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## INTERNATIONAL JOURNAL OF ADVANCED RESEARCH (IJAR)

Article DOI:10.21474/IJAR01/13606  
DOI URL: <http://dx.doi.org/10.21474/IJAR01/13606>



### RESEARCH ARTICLE

#### THE PREEMINENCE OF CUSTOMARY LAW IN ARAB SOCIETIES AN ANTHROPOLOGY STUDY IN RURAL AREAS

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#### Manuscript Info

##### Manuscript History

Received: 29 August 2021

Final Accepted: 30 September 2021

Published: October 2021

##### Key words: -

Preeminence, Customary Law, Societies, Arab

#### Abstract

The prevalence of customary law within Arab societies, and in particular in the area of water sharing and the organization of agro-pastoral lands has created a kind of conflict between customary legality and the positive law of the modern state, this the latter having become incapable of establishing its laws on the rural areas in which the tribes settle, and which have codified standards and have become familiar with modern laws enacted by the state. In order to preserve the social and economic balance in the Arab countries, the authorities in power were forced to promulgate laws and decrees in accordance with the customs and traditions of their peoples, in particular those related to agro-pastoral activity. Therefore, it can be said that the aim of the modern state is to place custom in a legal form respected by social groups.

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#### Introduction:-

Undoubtedly, one successful method of approaching rural societies in the Arab region is to grasp, in particular the management of resources and the regulation of local life by these societies.

The articulation between the various sources of law which exist everywhere (customary law, religious law, positive law) also revealed the relationship which was often conflictual between communities and groups with the central power or more broadly with any form of power. hegemonic which, at one time or another, has manifested itself in history.

The most extraordinary sum, could not claim to testify to the richness and the profusion of customary rights which retain an undeniable importance in rural societies, they function in life as a system in movement.

Many debates take place, and many others will still arise on the relationship between norms and practices, between religious law and customary law, between the latter and positive law. That is to say that if customary law and customary institutions have everywhere had to be erased, if they have had to undergo the rigorous interventions of state authorities. The state always seeks to control the margins or the interior of the country. The country he governs.

These competitive legal components are sometimes contradictory, obeying distinct logics. They can sometimes be the refuge, sometimes the engine of cultural identities; each state manages this heterogeneity in its own way. But it is in the precise analysis of concrete situations that the approach can be enlightening: that of possibilities to play with the various registers available to individuals or communities, that of the ways in which they play. But only one

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wonders about the attempts of individuals to put in writing certain practices or the passage in writing of certain customs. Does this mean that there was strong resistance from customary law that goes beyond modern (state) legislation? Or is it the tolerance of the state to maintain a social balance in rural areas?

### Discussion: -

When the doctrine itself has provided for possible subterfuge to take into account, while remaining in accordance with religious law<sup>1</sup>, certain customary uses in the economic field in particular or that of the transmission of goods, men, who know that it is not possible to cheat with the law, also learn to play with it. Sometimes we will see them diverting the religious law for example the prescriptions in matters of inheritance, by using in a derivative way the institution of habous<sup>2</sup> very widespread in Islam which allowed, by changing its assets to a pious foundation, but in the event of the extinction of the male descendants, to remove them from the risks of inheritance, and precisely to avoid the squandering of patrimonies by inheriting the women. Sometimes we will see them invoke it, like those tribesmen of the Tunisian Sahara who have the ability to claim to justify a right of property on a land vivified by them.<sup>3</sup>

However, he can not recognize a right state on the lands, according to that law he even enacted, it is only now control access and there is a dilemma, that of the unique legitimacy of its law. That of national law that he wants to impose. It is true that the art of subterfuge, of evasion, it is not the prerogative of those companies, but if specified, it lies in seniority and recurrence of these practical men religious law.

In customs, moreover, new transactions can still be companies, disputes arise, go out, resurface to different generations, new arguments can be advanced by each other, as a new source of right, that of a modern state appears otherwise threatening.

