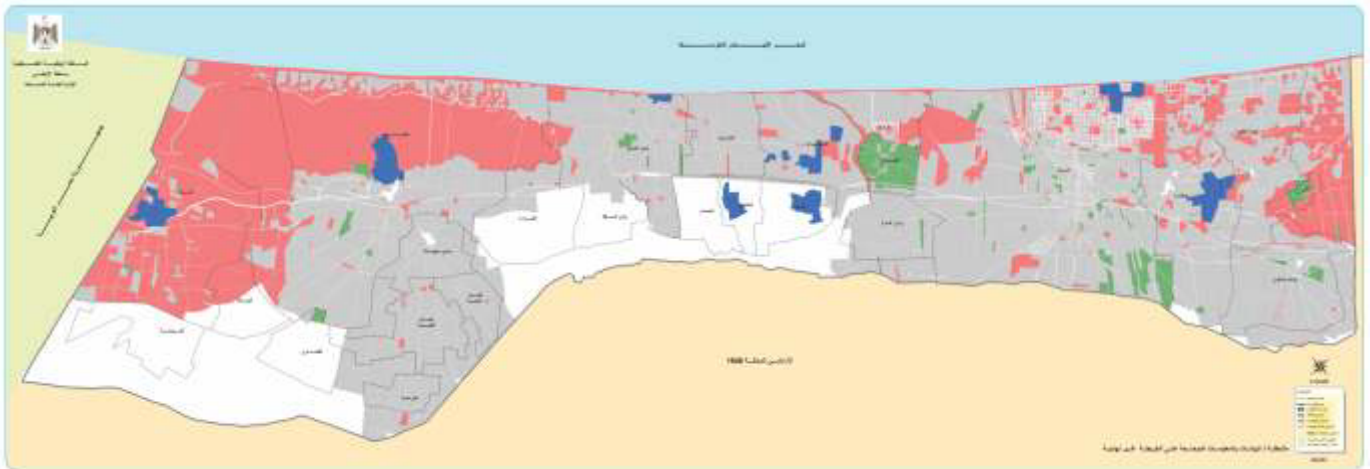


**Information, Counselling and Legal Assistance Programme
in the occupied Palestinian territory**

April 2015

**Fact Sheet 1:
Types of Land Ownership 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.



Different types of land in the Gaza Strip. Map courtesy of the Palestinian Land Authority, 2012.

1. Background

The legal framework governing housing, land and property in the Gaza Strip consists of various Ottoman, British, Egyptian and Palestinian laws and regulations. There is no unified land law. Not only is the legal situation regarding land law and ownership confusing and complex, but in addition, based on information provided by the Palestinian Land Authority, 30 per cent of the land in the Gaza Strip has not been surveyed, whilst 30 per cent of land (mostly privately owned) remains unregistered. As the reconstruction effort in Gaza commences and many thousands of displaced persons return to their land, it is critical to establish ownership over the land prior to rebuilding on the land or allocating reconstruction grants. This fact sheet outlines the key types of land ownership in Gaza.

2. Main Types of Land in Gaza

There are five main types of land in Gaza, namely: 1) privately owned land (hereinafter 'private land'); 2) unregistered private land; 3) state land; 4) *Waqf* land; and, 5) land with 'special status and use'. Each type of land has a different status and different rights for owners or occupiers.¹


2.1. Private Land

This land is registered with the land registration department (commonly known as the *Tabu* department) of the Palestinian Land Authority. According to data provided by the Land Authority, up to 50 per cent of land registered is private land. Private land provides the individual with full ownership, enabling the owner(s) to dispose of the property and perform all legal transactions as long as these are in accordance with the local laws. The land can be freely bought or sold or passed onto heirs. Land can be registered in the names of joint owners, including family members. The owners of this land possess title deeds from the *Tabu* department that prove their ownership.

¹ The land size percentages provided in the following paragraphs are an estimation of what each land type represents in comparison to the total area of the Gaza Strip. The information is based on estimates provided by the Palestinian Land Authority. It must be noted that unregistered land, refugee camp land, and former settlement land may influence the percentages once the land is registered.

2.2. *Unregistered Land*

Over 30 per cent of 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 Tabu (title deed). 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.

 For further information about the complex process for registering unregistered private land, see NRC's Fact Sheet 3: *Registering Land in Gaza*.

2.3. *State Land*

Approximately 30 per cent of land in Gaza 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. However, much state land is occupied by private individuals, either legally with a government lease, or unlawfully by trespassers on state land without any form of lease or contractual agreement. This includes trespassers who have lived on state land for many years.

