



Linking Land Tenure and Use for Shared Prosperity

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Rebuilding from the Rubble: Post-conflict Land Tenure Challenges and Opportunities in the Gaza Strip

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Abstract

In July/August 2014, the Gaza Strip suffered its third war in the past six years. As a result of the conflict approximately five per cent of the housing units in the Gaza Strip were rendered uninhabitable; an estimated 16,000 housing units were either totally destroyed or severely damaged and more than 117,000 people were displaced. Additionally over 70 per cent of private land in Gaza remains unregistered, whilst 30 per cent of the land in Gaza is unsurveyed, further complicating the protection of land rights. The present article will focus on the challenges to and opportunities for improving security of tenure against the backdrop of the recent war and the depressing task of rebuilding Gaza once again. Following an overview of the recent conflict, humanitarian needs and political context, the article will summarise the existing regime of land administration in Gaza. The challenges in registering land, particularly when much of the land in Gaza remains unsurveyed, are highlighted. The case is made that the dire humanitarian needs of Internally Displaced Persons (IDPs) for shelter and transitional housing may in fact present some significant opportunities to promote tenure security, such as through completion of the land survey, combined with a range of other land law initiatives.

Key Words:

Humanitarian needs, land surveys, post-conflict reconstruction, security of tenure, unregistered land

Introduction

Land is a core component of stability for any society. For individuals, the existence of land guarantees shelter, housing and security and very often a livelihood. Land is a physical resource and a gateway to the development and well-being of a society and its people. It is often the importance of control over and ownership of land and its natural resources that explains the eruption of conflict between individuals, between individuals and the state, or between neighbouring states. The Gaza Strip has suffered a disproportionate share of conflict in recent times. The prolonged occupation and conflict has had a major impact on land usage in the Strip, leading to massive and multiple displacement, chronic overcrowding, poor planning, and insecure land tenure. These humanitarian considerations take place within a context of inconsistent and overlapping land laws, low levels of land registration, and high levels of unsurveyed land.

The present article will focus on the challenges to and opportunities for improving security of tenure against the backdrop of the recent 51-day war in the Gaza Strip and the depressing task of rebuilding Gaza once again. Following an overview of the recent conflict, humanitarian needs and political context, the article will summarise the existing regime of land administration in Gaza. Consideration is given to the challenges in registering land and consequent lack of security of tenure, particularly when much of the land in Gaza remains unsurveyed. The case will then be made that the dire humanitarian needs of Internally Displaced Persons (IDPs) for shelter and transitional housing may in fact present some significant opportunities to promote tenure security, such as through completion of the land survey, combined with a range of other land law initiatives.

1. Conflict and Context: In the Aftermath of the Most Recent War in Gaza

1.1 “Operation Protective Edge”

In July/August 2014, the Gaza Strip suffered its third war in the past six years. The 51 days of hostilities between both sides, which Israel code-named “Operation Protective Edge”, entailed intensive bombardments and ground invasions across the small enclave on the coast of the Mediterranean Sea, as well as extensive shelling from the Gaza Strip into Israel. The war resulted in a record number of civilian casualties; 2,205 Palestinians were killed, including at least 1,486 civilians, while 71 Israelis were killed, including 4 civilians (UN OCHA, 2014a).

Throughout the 51-day war, there was no safe place for the children, women, and men who sought shelter from the fighting across the Gaza Strip. Even their most basic needs were not met. Thousands of Palestinians fled their homes to take refuge with host families, in government school, in schools run by the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), and in informal shelters. At the height of the hostilities, approximately half a million Palestinians were internally displaced, constituting 28 per cent of the population (UN OCHA, 2014a). According to the UN Office for the Coordination of Humanitarian Affairs (UN OCHA), “[t]he Gaza Strip witnessed the deadliest and most destructive escalation in hostilities since the start of the Israeli occupation.” (UN OCHA, 2014b, 1).

