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“Arbitrary Land Use Policy in Jordan between Legal Brand and Property Control”

Magdy Tewfik¹ and Alia'aAmr²

Abstract

The absence of appropriate land use planning, leapfrog population growth, and high demand for urban land persist among the prevailing urban characteristics of Amman. Generally, land use policy in Jordan, and particularly in Amman remains out of control because of some social considerations and inconsistent laws. Such phenomenon creates serious problems related to the local land market. This paper attempts to address the wide gap between land supply and demand through analysis of the relevant institutional framework, land governance, land policy and practice in Jordan. However, the historical background of land proprietorship is given parallel to the overall institutional framework of land regulation. The magnitude and reason for legal land tenure along the proposed urban corridors shall also be examined.

Introduction

Amidst ongoing Middle East turmoil, Jordan hosts pillows of refugees from neighboring conflicting countries. During the past two decades, political instability coupled with civil wars both in Iraq and Syria alone brought over three and a half million refugees into the country. Such unprecedented influx exerts heavy pressure on the already exhausted services and resources of Jordan. The populated urban centers are most affected. Levels of urban growth increased from 70% to 82.6% between 1970 and 2012 (Ministry of Planning and International Cooperation, 2014). However, the current spatial structure of the capital city of Amman, defined as Jordan's core growth center, is encircled by a number of less advantaged municipalities. These steadily expanding settlements, with their varied interrelations with the capital city, form the immediate peripheries. The number of commuters is daily increasing, while the flow in and out Greater Amman from these fringe settlements is rather obvious.

On the other hand, the Jordan Housing and Urban Development Corporation (HUDC) has defined land use planning as the process of determining the location of discrete areas for different land use activities (Jordan Legislation , 1992)

More recently, Amman embarked on a phase of spatial restructure that generates alarming concerns about the rapid urban transformation. The proposed urban reform is expected to seriously affect the urban structure of the metropolis at different levels e.g. cultural, social, economic, and environmental. New planning concepts were set forward to formulate a comprehensive vision for Amman's growth, urban management and land use planning. Nevertheless, different variables have controlled the existing urban land use patterns,

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pertinent to the time when political, economic, social, and other circumstances have accompanied the planning actions which meant to direct the urban development of Amman.

The most significant master plans that took place in the relatively short history of Greater Amman Municipality (GAM) are: the 1986 Greater Amman comprehensive Development Plan (GACDP), and the 2008 Amman Master Plan: Metropolitan Growth. The latter was designated to control the mushrooming industrial urban development on two major urban corridors: the Sahab – Mowaqer to the southeast, and the Amman – Zarqa to the northeast. Obviously, these two master plans did not take into account the nature of private properties, especially territories that were set forward to complement the proposed urban development area.

Attempts to curb land value by related public authorities are usually confronted by strong resistance from profit making, influential landowners. Consequently, there are distinguished lack of adequate land use planning, spatial control, efficient public land acquisition and land taxation imposed by the government (Tewfik, 1989). From the administrative standpoint, the consecrated centralized institutional approach, proposed by non – Jordanian expertise for the urban policy management³ of Amman, caused rapid yet chaotic land use changes along the two suggested urban corridors. However, the application of a two-tier system⁴ is responsible for the creation of more centralized growth mechanisms which in turn escalated land use changes around the two corridors.

The patterns of use and tenure of urban land are particularly critical. Current urban policy failed to effectively control land use changes as been proposed. Alternatively random, uncontrolled spatial growth has taken place especially around the two planned urban corridors particularly after the adoption of some controversial measurements which have allowed alterations of zoning and land titling so as to promote the expansion of industrial investment in favor of some influential landowners.

The following reveals the main factors that caused rapid land use changes in Greater Amman:

- Factors related to the nature of land use policy which controls and directs urban development, the special nature of land ownership and the distinguished land tenure mechanism under the title of the "*Tafweed Law*" i.e. the authorization act of tribal lands.
- Factors related to the nature of the social fabric and tribal distribution over the region⁵.

The current study assumes that the existence of a strong relationship between the legal framework that controls land use in Amman, land proprietorship and the random uncontrolled changes of land use shall pursue along the proposed urban corridors as long as no efficient, fair policy come into existence. Fragment control over urban land would further aggravate the urban structure and impede the spatial balance, while the emergence of more distorted urban patterns in the spatial structure of Amman metropolis would be inevitable.

³All Amman master plans were mainly developed by non – Jordanian institutions.

⁴The system consists of two levels of management. First level: "*The Capital*" which has the central authority to control the overall process of zoning and planning, its implementation and amendments of the comprehensive plan, including all districts within Greater Amman Municipality. Second level: "*The Districts*" with limited administrative authority such as issuing building permits and implementation of planning programs, conditional the presence of a consultative body, and supervised by the first level. It is worth noting that the emergence of the "*central authority of the capital*" imposes administrative control over all parts within Greater Amman Municipality, thus overruling all actions proposed by the district authorities and limiting their authority (Abu-Dayyeh, 2004).

