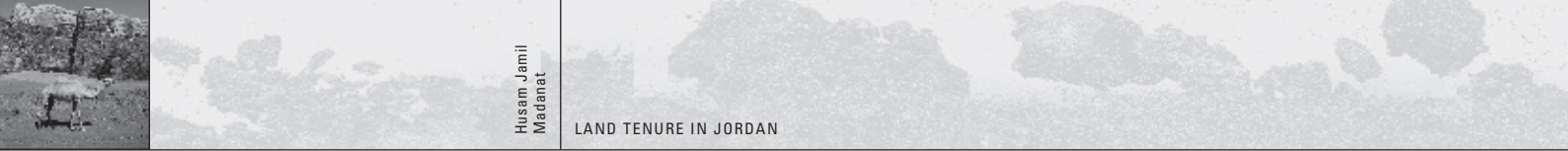


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**LAND TENURE
IN JORDAN****RÉGIMES FONCIERS
EN JORDANIE****TENENCIA DE LA
TIERRA EN JORDANIA**



ABSTRACT

RÉSUMÉ

SUMARIO

LAND ADMINISTRATION	ADMINISTRATION FONCIÈRE	ADMINISTRACIÓN DE LA TIERRA
CADASTRAL SYSTEMS	SYSTÈMES CADASTRAUX	SISTEMAS CATASTRALES
LAND LAWS	LOIS FONCIÈRES	NORMATIVAS SOBRE LA TIERRA

Modern Jordan was born after the First World War when the Ottoman Turks were defeated and their empire dismantled. Transjordan became an emirate under the British mandate. The Department of Lands and Survey (DLS) was established among other public bodies, and a number of laws organizing land tenure were issued. These laws can generally trace their roots to the Ottoman Land Code, which was promulgated in 1857.

Today, the Jordanian Department of Lands and Survey is responsible both for land surveys and property registration. This paper will examine Jordanian land tenure systems and show that the DLS has achieved substantial progress in modernizing land tenure to the

La Jordanie moderne est née après la Première Guerre mondiale, au moment de la défaite des Ottomans et du démantèlement de leur empire. Ce territoire, alors dénommé Transjordanie, est devenu un émirat sous mandat britannique. Le Département des terres et de l'enregistrement foncier (DLS) et d'autres organes publics ont été créés, et un certain nombre de lois relatives aux régimes fonciers ont été adoptées. Elles sont, pour la plupart, inspirées du Code foncier ottoman, promulgué en 1857.

Aujourd'hui, le DLS est chargé à la fois des études et de l'enregistrement fonciers. Le présent document étudiera les systèmes fonciers en Jordanie et montrera que le DLS

La Jordania moderna nació tras la Primera Guerra Mundial cuando los otomanos de Turquía fueron derrotados y su imperio desmantelado. Bajo el mandato británico Transjordanía se convirtió en un emirato. Entre otros órganos públicos, se estableció el Departamento de Tierras y del Catastro, y se promulgaron diversas leyes con objeto de organizar la tenencia de la tierra. Estas leyes tenían su origen en general en el Código Agrario otomano, promulgado en 1857.

Hoy, el Departamento de Tierras y del Catastro de Jordania es responsable tanto de los levantamientos topográficos como del registro de la propiedad. En el



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benefit of the country's people, e.g. the digitizing of all cadastral plans and registers. Nevertheless, radical reform to existing land laws and property registration procedures is still pending.

a réalisé des progrès substantiels quant à la modernisation des régimes fonciers au bénéfice de la population, notamment en numérisant tous les plans et registres cadastraux. Néanmoins, une réforme radicale des lois et procédures d'enregistrement foncières est toujours en attente.

presente documento se explorarán los sistemas de la tierra en Jordania y se mostrará que el Departamento ha realizado progresos considerables por lo que hace a la modernización de la tenencia de la tierra en beneficio de la población del país, por ejemplo mediante la informatización de todos los planes y registros catastrales. Sin embargo, una reforma radical de las leyes y los procedimientos de registro de la propiedad aún está pendiente.



INTRODUCTION

The land that became the modern country of Jordan is part of the richly-historical Fertile Crescent region. At the crossroads of the Middle East, Jordan and Palestine have served as a strategic nexus between Asia, Africa and Europe for thousands of years. Since the dawn of civilization, Jordan's geographical location has given it an important role as a conduit for trade and communications. The country continues to play this role today.

Because of its location at the crossroads of Africa, Asia and Europe, it became a geographic prize and changed hands many times throughout antiquity. In Biblical times it was known as Gilead, Moab and Edom. Its known history began around 2000 BC, when Semitic Amorites settled around the Jordan River in the area called Canaan. Subsequent invaders and settlers included Hittites, Egyptians, Assyrians, Babylonians, Persians, Nabataeans (4th century BC to 1st century AD), Greek Seleucids, Romans, Byzantines and Arab Ghassanides (4th to 7th centuries AD), Arab Muslims, European Crusaders (12th century AD), Mamelukes of Egypt (1250–1516), Ottoman Turks (1516–1918), and, finally, the British.