### Rural societies and the state

Here the ownership of water, the ownership of the land or the use of pastures are the sign of group membership. The prestige of men, their honor, their identity is associated. The use and control of land and hydraulics, often codified precisely, are the responsibility of communities represented by their customary institutions.<sup>4</sup>

The irrigated land management, pasture or their combined together helps define a space, a culture, an identity.<sup>5</sup> The identity of communities is so tied to their customary law when a state which derives its legitimacy from the religious, as the state "Zaydi"<sup>6</sup> in Yemen that it has known tribal customary law for centuries. The water and the territory are also perceived by the men of the Tunisian Sahara as gifts from God, according to them, there can be no intermediary in the management of its benefits.<sup>7</sup> For the Al Naim of Qatar, it is the right of sovereignty over the tribal territory which was granted to them by God;<sup>8</sup> customary law thus draws its legitimacy from the sacred. In the Mauritanian Adrar, the groups turn to the Emir for the recognition of their properties in new territories.<sup>9</sup>

When in the seventeenth century, in the extreme south of Tunisia, it was this time conflicts about the distribution of water that separated entire groups, they had recourse to the arbitration of the Bey, and at the same time the townspeople in a sector of the medina of Fez, dissatisfied with water management, appeal to the sovereigns. Here and there men are referred to uses, and they ask for no more.

<sup>1</sup> - Mercière: Muslim property in Algeria and the Maghreb, according to the Malek doctrine, in Asian Journal, July-August 1894, 04.

<sup>2</sup> - Ferchiou.S: The Habous system in Tunisia, logic of transmission and agnatic ideology, CNRS, Marseille 1987, pp 57-58.

<sup>3</sup> - Khalil Ibn Ishak Al Maliki: The precise of Khalil. Trad. By Ahmed Harkat. Dar El Fikr, Beirut 1995, pp. 15-18.

<sup>4</sup> - Desne de Chavigny: The collective land of Tribu in Algeria and Tunisia, imp. Central 1911, p 11.

<sup>5</sup> - Michel. Izard: Engrams of the power "the autochthony and the ancestrality" the time of the reflection 1983.

<sup>6</sup> - The Zaydits state was founded in the third century AH by a man from the religious aristocracy, who came from Medina with other family members of the prophet, descendant of Ali.

<sup>7</sup> - Bensaad.A: Sharing of land and dynamics of farming systems in Southern Tunisia, in proceedings of the seminar "pastoralism and land," the Gabes 17/18 octobre 1996.

<sup>8</sup> - Montigny.Kozłowska: Evolution of a Bedouin tribe in oil producer countries: Al Naim Qatar thesis 3rd cycle, University of Paris V, 1982, pp 108-110.

<sup>9</sup> - Mouhamadou.Finore: From prehistory to the history of Mauritania, Adrar Bayeud, Nantes 2001, p120.

In Egypt, and specifically in the Edfu district of Aswan province, the council resolved conflicts related to land, water, inheritance or contained explosions of violence. They are called "Majlis al Sulh" or "Majlis-Tahkim" - reconciliation or arbitration councils-. They are organized by village and town elders and are in principle organized independently of the formal legal system. These councils are composed of a variable number of men, the total often being in accordance with the gravity of the conflict. Members must be approved by both parties to the conflict and ideally the composition reflects a logic of segmentation according to the tribes specific to the region, where this type of organization continues to dominate. Briefly, members are often chosen from tribal sections outside of those to which both parties belong, and if the parties themselves constitute or claim such sections, the intervening and organizing members will come from another section or tribe. Most often a group of men more or less accustomed to working as arbitrators are involved. These are elders who enjoy a reputation for their ability to resolve conflict and organize counseling as well as their knowledge of tradition which is seen as the basis of the solution. Most often a group of men more or less accustomed to working as arbitrators are involved. It is seniors who have a reputation for their ability to resolve conflict and organize a council as well as their knowledge of the tradition which is seen as the foundation of the solution. Most often a group of men more or less accustomed to working as arbitrators are involved. It is seniors who have a reputation for their ability to resolve conflict and organize a council as well as their knowledge of the tradition which is seen as the foundation of the solution.<sup>10</sup>