⁵Distribution of tribal and demographic groups over Jordan.

Urban development discourse and applied mechanism in Amman

In Jordan, urban land is treated as an asset or a mere commodity. Speculation on land, however, drives land price out of reach of the vast majority of families. This situation contributes to inequality in the supply and demand for urban land (Tewfik, 1989). The structure of urban policy in Amman, its mechanism of implementation and their spatial impact do not respond to the actual land market. Recently, many studies have attempted to determine the reason beyond a successful implementation of urban policy (see Tewfik, 1989). One of the important elements of examining the quality of urban policy is the analysis of legal aspects which control the entire urban process. It requires, however, a thorough investigation of the relationship between the urban land policy application and the actual set up of the urban context. This maintains a serious quest in the current research.

In 2012, the Capital Governorate's population reached almost 2.5 million which forms 38.7% of the nation (The Annual Statistics Book, 2012). Although the government has exerted some efforts to decentralize the growth of the urban centers in general and Amman in particular through more balanced redistribution of economic activities and public services, Amman yet possesses the lion's share. Amman simply stands out as the metropolitan center of economy, services and administration with more than 80% of all industrial activities in Jordan. Accordingly, the elementary centralized facilities and services have shaped the initial urban political discourse and determined a polarization center in the capital city.

As stated earlier, the 1986 Greater Amman Comprehensive and Development Plan (GACDP) and the 2008 Amman Master Plan: Metropolitan Growth, are mainly responsible for directing the industrial urban development in Amman. These two development plans disregarded the private land proprietorship, especially territories⁶ designated to the future road map of development.

At the administrative level, there exists a centralized approach ruling an incessant alien urban policy management that in turn controls the industrial growth. This action has scaled land use changes along the two proposed urban corridors. Accordingly, the application of two-tier concept maintained more centralized growth mechanism which resulted in fast land use changes along and around the two urban corridors.

Legal framework and urban planning practice in Jordan

In Jordan, the establishment of the first institution responsible for land registration can be traced back to 1857, when the Ottomans created the so-called "*Tapu*" or land registering offices. The main objective of the Ottoman authority beyond such action was to carry out a kind of land inventory for tax collection purposes (Minkov, 2000).

In 1927, the Law of "*Land Boundary Establishment and Valuation*" was enforced. The Department of Lands and Survey was initiated in 1929, thus merging together the Departments of Survey, State Treasury Lands and Land Registration. Most of the laws and by laws concerning access to land, water rights, settlement registration and so forth were enforced in 1952 and 1953 (Bozkur, 1992).

The "*Administrative Law of the Ottoman States*" (قانون إدارة الولايات العثمانية) continued to be imposed on the Municipality of Amman until 1925. In 1927, the Jordan government issued the new administrative formations No. 308, hence borrowing a lot from the Ottoman's land use law, which categorized the territories of Trans-Jordan under specific land titling. In March 1933, another legal framework has been issued so as to provide a practical mechanism for spatial planning in Jordan i.e. the "City Planning Law of 1933" which directly addressed the following:

- Any geographic area of land lying within the zoning boundary is by law designated as a legal zoning area.

⁶Most of these lands are occupied by squatters.

- The establishment of an urban planning subcommittee in each region to be declared as a "zoning area".

The above stated law has identified the role and mission of urban planning to be practiced by the various municipalities including preparation of the preliminary plan⁷, land subdivision, street network, develop appropriate standards for new construction works, maintenance standards, and restoration of antiquities and heritage buildings within the designated area in question.

An amendment of the Municipal Law of 1933 was issued in 1938 which brought land policy of the Amman Municipality under the direct supervision of the Prime Minister. Thus, Amman witnessed a new era of planning. The latter amendment has identified the major functions at three realms:

1. Urban planning and urban design tasks.
2. Infrastructure works
3. Civil works.

In the mid-fifties of the 20th century, particularly in the rear of the first influx of Palestinian refugees into Jordan, an urgent demand arose for annexing large peripheral tracts to the municipal territories of Amman. Accordingly, at the beginning of the 1960s, there was a need to establish a specialized institution for urban planning. Then, the Town and Country Planning Unit proposed the 1964-1970 Five-Year Plan for Social and Economic Development (The Higher Planning Council, 1970).

In the mid-sixties of the 20th century, the Ministry of Interior Municipal and Rural Affairs which replaced the "Town and Country Planning Unit" became responsible for the issuance of the new Planning Law No. 79 of 1966.

