy of this law, it did make progress toward the concept of privatizing agricultural property. While the stated objectives were to expand farming lands and combat desertification, it led to many disputes with the owners of throne lands and Agricultural Revolution lands due to accidental applications on their properties in some cadastral plans. What revealed the state's true intentions regarding the privatization of agricultural property was its deliberate expansion of the law's application to areas in the north, even though the text prohibited it.[1].

Indeed, it is worth noting that Law 83/18 is the only law in which the state relinquished ownership of agricultural property to individuals, a move that had not occurred before or since [2] . In reality, the state's relinquishment is not of agricultural land itself but rather a transfer of arid land in exchange for its conversion into agricultural land through a specific reclamation process.

Fourthly: Law No. 87/19 dated 08/12/1987 Regarding the Regulation of the Methods of Utilizing Agricultural Lands Belonging to State Private National Properties.

Due to the failure of the Agricultural Revolution Law to achieve its goals, the state suspended its implementation, citing its inability to achieve self-sufficiency and agricultural development objectives. After the discussions following the National Charter Enrichment in 1986, two proposals emerged regarding the farming sector. The first advocated privatizing the right of usufruct, and the second explicitly called for privatizing property ownership. However, the final consensus settled on privatizing the right of usufruct, which was then [3] .implementedIn this context, Law No. 87/19 was issued, which defines the rights of producers on lands belonging to the state's private national properties. This law effectively replaced the Agricultural Revolution Law but introduced a new concept focused on profitable economic activity for investors, freeing it from administrative constraints. The law was part of a new approach to utilizing state-owned agricultural property. A special committee was established to draft this law to provide a fresh framework for utilizing state-owned agricultural land. [4] .

Law No. 87/19 was enacted during a period marked by a decrease in the state's financial resources and a shift towards promoting agriculture as an alternative to the energy sector. This law addressed the issue of non-alignment with the prevailing constitution at the time, which was

[1] - Ibid, p. 70.
[2]- Muhammad Farouk Abdel Hamid. op –cit, p. 7.
[3] -Fayi Wes. Ibid, p. 8.
[4] Law 87/19, dated 08/12/1987, addresses the methods of utilizing national agricultural lands and determining the rights and obligations of producers. J.R., No. 50, dated 09/12/1987.

the 1976 constitution. The 1989 constitution later separated administrative functions from economic activities, freeing the latter from state monopoly, which became a regulatory role.

The law recognizes an investor status only for permanent farmers practicing agriculture. Ceasing agricultural activities leads to the loss of the investor's situation, the cancellation of benefits, and their replacement with others. Moreover, the law introduces clauses about the incompatibility of the investor's profession with various other occupations, emphasizing the exclusive dedication to farming.

A social approach is evident in the law through provisions that allow the transfer of benefits to the investor's heirs after their passing. Additionally, the law encourages economic initiatives among investors and fosters their efforts by granting ownership of their produce, promoting production to achieve food self-sufficiency.

The scope of the law's application extends to lands of the Agricultural Revolution, cooperative lands, and even lands managed by self-management farmers. All these lands have been transformed into fields for establishing agricultural investments. The goal is to instill a new approach to utilizing state-owned agricultural property, create a sense of independence, and remove the state's control. The law embodies the concept of investment and profit through public means such as land, buildings, and equipment and private means like labor and private funds. It regulates the interpretation of the economic approach, which involves granting investors ownership of production means, buildings, and equipment. It allows them to control their products, market them independently, and reap profits in exchange for modest dues. The law places the economic objectives of the investments above the political and social goals of the previous systems .[1] .

The new system is also based on separating the investor from any form of government control, with the investor being subject to minimal oversight, primarily concerning cases like abandonment, prohibited transfer, or change of agricultural purpose, all of which could lead to the cancellation of benefits. Outside these scenarios, the investors operate independently without subordination to government entities.[2] .