In some cases, such as Saudi Arabia's Asir province during the twentieth century, the persistence of local institutions has been the result of complex transactions. While it was important for the young man to stabilize his border regions, the local tribes were sufficiently powerful, such as the Rijal Alma, who had long benefited from their strategic position on trade routes, were able to negotiate their integration in exchange. a certain legal and even fiscal autonomy. The tribal authorities have kept the right to legislate according to the "Urf" and the Sharia in relation to intertribal affairs and retained the privilege to levy taxes on all products coming from the Red Sea coast and passing through their lands.

Otherwise, effective and perilous for customary institutions is the direct instruction of a modern state in the local community management of resources by simply intervening in the control of tribal territories or by interfering in the management of the hydraulic system, sometimes brutally attacking to the customary bodies that it removes of their power, the state touches on what founds the identity of groups, upset the social order.

In the Maghreb, for example, the domination of water and the implementation of a large-scale hydraulic policy have led to the disappropriation of communities of irrigators from whom all initiative has been withdrawn; the state there, still in an unavoidable role and all the Oasis, former sedentary nomads find themselves in a situation of total dependence vis-à-vis it.<sup>11</sup>

#### **Forms of resistance under customary law**

Forms of resistance exist nowadays almost everywhere, for example, among the "Fwahr"<sup>12</sup>of Cyrenaica, the customary code, of which the drafting is recent, is an original manifestation of it, at the same time as it turns out to be a collective strategy of adaptation to a new context, that is to say a real taking in account of modernity rather than undergo it.

The fear of a seizure of water in the name of national development on collective grazing lands, the fear of introducing legislation to control the extraction of groundwater lead them to develop the land, to equipped with wells, to mark their limits, to privatize them. In some places, the tribes even manage to overcome their old quarrels over the precedence of water rights or land rights, to find a compromise to deal with the unanimously felt danger of a state grabbing of land. . This state that, in another region of Yemen "Wadi Harib", one considers more concerned

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<sup>10</sup> - Hans ChristianKorsholm Nielsen: Negotiation and Writing, Egypt / Arab World, first series 34/1998, pp 155-156.

<sup>11</sup> - Brunhes: Irrigation in the Iberian Peninsula and in North Africa, Paris 1902, p 120.

<sup>12</sup> - Giani.Albergoni: Write custom, a Bedouin tribe "fwahr" against modernity, rural study Review, No. 155-156, 2000, pp 160-170.

with the common good and that one considers rather as a real actor with his own interests, and any development project coming from up there is looked at with suspicion.<sup>13</sup>The ancient nomads do not admit the guardianship of the state over collective lands.<sup>14</sup>This determination to extract water from deep aquifers and then to develop land in extremely difficult conditions is not only linked to speculation on indisputable economic advantages. What is also essential for everyone is to have their share as a tribal member, of a land that all still consider tribal and thus reaffirm with the strength of group membership.

The apprehension of seeing their lands usurped also exists in northern Yemen where men know that the government of nearby Arabia has seized much of the former tribal lands. They also know the risk of an appropriation of bare land by the ruler of the country in the very name of religious law. The simple announcement of a year of agriculture is felt as a concrete threat and leads the men of a village community to divide the land equally among themselves, occasionally going beyond certain customary rules.

