

## Warne's Law and the Community Ownership Penetration Scheme

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### Abstract

Colonization in its economic aspect refers to all forms of poverty, deprivation and deterioration of living conditions of the colonies' inhabitants, resulting in looting of money, confiscation of land and illegal exploitation of the wealth and property or its illegal transfer from its source to certain parties. This pattern of practice and management witnessed Algeria during the 19thC. making it difficult for Algerians to overcome and confront it in light of the successive, laws on real estate ownership, the most important of which was the Warnier law of 1873. The aim of the study is to depict the French Imperialism in Exploiting The Algerian wealth and land property.

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**Keywords:** confiscation of land, real estate, warnier law, colonization.(116)

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### 1.Introduction:

imperialism based on the principle of exploitation and oppression of everything that belongs to the Algerians, and at the same time it reflects from another perspective the power of the colonizers in making and directing political decisions and their exclusive control over the country's wealth and the management of its affairs, since most of the agricultural real estate fell under the aforementioned procedures into their hands and their property.

This study comes to highlight the efforts of the colonial administration to legalize agricultural real estate and give it a legal character that is consistent with its plans to circumvent the capabilities of the Algerian people and open the door for Europeans to invest and own property as a second stage, which is the summary and goal of the Warni Law of 1873 AD in the end.

Land formed one of the pillars of French policy in Algeria and a basic basis for realizing the settlement project. These are the aspirations that aroused the interest of French officials and deepened their preoccupations, whether political or military. All of this depends on the extent to which appropriate conditions are provided for the settlers and they are provided with all the material and political capabilities in particular to annex the largest amount of land. Algerians and its ownership by European elements, taking several military forms, including confiscation, or as part of sanctions on rebellious tribes and regions, or by devious methods based on legislation and decrees that came and were established for the same purpose, similar to the Warni Law of 1873 AD. which, in its content and essence, represents a picture of colonial

expropriate them. This decision resulted in the expropriation of 168,000 hectares in Algiers and 78,000 hectares in the Mitidja region, affecting 2,000 families (Achenhou, 1979, p. 53).

### **3.2: Decree of June 16, 1851:**

The colonial administration was authorized to acquire the lands of the throne and the tribes under the pretext of public benefit. This procedure is based on the idea that the tribes have the right to benefit from the land and not its ownership. It also stipulated that the transfer of property between the people is subject to Islamic law, while the real estate transaction between the colonizers is... Between them or between the residents who are subject to French law, and the properties of the defeated person become in the hands of the victor (Rawahneh and Bouqriwa, 2021, pages 191-192)

### **Presbyterian Decision:**

Sénatus-Consulte of April 22, 1863: One of the most important real estate legislations that aims to replace collective ownership with individual ownership by fragmenting the ownership of tribes and estates that want to close their lands to the French element, by defining tribal lands and then distributing them among the various offices of each tribe while creating ownership. Individualism among the members of these departments whenever possible (Dahah, 2013, p. 219). The implementing procedures for this decision were aimed at achieving two things that reveal the hidden and real goal of this decision, which are:

- Defining tribal lands by sorting them into king lands and throne lands.
- Distribution of these lands among the districts.

The goal behind this is to fragment the collective ownership of the tribe's land as a first step before transferring it to the colon with ease after the people acquire the ownership contract. Therefore, the Warni Law can later be considered a complement to the sheikh's decision and at

In this study, we will focus on a problem that highlights the most important elements and points that he carried and advocated for, and the plan that he drew in his law, while answering the following questions:

- To what extent has the application of this law been successful in Algeria?
- What were the most prominent repercussions and results affecting the Algerians?

## **2. Examples of real estate legislation used to dismantle collective ownership in Algeria:**

### **1.2: Decree of July 22, 1834:**

The decree stipulates the annexation of Algeria to France based on the recommendations of the African Commission, which worked to create a colony for the French. The annexation decision is considered the most dangerous decision because it specifies the lands to which the legislative texts will be applied, especially those related to the expropriation of property, which will make settlement at the expense of Tribes as a legal act (Adi, 1983, p. 61). The two issues of October 1, 1844 and July 21, 1846:

### **Ordinance of October 1, 1844:**

Although this order came to reassure the Algerians of their land plots and property, it allowed the sale of endowment lands and the transfer of their ownership to the settlers (Bellah, 2006, p. 158). It also stipulated that land ownership be determined within certain deadlines, and if they exceed them, they are subject to the penalty of seizure. It is declared vacant (Rawahneh and Bouqrewa, 2021, p. 191).

