

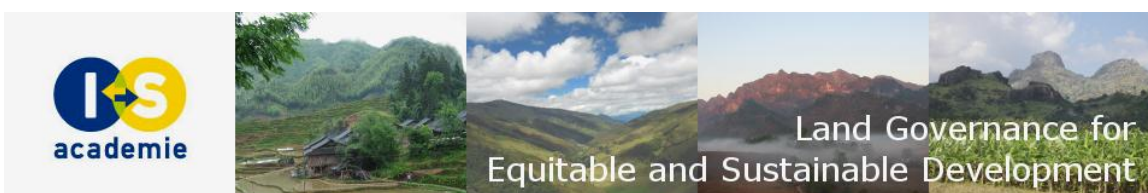
# PALESTINIAN TERRITORIES

## FOOD SECURITY AND LAND GOVERNANCE FACTSHEET

<b>ABSTRACT</b> .....	1
<b>1 POLICY AND LEGISLATION</b> .....	3
1.1 Regulatory land governance framework .....	3
1.2 Land tenure forms .....	3
1.3 Institutional land governance framework .....	3
1.4 Gender .....	4
1.5 Foreign direct investment .....	4
<b>2 INTEGRATED WATER RESOURCE MANAGEMENT</b> .....	4
2.1 Policy framework around Integral Water Resource Management .....	4
2.2 Institutional framework around Integrated Water Resource Management .....	5
<b>3 REALITIES ON THE GROUND</b> .....	5
<b>4 RESOURCES AND OTHER INFORMATION</b> .....	5
4.1 Laws, policy and regulations search engines .....	5
4.2 Maps and databases .....	5
4.3 Portals and other resources .....	6
4.4 Donor support programs .....	6
4.5 Organisations and resources .....	6
4.6 References .....	6

### ABSTRACT

In Palestinian territories, food security is linked to governance of land and water, the latter being part also of a broader intricate context. The land registration system has become semi-formal, as the pre-1967 legal framework is out of date and the registration system is no longer up-to-date. The Palestinian Authority has recently created the necessary institutions for land governance but legislative frameworks and actual capacity are still insufficient, which is even more complicated by the current political constellation. Moreover, the overall governance of land and water in the Palestinian territories is inextricably linked to the peace process and negotiations with Israel. Millions of Palestinians are now living as refugees in neighbouring countries and their claims to land owned within the state of Israel are an important and sensitive part of the process. As occupation of land by Israel is continuing, the security of tenure and protection of property rights represent a real challenge, undermining investment in food production.





This country factsheet was prepared under auspices of LANDac – The IS academy on land governance - and compiled by the Royal Tropical Institute (KIT – Thea Hilhorst and Nicolas Porchet) at the request of the Ministry of Foreign Affairs – The Netherlands.

### **About IS Academy on Land Governance for Equitable and Sustainable Development**

LANDac, the IS Academy on Land Governance for Equitable and Sustainable Development, aims at bringing together researchers, policy makers and practitioners in the field of land governance and development. It is a partnership between several Dutch organisations and their Southern partners involved in development-related research, policy and practice. LANDac is one of the IS Academies for International Cooperation sponsored by the Netherlands Ministry of Foreign Affairs.

### **About KIT**

The Royal Tropical Institute (KIT) in Amsterdam is an independent centre of knowledge and expertise in the areas of international and intercultural cooperation, operating at the interface between theory and practice and between policy and implementation. The Institute contributes to sustainable development, poverty alleviation and cultural preservation and exchange.

### **Country expert contribution:**

We acknowledge and thank Mr. Marwan El Solh for his insights and comments on the latest development impacting land governance in the Palestinian Territories.

## 1 POLICY AND LEGISLATION

### 1.1 Regulatory land governance framework

The Palestinian Authority (PA) - created after the 1995 Oslo Peace Agreements- is working on passing new laws that govern land ownership, land administration and registration. In December 2004, the PA Council of Ministers adopted a land policy statement and approved in 2008 the Land Policy Framework. A new Land Law is being drafted.

The PA plans to resume systematic land adjudication, surveying and registration process that were interrupted in 1967, with simplified procedures to accelerate the pace.