### **The issue of customary law**

In all places and at different times, from the first centuries of the Hijra until today, a very negative image is associated with both traditional and religious orthodoxy by national modernized currents. It is not irrelevant to recognize and respect of state authorities, and give legitimacy to their customary they developed a newer version, for example, is Fwahr Cyrenaica ownership and ahead somehow the arguments which could be opposed to them; they demonstrate in a special clause which they refer clearly to the Sharia how their Urf whose Islamic tone is obvious, stands out bad customs and other urf outrageous as it would repeal.<sup>15</sup>

The seriousness of things is rightly underlined for Morocco by one of the researchers<sup>16</sup>, which assesses the consequences of the self-interested overestimation of custom by the colonial administration with the famous Berber zahir, much less serious than its subsequent violent devaluation by the national movement. Regarding Kabylia in Algeria, we must remember the perverse effects of the exceptional measures in terms of local administration from which the latter benefited during the colonial period. However, we note that during independent Algeria, the villagers were discreet and did not claim the place to which their assemblies could have claimed in the new state.

From the Maghreb to Yemen, whether nomadic or sedentary populations, it is indeed their belonging to a rural tribal world structured by solid customaries that it seems impossible for any state whatsoever to tolerate, less still in modern condition. There is, however, a richness that has been neglected for too long. The analysis carried out by researcher A. Mahé<sup>17</sup> on the place of village assemblies in contemporary Kabylia, shows how traditional institutions were able to serve as a framework and springboard for carrying out effective actions at the level of local collectives. Without being able to act in the public sphere due to the repression of the Berber cultural movement, young people made themselves more present in the life of their villages. They succeeded, as soon as they had admitted to taking into account the wise advice of the elders, to give a new impetus to the customary assemblies.

The Algerian administration could not ignore this revitalization of the Tajmaat's and knew unofficially how to use these new skills in local affairs. In the communities of the High Atlas, according to researcher A. Ahmatan<sup>18</sup>, is a place of competition between local arbitration practices, religious law and laws and national jurisprudence, that through legal consultations, foqaha or on their side the representatives of the central authority strive as much as they do to recover the management of local affairs by operating on the land of the djemaa's<sup>19</sup>, and by cautiously trying to legitimize the custom, clearly says that it is in terms of the struggle for influence that we must understand their interventions, and that we are in the order of the political. As such, there is indeed a stake here.

<sup>13</sup> - Stefan. Köhler: The Overuse of groundwater resources in Wadi Harib, Yemen, *Revue des sciences sociales et sociales*, n ° 156, Paris 2003, pp 167-178.

<sup>14</sup> - Jacques. Berque: *The Arabs from yesterday to tomorrow*, Ed / Seuil, Paris 1960, p 21.

<sup>15</sup> - Giani. Albergoni: Writing custom, a Bedouin tribe "fwahr" facing modernity, in *Revue des sciences sociales et sociale*, n ° 156, 2003, p 164.

<sup>16</sup> - Bouderbala. N: The national law between heaven and earth, *rural studies review*, n ° 155-156, 2000, pp 107-116.

<sup>17</sup> - Alain. Mahé: Village assemblies in contemporary Kabylia, in *Revue des sciences sociales et sociales*, n ° 156, pp 179-212.

<sup>18</sup> - TO. Ahmatan: *Social changes in the High Atlas*, Paris, MSI / Rabat, Ed / de la porte 1999, pp 220-225.

<sup>19</sup> - Ernest. Miliot: *Bled El Djemaa, study of Moroccan legislation*, Paris 1922.

### The writing of customary law

History has not preserved for us any text of customary law prior to XVIIth century. This is probably because this right was unwritten and society relied heavily on the memory of the elders to preserve it.<sup>20</sup> Very empirical in nature, this law was constantly evolving and there was no obligation to keep a rule that had fallen into disuse. In addition, the written word did not really make its entry into the countryside until 15th century<sup>21</sup>, with Islamization in depth.