### **July 21, 1846:**

This is a reference to the French authorities to initiate investigation procedures into rural real estate ownership contracts and all lands that do not have title deeds to be placed at the disposal of the public interest (the domain). This law also affected fallow lands because, according to the French legislator, lack of exploitation is sufficient reason to

483), and his book *L'Algérie devant L'empereur*, which he wrote in 1865 AD, includes a criticism of the military rule during the thirty years of the occupation of Algeria, which it was neither at the level of the ambitions of the French nor at the level of the real goals of French colonialism, which was based on settlement and guaranteeing the rights of the French and protecting their property. He also issued a call to provide the best conditions for investment, including material capabilities, legal mechanisms, and even military security (Warnier, 1865, p. 7).

Following Napoleon III's incitement of the Kingdom of Arabia project, he joined John Ferry as a strong opponent of this endeavor. He was elected as a representative for Algiers. He was also an active member of the committee in charge of real estate ownership in Algeria. He is considered the actual architect of the reforms introduced to the real estate system, and his name was eventually linked to the 1873 law (Dahah, 2013, p. 483).

### **2.3. Warani Law (Settlers Law).**

The basic building blocks of this law go back to the studies carried out by the colonial administration at the beginning of the year 1871 in a meeting attended by several French military and political leaders with Representative Warni, who saw the necessity of converting collective ownership to individual ownership to enable the French to obtain real estate property. They came up with a draft law on ownership, which was proposed by Representative Warni. Algeria in the General Assembly and it was voted on on July 26, 1873 without discussion or amendment (Azouz, 2019, p. 279).

It is also known as the real estate ownership law or the law of landowners because it came to satisfy their desires and give them free rein to plunder the lands of the Algerians (Adi, 1983, p. 66). Its basic content is the Frenchization of Algerian lands and its precise definition for the

the same time as a more severe revision of it (Khaither, 2016, p. 183).

### **3. The Warni Law of July 26, 1873:**

#### **1.3: The personality of Warnier Auguste Hubert (1810-1886):**

A French surgeon and politician, born on January 8, 1810, in Brocroix (France). He was one of the pioneers of the Sansimonian doctrine, based on advocacy and defense of ideas that enabled the settlement of colonialism in Algeria and the strengthening of its presence there. Warni studied medicine and graduated with a certificate from the military hospital on the night of 1832 AD (Daha, 2013, page 483). In the year 1834 AD, he was sent to the city of Oran to help the population from the cholera epidemic that swept Algeria, and between the years 1837 AD and 1839 AD he served as governor alongside Captain Dumas at the French consul in the camp in implementation of the terms of the Treaty of Tafna in 1873 AD between Emir Abdelkader and the French forces, as rapporteur to the Supreme Council of Administration in Algeria in 1849 (Lunisi, 2013, p. 107). He was fluent in the Arabic language, so in 1871 he was appointed a member of the Reservation Committee and then Chairman of the Compensation Committee for the European Victims of the 1871 Uprising. He also served as a representative of the Algerian Labor Party between 1871-1875. He was familiar with Algerian affairs until Description in the Living Dictionary (Faucon, 1889, pp. 631-638).

Warni entered the world of investment after he joined agricultural institutions in Carob (Constantine) with a group of Colons, in addition to mining institutions in Edouj (Annaba). This made him well acquainted with the economic situation. He lined up to defend the interests of the Colons and expand the scope of their investments, and this is clearly shown in the articles that he wrote. He published it in the pages of French newspapers such as *l'Afrique*, *l'Algérie*, and *l'Atlas* between 1865 AD and 1868 AD (Dahah, 2013, p.

them with the prevailing ownership system in France.

Warni's report included 32 articles revolving around two basic ideas: laws and procedures to help transfer ownership and change it to private ownership, and a set of supplementary laws that fill in some points that the basic law did not address. Clarifying the main objective of the law, which is to subject real estate ownership to French legislation, make it an integral part of it, and perpetuate the idea of private ownership (Henry, 1878, pp. 361-364).

Anyone who studies the literature of this law will find that it also aims to achieve two basic goals. The first is to enable Algeria to restore its old productive power thanks to a better ownership base, and the second is to put an end to the state of injustice in which the distribution of land exists between the current population and the population brought by French or European immigration. Therefore, it must be enacted. A law establishing private property under the authority of French legislation (Robert, 2007, p. 149).