At the end of the First World War the territory now comprising Israel, Jordan, the West Bank, Gaza and Jerusalem, was awarded to the United Kingdom by the League of Nations as the mandate for Palestine and Transjordan. In 1922 the British divided the mandate by establishing the semiautonomous Emirate of Transjordan, ruled by the Hashemite Prince Abdullah, while continuing the administration of Palestine under a British High Commissioner. On 25 May 1946 Jordan became fully independent from Great Britain, and has remained ever since the independent Hashemite Kingdom of Jordan.

Jordan's total land area is 89 329 km², 80 percent of which is desert, with a population of just over 6 million inhabitants. Jordan's capital, Amman, has a population of about 2 million people. The country is divided into 12 administrative districts called *muhafadhat* (governorates).

Jordan's geographical location has given it an important role as a conduit for trade and communications



Map 1
Jordan's location

Source: adapted from Graphicmaps.com



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HISTORICAL BACKGROUND

In 1516 the Ottomans occupied Bilad ash Sham – Greater Syria, which comprises present day Syria, Lebanon, Jordan and Palestine – and Egypt, after conquering the Mamelukes who ruled over the region from their base in Cairo.

The Ottoman Empire attained a high degree of military power and expanded into eastern Europe, simultaneously occupying almost the entire Arab world. But the seeds of its collapse were sown in the late 17th and early 18th centuries. The Empire was essentially military, its main interests being to levy taxes and to recruit men in the army. An indicator of the mentality of its rulers was the interdiction of the printing press and printed

books for about four centuries throughout the Empire. Consequently, its people lagged behind those of European countries in terms of access to knowledge, which in turn leads to scientific and political inquisitiveness, and ultimately is essential to the establishment of modern economic and political societies. The main reason for the Empire's survival after the 18th century was that European powers were not entirely united in attempting to defeat it.

Even when the Empire began to use modern technologies, such as for the construction of the Hejaz railway, the project was a disaster for Greater Syria: large tracts of forests were cut down for wood fuel used in the railway's trains. New taxes were imposed to finance the construction of the railway; one of these newly imposed taxes was a tax on houses (*musaqqafat*), which is still levied in Jordan today (Peake, 1934).

LEGAL BASES OF LAND TENURE

The author's view is that the region which is now modern Jordan became deserted for some time during the Ottoman rule, and this is a key reason why much of Jordan's land area became *Miri* land. There is a paragraph in the Ottoman Code and its amendments¹ which supports this conclusion. In the first page of this law – which was promulgated in 7 Ramadan 1275 AH (1857 AD) – after Article 2, one reads:

Outline of the Imperial Decree issued on 18 Rajab 1278: "Since the Wilayat ash Sham [Greater Syria province] lands were originally Kharajia lands whose majority of owners perished over the years, their land became, by the force of law, Miri [or Amiria: state] lands ... (NB. Kharajia is the adjective of kharaj, which describes that type of land on which the kharaj is levied.)

¹ See the DLS web site (www.dls.gov.jo) for an Arabic copy of this law, included in the Collection of Laws, Volume 2.



Kharaj means the produce of the land, and also the tax (*jizya*) levied on the properties of non-muslim people whose country was conquered peacefully. The *Kharaj* tax was between 10 and 50 percent of the produce of the land, and was called *kharaj muqasama* (sharing), or *kharaj muwaddaf*, meaning that a fixed sum of money was assigned to be paid (Ongley, 1892).

The quotation above is therefore clear evidence that the lands of Greater Syria were originally owned by ordinary people, and that there were few *Miri* lands. Later on, almost all lands became *Miri*.

It is worth exploring some of the basic definitions in the Ottoman Land Code, as follows:

Article 1 – Land in Turkey is divided into five classes:

1. *Aradi Mamluka*: Lands held in fee simple; freehold lands.
2. *Aradi Miri*: Crown lands, belonging to the state exchequer.
3. *Aradi Mawqufa*: Lands possessed in mortmain or endowment.
4. *Aradi Matraka*: Lands abandoned without cultivation or ostensible owner.
5. *Aradi Mawat*: Dead lands, uncultivated and unappropriated.

Article 2 – *Aradi Mamluka* are themselves sub-divided into four types:

1. Building sites within the town or village.
2. Land separated from *Aradi Miri*, which has been given into the possession of a person to be held freehold.
3. *Aradi Ushria*: Places given into the possession and distributed among the (muslim) conquerors at the time of the conquest.
4. *Aradi Kharajia*: Places left in the hands of the original non-muslim owners at the same time.

When *Aradi Ushria* and *Aradi Kharajia* belong to the *Bayt al Mal* (State Exchequer) upon the death of the owner without heirs, they acquire the effect of *Aradi Miri*.

The promulgation of the Ottoman Land Code was a remarkable and vital development in the empire's administration. But its application suffered from corruption, bureaucracy and centralization. For example, the title deed (*Qushan*) was to be issued exclusively from the capital, Istanbul. If the would-be

proprietor was in a hurry, he could make a trip to Istanbul himself to acquire the deed. One can imagine the immense centralized workload and the time necessary to issue title deeds for land parcels of an empire of that immensity.