Generally, customary law is essentially the domain of the oral, but it has been able, at different times, to be the subject of transcriptions, under the effect of transaction with the global culture through the intermediary of clerics or literates, or because of colonial administrators. For example in Morocco, there were codifications considered to be the oldest collections concerning collective granaries and governed the conservation of grains, the life of the building and its maintenance, this institution was under the responsibility of a responsible body called "Ayt Ugadir"<sup>22</sup>. And unlike the South-East of Morocco, we find registers among the famous Berber *zahir*, called the "Iluh's" which contain rules governing a specific sector or place.<sup>23</sup> In Kabylia<sup>24</sup>, the villagers also sometimes solicited scholars for the transcription of their *qanuns*<sup>25</sup>; however, from the beginning of the 20th century, they themselves began to transcribe their regulations and village laws into the language of the colonizers, which was very well mastered. It is noteworthy that the repression of the insurrection of 1871 put an end to this project, but the work consecrated these customs in the form of a real code used by the French courts. In the years 1920-1950, "new *qanun*" appeared, transcribed at the initiative of the villagers in French or Arabic, while the authorities "discovered" that the village assemblies had continued, despite an official abolition in 1871. After 1962, there was no trace of such documents until the revitalization of village assemblies in the 1980s which led to a new stage in this writing as well as a renewed interest of anthropologists for the Kabyle *qanuns*.<sup>26</sup>

Regarding water legislation among the Mozabites, it is based on handwritten documents known by the name "ittifaqat" in other words the conventions.<sup>27</sup> These are at the origin of the minutes of deliberations, taken by the general assembly of the towns of Mزاب and recorded in minutes by the secretary of the said assembly in so-called "Mawani al oumma" registers. These registers are held by people whom only they can give communication or copy to others. Among the handwritten documents, one cites for example a very important document dated 1704 and which takes us back to the origins of the distribution of rainwater. This document summarizes the principles of the water regime of the Oasis of Ghardaia, as it has been practiced for centuries and it contains the following passage: "the sharing of water will be done on the basis of the strictest equality, not not per head, but in proportion to the number of gardens. Any owner of a garden will be entitled to a share, whoever owns two gardens will be entitled to two shares and so on. The claims of whoever will claim a share greater than his own will be null and void. The downstream owner will bring his share to his garden without opposition from anyone. "

In the same *ittifaq* we read in the article 08: "Whoever brings into his garden or his canal a quantity of running water greater than that which is due to him, is punished by 25 reals of fine and exile".<sup>28</sup> So the distribution of water requires a monitoring and coordination body, a body of water officials of experts in water law who master it in all its details, and to whom it is addressed in the event of a dispute over the water law.

<sup>20</sup> - Villot.J: Mores, customs and institutions of the natives of Algeria, in 08 Constantine 1871, p 19.

<sup>21</sup> - J. Berque: Land rights and social integration in the Maghreb, *cahiers international de sociologie* XXV paris 1958, p 38-74.

<sup>22</sup> Al Ottmani. A: The customaries of Jazoula and Muslim legislation. Study of the customs of Sous in the light of religious justice), Rabat, Publication of the Ministry of Habous and Islamic Affairs, 2004, pp 225-260.

<sup>23</sup> Al ottmani. A: *Ibid*, pp 240-250

<sup>24</sup> -Eugene.Daumas: Mores and customs of Algeria, Ed / Sindbad, Paris 1982, p 230.

<sup>25</sup> - Hanotaux et Letourneux / La Kabylie et les coutumes kabyles, Paris, Algiers 1872-1873.

<sup>26</sup> -Alain. Mahé : Village assemblies in contemporary Kabylia, in *Revue des sciences sociales et sociales*, 1993, n ° 156, pp 179-212.

<sup>27</sup> -Conventions between representatives of "azzaba" (religious institution) and those of "AWAM" (notables, representatives of fractions), which form the upper assembly, which represents the legislative body in the Mozabite society.

<sup>28</sup> - Miliot.L and Giacobetti.A: Collection of deliberations of Djemaa du Mزاب; extract from the review of Islamic studies, Librairie Orientaliste Paul Geuthner, Paris 1930, Clichés n ° 24.