The current practice of urban planning and rural development in Jordan is determined by a combination of provisions that regulate the urban and spatial planning process. These are:

1. The Villages Administration Law No. 5 of 1954.
2. The Municipalities Law No. 29 of 1955⁸, which introduced the concept of master for the first time.
3. The City of Amman Planning Law, its organization and amendments No. 60 of 1965.
4. The Town and Village Planning law, No. 79 of 1966, and its various amendments.⁹

⁷Until that time and until 1930s, the idea of the development plan was not established properly.

⁸According to the Municipal Law No. 29 of 1955, a municipality is defined as a civil institution with financial independence designated and approved within the region's borders, with the exception of the Amman Municipality which is administered by a municipal council (The Municipalities law, 1955) while more recently the Aqaba Special Economic Zone Authority (ASEZA) law came into existence.

⁹According to this law, the administrative framework in charge of urban planning for towns, villages and buildings, regions are defined as follows:

- **Central organizing department of cities and villages** within the Ministry of Interior, Municipal and Rural Affairs, in accordance with article #8 of the planning law No. 79 of 1966.
- **Local regulatory Commission** in accordance with article 9 of the planning law No. 79 of 1966 covers the village level.
- **Regulatory Commission of Cities, Villages and Buildings** in accordance with article 8 of the planning law No. 79 of 1966.

5. The Planning Law of 1971.
6. The Administrative Land Sub-division Law of 2001.
7. The Land Use Planning Bylaws of 2007.

Apart from the legal framework, many institutions intervene to organize and regulate land use in Jordan based on their own vision and initiatives such as:

- The Ministry of Municipal and Rural Affairs.
- The Housing and Urban Development Corporation (HUDC).
- The Ministry of Agriculture (MoA): The Agriculture Law No. 20 of 1973 gives MoA some kind of authority over the arable land.
- The Aqaba Region Authority (ARA): It was established in 1984 and reorganized in 1987 so as to gain nominal entity, financial and administrative autonomy.
- The Jordan Valley Authority (JVA): The Jordan Valley Development Law No. 19 of 1988, Article 3.

It is rather common that when the need arises for further spatial expansion beyond the zoning boundary of Greater Amman serious land use conflicts take place between GAM and its peripheral municipalities, especially with the local private land owners of the newly designated areas. An amendment of the enforced laws and by laws should be settled to ensure fair compensations to the involved private property owners.

As far as master plans preparation is concerned, there is no actual need to justify the amount of land designated to the different zoning categories. The total amount of land zoned, the proportions and location of different land use, the size and distribution of the various categories of residential, industrial, commercial and other developments reflect neither planning standards nor market requirements (Tewfik, 1989).

Land ownership in Jordan

Legal basis of land tenure: Jordan did not play a strategic role during the Ottoman reign. That was a key reason why much of Jordan's lands became "Miri" as follows:

An Outline of the Imperial Decree was issued on Rajab 18th, 1278 Hijri year: Since "Wilayat ash Sham" (The Greater Syria Province) arable lands originally were "Kharaj"¹⁰ whose most owners perished over the years, their land became, by the law force "Miri" (or Amiria) (Mdanat, 2010).

Ottoman Land Code: Land titling is divided into five categories:

- Mamluka land: Lands held against simple fees; freehold lands.
- Miri land: Crown lands, belonging to the state exchequer.
- Mawqafa land: Lands possessed in mortmain or endowment.
- Matruka land: Lands abandoned without cultivation or ostensible owner.
- Mawat land: Dead lands and/or uncultivated.

The promulgation of the Ottoman Land Code formed a vital development all over the east Mediterranean regions during the Empire's administration. But its application suffered from corruption, bureaucracy and centralization (Mdanat, 2010).

¹⁰Kharaj means the release of land, and also settlement of tax (*jizya*) levied on properties of non-Muslim communities whose country was conquered peacefully. The ratio of Kharaj tax lied between 10 and 50 percent of the land's products. It was called *kharaj muqasama* (sharing), or *kharaj muwaddaf*, meaning that a fixed sum of money was assigned to be paid (Ongly, 1982).

Contemporary Jordanian land legislations, to a certain extent, have stemmed from the concept of the Ottoman Land Law. For example, Jordan issued the Civil Law No. 43/1976, which approach clearly superseded the Ottoman Mejlle¹¹ of 1869. Similarly, these historical ties are yet applied through the "Law of Selling and Leasing of Real Estates and Non-Transferable Money". This law is applied to non-Jordanians, and the "Legal Persons Law" No. 47 of 2006 which concerns the State Treasury Lands likewise (Mdanat, 2010).