This 'spirit' of the Ottoman land laws has been inherited by modern Jordanian land laws. For example, Jordan issued the Civil Law No. 43/1976, which in its content and approach clearly superseded the Ottoman Mejelle of 1869. Similarly, these historical ties can be seen in the 'Law of Sale and Leasing of Immovable Property to Non-Jordanians and to Legal Persons No. 47 for the Year 2006', or the laws concerning Treasury Lands. These laws could have stated clearly who is entitled to receive a particular property, but instead, approvals must be obtained from the Prime Minister, or the Minister of Finance, or the Central Committee of Treasury Lands, or the DLS Director General. In some cases the approval of all these parties is required. This creates a bureaucratic nightmare in which each signature is hard to come by (given how busy these top officials are), but nevertheless is something of a formality at the moment of putting pen to paper: considering the huge number of such transactions, it is questionable whether the official signatory really has time to check properly the document they are putting their name to.

INSTITUTIONAL ARRANGEMENTS

A short history of land surveying in Jordan

The establishment of the first institution dealing with land registration can be traced back to 1857 when the Ottoman government created Tapu, or land registry offices². The Ottoman government's main objective was to make a kind of land inventory for taxation purposes. To this end it created the 'Tapu books', which documented information about the land, such as its value or rent (yield), its owner or beneficiary (user), neighbouring owners, and general descriptions of the roads and geographical features it contained. There were no real mapping or surveying processes at that stage. Jordan

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² *Tapu* means the immediate payment given in exchange for the right to possess land.



legally remained part of the Ottoman Empire until 6 August 1924, the date of ratification of the Treaty of Lausanne, Article 139 of which entitled and enabled Transjordan to acquire the registers and documents related to public and private property. The government soon began reorganizing lands and properties after this date.

In 1927 the Law of Land Boundary Establishment and Valuation came into force. This law promulgated the defining of village boundaries, state forests and land properties. The name 'Department of Lands and Survey' appeared for the first time on 30 September 1929, after unification of the Departments of Surveying, Treasury Land and Land Registration. An English official was assigned by the Mandatory Government to preside over it. DLS began producing cadastral maps, initially at 1:20 000 and 1:10 000 scales, then later at other scales such as 1:5 000, 1:2 500, 1:1 250, 1:1 000, and even 1:500 in some densely built-up areas. Since then, cadastral surveying and registration have been combined under one authority, and both components form the cadastral system in Jordan. Today, the usual scale of cadastral plans is 1:2 500 inside villages, and 1:5 000 or 1:10 000 in agricultural lands.

After the unification of Transjordan and the West Bank in 1950, the Lands and Survey Departments on both banks of the River Jordan were unified. The headquarters at Amman became responsible for all land registration directorates throughout the country. Most of the laws concerning land and water rights, settlement, registration and so forth came into force in 1952 and 1953.

In the field of surveying and maps, DLS was responsible for topographic and photogrammetric surveys until 1968, at which point the Military Survey took over this role. In 1975, the Royal Jordanian Geographic Centre (RJGC) then took on responsibility for this. In the 1930s and 1940s, the English army had established several triangulation networks, which served as a basis for both topographic and cadastral surveying. In 1988 the RJGC completed the national geodetic network (1st, 2nd and 3rd order), in cooperation with the French Institut Geographique National (IGN). A new projection system has been adopted: The Jordan Transverse Mercator (JTM) instead of the Palestine Grid System. Similarly, cadastral maps have also been transformed into JTM instead of the old Cassini system.



Besides cadastral plans, the RJGC owns a complete map cover of the country. The base map is at scale 1:50 000 (topographic maps). Additionally, 1:25 000 scale maps were produced for the western inhabited region. However, the flow of information and the exchange of documents between public bodies in Jordan is not always easy. Sometimes it is more convenient and cheaper to ask for and obtain documents from foreign sources. This was especially true in the 1990s, in areas such as geodetic networks, aerial photos, satellite images and topographic maps.

The methods used for mapping have been as follow:

- Baseline (method) mapping until 1942
- The plan table method until the mid 1970s
- Mapping by tacheometry until the late 1980s
- Mapping using modern instruments (e.g. EDM, total station, GPS) since the late 1980s
- The digitizing of all old maps from 1997 onwards.



By the end of 1999, 25 percent of Jordan's territory – mainly cultivated and populated areas – was cadastral, and by mid 2002 the desert and other underdeveloped areas were also mapped for cadastral purposes. These were divided into squares of about 10 × 10 km, and any development within these areas was signalled. In such a case the land would be registered in the name of the developer. However, these lands are now undergoing the process of registration, mostly in the name of the Treasury. Today, more than 95 percent of Jordan's territory is mapped and registered.