These attempts to write down certain practices are certainly partial and ultimately quite specific. But what does the passage to writing present each time? Under what conditions and under what pressures does it take place? What strategies does it serve? What does this reveal about the group? These are questions that have crossed several debates on this subject.

Based on writing, religious knowledge is always associated in the countryside with a privileged social status, researcher Pierre Bonté<sup>29</sup>, gives us a very documented example drawn from the Mauritanian Adrar where economic power is closely linked to religious functions.

It is from among the Zawiyas that the qodat's, judges responsible for the application of Koranic law, are recruited. The use they make of their religious and legal knowledge, their casuistry skills, their writing skills, but also the miraculous powers attributed to them, gives them the strength to control access to property and agricultural production.

Arbitration in the Saada basin in Yemen, essential for the evolution of customary law and the local development that followed, is the work of a scholar, a man of religion, descendant of the family of the prophet.<sup>30</sup> In Cyrenaica, it is also a literate "Fkih" of the tribe, poet, author of various works, at the same time customary judge who ensures the writing.

Almost everywhere, a gradual spread of writing is taking place from cultural centers, holy places, places of teaching and Islamization. But what can be said when the wish, the initiative to see customary transcripts, and this sometimes at very old dates, comes from the groups themselves as for these codes of use of collective granaries in Morocco, or even this register of water in Morocco? Ghdèmes in Libya and among the Mozabites in Algeria.<sup>31</sup> So what is the issue that men believe they are detecting in order to want to put in writing what is of the intimate part of the group (the customary order)?

In the High Atlas, in particular, one can indeed identify most of the customary writings in the area of influence of religious centers, precisely where there are Zawiyas or schools, where writing is found.<sup>32</sup> So, it is a desire to advance the sharia, and for those who do not accept the judgment rendered by their customary bodies, recourse to the sharia is possible. This too may have prompted communities to fix usage.

A writing, but very recent, this one, on the initiative of the fwaher of Cyrenaica, whose writing dates back to the beginning of the seventies, and which is given as the former Urf of the tribe. But here, the written word has a very precise function, that is to say, the document is not designed to be preserved in the privacy of the group but to be exhibited, including the curiosity of the ethnologist seen as a sort of administration show.

Twenty or thirty years ago, decisions in Egypt were formalized by their pronouncement in the presence of a group of men physically, family and professionally linked to the region and the parties involved. Thus, the local society guaranteed, with the members of the assembly, the submission of the parties to the decision. Today, it is the custom ( 'urf), understood in a broad sense, which remains the basis for decisions and therefore their acceptance. But with the rapid changes facing Egyptian society, which result in increased mobility - rural migration, migration to rich Gulf states - a transformation of intergenerational relations and expansion of literacy<sup>33</sup>, respect for decisions can no longer depend on local society alone.

In Egypt, the use of writing therefore seems to follow a logical evolution. At the same time, it is a good example of the adaptation of a local tradition to changed conditions. The drafting of decisions seems to have generated a new

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<sup>29</sup>- Pierre. Kindness: Muslim Law and Land Practices in the Mauritanian Adrar, *Revue des Etudes Rurales*, n ° 155/156, 2000, pp 39-106.

<sup>30</sup>-P. Drech: Tribal relations and politico history in Upper Yemen, in BR. Pridham, Ed, London 1984, pp. 54-174.

<sup>31</sup>- Robin / The Mzab and its annexation in France, a work in which the religious and secular constitution of the Mzab is clearly explained. Note some extracts from secular qanun, Algiers 1884, pp 8-46.

<sup>32</sup> - Tozy.Mohamed Mahdi: Aspects of Community Law in the Atlas in Morocco, National School of Agriculture of Meknes 1990.

<sup>33</sup>-Hopking.N. S: Agrarian Transformation in Egypt. Cairo, AUC Press 1987.

situation which allows the monopolization of traditional knowledge and thus the concentration of power linked to the exercise of customary law in the hands of a group of professionals.

