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Enhancing Land Management, Land Development and Construction



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# Evolution of land tenure categories since the 1858 Ottoman Land Law

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Logo of your  
organisation(s) if  
any

## Land categories by 1858 Ottoman Land law

- Historically, property rights in official law in the MENA region have coupled Islamic principles and custom with the demands of the state to secure land rights, and to extract financial surpluses to its profit.
- According to the Ottoman land law of 1858, land was divided into five main categories: **mülk** (private), **miri** (state property open to leasing), **waqf** (tax-exempt land devoted to supporting charitable establishments, or family projects), **metruka** (land designated for the public activities of villages, such as the village threshing floor, or any other another specific group, such as tribe members), and **mevat** (dead and unclaimed remote land).
- Taxes on farming were the primary source of income for the Ottoman empire.

## COLONIAL AND INDEPENDENT STATES LAND POLICIES

- Colonial and independent states inherited all land except **mulk** and **waqf** (also called **habous** in Maghreb countries)
- Their land policy followed three main aims:
  - 1) protect and develop private property (often at the expense of collective tribal lands, **matruka**),
  - 2) seriously diminish the size of **waqf** because they were largely used to circumvent the state's authority (independent Tunisia completely dissolved them), and imposing state control through a **waqf** ministry
  - 3) strengthen the state's role on land administration through titling procedures.
- Some Arab countries have decided to reform the agricultural sector by redistributing land to landless farmers with the state's support, but states proved to be unable to fully play their expected role in supporting small farmers; these countries have progressively abandoned such policies and reinforced private land property (Egypt, Algeria...)

## LAND POLICIES IN MOROCCO

- A clear trend has emerged in Morocco towards the privatization of state, collective and religious orders' landholdings. This trend is encouraged through state policy and programmes. Government incentives to privatization include efforts to streamline the process of land registration and to make it more widely accessible; the adoption of policies to limit land fragmentation as well as to minimize joint holdings (multiple title holders) of private parcels in order to maintain efficiency of private holdings; the standardization and regulation of tenant contracts; and the conversion of state and church-owned (waqf) lands to private holdings. Observation of the behaviour of rural producers reveals a hesitation on the part of collective rights holders to initiate land improvements, construction projects or plantations compared with private right holders. (Bensouda Korachi Taleb, Ministère de l'agriculture, Rabat, in Land Reform, FAO, 1998)

Topic, City, Country

## THE SOULALYATE CASE IN MOROCCO

- A recent experience related to land **privatization of tribal lands** in Morocco sheds an interesting light on the evolution of these lands and on the discrimination against women. These lands are called “soulalyate”, in accordance with “soulala” which means bloodline, family, or tribe. Traditionally, the right to use the land for agriculture and benefit from its proceeds was transferred from father to son according to the “orf,” or custom, which denied women the right to inherit. These lands lie under the State’s guardianship.
- Due to land market evolution, the State engaged in selling part of these lands, denying any right to women according to the same custom. Women launched a movement to claim their rights, and obtained in 2019, after ten years of fighting, the right to be included in the formal privatization process. However, due to social resistance, equality of treatment between men and women still needs to be confirmed.

## **THE SUCCESS STORY OF JEMNA (CENTRAL TUNISIA)**

- A tribal village producing dates; its land was expropriated by the French during colonial rule in 1912. After independence, these lands became state property. Independent Tunisia rented these lands to private investors, transforming the peasants into poorly paid wage earners.
- During the Arab spring, the inhabitants of Jemna created an association to retake the economic control of these lands. They created 162 new jobs, funded new classrooms in the school, in addition to supporting young people willing to enroll in university, considering that they are entitled to regain control of their traditional land.

### SHORT CONCLUSIONS

- The evolution of land categories in MENA countries reflect the economic choices of each country: Jordan has recently deleted the **miri** category from its land law (considered as obsolete), to the benefit of private land, while Iraq seems to remain attached to the miri status of the vast majority of its agricultural land, with only use rights granted to its farmers.
- The Tunisian case of Jemna illustrates the attachment of tribal populations to their land, and their apparent economic success underlines the need to guarantee the populations' adherence to land reforms.
- However, tribal populations evolve with education and modernity at the expense of customs, as demonstrated by the Soulaliyate women's case in Morocco.
- A thorough comprehension of the interests of the population is indispensable to avoid unnecessary social tensions.

**THANK YOU FOR THE ATTENTION!**