Law or policy	Content
land policy statement (2004)	Improving tenure security; Developing efficient land and property markets, Managing land in an equitable manner; Promoting the transparent management of public land
Land Policy Framework (2008)	Reform of the land sector

### 1.2 Land tenure forms

Tenure form	Description
Mulk	Privately owned land, mostly in urban areas (FAO, 2003)
Musha	Community owned cropland without written title
Waqf	Religious land endowments
State Land-miri	Cropland close to inhabited areas; privately operated and inheritance is possible (FAO, 2003).
State Land-mawat <sup>1</sup>	Used for grazing under customary rights, but some parts also serve for cultivation with frequent fallow

Before the partition the practice of *musha* land was predominant, whereby each inhabitant in a village was allotted an equal portion of arable land, and periodic reallocation (Warriner, 1948). Uncultivated lands were registered in the twentieth century as state land. State land plays a role in the conflict. The occupying powers considered that they had the right to manage State land, which was then registered for the establishment of settlements. By 2002 about 40 percent of the West Bank had been declared state land on which about 90 percent of the settlements were established (FAO, 2003).

### 1.3 Institutional land governance framework

Following the 1967 invasion, systematic land registration and new legislation were both halted. The land registry had been closed to the public, systematic registration halted. The land administration functions (land adjudication, surveying, registration, and public land management) were scattered among different government entities.

The PA recovered three sets of land records (Ottoman, British and Jordanian), with transactions registered according to the system in which the land was originally recorded. Some pre-1967 legislation is still valid today. In the West Bank it is mostly based on Jordanian land laws<sup>2</sup>, and in the Gaza strip on Egyptian legislation, which is also the basis for the land administration system. In the West Bank approximately 30% of land was surveyed or registered before 1967. The Gaza strip saw more land registration efforts and almost 98% of the parcels are registered. Sporadic, land registration in the West Bank and Gaza took place

<sup>1</sup> Based on the 1858 Ottoman land law, maintained by the British mandate legislation and later by the Jordanian legislation.

<sup>2</sup> The Jordanian legislation itself is inspired by the Ottoman Land Code of 1858 (*Arazi Kanunnamesi*).

after 1967, based on a complicated and time-consuming manual process. This “improvised” land registration produced a semi-formal and insecure ‘titling’ systems. Land transactions are now also mostly semi-formal.

The Palestinian Authority identified the following difficulties in land registration:

- High transactions costs rendering both first and subsequent registration costly and cumbersome.
- Although there is a requirement for registering subsequent transactions, this is not taking place. Most transactions remain informal adding considerably to complication the application of inheritance shares, emigration, and expropriations.
- Enforcement of property rights are costly and take a long time as the Judiciary frequently becomes involved.
- Lack of homogenous and coherent land and property management policies vision and mandate, as there is absence of good governance regarding land and property management.
- Unpredictability of rules and requirements for registration. There is also high level of discretion
- Limited trust in the public service provisions, which renders these organizations and the registration process weak and ineffective.

In 2002, the PA consolidated land administration tasks in the newly created Palestinian Land Administration Agency (PLA), which is in charge of surveying, registration and state land administration. The headquarters of the PLA is in Gaza, with offices in Ramallah, Jericho, Nablus, Hebron, Bethlehem, Jenin, Qalqilia and Tulkarem. However, the PLA’s jurisdiction and responsibilities are not clearly determined.

#### **1.4 Gender**

Women have the legal right to access to land and access to property other than land, but female ownership is low because of social norms that limit women’s economic activity. A survey shows that only 5 per cent of women own (or share ownership of) a piece of land (OECD, 2011)<sup>3</sup>. The land rights of women are influenced by customary practices inspired by Islamic law. Women will inherit a smaller share of the land than male siblings (Eifler and Seifert, 2009).

#### **1.5 Foreign direct investment**

Foreign direct investment in land is currently impossible due to the absence of legislation.

## **2 INTEGRATED WATER RESOURCE MANAGEMENT**

### **2.1 Policy framework around Integral Water Resource Management**

*The Water Law* (No. 3/2002) on 2002 aims to develop, manage and protect water resources. All water resources are considered public property. Current legislation on water resource management dates from both pre-1967 and post Oslo Agreement.

The management of water and watersheds is essential for any peace agreement. Since the 1967 war, Israel is effectively in control over the headwaters of the Jordan River and water management within the Palestinian territories. Israel has issued a number of military orders regarding Palestinian water resources.