Preliminary damage assessments conducted after the end of hostilities by the United Nations Development Programme (UNDP) and UNRWA speak to the mass devastation of civilian infrastructure. Approximately five per cent of the housing units in the Gaza Strip have been rendered uninhabitable; an estimated 16,000 housing units have either been totally destroyed or severely damaged, leaving more than 117,000 people displaced (Shelter Cluster – Palestine, Jan. 2015). While the option of renting alternative housing units has been explored, less than 2,000 housing units are presently available on the market and thus cannot replace the 16,000 uninhabitable units. In addition, at least 102,000 housing units sustained partial damages, affecting more than half a million Palestinians according to figures released earlier this year by the Shelter Cluster in Palestine, a body supporting humanitarian shelter coordination at a country level (Shelter Cluster – Palestine, Jan. 2015). Based on early recovery operations of the humanitarian community, it is estimated that the vast majority of the people whose homes suffered partial damage returned to those homes and are living in structurally unsound and substandard homes. As of December 2014, four months after the hostilities ended, more than 16,800 people were still residing in temporary collective shelters (18 UNRWA schools), while some 47,000 internally displaced persons (IDPs) were living with host families – often in overcrowded conditions.

1.2 A Crisis within a Crisis

The destruction of homes as result of hostilities, such as “Operation Protective Edge”, adds to a pre-existing shortage in housing units in the Gaza Strip. The Palestinian Ministry of Public Works and Housing and the Shelter Cluster in Palestine estimate that, in order to meet the needs of the more than 1.8 million Palestinians in Gaza, the construction of between 100,000 and 150,000 housing units is required. This includes the units destroyed or severely damaged during the last cycle of violence; roughly 5,000 units that constitute the outstanding reconstruction caseload from previous military operations; and over 75,000 units that are needed to answer the pre-crisis housing deficit and the increase in need due to natural population growth (Shelter Cluster – Palestine, Aug. 2014).

The lack of sufficient and adequate housing solutions for the residents of the Gaza Strip is a direct consequence of Israel's blockade of Gaza. Following the Hamas election victory in Gaza in 2006, Israel closed down Gaza's main entry and exit points, disabling movement of people and goods in and out of Gaza, and imposed a comprehensive land and sea blockade on the Gaza Strip. Israel's blockade of Gaza has sealed off more than 1.8 million Palestinians in an increasingly unliveable space, with serious humanitarian and development consequences, infringing on their basic rights, including the right to freedom of movement, education, water and sanitation and adequate housing. At present, some 80 percent of Palestinians in Gaza depend on humanitarian assistance to meet their daily needs. High unemployment rates and the lack of a viable economy have led to a high degree of vulnerability and insecurity in the Gaza Strip.

Moreover, the isolation of Gaza undermines the humanitarian community's efforts to rebuild the Gaza Strip and contributes to the unfolding man-made humanitarian crisis. Even prior to the launch of "Operation Protective Edge", the humanitarian community was on the brink of declaring a humanitarian crisis following years of deterioration in living conditions, with no improvement in sight. To date, Israel has yet to lift the blockade, despite repeated calls made by the international community and recommendations by relevant human rights mandate holders.

1.3 The Gaza Reconstruction Mechanism

As part of the comprehensive blockade of Gaza, Israel continues to restrict the import of materials deemed to have "dual use" purposes, including aggregate, steel bars, and cement – effectively all essential construction materials necessary to rebuild. Israel contends that such material can be misappropriated for the constructions of tunnels in Gaza and for other military purposes, which present a threat to Israel. Such a blanket prohibition naturally results in a disproportionate impact on the civilian population and for the use of such materials for civilian purposes. In response to the shelter needs following the recent escalation of hostilities, and as a result of the lack of crucial shelter materials available on the open market in Gaza, the UN brokered the Gaza Reconstruction Mechanism (GRM) between the Government of Palestine and the Government of Israel in September 2014 (UNSCO, 2014). Under the terms of the agreement, individual households can apply for "dual use" materials based on the damage assessments carried out by UNDP and UNRWA. Once the actors involved in the GRM have approved the requested quantities, households can purchase materials from pre-approved private vendors, provided obviously that they have the financial means to do so. Ultimately designed to facilitate and regulate the import of building materials, this temporary approval mechanism has yet to prove successful and appears to be limited to

addressing only those housing needs that arose from the latest round of hostilities, thereby ignoring the pre-existing housing crisis.