The Department of Lands and Survey (DLS)

The DLS was established in 1927. Its responsibilities and dependence were modified several times, and it now handles three main tasks: cadastral surveying, registration of land property, and management of treasury lands.

All land transactions must, by law, be processed and registered by the DLS. The DLS has computerized all its procedures and documents, including the land registers and the cadastral plans. A cadastral database has been established, and a comprehensive web site in Arabic has been available since 2002 (www.dls.gov.jo). Land plans can be obtained online, free of charge.

Besides the DLS headquarters, there are 34 Land Registration Directorates (LRDs) and 2 land registration offices distributed in all governorates and sub-governorates of Jordan. They are all connected with the headquarters and to each other via the Internet.

DLS carries out several tasks concerning treasury lands, including leasing, accreditation and dedication (for public bodies), as well as expropriation and the control of subdivision and boundary fixing transactions carried out by licensed surveyors from the private sector. DLS is responsible for licensing these surveyors, as well as land assessors and land brokers. It also collects sales taxes and registration fees for the government. The revenues of DLS in 2008 amounted to 379 million JD (1 JD = 1.4 USD). In 2009, revenues were about 30 percent less than the previous year, due to the local recession which followed the global economic downturn.

DLS adopts the parcel-based system of registration. Every land parcel has a unique code, consisting of the name and number of the village, the hawd (block of parcels), the quarter (inside cities and villages), and the parcel

All land transactions must, by law, be processed and registered by the DLS

number. Both the land register and the cadastral plans have been digitized; title deeds and plans are issued instantly by the DLS computer.

But the cadastral system still suffers from several drawbacks and handicaps. For example, the same proprietor might have different names in the land register; conversely, some different proprietors might have the same name (e.g. a 4-syllable name, which consists of the person's prename, his father's, his grandfather's, and the family name). This problem can be solved by adding the national number to the name of each proprietor, and the DLS has already begun this practice. But the procedure has its complications and costs users and the DLS considerable time and effort; neither is it 100 percent reliable.

Another issue is that the cadastral plans do not show names, contour lines, or buildings. They consist merely of boundaries of parcels. Even distances or the lengths of parcel sides are not shown on the plans. There are unacceptable discrepancies between the cadastral plans and the reality on the ground, a fact which leads to serious problems. The main issue is that the plan is considered to be the correct reference: this sometimes means that, in practice, actual land boundaries must be modified to match those on the plan. This type of operation is called 'boundaries re-establishment'.

An effective solution to this is to produce and adopt orthophoto maps that show the actual land parcels' boundaries, in addition to buildings and the type of land use. However, such a mission must by law be carried out by RJGC, who have asked for exorbitantly high prices for doing this kind of work.

THE CURRENT LAND ADMINISTRATION SYSTEM

DLS is responsible for property registration. No land transaction is considered legal if it is carried out without DLS approval. However, there are certain regions that enjoy a special status. For example, the Jordan Valley Authority (JVA) has for many years been managing the different aspects of economic and social activities in the Jordan Valley (Al Ghawr), including those concerning land. In the early 1960s, when the government irrigated Al Ghawr, the JVA bought plots larger than 200 dunums, equivalent to 20 hectares (1 dunum = 1000 m²). It subdivided them and resold them to



farmer tenants in 30–50 dunum plots. But no title deeds were issued for those tenants until recently, when the DLS carried out a property survey and registration in this region for the benefit of the JVA.

A special status also exists in the Aqaba Region, where the Aqaba Special Economic Zone Authority (ASEZA) is responsible for almost every government-related issue. A somewhat similar situation also exists in the Petra region. But land transactions in these regions must still be registered via the DLS.

In the early 1930s, the DLS launched surveying works by defining and fixing villages' boundaries, then carrying out land and water settlement works, first in the agricultural lands and afterwards inside the villages. Registered agricultural parcels were usually large: hundreds of dunums. These properties are now becoming smaller and smaller, as they are subdivided between heirs. However, the law generally does not allow subdivision of these lands into parcels smaller than 10 dunums, and at most 4 dunums in some specific regions.

The law is meant to be aimed at preserving the agricultural lands and maintaining a reasonable minimum area for them. But actually this is not guaranteed, for a number of reasons. Many Jordanians do not work in agriculture any more, and if they do, it is a hired worker (usually Egyptian) who works the land. Deserted farms were built upon as urban areas expanded. Many parcels outside villages are now sold to rich families from Amman, who build rural or secondary houses which are rarely visited.

In the early days following the establishment of the Emirate of Transjordan, and the first land settlement works, the country's population was just a few hundred thousand. Only a small part of the land was exploited by the people, and hence registered in their names. Other lands were considered state or treasury land. But now with a population of about 6 million, the Jordanian people need more land. They try to obtain treasury land by lease or accreditation.

However, this is not always easy. Treasury land can be leased to the person who proves that he/she has exploited the land (although, paradoxically, the exploitation of treasury land is prohibited by law). After a 5-year lease period, the land can be accredited to the lessee in return for a moderate price, but only after lengthy and complicated procedures. Additionally, the accredited land cannot be sold or disposed of any earlier than 10 years after the date of accreditation.

