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## **The Dilemma of Land Registration in the West Bank**

The most unfortunate legacy of the consecutive occupying powers that ruled in Palestine is that the development of any kind of state structure in the country has been denied. This explains the Palestinian people's weakened capacity for planning the development of land and resources in a sustainable manner.

One of these weakened capacities is that related to land administration in general and land registration in particular. Since an adequate, credible and sustainable land registration system is the foundation of any developmental scheme that affects the many social, demographic, economic and environmental aspects of the society, it has been treated as a taboo issue in reference of its anticipated potentials that might have extended to the original residents to develop their communities in locations considered by the occupying powers sensitive and vital.

More distinctively, it is well known that an accurate knowledge of natural resources coupled with the creation of accurate descriptions and records for quantifying such knowledge are the primary essentials for their rational use and conservation. It is apparent, therefore, that any information concerning land is valuable information which can serve as a key to financial investments, commerce, industry and agriculture. It is a regrettable fact that this region of the world still lacks an adequate Land - Information System that embrace eventually a sub-system of land registration for its present needs, especially in urban areas.

In the Palestinian society, there is a growing demand for information which focuses on land, as the activities of the Palestinian government, industry and the individual enterprises of private persons are increasing, especially with regards to land based activities. The collection, processing and supply of land information are affected in so-called Land - Information System. Some Palestinian communities already run individual parts of such a system, each covering a part of the information. These systems do not completely cover all of the information required for such a system; there are significant gaps and overlaps involved.



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Thus, following the last 40 years of Israeli military occupation of the West Bank area, the Palestinians inherited disorganized, fragmented and inefficient institutions, including that of concern of land administration issues. On one hand, there is a scarcity of local data sets in the Palestinian territory that contain land use information. On the other hand, the quality of available information is quite variable and often presented as a confused mixture of land use and land cover categories. This is partly due to the limitations in the methods used for deriving and inventorying land use classes that neglects biophysical and economic aspects of land uses and on context related to socio-economic data. At the same time, these data are considered important and vital in the integration with the land information system, where they would constitute the foundation of the system after being classified, optimized, filtered and reformatted.

But in order to provide a context for the reader a brief historical background is introduced here. First and during the period of Ottoman rule in Palestine, a Land Register Law known as the "Tabu" was introduced in 1858 to establish rights of land ownership. Accordingly, the Land Settlement Ordinance to the year 1928 that was introduced during the British Mandate also tried to solidify rights of land ownership. However, both approaches failed to document the situation of land ownership in, what is now the occupied Palestinian territory, as the Arab family-based communal farmers who formed the majority of the landowners resisted those systems for several reasons, including that the both systems neglected the tradition of collective ownership adopted by the farmers at those times and because the Turkish Land Register Law forced high taxes on the registered cultivated lands that were classified as the land of the emirate.

Nevertheless Israel - as a consequence of 1948 war - took control of 78% of mandate Palestine. Up until the 1967 war, the West Bank came under the Jordanian administration. Since land ownership has always been the key issue in the Palestinian-Israeli conflict, Israel neither recognized nor authorized the traditional communal based system of ownership that had existed for many generations on the land that covered almost the entire Palestinian rural area, especially in the southern parts of the West Bank.

When Israeli occupied the West Bank including East Jerusalem back in 1967, it devised policies and laws to implement a methodical and premeditated strategy



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of a *de facto* physical domination on Palestinian's privately owned lands. What considered a first step in implementing this strategy was the Israeli military order of 1967 that halted process of land registration in the occupied Palestinian territory including the West Bank, under the pretext of "peril of protectionism" of Palestinian absentee's property rights. This strategy ended with the confiscation of more than 2910 km<sup>2</sup> (51%) of the West Bank geographic area as to "state property" lands.

In view of that, the Israeli occupied authorities adopted several principle means to restrict and to limit the land uses in the Palestinian territory that could be presented in two different faces. The first one was the face of illegal occupiers, where they issued military orders to compulsorily appropriate privately owned lands and transfer them into a public ownership; in parallel to impose restrictions on the transfer of lands between Palestinian citizens, creating a formidable challenge towards achieving a process of sustainable development in the Palestinian territory. Accordingly, the other manner portrait the face of biased town planners who could impose restrictions on the use of land, as it is widely accepted that restrictions on the way individuals use their lands are in principal justifiable because land is a finite natural resource, and individuals decision may contradict with the interest of their communities and therefore prejudice the good of the public.