The recent round of hostilities has exacerbated the pre-existing housing crisis in the Gaza Strip. The lack of construction materials and financial assistance, inadequate living conditions in UNRWA's collective centres, and protection concerns in host families have forced residents to return to their (partially) destroyed homes, where they live in substandard and increasingly unacceptable conditions.

1.4 Donor Fatigue and the Loss of Appetite for Re-Reconstruction

At a time of greatest need in Gaza, donor fatigue in rebuilding Gaza (again) has kicked in. The international community is now rebuilding Gaza for the third time in the past six years, whilst accountability for possible violations of international law committed during the conflict and political reconciliation between Fatah and Hamas seem distant, perhaps illusory, goals. Israel, as Occupying Power, retains ultimate responsibility for ensuring that the basic humanitarian needs of the population in Gaza are met. During the Cairo Conference, hosted by the Governments of Egypt and Norway, together with Palestinian President Mahmoud Abbas, on 12 October 2014, generous pledges were made by donor countries to reconstruct Gaza. Some of the world's most influential leaders gave political speeches 'calling for breaking the cycle of construction and destruction in Gaza and for protecting the lives and security of all civilians.' There was clear recognition that reconstruction of Gaza will simply not be possible unless border crossings to Israel are open, socio-economic development is facilitated, and economic recovery is accelerated. However, to date the 'Cairo pledges' – some 4 billion USD – have not been realised. Moreover, funds alone cannot ensure security of land tenure or resolve land disputes in the absence of political will, remedies for rights violations or a transformative approach, which addresses some of the root cause of the conflict such as the blockade.

1.5 Unity or Disunity: the Formation and Recognition of the Palestinian Government of National Consensus

During the reconstruction of Gaza following previous military operations, needs for greater intervention to develop coherent land use and planning strategies in the Gaza Strip were identified. But Hamas's designation as a terrorist organisation by many Western countries added significant constraints to the provision of foreign aid to international agencies working in the Gaza Strip. Existing counter-terrorism legislation hindered engagement with, and funding to, government ministries affiliated with Hamas.

It must be noted that the internal political situation post-“Operation Protective Edge” is qualitatively different from previous military operations. On 2 June 2014, rival political fractions Hamas and Fatah

joined forces and formed the Palestinian Government of National Consensus, commonly referred to as the ‘Unity Government’. The existence of a government of national unity accepted as legitimate by the international community has the potential to open the door to engaging in far reaching initiatives and reforms that would provide security of tenure to a far greater number of displaced persons than previously. Political reconciliation, a cooperative approach to governance, national elections and a unified legislative regime all offer tantalizing prospects of structural change. Unfortunately the current reality is quite different and the survival of the Government of National Consensus remains precarious.

2. Land Laws in Gaza: A Kaleidoscope of Inherited Legal Systems

In addition to the housing deficit in the Gaza Strip following several military operations over the last six years and the imposition of the blockade, the situation post-“Operation Protective Edge” has laid bare a range of difficult Housing, Land and Property (HLP) and land tenure issues. In order to understand their complexities and suggest ways of addressing them, an overview of the land laws in Gaza is paramount.