In general, therefore, treasury lands remain under-exploited, especially those lands to the east of the Hijaz railway, which constitute the majority of treasury lands. These lands could be used to establish new agglomerations and housing projects. This is partly being realized through allocating such lands to government officials for housing purposes. In 2009, the employees of the Prime Ministry and the Ministry of Finance and its departments were each allocated 500 m² parcels in Al Ghabawi region near Az Zarqa', a desert area. Five years ago, judges were also allocated land parcels for housing in the northeast of Amman. Meanwhile the lands of the western region need to be kept for agricultural use; they are the most suitable for this purpose, thanks to their fertile soil and their comparatively abundant rainfall.

Land management in Jordan has been established on a solid basis, thanks to two British general directors (1929–1954) of the DLS. Land laws have been continually developed to suit the changing situation, and in recent times computerization has also been largely applied. In reality, a fairly effective and appropriate working method is the norm in the Jordan DLS, and this needs to be recognized. However, this paper naturally looks towards areas for improvement, and the author therefore needs to emphasize the weak or negative points that could be rectified.

Procedural complications have their roots in the Ottoman Land Code and in the mentality that produced it. Some of these negative points are:

- The major part of the country's land is state, or treasury land, which implies that it is being under-exploited. Consequently many Jordanians do not have access to land, either for housing or for farming.
- Many procedures are still long and complicated for no obvious reason. Every day, thousands of people visit DLS headquarters and the land registration directorates (LRDs). Compare this to the old practice in the UK, as described by J.J. Wontner in *Land Registry Practice* (1930). In the introduction to the book a phrase is written in bold letters: "The whole business of registration can be conducted by post and there is no need for any audience at the Land Registry". One might think that the British general directors of the Jordanian DLS would have applied the same system in Jordan if the situation had permitted it. Eighty years



later, Jordan has come a long way and is now in a position to do what the British did then. However, no one has dared as yet to change radically or develop the laws or procedures further.

- All employees of the DLS are busy, not least the Director General, who, every week by law, has to sign hundreds of papers and transactions concerning Treasury lands, as well as the transactions of non-Jordanians and legal persons buying land. It is questionable whether he can really study the papers he is signing. It is also questionable whether he has the time to really direct and lead the Department, even working long hours each day. The same applies to the Minister of Finance, who must countersign many of these transactions.
- One of the old practices (when people did not possess identity cards) still used in the DLS is requiring the presence and signature of two witnesses for a land sale transaction. This adds to the complexity of land transactions, given the difficulty of organizing two witnesses who really know the person making the transaction.
- Another practice which causes headaches and consumes time is adding the national number to the land register, and consequently to the title deed. Similarly, the correction of family names by settlement judges causes problems when, for example, the definite article 'al' is added to the family name (even though everybody in Jordan knows that almost all family names can be written alternatively with or without 'al'). As a result, many citizens may have property documents showing both forms of the family name, requiring long correction procedures in order to rationalize them to just one name.
- Land property information is considered confidential. Only the concerned person can have access to information about his own property (or else a court order must be presented). This practice is inconvenient for many reasons and has to change. For example, if someone wants to buy land, he will not be able to know the owner's name in order to contact him, except by unorthodox means (Still many land transactions are carried out directly between seller and buyer). Accountability and the fight against corruption cannot be effective if this law of secrecy covers up the land acquisitions of the corrupt.

- Corruption exists in the DLS and in the land market in general. For example, concessions for mining and oil shale have recently been given to foreign companies. Other concessions have been made in the areas of cement production, marble, petrol and natural gas. Procedures for obtaining permits and authorizations are usually (and rightly) long and time consuming, given the extent to which industrial activity can alter land forever. However, large companies' economic power and lobbying skills are great, consequently opening the door to corruption. However, transparency and changing some laws would help:
 - When the buying or acquiring of land is decided uniquely by the law, and not by requiring the signature of an official or a committee, corruption can be reduced.
 - When land ownership information becomes public, corruption and forgery will also be reduced.
 - When land values (which serve as a basis for taxation) are defined for a fixed period of time and publicized, corruption in this domain will also end.
- Registering of rights in land and water was first implemented in the west regions (the inhabited and agricultural lands) in application of the 'Land and Water Settlement Law'. Recently, settlement works were expanded to the eastern region, where lands were claimed mainly by Bedouin tribes. In 2006, a decree issued by the Prime Minister stopped all the land settlement works in this region. However, many Bedouins still sell lands which they claim are theirs, but which have not yet been registered in their names. Such sales transactions are not registered in the DLS, because the vendor does not formally own the land. In this case the sale deed is called 'hijja'. The person who buys such land is tempted by the cheap price. If the land bought by hijja is in populated areas, such as those between Amman and Az Zarqa', the buyers will usually go ahead and build their house on the land. However, they will face problems when trying to obtain municipal services such as water and electricity, as they do not have a valid title deed issued by the DLS. The DLS has tried several times – the last attempt being in 1998 – to solve this problem by surveying these lands and registering the lands in the names of those



occupying them, after they pay a nominal sum to the government. But many of the beneficiaries did not pay, and the issue remained pending until 2008 when His Majesty King Abdullah the Second offered them the land for free (Actually for a nominal fee of 1 JD). This offer concerned mainly the Az Zarqa' region.