This law also approved a number of procedures that explicitly stipulate that non-naturalized parents are not entitled to own property or benefit from the right to rent or from sales at public auction, while granting all privileges and exemptions approved by the French administration to centenarians (Malachso, 2007, p. 38). Since the Warni Law aims to eliminate collective ownership, it included a set of legal arrangements and procedures that sought to abolish collective ownership and replace it with individual ownership. This means that the lands of the throne that were not sold, bought, or reserved according to the Algerian customs in force before the occupation are private ownership lands. They could be purchased by centenarians, as Warni recognizes the existence of individual ownership within both throne lands and king lands. In the eyes of the tribe, he believes, every member of the Douar has an exclusive right to the lands of the throne in which he

French legislator, the total and final subjection to French laws of all properties previously governed by Islamic law (Yazir, 2008-2009, page 74) and the final abolition of all real estate laws based on Islamic law or local custom (Bellah, 2006, Page 248) and dividing collective lands owned by tribes and families among individuals (Adi, 1983, page 66).

The reader of this definition concludes that its meaning is that the colonial administration must administer all real estate properties in Algeria, regardless of the status of their owners, with the aim of eliminating legitimate laws, forms of solidarity, or tribal traditions that conflict with French laws. It is also understood from the Warni Law that it aimed to achieve the provision of land necessary for settlement, and we see this in his statement that France's political and administrative interest requires: "Not to forget that settlement also needs land (Hemer, 2013-2014, p. 158).

Although the real estate system that prevailed before the occupation helped the French administration to extend its influence through confiscation, the lands of the sibgha or throne, which French laws had not previously reached due to the adherence of their owners, constituted an obstacle for them, and these lands are known as a type of individual ownership with a collective character. In which the land is divided into shares, in which the individual works according to his ability. Whenever it is exploited continuously, it remains the property of him and his family, with the right to inherit it to males only, and he has no right to sell it. In the event of neglect or absence of heirs, the group has the right to recover it and give it to another exploiter (Bakhtawi, 2014, p. 296).

It is noted that the lands of the throne or dyed estate are mostly collectively exploited without the right to dispose of them, which contradicts French economic policies, so Warni thought of replacing

the throne because in the eyes of the tribe, according to his belief, every individual has an exclusive right to the king's lands (Dahah, 2013). , page 231), and this law affected:

**First:** Real estate properties located within areas where properties have been subject to consolidation processes.

**Second:** Properties registered with notaries, clerks or administrators that do not require the issuance of new contracts during a comprehensive investigation.

**Third:** Real estate properties located within the areas subject to the decree of July 21, 1846 or which are exempt from it. (Azouz, 2019, p. 299)

Despite the importance of the Warni Law, it faced several difficulties and criticism. The investigation committees lacked efficiency and integrity. Most investigators viewed this job as a step towards improving their personal situations. The absence of oversight and the method of rewards that were proportional to the number of plots of land pushed these agents to They tend to complete their work in a hasty and sloppy manner (Heimer, 2013-2014, p. 172). Assigning the same task to more than one employee put the committees in a critical situation due to the huge amount of deeds, which were estimated at between 5 and 600 title deeds, which needed to be registered and translated. This constituted a danger, according to the Governor General's opinion. In addition to wasting time, they could have been stolen without the presence of a person. He bears responsibility (Bakhtawi, 2014, p. 306)

Also, the instability of the tribal members during the investigation period was reflected in the duration of the investigation, which took a longer period and increased the cost (Bendjillali, 2006, p. 16). The colonial administration, which had high hopes, discovered that it had spent 5,647,000 francs and had committed to spending 1,698,000. Francs, and only 6,000 francs remained in her balance to complete the procedures of the 1873 law,

resides (Rawahna, French Economic Policy in Algeria 1870-1930, 2013-2014, p. 59).

The implementation of the Warni Law was one of the most important concerns that the French legislator was keen to embody on the ground, as it was a new procedure for establishing real estate ownership in Algeria and would reflect positively on the situation of France. Here, the Governor-General in Algeria tried to entrust the study of the lands that would be covered by the law to the governor, who sought the help of In turn, a group of investigative engineers had a dual mission: the first was to inventory and survey ownership, and the second was to identify the problems that prevented the emergence of Algerian individual ownership according to French law (Yezir, 2008-2009, page 77).