2.1 The Development of Land Laws in Gaza over the Last Century

The legal and regulatory reality imposed in Palestine, and particularly in the Gaza Strip, throughout various historical phases has directly impacted land rights and other related rights, such as the right to ownership and to adequate housing. The legal framework governing land administration in the Gaza Strip comprises over 30 different laws originating from the various eras of foreign control and occupation. Many laws and orders issued by legislators in the past have created a legacy that remains up to the present day, dating as far back as the Ottoman period (1517-1917), which gave rise to the legal regulatory framework for land ownership. This framework continued to regulate land administration until the fall of the Ottoman Empire. With the end of Ottoman rule came also the suspension of the work of the Land Registration Department, the body previously responsible for the registration of the *tabo*, the land title deeds. Until today, two of the Gaza Strip’s most important land laws stem from the Ottoman era. Firstly, the Ottoman Land Code of 1858, which classified land into five different categories (*mulk*, *miri*, *mawat*, *metruk*, and *waq’f*). The Ottoman Civil Code of 1861 remains the guiding law governing land and property rights, describing, *inter alia*, acquisition of land and the statute of limitation for claims over each type of land.

During the British Mandate period (1917-1948) that followed the Ottoman rule, several laws and judicial precedents that regulate land ownership were introduced, which are still applicable today. A land survey

project of all the land in historical Palestine was initiated, but had not been completed by the end of the British Mandate in April of 1948. As such, the successive Egyptian Administration in the Gaza Strip inherited this burdensome legacy.

From 1949 to 1967, the Jordan administered the West Bank whilst Egypt administered the Gaza Strip with a resulting divergence in the legal regimes. In Gaza, the Egyptian Administration allocated government land to the population and offered land to UNRWA, which commenced provision of shelter and refuge in camps in different areas of the Gaza Strip on 1 May 1950 following the influx of Palestinian refugees from historical Palestine to the coastal strip. The administration offered plots of land to UNRWA that was registered in the name of the Egyptian Governor in Gaza at the *tabo*. Other significant developments that took place during the Egyptian Administration of the Gaza Strip included the administration of land registration and the registration of unregistered land with the 'Income and Property Tax Department' at the Finance Ministry. Land could be registered in the name of a person in physical possession of the land in exchange for a land tax of one tenth of the value of the land. The records established by the new 'Land Registration Department' were the sole means to prove a legal right to the land.

While the legislation introduced under the Egyptian Administration could have provided legal protection to individuals, many landowners did not register their lands to avoid having to pay the hefty registration fees. At times, landowners chose to register parts of the land, leaving significantly larger swathes of land unregistered and beyond the reach of the taxman. This created a complex legal reality under which some of the 'original' land was registered, keeping the majority of the land off the books. The lack of registration would later facilitate the designation by the Palestinian National Authority (PNA) of these lands as government land.¹

In the aftermath of the Six-Day-War of June 1967 Israel occupied the West Bank, including East Jerusalem, and the Gaza Strip. As the Occupying Power, Israel issued a series of military orders, applicable to the territory and the residents under its control to allow for the confiscation and subsequent allocation of land inside the Gaza Strip for the establishments of settlements in contravention of international humanitarian law.

¹ According to Order No. 575 of 1957, the land authority in the Gaza Strip distinguishes between registered and unregistered land, which is considered as government land, according to an interview with head of the land authority in the Gaza government, engineer Ibrahim Radwan, on 18 March 2013.

With the signing of the Oslo Accords in 1993 and the establishment of the PNA in 1994 came additional land-related laws, decisions and instructions, further complicating the legal framework. Although the PNA attempted to initiate unification of the laws of the West Bank and Gaza, this has not been achieved to date. This situation has been exacerbated by the paralysis of the second Palestinian Legislative Council, following the internal political split between political opponents Fatah in the West Bank and Hamas in the Gaza Strip, and thus additional complications in land disputes and relevant laws and decisions have arisen. From 2007 to the present day, Hamas has maintained full responsibility for land administration in the Gaza Strip, including full control of the land registration processes.

