

Taking over Palestinian land by declaring it "state land"

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1979, the High Court of Justice issued its ruling in [Elon Moreh](#). The ruling restricted the government's power to establish settlements on private Palestinian land that had been seized by military order to cases in which the main reason for the land seizure had been security related. Following the ruling, the Israeli government announced it would build settlements only on land that had been declared state land. However, when the government sought to establish settlements on declared state land, it encountered a problem: very little territory (approximately 52,700 hectares) was registered as state land in 1967, and it was practically all located in the Jordan Valley and the Judean Desert. The state, however, wished to build settlements in the Mountain Ridge area of the West Bank.

Therefore, the Israeli authorities decided to declare more state lands, with a view to increasing the land reserves available for the establishment of settlements. Declarations of state land were made by rewriting the rules and using an entirely different interpretation of the Ottoman Land Code, which regulates land ownership in the West Bank, than the interpretation current during Ottoman rule, the British Mandate and Jordanian rule. Israel thereby declared over 90,000 hectares as state land, between 1979 and 2002. This figure represents a 170% increase in the state lands in the West Bank prior to the Israeli occupation. In [Area C](#), which is under full Israeli control, there are currently 120,000 hectares of state land, comprising about 36.5% of Area C (21% of the West Bank). About 20,000 more hectares of state land are located in Areas A and B, where the PA control building and planning.

The new interpretation employed by Israel greatly facilitated the declaration of state land, even in cases of land that was previously considered to be collectively- or privately-owned Palestinian property under the British and Jordanian interpretations of the Land Code. Israel's interpretation included rigorous requirements of uninterrupted agricultural cultivation as a condition for acquiring ownership rights to the land. In addition, the Israeli interpretation disregarded the provisions of the local law, which grant Palestinian communities collective rights to use grazing lands and other public lands. [For a detailed description of the process employed by the Office of the State Attorney [click here](#).]

A comparative survey B'Tselem conducted in the Ramallah District for its report [Under the Guise of Legality](#) (2012), demonstrates dramatic differences between the proportion of land that the Jordanian authorities had classified as government property in areas in which ownership deeds had been registered and the proportion of land that Israel declared as state land in areas in which the Jordanians had not yet registered land ownership deeds in 1967. The results of the survey support the conclusion that a significant percentage of the land that Israel declared as state land is actually privately owned Palestinian property, which was appropriated from its lawful owners through legal manipulations and in violation of both local and international law. [For examples, [click here](#).]

The process employed in taking over land breaches the basic principles of due process and the principles of natural justice. In many cases, Palestinian residents were unaware that their land had been registered as state land, and by the time they discovered this, it was too late to appeal. The burden of proof always rests with the Palestinian claiming ownership of the land. Even if this burden of proof is met, there may be cases in which the land would remain registered in the name of the state on the grounds that it had been handed over to a settlement "in good faith."

Even had these lands been lawfully declared state land, international law stipulates that state lands, including those declared before 1967, are meant to be public areas, to serve the population of the occupied territory, namely, the Palestinian public, not the State of Israel or its citizens. As an occupying power, Israel is not the sovereign in the Occupied Territories. Therefore, it does not own the land, even if declared state land. In practice, Israel almost completely prohibits Palestinian construction and development on so-called state lands and designates them almost exclusively for settlements, the military and Israeli infrastructure facilities: 94% of state land in Area C are located within the jurisdiction of the settlements and their regional councils.

The Civil Administration rarely allocates land declared as state land to Palestinians. Pursuant to a High Court petition filed by two Israeli NGOs – The Association for Civil Rights in Israel and [Bimkom](#) – the Civil Administration provided [the following information](#): since the Israeli occupation of the West Bank in 1967, of the lands in Area C that had been declared state land, the Civil Administration has allocated to Palestinians only 0.7% (860 hectares). In contrast, about 31% of state land (approximately 40,000 hectares) have been allocated to the World Zionist Organization (WZO), which develops settlements; 8% (approximately 10,300 hectares) have been allocated to settlement councils and Israeli mobile phone companies; and about 12% (approximately 16,000 hectares) have been allocated to Israeli government ministries and utility companies such as Bezeq (telephone company), the Electric Company and Mekorot (Israel’s national water company). These percentages were calculated based on the estimate given by the Civil Administration in the State’s response to the petition. The response emphasized that the numbers – 130,000 hectares of state land in Area C – were merely an estimate based on maps that were “wholly imprecise”.