- Housing companies in Jordan enjoy great influence, which enables them to obtain preferential treatment for their housing projects. They are exempt from the country's 4 percent sales tax, and the beneficiaries of their housing projects are exempted from the 6 percent registration fee for the first 120 m² of a property. The buyer of an old and used apartment or an independent house (i.e. from a private owner and not a housing company) does not benefit from this tax exemption.
- A recent amendment by Prime Ministerial decree concerning this issue has given housing companies even greater advantages. The fee exemption now applies to more than one apartment bought by the same Jordanian family; before it was applicable only to a first apartment. Additionally, the maximum area subject to tax breaks has been increased to 300 m² from 150 m², in order to benefit from the fee exemption for the first 120 m². However, this amendment is valid only until the end of 2010. The buyer of an old and used apartment or an independent house (from a private owner and not a housing company) does not benefit from this tax exemption.

In the *Doing Business 2010* report issued by the World Bank, Jordan ranked 106th out of 183 countries in registering property (*vis-à-vis* a Jordanian company buying land from another Jordanian company in the vicinity of Amman). Jordan's rank seems to decrease each year. Five years ago, the country was ranked 75th. The ranks are calculated according to three criteria: the number of procedures involved in land title transactions (7 for registering property in Jordan), the time required (22 days), and the cost (7.5 percent of the land value, though this is expected to revert to its 'normal' value of 10 percent as of 1 January 2011). Although these figures have not changed during the last five years – except for the percentage

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cost, which was temporarily reduced – Jordan's rank has been dropping because other countries are improving their own performances.

The non-Jordanian investor who wants to buy land in Jordan must wait even longer (1–2 months) because he or she needs to obtain the approval of the Ministry of Interior. The cost, i.e. the sales tax plus the registration fees (4 percent + 6 percent = 10 percent) is one of the highest in the world. Jordan's rank in this criterion in 2009 was 140th of 180, another very poor showing.

One negative consequence of the high cost of property transfers is the widespread notion of the 'house for life'. Most Jordanian people cannot afford to buy and sell houses frequently, so families try to buy a large house, of 150 m² or more, even if they do not need this large area for the time being, e.g. when they are newly married. It is possible that they may never need such a large area, hence this phenomenon results in sometimes excessive and unnecessary spending on houses, causing economic difficulties for those concerned, and by implication the country as a whole.

DEMOGRAPHIES

A deeper understanding of land issues in Jordan is aided by a look at the area's demographic history.

One significant indicator of the miserable situation of ordinary people during the Ottoman era was the depopulation of Jordan. The Swiss traveller Johan Ludwig Burckhardt mentioned in his 1812 book, *Travels in Syria and the Holy Land*, that the city of Al Karak only had three populated villages near it (compared with 400 during the Mamelukes era) and that there was not even one inhabited village between Al Karak and As Salt. (This distance of 150 km includes Amman and Madaba, which were ruins at the time). He estimated the settled population of East Jordan at 20 000, in addition to 7 000 Bedouins.

A question clearly arises: Where had the entire region's population gone and how had they disappeared? Was this due to earthquakes, or the plague and other epidemics? Was it political mismanagement and lack of security that enabled Bedouins to attack local villages, causing the collapse of agriculture and leading to farmers' immigration? Was it the compulsory

A deeper understanding of land issues in Jordan is aided by a look at the area's demographic history



conscription needed to supply men for the continuous Ottoman wars? Was it the feudal system?

Peake (1934) suggests that most of the tribes in this area had come to Transjordan less than 300 years before. It seems that there was a period when the country was almost deserted. Later, the depopulation of Transjordan during the Ottoman regime helped to facilitate the absorption of several immigration waves, such as the Circassians and the Chechens, who were installed by the Ottomans at several ruined or deserted sites. At that time these included Amman, Suwaylih, As Zarqa, Na'ur, and Al Azraq. The first group of these immigrants arrived around 1880. The Duruz also came from Syria to Al Azraq. Internal emigration of tribes was also common for a variety of different reasons, such as Bedouin attacks or threats, drought, or quarrels between clans or families involving the act of killing. One significant example is that of some of the biggest Christian tribes in Al Karak, who emigrated to Madaba and Ma'in around 1880, which again were ruins at that time. In all these immigrations, the immigrants could possess land for building houses and for agriculture.

When settlement works began in the early 1930s, it was not unusual for individuals to refuse to register land in their name, because they could not pay the annual taxes levied on the land. This also happened, and more frequently so, during the Ottoman era, when registering of land properties began in the last decades of the 19th century under the Ottoman Land Code. People's reluctance to register their land property was partly explained by their fear that this would be followed by conscription in the army.