2.2 Land Administration: Division of Labour

Responsibility for land administration in the Gaza Strip rests primarily with the Palestinian Land Authority, as established by Presidential Decree No. 10 of 2002. The specific powers and authorities of the Palestinian Land Authority were to be specified in subsequent legislation that has never been passed. Currently, only approximately 10 percent of all land transactions are recorded with the Palestinian Land Authority. High land registration fees and property taxes have contributed to the growth of an unregistered land market and increase in informal land transactions. The Palestinian Land Authority's mandate is to protect and preserve land, property titles and the property rights of citizens, government and civic and official institutions, through land surveying and registration of lands in the land registry. Its role also includes land demarcation, dispute resolution, and the preservation and proper disposal of public land and property.

The Income and Property Taxes Directorate, part of the Ministry of Finance in Gaza, fulfills the role of tax collection and land appraisal, as well as providing other services to the public, -whether the land is registered with the Directorate or with the Palestinian Land Authority through a *tabo*. This body supervises the 30 per cent of the area of the Gaza Strip that has not been mapped. The Directorate cooperates with the Palestinian 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 re-register the land with the Palestinian Land Authority. A registration transaction is a special procedure for unregistered land, whether it is unregistered and has no official records, or is land registered with the Directorate. In this case, the Directorate at the Ministry of Finance issues financial certificates to declare that the person whose name is registered has paid the taxes due and is the sole owner of the land. Self-evidently, the act of land registration, as a pre-requisite to rebuilding, can be a complex and confusing process for people already dealing with the trauma of post-conflict reconstruction.

3. Challenges to Reconstruction in an Increasingly Volatile Political and Social Environment

To the heady mix of practical challenges in the provision of adequate (transitional) shelter solutions to both UNRWA and non-UNRWA refugees, is the more fundamental challenge of ensuring security of tenure in a context in which land registration is complex and the majority of land in the Gaza Strip remains unregistered. To this must be added further legal problems, including proliferation of disputes over land and property, and problems arising from the absence of unified land laws in Palestine.

3.1 Unregistered and Unmapped: My Land or My Neighbour's?

The arbitrary development of the land administration regime applicable today in the Gaza Strip has meant that much of the land has remained unregistered and uncertainty over the appropriate procedures for land registration continues to plague landowners and those who inherit land. Adding to the confusion is the fact that different names and classifications are often applied to unregistered land. These factors jeopardise legal safeguards for owners of unregistered land, who are estimated to own approximately 30 per cent of the total area of the Gaza Strip; over 70 per cent of the privately-owned land is unregistered.

The fact that large swathes of land in the Gaza Strip remains unregistered remains problematic in and of itself, raising issues of security of tenure and possible land disputes. Following the mass destruction of entire neighbourhoods during the last round of hostilities, additional challenges are raised in the context of the reconstruction of the Gaza Strip. Some of the most densely populated areas, such as Shuja'iyya neighbourhood, located to the east of Gaza City, have been built on largely unregistered land.

According to the most recent update from the Palestinian Land Authority, some 3,000 housing units in Shuja'iyya have been totally destroyed and an additional 2,000 have been severely damaged beyond repair. As such, a total of 5,000 housing units in Shuja'iyya neighbourhood will need reconstruction. Each of the 5,000 housing units was originally built on an average of 150 square metres of land, leading to the conclusion that between 250 – 300 *dunums*² of land need to be re-registered as most families cannot prove ownership of the land. Not only are inhabitants of the destroyed homes unable to prove legal title over their former homes, but they also face difficulties denoting the boundaries of each plot of land. Security of land tenure thus remains low and the present conflict has exposed many situations in which displaced persons wish to return to land over which they had no formal title or usage rights previously.

² A dunum is a unit of land equal to 1,000 square metres.