Some have considered this law as a partial privatization of agricultural property, as it divides ownership into two elements: "Roqba" (the state's request) and "Intifa" (the right of use). The state remains the owner of the "Roqba," while the "Intifa" is returned to the investor with a legal distinctiveness that sets it apart from the right of use in civil law. The critical distinction is that this "Intifa" is permanent, heritable, transferable, and saleable, all subject to economic limitations set by the legislator to achieve clear financial goals through a well-defined legal framework.

The legal system for investors in this law is based on three principles:

- State ownership of the "Roqba".
- The permanence of the right of use for the investor differs from that in civil law as it is permanent, heritable, transferable, and saleable within specified economic restrictions.
- The law is based on the principle of managerial independence, with explicit provisions prohibiting interference in the management of the investor under criminal and civil liability.

Furthermore, the law provides investors with the freedom to contract and finance, and it emphasizes the responsibility of producers, whether contractual or due to negligence, to protect the entity

[1]- Anwar Talba. "Agricultural Real Estate and the Differentiation between Actions." Dar Al-Thaqafa Publishing, Egypt, 1990, p. 95.
[2]Leila Zarrouki and Hamdi Pasha Omar. "Real Estate Disputes." Dar Huma, Algeria, 2002, p. 113.

of the investor and safeguard the agricultural sector from neglect. This responsibility arises from various actions, including leasing, exchange, unauthorized relinquishment, sale, abandonment, and land transformation from its agrarian nature.

SECOND REQUIREMENT: Agricultural Property Policy after the 1989 Constitution

After the issuance of the 1989 Constitution, signs of influence on the privatization of the agricultural sector emerged. A bill was prepared to aim to transfer state ownership of farmlands to investors. However, this law was not enacted due to strong opposition from various entities, particularly revolutionary circles. This project aimed to adopt a legal approach to agriculture rather than a financial or economic one. The authors of this project believed that the problem was not financial or economic[1] .The problem, as some saw it, was primarily a legal one. It revolved around the nature of the relationship between the investor and the land. They believed that the main reason for the shortcomings was the state's ownership, and they aimed to grant the right of the land to the investors; on December 14, 1997, the Cabinet, under the presidency of the Head of State, implemented a different economic approach that made the state a mere regulator and facilitator, in contrast to the previous approach that emphasized the need for a successful model while retaining state ownership of the ground."

They discussed and approved a bill for the sale and lease of agricultural lands, which was then referred to Parliament for further discussion.

This project followed a purely legal approach, stipulating that agricultural property could be managed through either sale or lease. It specifically applied to the lands of farm investors and included the sale of uncultivated and forest lands. Regarding the lease, the law specified that it could only apply to investors who refrained from purchasing after one year from the law's enactment. It effectively replaced the right of use granted under Law 87/19 with an agricultural lease.

However, the Economic Recovery Authority opposed the law, at least from a legal and political perspective, even if it did not oppose its economic approach and considered it economically practical. Furthermore, the Organization of Mujahideen opposed the law, suspending it. In his address to the governors in 2000, the President of the Republic stated that the land belonged to the state and would not be relinquished.

Before contemplating a law like this in the future, the state enacted a series of legal texts aligned with the new vision introduced by the new constitution. The most important of these legal texts was Law No. 90/25, which included real estate guidance, outlining the broad lines and general principles of the new real estate policy, including agricultural policy. The concession technique was introduced as an alternative to sale and lease, focusing on the reclaimed land. The state also established a National Office for Agricultural Reform during the same period. It later expanded the application of the concession to replace the right of use granted under Law 98/19.

As state financial resources increased, the government returned to the economic and financial approach by establishing a National Fund for the Regulation and Development of Agriculture. This fund provided substantial financial resources to farmers to revitalize the

[1] -Bahia Benayi. "Acquisition of Ownership through Possession in Light of Algerian Legislation." Master's Thesis, Faculty of Law, Abdelrahman Mira University, Bejaia, 2012, p. 65.

agricultural sector through financial support, without differentiation between different types of private or national property in investments or otherwise. [1].