In the late 20th century came the two great waves of immigration by Palestinian refugees, in 1948 and 1967. Most of them went to Amman and Az Zarqa' and some lived in refugee camps. Part of the land where these camps were built belonged to private owners, and some of these owners have never been compensated for their use. Once settled, the Palestinian refugees could buy the lands they needed since many of them were better off than most East Jordanians, or became so: they either worked in the Gulf States, or with the UNRWA, and had better salaries compared with the public sector or the Army. They were also active in the private sector in Jordan, which helped them achieve higher incomes. Over the past 20

years, Jordan has also accommodated several hundred thousand Iraqis, who settled down 'temporarily' as refugees from the various wars that ravaged their country. These immigrants, like others before them, have added to the already substantial land pressures in this small country.

Female land ownership is another interesting demographic issue in Jordan. One source suggests that the number of female landowners represents just 4.9 percent of the total female population (Haddadin, 2009). However, religious laws and land laws theoretically guarantee women the right to inherit land either in equal shares as males, or at least in half the share of males, according to whether the land is *miri* or owned, respectively. In reality, many Jordanian women surrender their property to their brothers, with little or no compensation given. If a man has only daughters, it is even possible that he might disinherit his own daughters and pass his lands to his brothers or even cousins.

Bedouin range lands also contribute to demographic considerations in Jordan. Originally, Bedouins were not used to cultivating land, shunning farming and its associated way of life. They used to own herds of sheep, goats and camels, and moved them continuously looking for pasture and water. But Bedouins' lives have changed radically since the establishment of the state of Transjordan and the other countries of the region, after the dismantling of the Ottoman Empire. The newly established borders between these countries interrupted their traditional way of life and their free movement in the region, a practice they had enjoyed unhindered for thousands of years. Legally each tribe has its own domain of pasturing or control, albeit not formally registered in DLS. In recent years, many Bedouins have been tempted to sell their lands at high prices. Most Bedouins have settled down, leaving behind their traditional way of life. With the money that came from land sales they began building houses and buying modern goods such as cars. This practice has created difficulties for the Bedouin: apart from the 'one-off' economic value of their land, they have found it hard to find other sources of income to finance their new lifestyles. This has led them to sell more land, if it is available, or to face financial ruin.

One of the peculiar ways for appropriating land was that used by Sheikh Sattam Fandi Al Fayiz, at the end of the 19th century. He would take two



witnesses with him when visiting a location (usually the ruins of an ancient village), build a small cairn, and fire a bullet in the air to declare that he owned the place. In this way, he became the owner of 250 000 dunums (250 million square metres) around Madaba (Abu Jaber, 1985). The significance of such an anecdote arises from several points: It indicates the extreme authority that a tribe's chief has, and which he uses to acquire much more land than an ordinary tribesman could ever acquire. It is also an indicator of the epoque when the Bedouins began to show interest in possessing land for agricultural purposes. Finally, it underlines the fact that almost all old villages in Jordan were ruins at that time.

SOME ECONOMIC AND SOCIAL ASPECTS OF LAND TENURE

Land is the most valuable asset in Jordan. This is strikingly true even if there is no potential use for the land in the foreseeable future, and was especially the case during the last land market price bubble (2005–2008) when land prices increased dramatically, especially in the Amman region. Speculation raised land prices in some places by up to 10 times or more: often, the same parcel of land would be bought and sold several times in a short period. Land transactions and speculations became a subject of conversation among the country's professional elite. It was not unusual to see professionals such as doctors, engineers or lawyers neglect their practices to engage in land speculation activities. Many people made considerable profits, but there was no increase in national wealth or gross national product. What made things worse were the associated exaggerated spending trends that became the norm, as people felt richer in general and bought additional luxury goods.

The price bubble was caused by several factors: the huge increase in money transfers from Jordanians working in the Gulf state; the increasing numbers of Iraqi guests who settled temporarily in Jordan and put pressure on available land space; money laundering; non-Jordanians buying

Jordanian land in an increasingly internationalized market³. DLS assessors and management played an important role in this land market price bubble for different reasons. For example, DLS usually assesses sold properties at more than their actual market value, in order to realize more revenues for the Government in the form of land sales taxes and registration fees. Another possible reason for the DLS valuer to increase the assessed value is to entice the land buyer and/or seller to offer some kind of favour to the value assessor, in order to readjust the estimated taxable value. Lawyers and judges also played a role, because lawyers asked for, and judges usually decided in favour of, high values for expropriated lands. This practice helped inflate the land market bubble and added to the financial burden of the Government, due to the increasing cost of compensation for these expropriated lands. Some municipalities even went bankrupt because of the exaggerated compensations required for expropriated lands.

Several qualified industrial zones (QIZ), industrial estates, free zones and developmental zones have been established. The labour force in the QIZs is mostly foreign (e.g. Chinese, Bengali), helping to make industrial investment in the area cheap. Consequently, any announcement of the intended establishment of a developmental zone in a certain region (e.g. Al Mafraq, Irbid) caused land prices in that region to increase dramatically.