While households are awaiting a reconstruction fund with a ready supply of imported materials in order to be able to rebuild, fundamental questions in relation to land tenure remain unaddressed. A key question is how the new neighbourhoods will be planned. One thing must be clear, the reconstruction of Shuja'iyya neighbourhood should be done as part of a comprehensive urban planning process in coordination with all relevant actors, such as the local municipality, the Ministry of Local Governance, and the Ministry of Public Works and Housing, the Palestinian Land Authority, UNRWA and UNDP. The use of aerial footage would be extremely beneficial in the surveying process, but access to the necessary equipment and data has not been realised due to the blockade and the imposition of restrictions by Israel.

Moreover, reconstruction will have to consider adherence to national or international standards and decisions will have to be made in relation to the types of infrastructure necessary. This begs the question as to which authorities will be considered legitimate enough to provide infrastructure? First and foremost, how can accurate rebuilding take place when much of the land has not been surveyed? What ownership or title documents are necessary in a situation where over 70 per cent of private land is not registered? And, how will the inevitable disputes be resolved expeditiously and fairly?

Persons living with host families, or in rental situations, face a range of different challenges in relation to ongoing living arrangements and contractual disputes. For the first time, pre-fabricated structures have emerged as a controversial option. But who owns the structures, or the land in which they are placed? Will the temporary become permanent? The UNRWA collective centres, housing many thousands of persons, but designed as schools, face still further challenges including lack of adequate amenities, lack of privacy and protection concerns.

4. An Opportune Time to Promote Long-Term Security of Tenure

Paradoxically, the current bleak context may in fact present the best chance for Gaza to promote security of tenure, facilitate the resolution of land disputes, and improve good governance. This would depend on a high level of engagement by international stakeholders in the reconstruction effort in Gaza, combined with meaningful political progress at the domestic level. Such an approach would use the housing and shelter needs of the IDPs as a platform for action, with the aim of twinning the reconstruction effort with major initiatives to promote security of tenure, facilitate the resolution of land disputes and improve good governance. The first option would be to finalise the process of surveying the approximately 30 per cent of unsurveyed land in Gaza. A second option would be to mainstream HLP rights and international protection standards across all decision-making in relation to transitional and longer-term shelter options.

A third option would be to develop efficient mechanisms for resolving land disputes and identifying durable solutions for persons with irregular or insecure land tenure. A fourth option would be to utilise the existing political opportunity to unify land law in the Gaza Strip. A final option would be to facilitate registration of unregistered land by removing the financial obstacles to the registration of privately owned land. The best option would be a combination of all these approaches.

4.1 Land Survey as a Pathway to Land Tenure

The funds pledged in the Cairo Conference cannot resolve land related disputes without an efficient, functional, and coherent land administration system. Many neighborhoods in Gaza were built over unregistered land with no or minimal official records and the situation has already sparked land disputes between the different stakeholders since in many cases there is no way to mark the territory occupied by one stakeholder from the other on account of the levels of destruction. The reasons for the lack of a completed survey have their roots in the five different regimes of control over the Gaza Strip in the last century. The turbulence and conflicts the territory was subjected to meant that no regime remained in power long enough to complete a sufficient land survey, nor used the same methodology to complete a land survey initiated by the former regime. This explains why land surveys during the British Mandate were not completely successful in surveying and fully registering all the land in historical Palestine. A more recent impediment concerns Israeli restrictions on the import of certain equipment and technology, including the use of satellite or aerial photographs, to allow the Palestinian Land Authority to perform efficient land surveys and thus precise land registration.

In 2005, funding was provided by both the World Bank and Finnish Governments to the Palestinian Authority for a land administration and complementary land registration project in the West Bank and Gaza Strip. Following the Hamas election victory in 2006, both forms of assistance were implemented solely in the West Bank and frozen in the Gaza Strip (World Bank, 2005). The creation of the Unity Government, and its acceptance by the international community, make this an opportune time to finalise the project.

