3

Insights: Background to Housing in Islam

Land Tenure Systems and Development Controls in the Arab Countries of the Middle East

Mona Serageldin with
William Doebele
Kadri ElAraby

Systems of land tenure in the Arab countries of the Middle East evolved within the context of a common historical and cultural legacy. This accounts for the great similarities in the systems used in these countries today. Variations in existing laws and regulations in each country may be attributed to divergences in the path and rate of socioeconomic development, and to differences in the problems to be faced.

Existing land tenure legislation was shaped by four major factors: 1) governing principles derived from the *Sharī'a*, from which subsequent legislation never departed; 2) Ottoman rules and regulations, particularly those decrees enacted in the second half of the nineteenth century which paved the way for private ownership of agricultural land; 3) regulations inspired by the French and British administrative systems during the colonial period, aimed mainly at the consolidation of individual property rights and the rights of foreigners to own real estate; and 4) legislation associated with post-World War II modernization efforts and the problems created by rapid urbanization, increasing migration to urban areas, and new industrialization projects.

The *Sharī'a* is derived from the prescriptions of the Koran and the accepted tradition of the Prophet Muḥammad, the *Ḥadith*. It is binding upon every institution, political, social, economic, public or private that claims to be Islamic, and every branch of law in an Islamic state must observe its precepts. The *Sharī'a* is based on juristic interpretation but is not codified, and the four major schools of Islamic jurisprudence differ mainly in details of practice and application. The same basic principles are adhered to by all Islamic legal systems, but because the *Sharī'a* is not based on case law, divergences have existed between countries and even among different jurisdictions in the same country.

From the seventh to the sixteenth centuries, no single school achieved overwhelming dominance over the others. But under the Ottomans, the Hanafi school was adopted as official and its system of jurisprudence applied throughout the empire. In Saudi Arabia this was changed in 1926, when the Hanbali school was established as the basis for the kingdom's legal system.

The *Sharī'a* recognizes that changing social, economic and political circumstances will necessitate constant review and adjustment of the State's administration. To meet this challenge, government is given wide discretion in civil matters. It has the right to issue and enforce administrative legislation to ensure the welfare of the *'umma*, the community, in accordance with the conditions prevailing in any given time and place. Despite this wide authority, the State is as bound by the *Sharī'a* as are its citizens and cannot claim that it is above erring. The government can therefore be taken to court for the settlement of grievances like any other party.

The general welfare purpose of the *Sharī'a*'s precepts is broadly construed, and gives government utmost flexibility. However, the legislation which government is authorized to issue is viewed as an extension of the *Sharī'a* aimed at ensuring and facilitating its enforcement in various situations.

Specific regulations have been difficult to draft within the boundaries of established jurisprudence, and even more difficult to administer under the *Sharī'a* judicial system. Consequently, since Ottoman times governments have relied on codified laws known as *Qānūn*. These are primarily applied in civil and administrative matters but often extend to the criminal branch as well. They are enforced concurrently with the *Sharī'a* and, in theory, do not conflict with it.

Saudi Arabia does not recognize the legality of *Qānūn*. The government functions instead through administrative codes termed "regulations" and "directives," issued by the Council of Ministers and sanctioned by the King. Since a modern state would be hard pressed to function without some form of codified law, it is not surprising to find that these regulations are acquiring ever-wider application. Economic development, industrialization and urbanization have all necessitated an increasing number of regulations extending to almost all the spheres of administrative and civil activities, including land tenure and development controls.

These regulations differ from *Qānūn*. They are issued in response to specific problems and needs arising from conditions and circumstances of local, regional or national scope. A regulation applying to a particular situation does not always officially cancel, supersede or amend prior regulations applying to the same situation. Consequently, there are cases in the field of land administration and development controls to which several different regulations could be legally applied. In order to discharge their responsibilities, central and local authorities can request and be granted the issuance of regulations or changes in them, which of course tends to undermine the impact of any given regulation.

In most Islamic countries, existing land tenure systems are based directly on the *Sharī'a* and are therefore much less affected by changing conditions and procedures than are development controls, including planning and land use, which draw their legal strength from *Qānūn* or regulations. Whenever restrictions are imposed on land tenure systems, they are aimed at safeguarding the interests of the community and achieving better equity in distribution. They do not attempt to amend the basic principles of tenure which have remained essentially unchanged over time.