Ultimately, the state aimed to establish a guiding plan for agriculture and agricultural real estate through Law 08/16, which included agrarian guidance, and introduced the concession as almost the sole means of utilizing agricultural real estate. In line with the general principles of this law, another law was issued in this context: Law 10/03, which defined the rights of producers and the process of granting concessions to them.

Firstly, **Law No. 90/25, which includes real estate guidance**

This law came after the 1989 Constitution, which, due to privatization and the capitalist system, included an actual guiding plan for the real estate system in general and agricultural real estate in particular. The most significant aspect of this law was the explicit provision for returning nationalized lands to their original owners. It marked a clear departure from the legal view characterized by the state's monopoly of property ownership.

This law also called for the abolition of the Agricultural Revolution Law and the retroactive erasure of its effects. Returning nationalized lands to their rightful owners led to complex property disputes between the original owners and those to whom the nationalized lands had been granted in one way or another.[2] .

Law 95/26 was enacted to address this issue, amending and supplementing the Real Estate Guidance Law. This law expanded the scope of the return to include lands donated to the Agricultural Revolution Fund and those placed under state protection, with exceptions for lands that had lost their agricultural nature, lands granted under Law 83/18, and lands converted into investments under Law 87/19. The law was based on a combined legal and economic approach to reinforce private ownership and reduce state monopoly. The real estate legislator confirmed that it classified agricultural lands with precise legal and financial criteria. According to Article 90/25, imposing penalties for not utilizing agricultural lands was imperative to emphasize the economic approach. [3].

Secondly, Executive Decree 97/483, dated 15/12/1997, specifies the granting of concessions for lands belonging to the state's private properties in reclamation areas.

This law served as an alternative to Law 83/18, replacing property ownership granted under that law with a concession for those seeking to reclaim desert, mountainous, plain, or arid lands belonging to the state's private properties. The legislator defined the concession in Article 2 of the terms and conditions booklet attached to Executive Decree 97/483 as a disposition in which the state grants the right to use available lands belonging to its private national properties for a specified period to natural or legal persons within the framework of reclaiming desert,

[1] - Rahmani Ahmed ,op .cit , p 38.
[2]- Samain Shamah. "Legal Instruments for Real Estate Policy in Algeria Since 1990." Op. Cit, p. 79.
[3] -Article 51 of Law 90/25 states: "If it is proven that agricultural land is not being utilized, the investor is warned to resume its investment. If the land remains unutilized after the expiration of a new term, which is one year, the public authority authorized for this purpose shall do the following: Place the land for investment on behalf and at the expense of the owner or the apparent possessor if the real owner is unknown, or offer the land for lease or sale if it is highly fertile".

mountainous, and arid regions. The concession is characterized as a temporary administrative contract without a specified duration.

Legally, the concession differs from the well-known "usufruct" in civil law concerning property rights. The two terms are not related. The agricultural accommodation represents a legal system for using agricultural lands based on a partnership between the state and the reclaimer. Each party has obligations defined by law. The beneficiary must carry out reclamation within a set period, pay fees, allow state monitoring, adhere to the terms and conditions, and provide financing. On the other hand, the state commits to facilitating funding, providing water and electricity, constructing roads, training users, and consulting with experts. Notably, foreigners can also benefit from the concession to attract foreign capital.

Reclamation work begins after the issuance of the concession decree. The beneficiary is not allowed to transfer or sell the right under the penalty of annulment, similar to cases of abandonment. The concession can be transferred to Algerians only, and the beneficiary can extend the accommodation one year before expiration. The benefit can also be terminated by mutual agreement, by the will of the beneficiary, administratively, or judicially, according to Article 18 of Executive Decree 97/484[1] .