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<sup>3</sup> <http://genderindex.org/country/west-bank-and-gaza>

## 2.2 Institutional framework around Integrated Water Resource Management

The Palestinian Water Authority (PWA) based in Ramallah was created in 1996. The PWA has restructured the water sector using the following principles: the water sector is regulated by one responsible body; the separation of responsibility for policy and regulatory functions from service delivery; to establish regional utilities in the west bank and one in Gaza; and encourage involvement of the private sector in water projects.

The 2002 Water Law created The National Water Council in charge of the general water policy.

## 3 REALITIES ON THE GROUND

While the Palestinian Authority is the official authority in place, Hamas is controlling state functions and access to Gaza. These two forms of authority are in a feud relationship and even native citizens from Gaza need permission from Hamas to enter or leave the territory. This situation hampers the smooth functioning of current land-related institutions.

The majority of land registrations investigated by the PLA do not reflect the current ownership status. In many cases the registered owner was deceased while others failed to register subsequent transactions, particularly in the form of inheritances. Land registration was interrupted in the Palestine Territories by the war of 1967. The PA has recently created the necessary institutions for land governance but legislative frameworks and capacity are still insufficient. The PLA does not have the necessary resources and capacity to undertake its mandate.

The value of tenure security is demonstrated by the relatively higher price of plots with secure titles. In the pilot Land Administration Project, prices of land roughly doubled after titling (World Bank, 2008).

Moreover, estimates are that roughly 25% of cases before the courts are related to land disputes (World Bank, 2008). Many such court cases appear related to the extensive use of Irrevocable Powers of Attorney (IPA) in lieu of registered transactions (World Bank, 2008).

The control of land and water is an essential part of the political conflict under way today. Millions of Palestinians are now living as refugees in neighbouring countries and their claims to land owned within the state of Israel are an important and sensitive part of peace negotiations. As confiscation and restricted access to land by Israel are continuing (key elements of the ongoing conflict), security of tenure and protection of property rights represent a real challenge.

## 4 RESOURCES AND OTHER INFORMATION

### 4.1 Laws, policy and regulations search engines

- FAO Lex (Land & NR search engine): <http://faolex.fao.org/faolex/index.htm>
- Water Lex (Water laws search engine): <http://faolex.fao.org/faolex/waterlex.htm>

### 4.2 Maps and databases

- Land and soils databases/information systems: <http://www.fao.org/nr/land/databasesinformation-systems/en/>
- Water database/information systems: [http://www.fao.org/nr/water/infores\\_databases.html](http://www.fao.org/nr/water/infores_databases.html)
- Land and water maps and graphs: <http://www.fao.org/nr/solaw/maps-and-graphs/en/>  
[http://www.fao.org/nr/water/infores\\_maps.html](http://www.fao.org/nr/water/infores_maps.html)

#### 4.3 Portals and other resources

- [http://landportal.info/search/apachesolr\\_search/palestine](http://landportal.info/search/apachesolr_search/palestine)
- <http://www.landesa.org/search/?q=palestine>
- <http://www.arij.org/home.html>  
ARIJ (Applied Research Institute Jerusalem) - ARIJ's mission is promoting sustainable development in the occupied Palestinian territories and the self-reliance of the Palestinian people through greater control over their natural resources.
- <http://www.poica.org>  
POICA - The POICA website is an up-to-date source of information concerning the practices of the Israeli occupation on Palestinian land, including invasions, house demolitions, land confiscations, and settlements building. It provides this information in a monthly order.

#### 4.4 Donor support programs

- USAID is covering the West Bank and Gaza under their Land Tenure and Property Rights portal. World Bank and Finnish Government supported a pilot Land Administration Project
- The Austrian Development Cooperation, World Bank, Japan/ JICA, AFD, Turkey, CRC, USAID, MoF all support the Palestinian Water Authority.

#### 4.5 Organisations and resources

ARIJ (Applied Research Institute Jerusalem) - ARIJ's mission is promoting sustainable development in the Palestinian territories and the self-reliance of the Palestinian people through greater control over their natural resources. <http://www.arij.org/home.html>

POICA - The POICA website is an up-to-date source of information concerning land and property issues  
<http://www.poica.org/>

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