Historical Overview of Land Tenure Systems

Land tenure systems originally regulated the use of arable land, pasture land and access to water—necessities basic to community survival. Agricultural land provided the main source of sustenance for the community and the permanent tax base for the government.

During the lifetime of the Prophet, a differentiation was made between lands where people converted to Islam of their own volition, without entering into armed conflict with the Muslims, and lands which were conquered by Muslim armies. The former remained the private property of their owners while the latter were considered spoils of war.

The sweeping expansion of Islam occurred under 'Umar, the second Caliph, who had to establish basic policies for the governance of a vast Islamic state. He stipulated that Muslim armies were to relinquish their traditional right to conquered agricultural lands and receive instead a fixed share of the public revenues. This edict had far-reaching consequences, because it established the principle of State ownership and taxation of these lands for the benefit of the Muslim community. The previous occupants continued to cultivate their land under usufruct right, which could be legally acquired and transferred; but the land itself could never be divided among heirs. A plot of land which passed into Muslim hands through conversion to Islam or transfer to a Muslim did not change its tax status; the assessed *kharāj* still had to be remitted to the State.

In contrast, buildings and land attached to them in villages, towns and cities remained the private property of the owners at the time of conquest, to be freely used and disposed of subject only to the restrictions of the *Sharī'a*. No tax was assessed on either land or structures.

All lands in both the Arabian peninsula and the conquered countries which were neither occupied nor owned by anybody were considered State property. From this property, personal fiefs (*'iqṭā'*) could be granted to individuals having the capability to develop the land, thereby benefiting both themselves and the community. A fief was granted as private property, and could not be legally confiscated and reallocated unless the beneficiary failed to develop it over a certain period of time ('Umar allowed three years). Fiefs were taxed in accordance with geographic location and method of irrigation.

The *Sharī'a* gave great latitude to the State as to the utilization and disposition of state-owned vacant, undeveloped lands, including distribution and taxation, in any manner that would enhance the welfare of the community.

Despite flagrant abuses, these land policies remained practically unchanged until the second half of the nineteenth century. The granting of ownership to holders of usufruct rights over agricultural land started in Egypt, which had obtained a certain amount of autonomy from the Ottomans. The process was inaugurated in 1858 by a landmark decree detailing the procedures for this conversion. The remaining legal impediments to individual land ownership and the transfer of titles were progressively abolished by 1890.

The first taxes on urban real estate were levied in Egypt in 1854 and widened in scope by the end of the century. Current taxation in Egypt, Iraq, Syria, Sudan and Jordan is similar, consisting of an annual rate imposed on revenue earned from real estate. There are very few taxes to control land speculation because traditionally only rent value could be taxed, and there has been great reluctance to tax vacant land which is not being put to some use. However, Syria and Iraq have instituted a low tax on the assessed value of residential building plots which are left vacant.

Large landholdings disappeared in Egypt, Syria, Iraq, Sudan and other countries in the 1950s, as a result of agrarian reform,

expropriation of the estates of the ruling elites, nationalization of foreign holdings and repossession of large accumulations of *mīrī* lands (government-owned lands). Only in Saudi Arabia is there still *'iqṭā'* land in private hands, but such grants are now restricted to desert land. Clearance from the district emir is required before land can be registered in the beneficiary's name.

Foreign Ownership of Land

The Ottoman *Firmān* of 1867 affirmed the rights of foreigners to own real estate in Ottoman dominions, on condition that all tax obligations on these properties be met. Thus the capitulatory privileges which exempted foreigners from local taxation and which applied to all types of businesses were not extended to real estate. This was consistent with the State's reliance on land taxes as its principal source of revenue

The colonial administration promoted laws aimed at protecting private property and maximizing the rights of foreigners, but did not change the tax status of real estate

However, in many countries foreigners did own urban properties or agricultural lands, either directly or through the mortgage market, and these holdings were generally immune to expropriation as long as the capitulatory treaties were in force.

