

**Information, Counselling and Legal Assistance Programme
in the occupied Palestinian territory**

April 2015

**Fact Sheet 2:
Unregistered Private Land in Gaza
Gaza Housing, Land and Property Rights Series**

The following information is provided as part of a series of eight fact sheets on Housing, Land and Property issues in Gaza. The fact sheets are intended to inform persons displaced in the latest Gaza conflict about their housing rights. The sheets are also designed to help agencies assisting displaced persons with their transitional shelter needs, as well as policy- and decision-makers planning how to address the shelter needs of beneficiaries.



Gaza Strip, 2013. Photo: NRC.

1. Background

Over 30 per cent of privately owned land (hereinafter 'private land') in Gaza is estimated to be unregistered. This is the consequence of the difficulties in providing a 'chain of ownership', complex land laws and registration procedures, and past efforts to avoid paying land tax through the non-registration of private land.

Over time, many unregistered private landowners have bought and sold land using customary contracts in the absence of an official title deed, commonly known as the *Tabu*. The nature of unregistered land (often called 'finance land') and the procedures required to register it have become unclear, because the laws inherited from the different legislative periods remain in effect, and because different names and classifications are applicable to this land.

This jeopardises legal safeguards for owners of unregistered land. Unregistered private land can be registered if the owners can prove the historical chain of ownership, which gives them the right to register the land in their name.

2. Authority Responsible for Unregistered Private Land

The Property Tax Directorate is part of the Ministry of Finance and supervises the 30 per cent of the land in the Gaza Strip that has not been mapped or surveyed. The Directorate organises, registers, and issues title deeds to prove ownership, which is an essential step to obtaining a building permit. The Directorate conducts appraisals of land and imposes taxes on all land, whether registered with the Directorate or with the Palestinian Land Authority.

The Directorate cooperates with the Land Authority to register land in accordance with a series of procedures, starting from the issue of a copy of the land plot and its number at the Directorate and the submission of the transaction to register the land at the Land Authority.

3. Rights of Owners over Unregistered Private Land

The owners of unregistered land can sell their land, but cannot exercise the full authority of a landowner as is the case when the owner of registered land is in possession of the *Tabu* (title deed). For example, the owner cannot mortgage the land and ownership of the land is restricted. This can result in legal disputes, especially if the original owner of the land has original ownership documents dating back to the Ottoman period or the British Mandate, but failed to register the plot in the Land Authority's records.

However, the owner of unregistered land is considered the *prima facie* owner of the land unless proven otherwise. This applies to all land that has not been mapped or to land that has not been registered by the current users with the Property Tax Directorate.

4. Registration of Unregistered Private Land

Several procedures and documents are required to register 'finance land' with the Palestinian Land Authority. The procedures are as follows:

1. A copy of the identity card of the applicant must be provided;
2. The finance certificate issued from the Property Tax Directorate, which proves that the applicant has paid the taxes due on the land, must be submitted;
3. The title deeds in chronological order must be presented to demonstrate the 'chain of ownership';
4. Confirmation of inheritance must be provided if the applicant is an heir to a deceased person whose name is stated on the financial certificate;
5. If the person whose name is registered on the financial certificate wants to open a registration transaction, they must bring a copy of their identity card. If the heir wants to transfer ownership from the person registered on the financial certificate, they must produce the confirmation of inheritance and a copy of their identity card. If the purchaser of the land wants to register the land in their name from the person whose name is registered on the financial certificate, they must produce the title deeds of the land in chronological order (chain of ownership), in addition to a certified statement from a public notary, a statement sworn in front of a competent judge and a certificate from a *mukhtar* to testify that the land in question is owned solely by the applicant without any claims from any party. This must also be stated in the sworn statement.
6. A map must be obtained from the General Land Survey Department of the Land Authority. An application for this map can be made to the General Land Survey Department, attaching a copy of the identity card of the person requesting registration, the financial certificate, the title deeds of the land in chronological order, and confirmation of inheritance (if required). Once the application is submitted, a date is set for the plot of land to be surveyed by government land surveyors. Another date is set for an aerial survey of the land by GPS; then a final inspection of the land is conducted in the presence of the land survey delegate and a land registration department delegate in order to obtain the signature of the neighbours to the land, plus the signature of the *mukhtar* of the region in question. Once these procedures have been completed and following payment of the fees due, the map is issued.
7. Subsequently, the applicant must submit a request to publish registration in one of local newspapers for a period of 30 days to give any claimant the opportunity to submit an appeal against the registration of the land with the Land Authority.

8. All these documents must be presented to the Appraisal Committee at the Land Authority to calculate the registration fees, which are calculated as 0.5 per cent of the value of the land. The title deed is then issued for the first time, known as the *Tabu*.

Currently, all procedures to register land located outside cities have been suspended by the Land Authority until a complete land survey of all unregistered land has been conducted and the project of mapping land has been completed. The procedures to register land inside the borders of cities remain the same at present.

i For more detailed information about the complex process of registration of private land, see NRC's Fact Sheet 3: Registering Land in Gaza.

5. Disputes over Unregistered Private Land

Disputes about the ownership or status of unregistered private land are common. The parties to the dispute are typically the original owner of the land, a later occupier of the land and the government. A large number of these disputes are taken to court.

6. Rights of Female Beneficiaries

The rights of women as a potentially vulnerable group to adequate housing must be respected, protected and fulfilled as part of the provision of humanitarian aid.

i For more detailed information about women's housing, land and property rights, women's inheritance, and security of tenure for women in the Gaza Strip, see NRC's Fact Sheet 6: Women's HLP Rights.



NRC lawyer provides women with information about their Housing, Land and Property rights, Gaza Strip, 2013. Photo: NRC.

7. NRC Assistance

Through its Legal Aid Centre in Gaza City as well as Mobile Legal Clinics throughout the Gaza Strip, NRC provides free legal assistance and advice with housing, land and property issues, including disputes over land ownership. Legal advice is provided by qualified lawyers on a confidential basis. NRC can also assist with resolution of disputes.

For further information or to make an appointment to see an NRC lawyer, please contact the NRC Legal Aid Centre on +970(0)82860218 or send an email to Elisabeth Koek, ICLA Project Coordinator at elisabeth.koek@nrc.no.

The information provided in this document is provided by way of legal background information only and should not be relied upon by organisations or individuals in taking legal action in such cases. Individual legal advice should be sought in relation to the particular circumstances of each case. This advice should be sought from a practitioner with experience in the field, as there are significant discrepancies between the law and what is being applied in practice. In every case, the various legal possibilities and consequences should be explained to the beneficiary, community, humanitarian organisation or service provider.



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