



Palestine Economic Policy Research Institute (MAS)

**Arable Land in Palestine:
Reasons of Decline and Policies for Protection**

Yousef Adwan

2009



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- ♦ Evaluating economic and social policies and their impact at different levels for correction and review of existing policies.
- ♦ Providing a forum for free, open and democratic public debate among all stakeholders on the socio-economic policy-making process.
- ♦ Disseminating up-to-date socio-economic information and research results.
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P.O. Box 19111, Jerusalem and P.O. Box 2426, Ramallah
Tel: ++972-2-2987053/4, Fax: ++972-2-2987055, e-mail: info@pal-econ.org
Web Site : <http://www.mas.ps>



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Researchers: Dr. Yousif Odwan, Research Associate at MAS

Reviewers: Dr. Adnan Qabaga, Director at the Palestinian Land Authority

Funding: This study was funded by The Spanish Cooperation (AECID) through Asamblea de Cooperación Por la Paz (ACPP).



Palestine Economic Policy Research Institute (MAS)
Jerusalem and Ramallah

FOREWORD

The struggle over land is the heart of Israeli-Palestinian conflict. Land in the Palestinian economy, as in other developing countries, was the pivot of economic and social activities. Land ownership was also the preferred store of wealth and the sure means to enhance social status. And in spite of the forced redirection of economic activities away from land, due to the Israeli policies since 1967 and the segregation of the West Bank into A, B and C areas since 1994, land is still of central importance in the economic life of Palestinians. The percentage contribution of agriculture in GDP in the West Bank and Gaza was as low as 5 % in 2005. However, all stakeholders agree, and there is substantial information to demonstrate, that this is drastically underestimated and does not reflect the true role of agriculture in processing and commercial activities in Palestine.

A number of excellent papers (World Bank 2008 and Bimkom 2008) were recently published addressing the restrictions imposed by the Israeli Army preventing Palestinian exploitation of natural resources on some 58% of the total area of the West Bank (Areas C) and preventing even accessibility of Palestinians to about 38% of the West Bank (the areas of settlements and closed military zones). The current study seeks to focus on an issue that has not been directly addressed in other studies, namely the diminishing arable land area in the Palestinian Territories. The study addresses in particular four issues closely tied to agricultural land: land registration, fragmentation of land ownership, high land prices, and urban expansion at the expense of agricultural land.

The current study is part of the Food Security Research programme, which MAS has been working on since 2005. The programme is funded by the Spanish Cooperation (AECID) and the Asamblea de Cooperación Por la Paz (ACPP). On behalf of MAS, I would like to thank these institutions for funding this study, and for their support of the Food Security Research Unit.

Numan Kanafani
Director General

EXECUTIVE SUMMARY

Arable land in Palestine suffers from a variety of problems, largely as a consequence of the Israeli occupation. These problems arise invariably as a result of access constraints, land confiscation, settlement activities, the construction and expansion of the separation wall, 'security' related land closures, and limited water allocation. However, these specific issues have been explored previously by a number of research institutions. Consequently, and with the desire to advance the discussion of this topic, this study will focus on a number of less obvious challenges. These include weak registration capacities, high land prices, urban expansion onto arable land, and land parceling out to small lots.

These four problems contribute to the difficulties farmers endure when attempting to efficiently utilize their land. Small lots make it difficult to achieve positive returns on agricultural investments, while high land prices encourage owners to move away from agriculture and towards housing or further commercial opportunities. Furthermore, the lack of clarity in regards to land property rights, due to the lack of comprehensive registration, has assisted Israeli authorities in their efforts to close, confiscate, and construct infrastructure and settlements on hitherto Palestinian land.

The objective of this study is to investigate the causes behind these problems, and to identify their economic impact. The study will explore the existing procedures for land settlement and registration, which determines arable land prices. It will also explore the role of the Palestinian Lands Authority (PLA), courts, and municipalities in regards to land use, land settlement and registration, and land prices. The study will culminate with a number of policy recommendations to

protect arable land from the expansion of urban construction and from the parceling of arable land to small lots which invariably impedes agricultural development and investment.

The study concludes that the lack of clear land ownership titles represents the most significant challenge for the future of Palestinian arable land. As a prerequisite for the registration of a land title, the land in question should pass the settlement process however this was frozen by the Israeli authorities shortly after their occupation of the West Bank and Gaza in June 1967.

Land settlement and registration must be conducted for the entire parcel of the applicants land. This poses additional problems, including the required acceptance of all co-owners and that the minimum area of each parcel of land must not be less than half a danum. In addition to this, 58% of the records of all the West Bank land, including the records of all the irrigated lands, remain under Israeli control, making the registration of land titles dependent on Israel cooperation. The time required to complete land registration is also too long, and fees are expensive at 5% of the land's market value.