Resentment against unwarranted privileges for foreigners led to curtailment of their rights in the post-colonial era In general, foreigners are now prohibited from holding land under full ownership or usufruct rights except, as in Egypt, where land is needed for personal residence. Foreign businesses can only own real estate within the limits required for their authorized activities. In Sudan, foreigners can only hold real estate under usufruct or leasehold rights, while in Lebanon no restrictions were ever imposed.

Private Land Tenure Systems

Private property is guaranteed under the *Sharī'a*, and drawing profit from it is legitimate within the bounds set by law. However, private interests are always subordinate to the public interest, and private rights limited by the larger welfare of the community. Differentiation has always been made between ownership of a plot of land, ownership of various property rights to a plot of land, ownership of structures or other improvements on the land and ownership of various parts of a structure or building, except that the owner of any of these rights cannot exercise his right in a manner that would prejudice the rights of others or damage the property in any way

Titles to the various ownership rights, as well as *waqf*, usufruct and other long-term tenure systems, had to be written in legal documents certified by the local courts. After the First World War, new systems for the registration of titles were introduced based on British and French models. Titles to all major real estate rights, as well as mortgages and liens, must now be registered with a special Registry of Deeds in the Ministry of Justice. In theory, unregistered title transfers are void In practice, because of the high costs and unfamiliar procedures involved, the courts have often adopted a more flexible attitude which has permitted transfers to take place by civil contract between the parties. The resultant lack of registration of successive transfers has created confused situations and endless litigations In Saudi Arabia, land titles are issued or certified by the local courts and registered with the Clerks of Justice, the registrars of transactions and contracts In 1975, municipalities were ordered to establish land registers, and property owners were enjoined to register their titles with the municipal authorities. A long history of transfer without written documents often leads to complicated and time-consuming procedures involving the municipal authorities, the Ministries of Interior and Finance, and the authorities in charge of *waqf* properties.

There are four basic systems of land tenure: ownership, usufruct, *waqf* and leasehold All of these can be acquired and transferred legally by deed, inheritance, will, gift, prescription or preemption, familiar legal means all based on the *Sharī'a* Only the latter two will be briefly discussed here.

Prescription (*al taqādum al muksib*) permits the acquisition of property rights through

Cairo, Egypt The mud-brick house at centre is the remnant of a village engulfed by urban expansion at the edge of the city

Photo FCH International

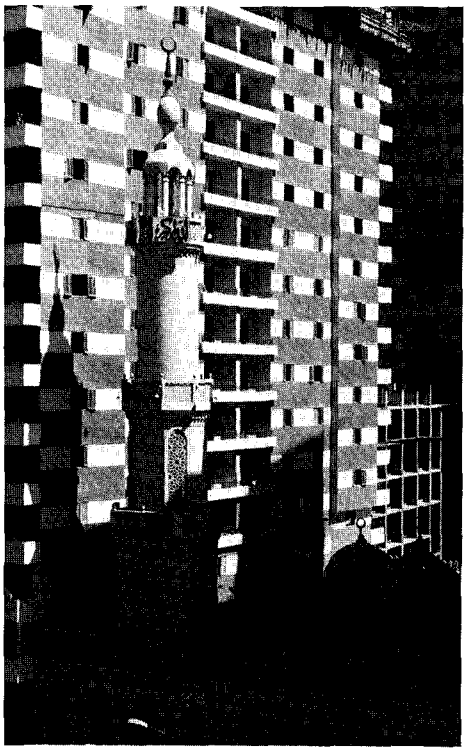
the peaceful, overt, and continuous possession (*ḥiyāza*) of a property if the owner fails to assert his right during a given period of time (fifteen years in Egypt and ten years in the Sudan). Forceful appropriation is of course unacceptable under the *Sharī'a*. Property rights other than ownership can also be gained by prescription, but cannot lead to ownership regardless of the length of time for which possession of the right can be demonstrated. Thus, prescription allows a *de facto* situation to be legalized. The significance of this law for the legalization of squatter settlements should not be underestimated

The clear distinction between ownership and other property rights is of utmost importance. Since possession is demonstrated by economic use, such as cultivating land, inhabiting a dwelling, renting or collecting rent, only the right for which possession is established can be gained by prescription. The most severe restrictions on prescription are in the Sudan, where a law enacted in 1970 declared all unregistered land in the country to be government-owned, and simultaneously prohibited the acquisition of property rights over government land by prescription.