4.2 Land Administration Project

Prior to the latest Israeli military offensive, the Palestinian Land Authority had been seeking funds to complete the land survey project that was frozen back in 2006. The project sets out to survey an estimated 70,000 *dunums* of land, located mainly to the east of the Gaza Strip, focusing on both unregistered land and on launching a renewed registration procedure for those plots of lands that have ‘old’ registration

deeds, but are not included in the Land Authority's database. In addition, detailed maps and other tools will have to be produced that can assist local municipalities with urban planning, construction of infrastructure, and the issuance of building permits for individual households. Such a comprehensive demarcation process could potentially address existing land disputes and contribute to avoiding future disputes. Ultimately, this approach will contribute to the growth of a land and real estate market and increase formal land transactions in accordance with national legislation.

At present, many land occupants rely on the tax deeds from the Ministry of Finance to provide ownership of the land, but this does not provide adequate and long-term security of tenure as these documents are not considered official proof of ownership. As such, while the current reconstruction project is still on hold, a formalised and comprehensive approach to land administration that includes surveying and registering land is necessary.

4.3 Adopting a Pro-Active Approach to the Identification of Tenure Solutions for Displaced Persons

Completion of the land survey in Gaza would be a major step towards security of land tenure for many households. However, such steps will be incomplete without an accompanying package of measures designed to regularise irregular land usage, resolve land disputes, and implement land law reform in a substantive way that unifies laws in the West Bank and Gaza. Such measures could include the greater allocation of public land for private usage or sale, amnesties to encourage registration of land without payment of land tax for a certain period of time, mediation mechanisms to resolve land disputes quickly, and tailored approaches to design solutions for different categories of persons without security of tenure.

International stakeholders are engaged in the reconstruction process in Gaza as never before. Both the UNRWA and UNDP are major players and decision makers in the reconstruction efforts. A range of other UN agencies, including the Office of the High Commissioner for Human Rights (OHCHR), UN Women and UN Human Settlements Programme (UN-Habitat) are well placed to introduce international human rights, women's rights, and planning standards into the relief effort. The Shelter Cluster coordinates the efforts of a range of international agencies, including international NGOs, in the process of reconstruction. This provides an ideal opportunity to mainstream international standards, including women's Housing, Land and Property rights, into decisions to allocate reconstruction funding as well as transitional and permanent housing. One example would be to invite recipients of reconstruction grants to register their land in the name of both spouses, not just the name of the male head of household, thus protecting the entire family and enhancing women's security of tenure to an unprecedented degree.

Considering the cultural context in Gaza, any such initiatives would need to be given careful consideration as to the most suitable approach, in consultation with key stakeholders, including civil society groups.

As outlined earlier in the paper, low levels of land registration hamper security of tenure. Increased private land registration should thus be a national priority, particularly in a context of massive and multiple displacement. The widespread destruction in Gaza provides an opportunity to embark on a large-scale land registration campaign. Financial considerations must be taken into account. Land registration in Gaza requires payment of one percent of the value of the property to the relevant authority. Revenue generated through land registration provides a valuable source of income for governments. The designation of Hamas as a terrorist organisation by many governments prohibits the provision of any funds that could be directed to Hamas, or provide material assistance to Hamas, including taxation revenue. Whilst the Government of National Consensus has yet to prove itself, its acceptance as a legitimate authority by much of the international community may allow it to play a key role in assuming control of key land administration functions, including those related to land registration. Any such assumption of functions would need to be accompanied by due diligence protections to ensure adequate safeguards against the diversion of funding for prohibited purposes. In such a case reconstruction grants could be accompanied by a financial incentive to recipients to register the land, thus facilitating rebuilding and tenure security at the same time. A more satisfactory solution would be an amnesty on payment of land registration for recipients of reconstruction payments for a certain period of time, such as a 12-month period. Land registration in the name of the heirs of the owner in the course of inheritance proceedings in Gaza is presently free within a six-month period from the death of the owner. This ‘amnesty’ concept could be extended to provide a massive incentive to register land. Registration would have the additional benefit of obviating many land disputes related to ownership.