Many land owners believe that documents issued by the Palestinian Ministry of Finance represent legal property right certificates however this is not the case. The correct property right certificates are instead issued by the Land Authority and can only be done so for land located in the areas settled pre June 1967 or newly registered by the Palestinian Authority (PA). The percent of settled areas in the West Bank does not exceed 32%, compared with 95% in the Gaza; however this process helps Palestinian owners to protect their land from Israeli confiscations. For example, in the Jenin district, 92% of

the area was settled prior to June 1967 and has consequential impeded Israel settlement activities. Jenin enjoys a low number of settlements when compared with other West Bank governorates. This reality should encourage the PA to give priority to land settlement and registration all over the West Bank, especially with regards to land under its jurisdiction in areas A and B.

In regards to the legal framework, land issues are subject to 48 laws from 5 different governing systems. Despite the establishment of the PNA, it has not promulgated its land laws, which replace all other applied laws in the West Bank and the Gaza Strip. The Land Law is important, however there are those who believe that it should not be enacted prior to the end of the Israeli occupation as Israeli authorities continue to maintain strict control over the majority of West Bank areas. Furthermore, land disputes are still dealt with by regular courts which lead to laborious deliberation for unspecialized judges and lawyers.

The irreversible power of attorney (IPA) is the most common tool used to protect buyers' rights during land transactions. However while this is a legally accepted tool, it remains vulnerable to fraud. Since the IPA has no central registration, it can easily be used to sell the same piece of land many times to multiple buyers. This has occurred a number of times, including instances in which land has been sold to Israelis. It is important that land owners and buyers understand the limitations and risks of the IPA. However while it is not a land title, the IPA is an easy, relatively cheap, and efficient tool for carrying out land transactions.

The PLA's emergence in 2002 was an important step forward in tackling land issues yet its achievements to date have

fallen short of expectations. It has not enjoyed enough support from the PA and suffers from a number of shortcomings. This include poor material and technical capabilities to carry out its duties, the absence of legal departments in all districts - which has resulted in different interpretations of legal cases though the Occupied Territories - and the lack of specialized staff for land settlement and registry.

Palestinian building in the Occupied Territories has also suffered from heavy handed Israeli restrictions over land use and building permits. Israeli authorities have denied certain Palestinian cities, towns, and village of their rights to hold sound and appropriate master plans (structural land use plans), based on their long term development needs. Likewise, Israel Authorities have restricted building permits within the borders of Palestinian localities as per the British Mandate 'master plan'. As a result, construction expansion has been distorted and often spontaneous in nature. The lack of a master plan has also impacted upon urban development in Palestinian communities since the establishment of the PNA in 1994. Despite the fact that a number of localities have now been able to prepare masters plans, and have taken advantage of the end of hostile Israel restrictions on zoning and planning, Israeli restrictions still apply in area C, which represents 60% of the West Bank. As a result of the differences in building license procedures between the PA and the Israeli government, building expansion has differed significantly in areas A and B, with more than 44 thousand building licenses issued, compared to area C with only 91 licensee issues since 2000 through to 2007.

Soon after 1967, Israel dissolved the three levels of the hitherto Jordanian Planning and Zoning system, which comprise of

local, regional, and high planning council. Instead it created the Higher Planning Council (HPC) as a central system with a wide mandate over planning and zoning in the West Bank. The HPC has no Palestinian representation. Israeli settlements, the bypass settlement roads, and the recently imposed separation wall, have also had a significant impact on Palestinian building trends. As a result, Palestinian urban expansion has had no choice but to occur at the expense of arable land.

Furthermore, and prices have been affected by a number of issues including the geopolitical identity of land, water availability, infrastructure, proximity to households and commercial centers, proximity to Israeli settlements, and the expansion of the separation wall. Problems of land parceling out to small lots also related to land location. Lands close to residential, commercial centers, and infrastructure, invariably enjoy higher prices compares to those further from such services. Water scarcity, for instance in the south of the West Bank, has resulted in the diving of lands around water springs in small plots making agricultural investment unfeasible.

The expansion of the separation wall has also restricted access to 18% of arable land in the West Bank. Moreover, the Israeli authorities ask Palestinian farmers for ownership proof if they want to be granted permission to reach their land. The goal of this policy appears to be that of dividing the land, making farming less feasible and forcing farmers to consider other sources of income. This eventually leads to the relative abandonment of the land, making it easier for the Israeli authorities to confiscate and control it.

To protect arable land, this study has come up with a set of recommendations. These include the encouragement of

efforts to complete the land settlement and registration of over 64% of land in areas A and B. The study also encourages the conducting of land settlement and registration in area C if and when possible. There is a further need to solve the problems of legal plurality related to land laws, the reduction of registration fees for land in area C, the reduction of the obsolete period of periodical proxies from 15 years to 5 years, in addition to the carrying out of legal changes to the IPA. The study goes on to recommend the enactment of laws governing the PLA in order to identify its terms or reference and to guarantee accountability and transparency. The PLA needs to be supported financially and technically, with highly skilled staff alongside an increase in the numbers of specialized judges and lawyers. There is also need for the separation of land courts from regular ones, alongside the need to conduct and approve comprehensive master plans for urban development in the West Bank and Gaza. In theory, these recommendations should help preserve arable land, regulate land markets, and help carry out much needed local development while establishing a sound basis of law and order from which to cultivate a stable and transparent environment throughout this vital sector.