Preemption (*shuf'a*) restricts the right of an individual to dispose of a property, by giving joint owners and sometimes abutting landholders the right to preempt the transaction in their favour. It is based on a desire to protect the interests of family members, partners and nearby owners from damage incurred as a result of a transaction. Preemption has been widely used in connection with land encumbered by utilization, leasehold and easement rights. Not only the landowner but also the owners of any other property rights over the land have preemption rights over each other's transactions.

There can be no preemption of any government transaction, whether it involves the sale, purchase, auction or taking of land. Nor is anyone entitled to exercise such rights on behalf of a *waqf*, when sales occur between joint owners or abutting neighbours, or if the land is sold for the purpose of erecting a place of prayer (mosque, church, *zāwiya*, etc) on any part of the property. Where skyrocketing land values in the past decade have led to transactions where the declared sale price is falsely claimed to be lower than it actually is, varied means have been devised to evade the preemption rights of abutting neighbours. These include building a small place of prayer on the property, or granting the prospective buyer a token share since partners have precedence over neighbours in the exercise of preemption rights.

The Hanafi school of jurisprudence followed in Egypt, Iraq and Lebanon extended preemption rights to abutting landowners, while the other schools have denied it Sudan gives the right only when easements exist between the two plots of land in question. In Syria, preemption is not recognized at all.



Cairo. a mosque between tall modern buildings is the result of a shuf'a

Photo: M. Serageldin

Individual Ownership

Individual ownership (*mulk hurr*) refers to land over which a person has full ownership rights. It is the predominant form of land tenure in urban areas The right to *mulk ḥurr* is guaranteed by the *Sharī'a* and the various national constitutions

Joint Ownership

Joint ownership (*mushā'*) is a common system of land tenure rooted in the nomadic and rural traditions which predate Islam. It is recognized by the *Sharī'a* which sanctions consideration of established customs and traditions (*'urf*) not in conflict with its precepts or the welfare of the community. In the earliest Islamic garrison towns (*'amṣār*), which were set up to house the Arab armies in the provinces, members of each Arab tribe represented in the army were collectively allotted a parcel of land (*khiṭṭa*) on which to settle, a clear reflection of traditional tribal practices. Similarly, villages often held land in collective ownership, dividing it among the inhabitants for cultivation. Equitable distribution was maintained through periodic reallocation of individual plots.

Sedentarization and modern land legislation have led to the decline of these older forms of collective ownership. In Egypt, the system fell into disuse in the 1890s with the registration of titles in the name of individuals. It did survive in countries and areas where the tribal order remained dominant, even after tribal customary law was abolished, as in Saudi Arabia in 1926, or partly incorporated into modern land legislation, as in Sudan since 1925. Where it is still practiced, as in Saudi Arabia, the system is evolving in the direction of joint ownership rather than traditional collective ownership. An estate is managed by a designated person and the proceeds divided among all members of the group in accordance with their respective shares under the inheritance law.

While collective ownership has practically disappeared, joint ownership has been fostered by several factors, and is now

common. First and foremost is the Islamic Inheritance Law, which mandates the distribution of real estate among heirs in accordance with the *Sharī'a*. The portion of an estate which may be bequeathed at will is limited to no more than one third, and usually excludes land. With or without government encouragement, families often hold land in joint ownership to avoid progressive fragmentation of their property which would erode the benefits derived from it.

Another factor promoting joint ownership is that the cost of urban land and building construction far outstripped gains in personal income even before the spectacular post-1973 inflation. Joint ventures in land development have resulted, particularly in the larger urban centres.

Finally, entirely new types of joint ownership in the urban housing sector have emerged. The concepts of cooperatives and condominiums were easily introduced and widely accepted due to their similarity with established systems of joint tenure. In Egypt, condominiums have become the predominant form of new housing construction since 1952 as a result of stringent and unrealistic rent control laws. Due to the scarcity of urban land serviced by utilities, the prevailing type of development was the multi-storied building where individual apartments were sold as condominiums. Buyers acquired full ownership rights to the apartments and shared joint rights to the common spaces and the land.