Thirdly, the Agricultural Guidance Law and the Concession Law

1. Law 08/16, which includes Agricultural Guidance:

This law was issued on 03/08/2008 after being discussed in Parliament. The authorities established a set of objectives for it, particularly as stated in Articles 1 and 2, including redirecting agriculture to contribute to improving food security, enhancing the economic and social role of agriculture, protecting lands, optimizing water use, promoting a participatory approach based on the voluntary participation of partners in the state's efforts, establishing social protection rules, rural development, continuing financial support from the state, ensuring the sustainability of agricultural investments, and enhancing the status of model farmers in seed, seedlings, and female livestock production. It also aims to improve the living standards of farmers and rural populations, create agricultural maps considering the specific characteristics of regions, and safeguard real estate assets by determining the appropriate utilization pattern .

Article 3 of the law defines several concepts, including "concession," a contract through which the granting authority gives a person the right to use agricultural properties for a specified period in exchange for an annual fee. Article 5 outlines the state's involvement based on a cooperative economic approach. The state, through this law, directed agriculture using five means: guidance plans, agricultural development plans, and programs, tools for framing agricultural property, tools for agricultural development, and scientific guidance, research, training, and counseling .

In terms of guidance plans, they include agricultural guidance plans and agricultural development plans and programs. The law specifies tools for framing farm property and the development of agriculture by creating a general public agricultural property index and a map that identifies farming lands and classifies them to prevent altering their purpose.

The law contains a chapter on the new legal provisions related to agricultural property. It addresses:

[1]-Executive Decree No. 97-484 dated 15/12/1997 regulating the composition of the special committee and the procedures for verifying the non-exploitation of agricultural lands. J.R., No. 83, issued on 17/12/1997.

- The land use pattern states that concession is the new model for utilizing state-owned lands. In contrast, lands designated for reclamation can be used through either concession (for lands reclaimed by the state) or ownership (for lands reclaimed by beneficiaries).
- The regulation of transactions on agricultural property requires registration in the index and prohibiting any trade that would change the agrarian nature of the land or divide the investment into smaller units below a minimum threshold.
- .The regulation of aggregation operations.
- The determination of regulations applicable to grazing lands[1] **.**

The law includes distinct provisions for regulating agricultural activities, as delineated in Article 44. These provisions encompass the regulation of farming investors and their particular actions, all with the overarching goal of safeguarding these investors. Additionally, in Article 45, the law establishes economic criteria for farming investors and imparts a civil character to their activities.

The law further defines an investor in the context of agricultural activities, specifying their ability to generate profits and bear losses. Regarding agricultural professions and activities, Article 48 enumerates them within professional associations for farmers, agricultural cooperatives, agricultural chambers, cooperatives, joint professional institutions, and common interest groups. Each type has its specific definition. These definitions serve as the basis for creating various professional associations, such as grain producers' associations and potato producers' groups, established through official contracts, except agricultural chambers.

Concerning protecting investors, Article 69 mandates acquiring risk insurance in exchange for financial support. As part of state oversight and guidance, the law establishes a Higher Council for Agricultural Development, defining its composition and functions. The law also outlines mechanisms for banking and cooperative financing and conditions for state support . [2]

2. Law No. 10/03, dated 15/08/2010, specifies the conditions and methods for utilizing agricultural lands that belong to the private properties of the state[3] :

Based on Article 17 of Law No. 08/16, the current law was issued to regulate granting concessions. This law applies to lands that belong to the private properties of the state. Its primary purpose is to replace the perpetual usufruct right granted under Law No. 87/19 with a concession. This concession is given to individual beneficiaries, allowing them to utilize the land, buildings, and facilities for a specific period, not exceeding 40 years, which can be renewed.

The law addresses explicitly legal issues related to the nature of the concession. It defines the concession as an administrative contract that grants a specific and inheritable right to the beneficiary, which can also be transferred and encumbered, as stipulated in Article 13. The law establishes the legal framework for agricultural investors, granting them legal personality and capacity for contracting and litigation, including the ability to enter into partnerships with natural or legal persons subject to Algerian law, with the obligation to inform the National Agriculture Council.