It should be noted that the selection of the properties was not random, but rather was based on a prior study in which the geographical location of the lands, the nature of the tribes, and knowledge of the consequences of land confiscation and its various consequences were taken into account (Bakhtawi, 2014, p. 297). The engineers were required, before granting the ownership certificate, to take Topographical photographs that include plans for the lands. In addition, the administration has required the presence of a representative of the Property Authority when issuing contracts or unregistered transactions, in order to confirm ownership and register it in the Property Authority. Residents' agents must adhere to the decisions of the Property Authority and preserve public interests according to the law, while registering in a special registry. (Heimer, 2013-2014, pages 162-163)

Special ownership contracts were issued to the people, but these contracts did not put an end to collective ownership, but rather specified the shares of eligible individuals within this ownership. That is, Varney recognized the necessity of individual ownership within the lands of

including its obstruction of the interests of the population and the liberalization of investment, are attributed to the call to expand the civil territory at the expense of the military territory, which represents an obstacle to the establishment and creation of municipalities with full powers and settlement centers, and thus getting rid of the Senatus Colset Law of 1863 AD.

This is according to the statement of members of the General Council of Oran, such as Foucault and Robyard, who rejected the Governor-General's order preventing the transfer of tribal lands to municipalities with full powers (Belil, 2013, p. 133).

This was followed by strengthening the legislative apparatus by transferring the powers to engage in and decide on real estate issues and disputes over it to the French judge, who bases his decisions and rulings on French law, which represents a step towards liberating investment from its restrictions and revitalizing the movement of capital among Europeans. On the other hand, this law weakened the social ties between Algerians and their authority over the land gradually ended.

The division and circulation of real estate ownership, which is the basis of this law, hastened the transition from an economic balance that preserves the principle of land collectivism to the individual principle of ownership and exploitation, surrounded by administrative obstacles that push the Algerian at best to abandon it, which is the inevitable and logical result that is inevitable. Under the influence of this transformation, employment of all kinds, rural migration, and economic crises formed clear signs and features of the collapse of the previous economy, which had a pattern of life adapted to it (Adi, 1983, p. 95).

The process of implementing the Warni decision regarding Algerian workers was accompanied by numerous problems and violations committed by the investigation and investigation committees charged with integrating the Algerian agricultural

while the implementation of this law did not allow the provision of the lands necessary to meet the desires of the settlers (Haimer, 2013-2014, p. 169).

In addition to this, the absence of surnames and the similarity of names led to confusion among the investigators' papers. In many cases, several lands were registered in the name of one person. Several people might meet with the same name, such as Ahmed bin Ahmed, which prevented the issuance of final ownership contracts (Yazir, 2008-2009, Page 96). What further exacerbated the situation was the lack of coordination between the investigative governors. Each investigative governor carries out work separately from others, without meeting or meeting. In the case of giving family surnames, a person who owns real estate in two or more regions can obtain two or three names (Heimer, 2013- 2014, p. 173).

### **3. Its repercussions and repercussions on Algerian society:**

Land legislation and all the laws enacted by the colonial administration in this field have paved the way for changing the economic and social structure of Algerian society and creating a major imbalance in the standard of living compared to what it was before and a class disparity when the situation of Algerians is measured with that of Europeans. Therefore, the colonial administration gradually confiscated property. Real estate and lands of Algerians and the response of European elements. However, by proposing laws and supporting all projects that are in their interest, it has reached a stage where it has become difficult for Algerians to exploit or preserve their land individually or collectively, which is the long-term goal of the Warni Law. On the ground, this decision has had major repercussions and has created radical imbalances in terms of serving the land. Or own it.

The criticisms that Warni directed at military rule and his blaming of the total accumulations taking place in Algeria,

-407,800 hectares.....number of plots and procedures involved in the survey process.

-244,830 hectares.....distributed among owners, i.e. less than 10 hectares per person.

The targeted land destinations were:

-904,000 hectares.....have been converted into private ownership.

-436,800 hectares.....have been converted into collective ownership.

-238,570 hectares.....property documented.

-59,130 hectares...converted to state property (the Doman).