State land can be leased from the government or can be purchased from the government in accordance with an allocation decision issued by the Land Authority in cooperation with a competent party, such as the Ministry of Housing and Public Works (hereinafter 'MoPWH').

As a result of legislative changes made in 1960, neither state nor *Waqf* (see below) land can be acquired by private individuals or entities following the long-term occupation of land. This is particularly relevant for persons displaced in the recent conflict from state land that they may have lived on for many generations. Under current procedures, the Land Authority may settle the legal status of such individuals by allowing them to enter into leases over the land with the government, or purchase the land from the government. Otherwise they will not be able to claim any title rights over such land. There is, however, a legal question for persons who have occupied state land for at least ten years *prior* to 1960. It is recommended that such persons seek specialised legal advice in relation to their situation.

Increasingly, governmental authorities in Gaza are initiating procedures to evict trespassers from state land, including long-term occupants, often following negotiations about allocation of alternative land.

2.4. *Waqf Land*

Waqf land represents less than two per cent of all land in the Gaza Strip. It is land allocated by private individuals or entities as a religious endowment for charitable purposes to a type of Islamic trust called the *Waqf*. The Ministry of *Waqf*, Sacred and Religious Affairs is responsible for the administration of *Waqf* land in Gaza through the department that supervises *Waqf* assets. The most important department is the *Waqf* Property Directorate. This is the party authorised to issue decisions on the administration of *Waqf* properties, ranging from the establishment of *Waqf* property to decisions to invest and lease *Waqf* property. *Waqf* land can be leased to private individuals for certain periods of time, not exceeding a period of three years, and for certain purposes only. It cannot be acquired by private individuals as a result of long-term usage of the land.

2.5. *Land with 'Special Status or Use'*

2.5.1. *Refugee Camp Land*

Following the 1948 war and the massive influx of Palestinian refugees into the Gaza Strip, eight refugee camps were defined. The boundaries were set by the Egyptian Administration in 1960 through the allocation of areas of land owned by the state and other private land for usage as refugee camps. Egyptian authorities determined the borders and specified the parcels and blocks of land within the camp.

Land in camps is thus owned either by the government, or by private owners. While the United Nations Relief and Works Agency for Palestine Refugees (hereinafter 'UNRWA') did not exercise any formal function of governance (nor had such power transferred to UNRWA from the authorities) with regard to the use and ownership of land, UNRWA was in effect “organising” such relations to virtue of providing shelter and relief assistance. Whilst land in UNRWA camps can technically not be bought or sold, in practice there is a large informal land market and the situation of ownership or usage rights remains unclear. Many Palestinian refugees registered with UNRWA have sold their usage rights to other Palestinian refugees or non-refugees and moved out of the camps.

UNRWA has also established a number of housing projects outside camps on state land administrated by the Palestinian Land Authority. UNRWA refugees may enjoy the usage of such property, but cannot purchase the land or property. The role of UNRWA is limited to the construction of the housing units and it does not perform other tasks as it does in the camps.

Disputes over usage or benefit rights in UNRWA camps can be heard by courts, but the courts have to date declined to hear disputes claiming land ownership in the camps.

2.5.2. *Former Settlement Land*

There are ongoing disputes about the ownership of former settlement land. Israel evacuated its settlements following its unilateral disengagement from the Gaza Strip in 2005. Whilst the government has claimed ownership over all former settlement land, private individuals have filed numerous claims in courts, asserting ownership over the land.

Land in the former settlements represents between 6 to 12 per cent, whether registered or unregistered, of all land in the Gaza Strip. It is managed by the Land Authority through the General Administration of Government Properties, as well as through the Administrative Board for Liberated Land. Much of this land has been used for housing projects, as well as for other public purposes.

2.5.3. *Land in the Access Restricted Areas (ARA)*

Pursuant to the Oslo Accords, a buffer zone of 50 metres was to be established from the border with Israel into the Gaza Strip. In practice, the area of up to 1.5 kilometres from the border of the Gaza Strip remains dangerous, thus depriving the population of the Gaza Strip of a large section of important arable farming land. The land inside the ARA comprises of state land, private land, unregistered private land and *Waqf* land. Whilst the ownership status of this land has not been affected by the *de facto* establishment of the ARA by Israel, it is both difficult and dangerous for owners to use the land. In practice, much of this land remains unused or underutilised.



Land in the ARA, Gaza Strip, 2013. Photo: NRC.

3. 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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