In an attempt to channel investment back to rental housing, the Housing Law of 1977 restricted the number of units in a building that could be sold. However, since cooperative societies were exempt from these restrictions, the housing market will probably shift toward joint tenure systems rather than rental housing. Cooperatives and partnerships can buy buildings for housing their own members. These members each have the right to inhabit one dwelling unit and share joint ownership of the building and the land, unless the land is held under a long-term lease from the government or a public agency. In accordance with the *Sharī'a*, existing legislation gives protection to joint owners by restricting the freedom of any of them to dispose of his share without the consent of others. A share in a joint ownership has to be offered first to the partners before it can be sold to outsiders, and no partition or disposition of land or building held in joint ownership can occur without the written consent of all the owners.

Taking into consideration the combined effects of fragmentation of property through inheritance and joint ownership of property rights, the assembly of land on the urban fringe and redevelopment of older areas in the cities become challenging tasks that can often be undertaken only by the government with its power of eminent domain.

Waqf Property

The *waqf* is a type of trust and a form of charitable endowment unique to Islamic countries. It is termed "*ḥabūs*" in North Africa. Its origins are unclear; however, it is reported that during the lifetime of the Prophet, 'Umar set up a property he owned in Khaybar as a charitable endowment which served as a model for subsequent *waqf* documents. *Waqf* capital is given to God in perpetuity (*mawqūf li Allah*), and can never be repossessed, alienated or subdivided among the donor's heirs. The revenues from the trust provide first for the charitable purposes for which it was established; then the balance is distributed among beneficiaries, generally relatives, heirs and other persons connected to the benefactor and the administrator of the *waqf*.

Originally, only property over which the endower had full ownership rights could be made into *waqf*; this included income-producing agricultural lands and urban investment buildings, both commercial and residential. However, powerful emirs soon found devices to transfer land carrying usufruct rights into *waqf*. The system which evolved during the Mamluk period continued to flourish under the Ottomans. An emir who built public facilities such as mosques, schools, hospitals or fountains with his own savings was then able to designate government-owned lands as *waqf* in order to support the facility. The generated revenue provided first for the maintenance of the facility, and the balance went to his descendants. The *waqf* system thus played a key role in the financing and upkeep of public buildings in the cities and towns. However, it also removed land permanently from the tax base and held it for the benefit of a privileged few.

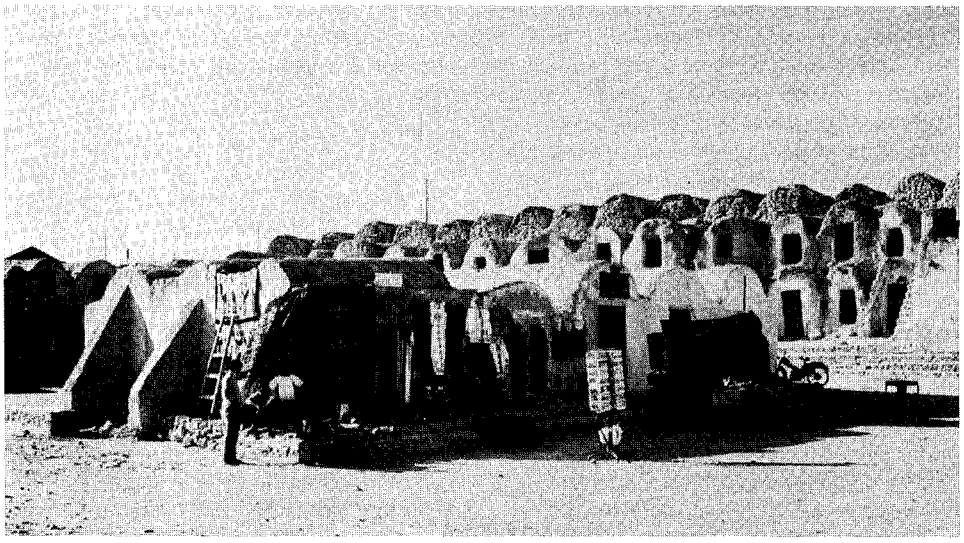
The consolidation of full private ownership over agricultural land in the latter half of the nineteenth century removed all impediments to the transfer of land to *waqf*. Sizable estates were converted into *'awqāf* to prevent fragmentation and guarantee income to descendants, since the property could never thereafter be mortgaged or sold to cover debts incurred by the beneficiaries. Only a token share had to be dedicated to charitable endowments as a requirement in setting up the *waqf*.