-14,170 hectares.....were allocated to departments (Hanni, 2009, p. 45)

The most dangerous consequence of the Warni Law was the abolition of the right of pre-emption, which pushed many Algerians into begging and vagrancy (Bendjillali, 2006, p. 15). Depriving them of land means depriving them of their means of livelihood, and this is according to the testimony of the French themselves. The writer Augustin Bernard pointed out the state of misery that had befallen them. He addressed the farmers as a result of the implementation of this law, saying: "After a few years had passed since the implementation of this system, it became clear that it must be put to an end for fear of a massive revolution among the farmers." (Heimer, 2013-2014, p. 170).

This decision had a dual impact later on: the first was to eliminate previously acquired rights by redistributing the lands again between the district, the municipality, and the state, and the second was to try to find a mechanism to display all the remaining Algerian lands on the French real estate market (Belil, 2013, p. 135). Warni contributed effectively to the success of the settlement movement in Algeria. The number of settlement villages, including centers and estates, increased by seizing Algerian lands and transferring them to settlers (Zozo, 2009, p. 73). To cover the criticism and problems that resulted from him, the administration

property into the public property. For example, Senate Representative Shaw revealed the arbitrary application and administrative manipulations regarding title deeds regarding the loss of a tribe residing near Mostaganem consisting of 513 individuals. It owns 292 hectares. After it was subjected to individual ownership procedures for significant areas of its land, and this was after the completion of the investigation, where one of the moneylenders, who is a lawyer, bought the rights of one of the participants in the pre-emption system for an average of 20 francs per hectare and resold them for 80 francs per hectare, while this extended the Algerian investigation and registration costs which were estimated at 11 francs per hectare (Belil, 2013, p. 136), and with idols (currently Chlef), the costs of real estate settlement were estimated at 70 francs per hectare, which are burdens that do not allow the Algerian to meet them, so he resorts, under the risk of practicing speculation, to selling them at a symbolic price that does not often exceed 10 francs. per hectare, while the real price of land is not less than 60 francs per hectare (Hanni, 2009, p. 43)

Granting the French judge the powers to review agricultural property in general represented the cornerstone of transferring real estate ownership and facilitating European access to it. Given the exorbitant costs required by the judiciary and the manipulations that mar the use of legal documents, it caused many Algerians to give up their lands and lose thousands of hectares under legal procedures. Forced sale, forced surrender, or unjustified confiscation by the French authorities. In this regard, statistics indicate vast areas that were subject to surveying according to the new procedures in force between 1873 AD and 1890 AD, which were as follows:

- 2,370,000 hectares... were traded on the market.
- 535,000 hectares.....number of permits issued to Algerians.

reached. Warni's project or law is tantamount to a revolution against collective ownership, or rather what remains of the Algerians' preserved property. Dismantling it, encouraging the individual to own property away from the traditional pattern, and transferring the powers of agricultural property to the French judge completely weakened that social cohesion and strengthened the incursion and sovereignty of capitalism, from which it derives its strength. From the movement and mobility of capital, the flow of investments, the liberalization of the market economy, and the dominance of businessmen and businessmen over wealth and political decisions, all of this is at the expense of simple workers and peasants, or what is known as the proletariat.

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stipulated that there be a title for each owner to avoid mixing up documents. Ownership and to facilitate the application of the Warni Law, and found the solution in establishing the Civil Status Authority, which issued the law of March 23, 1882, according to which titles were granted to Algerians. The French administration also approved a series of supplementary laws, including the 1879 Law, which came to correct the shortcomings of the Warni Law, and also the 1926 Law, which enabled it to sell the throne lands to the Colons. (Bakhtawi, 2014, pp. 306-307)

### **Conclusion:**

Real estate ownership received wide attention from the French, as the expansion of the French army into the interior was accompanied by an increase and expansion of the properties confiscated from people and tribes, while the administration, from the first days of the surrender treaty, sought to formulate laws and decrees consistent with its desire to acquire more agricultural lands of varying nature and type of ownership. With the opening of the door to European immigration to Algeria and the encouragement of the French authorities for settlement projects, the ambition of colonizers increased to monopolize the best lands and own as much of them as possible, and this inevitably occurred through reaching political positions that would allow them to implement their projects and protect their interests, which is what the Warni Law of 1873 fulfilled and worked for collective ownership, or what is known as throne lands, and the way to exploit them have long been an obstacle to the French authorities and its attempts, because they represent a social heritage and an economic resource, carry cultural dimensions that are difficult to reduce to legislation or confiscation by force.

However, the need of the administration and those behind it, the colonizers, for the latter has constituted a goal that must be achieved and

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