A further package of complementary support would be the provision of legal assistance and dispute resolution services to IDPs facing HLP issues in the context of their displacement. The recent conflict has thrown up a myriad of complicated property issues and disputes ranging from inheritance disputes for women widowed in the conflict, rental disputes for those in transitional rental accommodation, security of tenure issues for persons previously resident on *wafq* or state land without authorisation who wish to return, destruction of homes in UNRWA camps, and questions of ownership in relation to pre-fabricated structures. Many of these disputes require high levels of legal expertise, consultation with local authorities and specialist mediation. Legal assistance could range from simple paralegal assistance in helping beneficiaries obtaining the necessary paperwork, through to multi-party dispute resolution. Whilst

agencies such as the Norwegian Refugee Council (NRC) provide legal assistance services to displaced persons in the field of HLP rights within the Gaza Strip, current needs are massive and outstrip existing resources. Of 3,111 cases referred to NRC by international agencies in the aftermath of the Israeli military operation “Cast Lead” in 2009, NRC was able to assist 1,690 persons (54 per cent) obtain ownership documents and thus obtain their reconstruction grant.

Finally, reconstruction in Gaza in the aftermath of the current conflict will be a missed opportunity, unless efforts are made to introduce significant land reforms and unify land law between the West Bank and the Gaza Strip. Laws passed by authorities in Gaza, including Palestinian Civil Law No. 4 of 2013, regulating matters concerned with property ownership, and Law No. 5 of 2013 on the rental of real estate, do not reflect the applicable land laws in the West Bank. The existence of the Government of National Consensus provides a key opportunity to harmonise land law within the whole Palestinian territory. The reconstruction efforts provides opportunities in other areas, such as urban planning of devastated neighbourhoods such as Shuja’iyya, as well as providing a chance to initiate proper urban planning in line with international standards, which facilitate better access to services, increased green space and planning initiatives that reduce chronic overcrowding. A combination of such initiatives could provide a significant benefit to the displaced population in Gaza at a time of extreme need.

Conclusion

Amongst the rubble of the different types of registered and unregistered land in the Gaza Strip lie the building blocks for a better system of land tenure. This system would not only guarantee displaced persons adequate shelter at the end of their ordeal, but would also allow the displaced to enjoy security of tenure once and for all. The elements of such an approach would require not just technical assistance and cooperation, but a transformative approach to the needs of the civilian population of the Gaza Strip by all national and international stakeholders.

References

World Bank. 2005. *West Bank and Gaza - Land Administration (LIL) Project*. Washington, DC: World Bank. <http://documents.worldbank.org/curated/en/2005/01/5611823/west-bank-gaza-land-administration-lil-project-west-bank-gaza-land-administration-lil-project>

Shelter Cluster – Palestine. 2015. *Shelter Cluster-Gaza Situation Report December 2014* (8 January 2015).
https://www.sheltercluster.org/MENA/Palestine/Documents/Shelter%20Situation%20Report%2001_08_2015.pdf

Shelter Cluster – Palestine. 2014. *Gaza response update 29 August 2014* (29 Augustus 2014).
<https://www.sheltercluster.org/MENA/Palestine/Documents/Shelter%20Cluster%20-%20Gaza%20Response%20Update%2029%20Aug%202014.pdf>

UN OCHA. 2014a. *Humanitarian Bulletin Monthly Report June – August 2014* (3 October 2014).
http://www.ochaopt.org/documents/ocha_opt_the_humanitarian_monitor_2014_10_03_english.pdf

UN OCHA. 2014b. *Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 4 September 2014, 08:00 hrs)* (4 September 2014).
http://www.ochaopt.org/documents/ocha_opt_sitrep_04_09_2014.pdf

UNSCO. 2014. *Gaza Reconstruction Mechanism: Fact Sheet* (9 October 2014).
<http://www.unsco.org/Gaza%20Reconstruction%20Mechanism%20Fact%20Sheet%2009%20October%202014.pdf>