Current land administration system: Following the establishment of the Emirate of Transjordan, when the first land settlement came into existence; Jordan's population was remarkably thin. Only a small portion of the nation lands were then exploited. Hence, the national registration of land tenure was rather little. The majority of land tracts were declared as "State Treasury Lands". Currently, the population of Jordan has reached 6.6 million (Department of Statistics, 2014), thus the demand for land is booming, resulting in escalated need to obtain sufficient portions of the State Treasury Lands either through lease or accreditation. However, such practice faces notorious red tape procedures. In other wards State Treasury Lands canbe leased only for the effectuation of vital schemes.

So far, there is very little exploitation of the State Treasury Lands. Paradoxically, it is almost forbidden for the reason that by the expiry of five years being leased, the land could be accredited to the leaseholder against nominal compensation. Nevertheless, accreditation could in rare cases be accomplished conditional that the leased land should not be sold or disposed before the termination of another ten years past the action of accreditation. Therefore, most of the State Treasury Lands remainuntil now unexploited especially the large tracts east of the Hijaz railway line.

As stated above, Land management system in Jordan is initially based on rules stemmed from the Ottoman Civil Codes, coupled with some amendments arranged by British planners during the British rule of the region. Such system however, has not been up-dated ever since to suit the changes in the fast growing city of Amman. The applied procedural complications are mainly related to the former Ottoman Land Codes. For example, major parts of the nation's land yet remain unexploited, held in grips ofthe government i.e. the State Treasury Lands. Consequently, local communities do not have appropriate access to land whether for housing, farming or other productive projects. Thereby, there is no reliable assessment of the actual demand for urban land and the overall planning requirements or the ability of government authorities to acquire land designated for their use within the current constraints imposed by planning legislation (GACDP, 1986).

Social aspects of land tenure

Land issues in Jordan can be traced back from the demographic history of the nation. The "*Tafweed Law*" which released large tracts of land to tribal groups maintains a serious obstacle in the way for urban planning practice. Not only because of the common ways through which lands were held or tenured, but also impeding many spatial developments. This law, in many cases, freezes the status of land proprietorship, ignoring in the meantime the contemporary social changes, especially the current transformations occurring in the tribal societies. Tribalism yet forms the strongest social structure in Jordan. The extensive *Tafweed lands* establish Amman's hinterland and form its immediate peripheries.

The Jordanian economy is somehow *laissez-faire* oriented which produces a variety of qualified industrial zones (QIZ) including industrial estates; investment schemes and developmental zones. Consequently, the designation of large-scale projects and development zones in certain regions has caused dramatic land use changes, however the low of Investment Promotion No. (16), 1995 has played a key role in land use changes and oversupply of zoned land. Local and foreign investors are probably attracted by the lavish allowances

¹¹Mejlle or Majalla: is the English translation of the Ottoman Civil Code also was adopted in many parts of the Middle East during and after the British and French colonization (Islamic Law Texts: The Ottoman Code, 2003)

promised by the government e.g. free customs commodities, tax exemption, investment assurances and possible change of land use titling for convincing provisions. Such allowances almost always proved to be at the expense of a balanced urban fabric. Apart from that, the Investment Promotion Law also caused continues legislative changes with regards to land use.

Conclusions and Recommendations

Virtually no metropolis in any developing country has been able to supply serviced land at the rate required by urban population increases. However, this is a critical issue which is facing the capital city of Amman. From the above review of the major issues related to Greater Amman Municipality and the peripheries, it seems that the existence of ambiguous land zoning, tenure systems, inadequate enforcement of regulations, inconsistent by laws and lack of integrated laws are among the direct outcomes of an inferior land policy in Jordan. It is coupled with the following two critical points:

1. Ambiguous laws and self-governance rules which play a mainrole in the random land use changes of Amman fringes.
2. Random change in land titling has serious consequences on the cityscape and negative impacts on the established integrated neighborhoods. It results also in strained urban infrastructure and perpetual traffic congestions.

Current public intervention in the land market can be described as timid and insufficient. Such a situation also calls for an active partnership between both private and public sectors in the various land development programs. Thereby, this study urges for an upgrading of the applied land policy aiming at securing balanced growth of industry and fair control of land use within the designated areas for future development. The following general considerations should be carefully regarded:

- Generating a land use policy to face constraints imposed by rapid changes occurring in the social fabric and economic development through upgrading of the current legislations.
- Empowering the municipal administration system so as to enhance land use management.
- Initiating a reliable authority responsible for land use management, national spatial planning and definition of priorities for urban development.
- Adapting clear legal mechanism for enforcing the use of integrated urban land use planning, zoning and land titling as part of a comprehensive national land use plan.

The purpose of this article has been to contribute to the ongoing debate on the efficiency of urban land policy particularly in Greater Amman and the need to refurbish such measures aiming at the achievement of social equity and thereby enhancing the quality of Amman's spatial environment.

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