The later principal mean has been more conspicuous in the occupied East Jerusalem more than that in any other places in the Palestinian territory. The Israeli's used an effective planning strategy of "Town Planning Scheme (TPS)" to restrict Palestinian development by simply failing to draw up TPS for the majority of Palestinian lands in East Jerusalem with the purpose of blocking Palestinian development, by employing an extensive and expensive process to get the approval for such plans, in order to be able in later stages of appropriating the lands under question, to the interest of building illegal Israeli settlements. For instance, in the Jerusalem TPS of 1968 the majority of Jabal Abu Ghaneim [Har Homa] lands (located between Bethlehem and Jerusalem) were zoned as green areas, prohibiting all development activities by the rightful Palestinian owners of Beit Sahour, Um Tuba and Sur Baher for more than two decades. However, in June 1991, The Israeli government ordered the



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sequestration of this green area to build a settlement designated for exclusive Jewish use.

The Palestinian - Israeli Interim Agreement on the West Bank and the Gaza Strip (Oslo Accords), signed between the Government of the State of Israel and the Palestinian Liberation Organization in September 1995, stipulated that all civil powers and responsibilities related to the territory, including planning and zoning, in populated area (Areas A and B; correspond primarily to Palestinian urban areas), will be transferred to and assumed by the council (i.e. the Palestinian Authority). According to article 22 of the protocol concerning civil affairs of the signed accords; *"civil authority related to land includes registration of land transactions in the land registry, first-time registrations of land and administration of land registry offices."* However, the planning and zoning of Area C that remained under the Israeli full control were to be transferred to Palestinian jurisdiction during the further redeployment phases that *"to be completed with 18 months from the date of the inauguration of the Council."* (Article 27, Appendix 1, Annex III: Protocol Concerning Civil Affairs, Oslo Accords). But in fact, the Israeli occupation on hold policies and encroachments in the West Bank in general, and area C in particular, have manifested through – parading their Zionist credentials – confiscating lands, building and expanding illegal Israeli settlements, constructing bypass roads, demolishing Palestinian houses, razing lands, and finally constructing the Segregation Wall, to name a few, in order to extract the Palestinian character from the land and coerce facts on the ground that will add more complications and jeopardize the comprehensive peace of meaning framed and governed by the final - stopped peace process negotiations.

On the ground, the Palestinians have never been able of implementing their plans of development and those small parts of developmental schemes that were implemented as pilot projects have been put to an end through the on hold policy of destruction exercised by the Israeli army machines. In this context, up to this moment, the Palestinians have not been able of accomplishing any project regarding the registry of lands in the West Bank area for several reasons;

Firstly, during the first decade since the inception of the Palestinian Authority, the Palestinian's didn't rank this issue a top priority as they indulged them selves with founding the structure of the emerging Palestinian State, as they inherited a



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legacy of inefficient and chaotic institutions that deals with the different facets of the Palestinian domestic life poorly and inefficiently. However, when the Palestinians started focusing on issues of mainly long developments means, they faced the trouble of financing these expensive plans. At the same time, the outbreak of the second *Intifada* has reoriented the fields of interests of the aid community that shifted to emergency assistance while attempting to maintain a veneer of short to medium term development schemes that overlooks the badly needs of the Palestinian society of paving for economical - productive driven projects directed and maintained by the Palestinians within a broader objective of a state-building.

Secondly, the related land administration Palestinian governmental authorities lack the capacity and the sound experience in building an efficient system of land registration. Also, they lack the capacity of performing and managing the required related applications to land registration such as the use and utilization of the state-of-the-art technology of remote sensing and geographic information tools and functions, which are considered essential in building a refined structure of land registration system.

In the end, when a land registration system being built, the result of basic land use maps and land titling databases will be produced to develop sound policies, to facilitate decision making and to develop sustainable development plans based on scientific analysis. Another anticipated result, is to improve the coverage, completeness, accuracy and responsiveness of the cadastre and real property registration systems and, therefore, contribute to the development of secure tenure of real property and hence investments in housing, agriculture, commerce, manufacturing, and services. In other words, the processing of a refined and sustainable land registration system will result in the ensuing major benefits of:

- Support for the land taxation system;
- More Efficient land transfers (security of credits);
- Improving land use and management; and
- Fixing land ownership disputes, especially between municipalities and local village councils.



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In summary, it is very useful to conclude with the last commentary of the fourth meeting of the committee on sustainable development held at Addis Ababa in Ethiopia in October 2005 that emphasis on the many functions of land that need to be taken into account in development planning to insure efficient allocation if this crucial resource is to provide the greatest sustainable benefits to local and national living standards; *"land use planning is the key to efficient development of natural resources through allocation of land and water to those functions that provide the greatest sustainable benefits to local and national living standards. With poverty reduction as the major objective in international development, planners must work with the active participation of all stakeholders, to promote integrated natural resource management whilst building the capacity of local land management institutions. In particular, land use planning processes must encourage the active involvement of local communities whose livelihoods depend on natural resources."*



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