It may also seem to go without saying that once the decisions are written down, the whole institution changes character, with the possibility that emerges then of building a "legal system" independent of local societies, such as this has been well described by the anthropological literature which deals with the introduction of the written word in the regions which were dominated by the oral tradition<sup>34</sup>. However, this does not appear to be the case in Upper Egypt. The documents are published in a schematic form and remain closely linked to the specific cases to which they relate. The idea of bringing these documents together in a coherent complex of texts allowing them to be compared and evaluated does not seem to represent much interest, even though they are kept by a group of men participating in all the assemblies in the region.

Each document is seen as the reflection of a simple and unique case, the negotiation of a unique conflict, and the knowledge that underlies remains in the hands of individuals. The documents are mnemonic tools, a response to the accelerated development experienced by Egyptian society in recent years and not the basis for the development of a complex and coherent legal edifice.

The text has the value of a manifesto and a message; its vocation is to give the state authorities the best image of the tribe. It is crossed as a whole by a major concern, the reaffirmation of the unity of the tribe and the preservation of the communal character of tribal territory in the new socio-political and techno-economic context.

Writing certainly gives it strength, more assertive recognition. In the countryside, the prestige accorded to writing goes even further than one might imagine. The Tunisian Sahara offers us an extreme example.

When drilling considered illegal, is undertaken by nomads, the state authorities choose a period of repressive action; but as soon as the minutes are set, men want to read a recognition, even a formalization of their actions as culpable then ducked as if the writing had acquired a value in itself, quite independent of the content. Perhaps it is necessary to identify here again only one more ruse, but the game is effective and the men gain from it; the state no longer dares to verbalize, it is trapped in a sacralization of writing to which not only the religious but also the political have contributed for centuries.

According to the periods and according to the strong reports, the things can evolve, the long process of unification of the law is done with hesitations which can have serious consequences or quite simply bring in certain fields a real paralysis.

But the lack of consultation, the lack of debate in the development of laws concocted in offices are not specific to the Maghreb. They are consistent with this more general contempt for rural knowledge, with this refusal of the state to make room for traditional instances of management in local affairs or at least to consult them with reluctance from the latter, when it usurped initiative to relinquish it.

At this time or another, however, the inapplicable law is obliged to compromise, to take into account the power relations that are expressed. This neglect, this lack of consideration for local societies and their specific issues lead, once such decree promulgated and propelled in the countryside to the law.

### **Conclusion:-**

The approach of customary law in the context of social transformation processes and institutional dynamics has shown both a tradition rooted in practice and a system in perpetual evolution. She highlighted that rural communities do not just apply a fixed set of rules bequeathed by ancestors, but continually develop, produce and reinvent the law according to contexts and social situations. One need only consult the writings directly related to this jurisdiction, such as notarial deeds relating to property or intergroup agreements as well as codified customaries, to see the degree of this development and the implementation of complex negotiation strategies. It follows from all this that the law, despite the various interventions of the colonial authorities and, afterwards, of the national state authorities, still retains a certain significance. Rural communities, still organized in localities, continue to organize the main

<sup>34</sup> -Goody J., Watt.I., 1962-1963, "The Consequences of Literacy", *Comparative Studies in Society and History*, n ° 5, p. 304-345.

sectors of their social and economic life according to their social and legal practices, to develop legal rules, to reinvent them and to adapt them to new situations. Rules of law arise from need and circumstances. But if the direct observation shows that this type of law continues, it is equally fair to accept that it had evolved in response to changes implemented in the social structures and lifestyles of local people in the last century and will continue to do

But the laughhow great it is to see its authority denied and its law flouted, there is the reactivation of customary law, the actions of which it endorses are accused of being illegal, and the resurgence of customary institutions which then take over from the state. They can also adapt perfectly and demonstrate great modernism.

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