But like all speculative financial bubbles, this one was bound to burst: the collapse was triggered by the global financial crisis that began in 2008. The enormous hike in land prices created a critical and dangerous social situation. The average Jordanian's individual income had not increased; consequently many people were unable to buy or even rent a house, or to buy land and build their own house on it. A basic need for the Jordanian citizen was becoming out of reach. Consequently, His Majesty King Abdullah launched his initiative, 'A decent housing for a decent living', offering cheap houses for the needy.

When the bubble burst, many people in Jordan lost huge sums of money. Consequently they now offer their land properties for sale in order to

3 Only Arab nationals are authorized to buy miri or agricultural land, although this does not apply to citizens of the National Palestinian Authority, who are currently not allowed to buy land or houses.



recoup at least some of their losses. But buyers are few: as an indicator of this imbalance between supply and demand in the land market, one only needs to look at the weekly classified advertisement newspapers, in which 50–80 percent of pages are given over to land sales. Presently there are many vacant apartments in Amman. They were bought as speculative investments, or by Jordanians working in the Gulf states, who usually occupy their apartment for at most 1 or 2 weeks each year.

Perhaps the most serious point related to apartments in Amman concerns those bought or rented by several hundred thousand Iraqis. If the situation in Iraq stabilizes and Iraqis return to their country, the prices of apartments in Amman may collapse even further.

As expected, this land market bubble delivered a hard blow to agriculture, whose financial yields became negligible compared with the profits realized by speculations in the land market. However, there is a wider and more long-standing trend in agricultural decline in Jordan. Wheat production has dwindled to the point of satisfying only 10 percent of actual needs. According to the *Al Arab Al Yawm* newspaper (15 December 2007), in 1984 just 40 000 hectares were used to grow wheat, compared with more than 200 000 hectares in 1954. In 2006, 449 000 dunums (44 999 ha) were sown with wheat, but as a result of drought, only slightly more than half of this area was cultivated (*Al Liwa'* newspaper, 21 July 2009).

The productive use of arable land is decreasing by 1.2 percent annually according to the Minister of Agriculture. Many water springs have dried up or have become very weak; *Al Azraq* oasis soils and water have become salty. Jordan now suffers from a shortage of drinking water: imported drinking water bottles are sold in almost every supermarket in Jordan. A large project is under way to bring potable water from *Ad Disi*, near Jordan's southern borders with Saudi Arabia. This area contains a huge underground fossil water reserve. However, about 30 years ago, thousands of hectares of *Ad Disi* lands were leased to influential persons to grow crops such as wheat (although they actually planted orchards), and they got the land and the water practically free.



There are several nature reserves in Jordan, such as the Ash Shomary Wildlife Reserve (22 sq km, established in 1975), the Dana Biosphere Reserve (320 sq km) and the Al Mujib Nature Reserve (220 sq km). Wildlife is practically non-existent outside of these reserves. Grazing reserves have also been established, such as those of Al Lajjun and Al 'Ayishiyya. These reserves are an attempt to save a small part of Jordan's forests and pastures from the rapidly expanding trend of 'urban desertification'.



CONCLUSION

To halt the degradation of limited arable lands in Jordan – essential to the basic provision of food for future generations – substantial measures must be taken. No further construction projects (including individual houses) should be allowed in the entire western regions, including Amman, where traffic congestion has become unsupportable. A viable alternative would be to build new cities to the east; Treasury lands there should be made available for this purpose.

Land laws and DLS procedures should change, allowing for greater transparency, a faster service, lower taxes, and consequently less corruption. Although a new unified land project has recently been proposed by DLS, it is not much of an improvement on actual laws, except in unifying them into one law.

Advances can be made in the field of control and accountability. Institutions and individual employees (and this applies to DLS and its employees) should be held responsible for their mistakes and should compensate their clients fairly for any resulting damage.

Current information included in cadastral maps is insufficient. There is a large and justifiable demand for additional information. In Jordan, basic information such as buildings and street names are missing from current cadastral maps. In more developed systems a multi-purpose cadastre would be used, providing all the information needed by all parties that have an interest in land transactions and other land issues. Orthophoto maps might offer an appropriate solution.

Doubts about the fairness and justification of current taxes and fees for different land transactions are widespread. This could be interpreted in either of two ways: that these taxes and fees genuinely are not fair, or, that the authorities concerned have not made the effort to explain the reasons for imposing these taxes, and the methodology for calculating them. At the very least, there should be greater transparency in explaining the approach by which these taxes are defined.

The main obstacles slowing down the current process of land transactions in Jordan are: rigid and old laws and regulations; long and complicated procedures; lack of qualified personnel; favouritism, whereby relatives and private relations of DLS officials have priority. All of these situations should be addressed.

Joint property is a widespread problem. Some land parcels have tens or even hundreds of co-proprietors. This situation complicates any transaction carried out on this kind of property, and hence affects the land value. Legislators should endeavor to solve this problem, e.g. by recategorizing and redefining land parcels.

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