

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

April 2015

**Fact Sheet 3:
Registering 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 City, 2015. Photo: NRC.

1. Background

Confirmation of land ownership in the name of beneficiaries is a key pre-condition to obtaining reconstruction grants. Whilst over 30 per cent of land in Gaza is unsurveyed according to the Palestinian Land Authority, 30 per cent of privately owned land (hereinafter 'private land') in Gaza remains unregistered. This is in large part due to the complexities in registration of land, the costs involved and the difficulty with proving a continuous chain of property ownership, which is necessary for land registration. This fact sheet explains how land can be registered in the Gaza Strip.

2. Government Bodies Responsible for the Registration of Land in Gaza

The Palestinian Land Authority, established in 2002, is the body responsible for the management of private land. The Land Authority comprises three main administrative sections: 1) the government property department; 2) the public land survey department; and, 3) the land and real estate registration department, commonly known as the *Tabu* department.

- The government property department performs several tasks related to land administration. It allocates and prepares an inventory of state land and performs all steps necessary to safeguard this land. It prevents encroachments over state land, proposes appropriate public projects for state land, and supervises the rent of state land and the acquisition of private land in the public interest.

- The public land survey department is responsible for demarcating borders and preparing maps of land parcels and numbers. It also marks roads, establishes geographic coordinates, and archives all maps on computer files. This department reviews and audits the work of licensed land surveyors in the Gaza Strip.
- The *Tabu* department maintains records of real estate and property whose rights are mapped and records newly registered properties. It performs all types of land registration transactions in accordance with the laws and regulations, including transactions of sale, endowment as a grant, commissioning of land, exchange, rent, planting, insurance, seizure, transfer, inheritance revocation agreements, inheritance provisions, court rulings, debt execution, and the renewal of registration.

3. The Role of the Property Tax Directorate

Under the wing of the Ministry of Finance, the Property Tax Directorate supervises the estimated 30 per cent of the area of the Gaza Strip that has not been mapped. This includes:

- Organising, registering and issuing title deeds to prove ownership, which is an essential step to obtaining a building permit;
- Conducting land appraisals and imposing taxes on all land, whether registered with the Directorate or with the Land Authority; and,
- Cooperating 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.

4. Acquisition of Ownership of Land in Gaza

A legal transfer of ownership takes place in one of three ways:

1. Through a contract, whether a contract of sale, a grant, or another form of consensual agreement;
2. Through inheritance;
3. Through adverse possession: If a person possesses someone else's private land for an extended period of time, the claim of legal title to that land is called adverse possession. According to the Ottoman Civil Code and subsequent legislation, the period of time required to transfer ownership through adverse possession is 15 years for private property. Land that has been classified as *Miri* property and *Waqf* property cannot be adversely possessed following the issuance of Law No. 5 of 1960, regardless of the period of time that a third party has occupied the land. If the land is occupied for the relevant period of time, the occupant becomes the titleholder of the property and a case filed against the titleholder by the registered owner after this period of time may not be heard.

5. Registration of Private Land

There are two types of procedures to register private land: 1) procedures for the sale of property, and 2) procedures for the transfer of property ownership through inheritance. Unregistered land must first be registered in the registry of the *Tabu* department before it can be bought and sold formally.

5.1. Procedures for the sale of property

The process for registering sales transactions is as follows:

1. A transaction of sale takes place by submitting an application to the *Tabu* department of the Land Authority. The buyer usually submits the application.

¹ Approximately 30 per cent of land in the Gaza Strip is estimated to be state or government land. Typically this land is used for public purposes, such as schools, hospitals, housing projects, roads, government offices, parks, and, in some cases, refugee camps. For further information about the different types of land in the Gaza Strip, see NRC's Fact Sheet 1: Types of Land Ownership in Gaza.

² *Miri* land is a type of land that is owned by the "state" or "sovereign." Such land can be converted to private land if disposed of by the state. *Waqf* land is land allocated by private individuals or entities as a religious endowment for charitable purposes to a type of Islamic trust called the *Waqf*. For further information about the different types of land in the Gaza Strip, see NRC's Fact Sheet 1: Types of Land Ownership in Gaza.

2. A contract of agreement to sell is submitted with a correct chain of property ownership and a new transcript or copy of the register in the name of the owner to whom the property belongs.
3. If there is a power of attorney to sell or purchase, it must be accredited and certified by the Foreign Ministry and the Ministry of Justice before submitting the transaction.
4. Two copies of the final contract of sale are filled out at the Land Authority in the presence of the buyer and the purchaser, witnessed by the relevant employee, with the signature and thumb print of each of the two parties to the sales transaction. This is called an initial signature.
5. An application to the *Tabu* department for a permit to publish in one of the local newspapers is made. The period of publication is defined as 15 days, during which time any person who has any objection to the power of attorney or to the registration of the land in question may submit an appeal to the *Tabu* department, attaching the newspaper to the appeal. If no objections are presented during this period, the registration procedures proceed.
6. The transaction file is submitted to an appraisal committee to estimate the value of the land for the purposes of paying the fees. These are calculated as follows: one per cent of the value of the appraisal; 0.05 per cent if the parties to the transaction are relatives of up to second degree.
7. Following payment of the fees, the final contract of sale is signed in front of the director of the *Tabu* department. This is called the final signing and it is then possible to obtain a registration certificate in the name of the purchaser, which states that the land is registered in the name of the purchaser as the new owner of the land (*Tabu* or title deed).