[1]-fayi Wes. Op. Cit, p. 9.
[2] -Djilali Ajja. "The Crisis of Agricultural Real Estate and Proposals for its Settlement." Dar Al-Khaldoonia, no publication year, p. 38.
[3] -Law No. 10-03, dated 15/08/2010, specifying the conditions and methods for utilizing agricultural lands belonging to the state's private properties. J.R., No. 46, issued on 18/08/2010.

The law also outlines the obligations of investors, including the requirement for direct and personal land utilization. In the event of the death of a member of a collective investor, the law mandates that the heirs must, within one year, choose one of the three options specified in Article 25. Failure to do so may result in the National Agriculture Council notifying the competent judicial authority to cancel the concession ‹[1].In the event of the expiration of a concession through one of the three ways, which are the end of the designated period, at the request of the concession holder, or due to a breach of obligations, the state regains ownership of the lands and surface properties in exchange for compensation for these lands and surface properties upon the concession's termination, as per the provisions of Article 26 of the law.

The law also includes punitive measures against investors who breach their obligations, even after offering justifications. Such breaches can lead to the administrative termination of the concession, a decision subject to judicial appeal. Violations and infringements include changing the agricultural nature of the land, failure to utilize it for a year, covert leasing, or non-payment of the annual fee for two consecutive years.

Conclusion:

The economic performance of the agricultural sector is closely tied to the land policy pursued. Financial performance thrives under land policies promoting initiative, investment, and free enterprise, while it diminishes under policies restricting and controlling such industries. The study of agricultural property, in general, and privately owned agricultural properties, in particular, revolves around the legal framework established by Law 90/25. This law marked the beginning of openness, the evolution of the legal approach, and the onset of a free-market economy in Algeria. It abolished texts that emphasized state monopoly in the agricultural sector, including Order 71/73 related to the Agricultural Revolution Law and Order 74/26 regarding land reserves for municipalities. Property transactions were also liberalized. Law 90/25 was introduced to eliminate legal and regulatory contradictions that negatively affected agricultural property and Algerian farmers. This law focused on defining the technical structure and legal system of real estate and the interventions of the state, local authorities, and public entities in light of the evolving significance of agricultural property, regardless of the prevailing legal system.

As for the research findings:

- Mandatory land utilization is a fundamental restriction on private property rights, including disposal, use, and usufruct rights.
- The development of Algerian legislation related to agricultural property combines legal and economic approaches to regulate the evolution of the concept of agricultural property. It aligns with Algeria's legislative tendency to control the use of agricultural land to achieve economic goals., regardless of the specific legal system governing such property.

[1] -Bahia Benayi. Op. cit, p. 83.

- The state's intervention in protecting agricultural land is based on the concept of the social and economic function of agrarian property, aligning with the nation's supreme interest.
- Failure to utilize agricultural land under the Land Orientation Law is viewed as an abuse of rights, resulting in harm to the public interest, a situation not addressed by previous laws.
- The legal framework for approaching agricultural property combines legal and economic aspects to uphold private ownership, reduce state monopoly, and classify agricultural land precisely from legal and financial perspectives.

Recommendations:

- There is a need to amend the provisions of the Land Orientation Law, which still adhere to the outdated concept of "land belongs to those who cultivate it," despite the new economic direction.
- The legislature must define and develop the legal approach to agricultural privilege, allowing foreigners to benefit from this privilege to attract foreign capital.
- Reevaluate the laws that regulate agricultural property by introducing shared social, legal, and political approaches. These changes will create a new concept for utilizing state-owned agricultural property, fostering independence, removing the state's controlling role, and focusing on investment and profit while considering prevailing social and environmental characteristics, prioritizing economic goals over political ones.

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