5.2. Procedures for the Transfer of Property Ownership through Inheritance

Upon the death of the owner of a property or land, ownership is transferred to all heirs upon confirmation of inheritance as issued by the *shari'a* court in the area where the deceased person resided. This document defines the legal heirs and the number of shares per heir. To transfer shares from the deceased person to the heirs, a transfer of inheritance procedure must be undertaken in the following manner:

1. Opening of an inheritance transfer transaction with an up to date copy of the title deed, plus copies of the identity cards of the heirs and the confirmation of inheritance that defines the legal heirs and their share.
2. If the inheritance transaction is submitted within a period not exceeding six months from the date of the death of the deceased, it will be exempted from fees according to the law.
3. If the inheritance transaction is submitted after the six-month period, the heirs must pay fees equivalent to 0.001 per cent of the value of the land after submitting the transaction to the appraisal committee to estimate the value of the land in question. Once the fees have been paid, registration certificates are issued in the name of all the heirs.

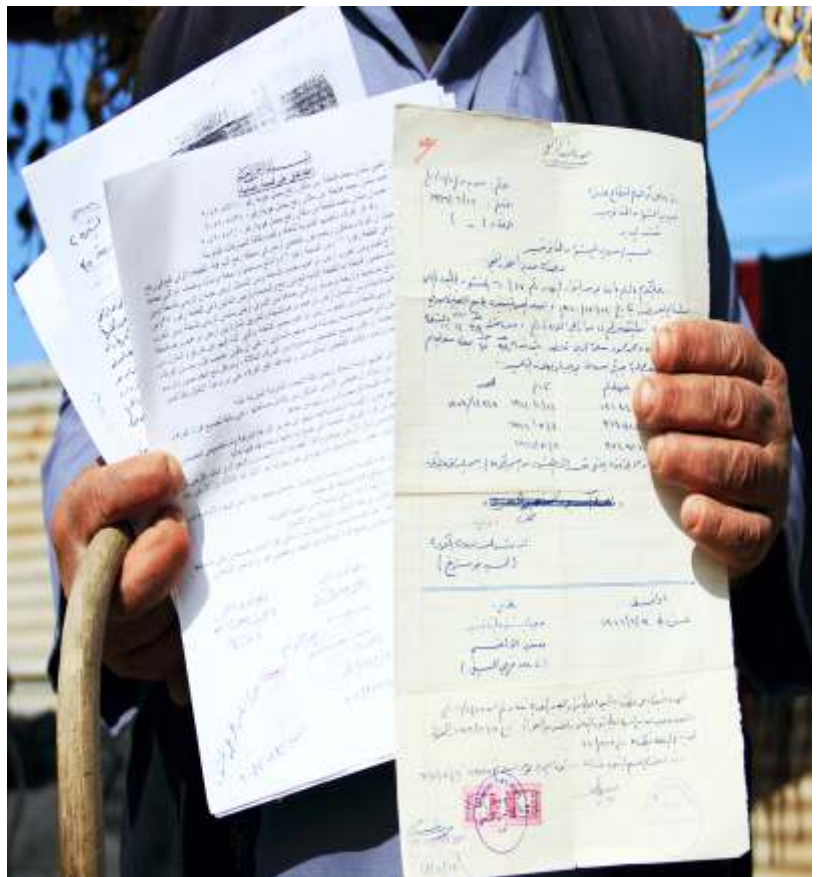


Photo: NRC.

The Palestinian Land Authority has introduced new methods to prevent disputes between heirs and prevent the use of the property outside the limitations of the registered share of the heir. If one of the heirs wishes to transfer ownership of the property into his/her name, he/she may do so and may pay the fees for his/her share and not for all shares of the inheritance, as was the case in the past. All shares remain under the control of the Land Authority until the remaining heirs register their shares. This method preserves rights and prevents the use of the property in an illegal manner.

6. Registering Unregistered Private Land

Unregistered private land can become registered through a registration transaction. This is a special procedure for unregistered land, whether it is unregistered and has no official records, or whether it is land that has been registered in the Property Tax Directorate but not yet with the Tabu department.

i For further information about registration unregistered private land, see NRC's Fact Sheet 2: Unregistered Private Land in Gaza.

7. 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.

To ensure security of tenure to women, it is recommended that both spouses are jointly registered as co-owners of registered land.

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.

8. NRC Assistance

The process of and registration in Gaza is extremely complicated. It is often useful to have legal assistance in order to ensure that the proper procedures are followed and correct documents submitted.

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 issues relating to registering private land. 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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