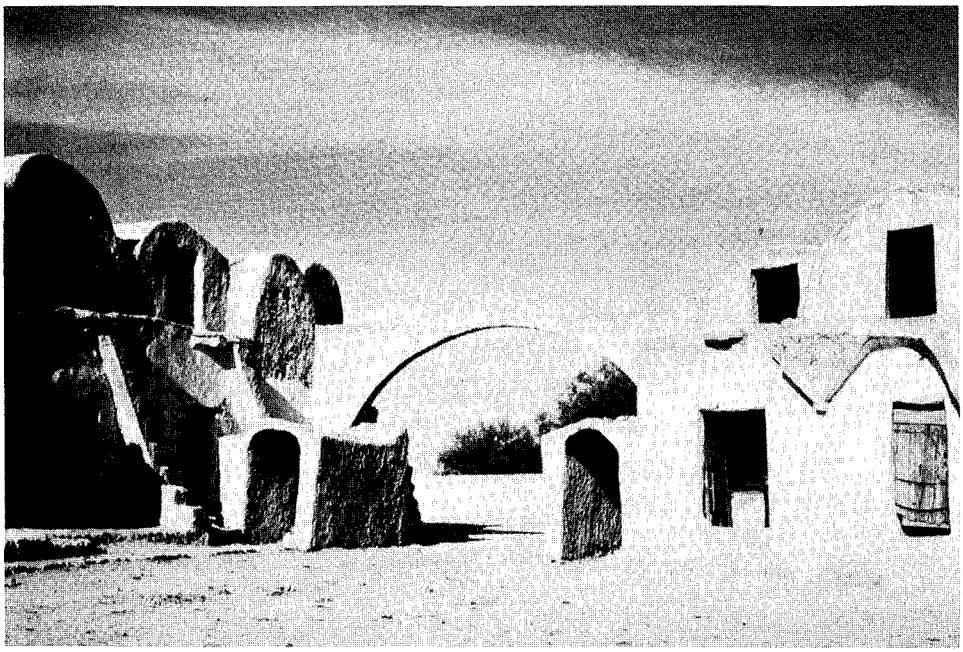
Also in the nineteenth century, national governments gradually took over the social service functions of the *'awqāf*. Ministries were established to provide education, public health and other services. The administration of the *'awqāf* could come under separate ministries, as in Jordan, Egypt and Iraq, or special departments, as in Syria, Saudi Arabia and Lebanon. These continued to administer the charitable endowments and collect revenues. However, no transfer of funds was made to the public treasury in support of the public service functions undertaken by the State. *Waqf* authorities have always enjoyed a certain degree of internal autonomy, and have successfully resisted attempts by colonial powers or governments to interfere with the way they manage their properties and invest the income derived therefrom.

The *waqf* has had a mixed impact on urban development. Until the nineteenth century, *'awqāf* provided badly needed capital to build and maintain the urban social infrastructure. Consequently, the most valuable land in the older urban centres, particularly in such capital cities as Cairo, Baghdad and Damascus, is usually *waqf*. Centuries of immobilization and mismanagement have resulted in widespread deterioration of older *waqf* properties, yet *'awqāf* can only be appropriated by the State for public utility projects. Thus, although the *waqf* system did serve to

protect and preserve areas and monuments of historical significance from foolish descendants, acquisitive rulers and unscrupulous developers, it now presents a major obstacle to the redevelopment or upgrading of older urban areas.

In Egypt, endowments benefiting private parties, or *waqf 'ahlī*, were abolished in 1952 and the holdings divided among the beneficiaries. Only endowments totally dedicated to charity, or *waqf khairī*, were exempted from abolition and liquidation, and these are still legal The *'Awqāf* Ministry thus came to hold significant amounts of prime land, and a special *'Awqāf* organization was established to oversee the profitable administration of these lands. Today the *'Awqāf* organization holds several thousand hectares of vacant, developable land within municipal boundaries. Almost half the area of Medieval Cairo is under *waqf* status, including vacant lots, dwelling units, shops, commercial buildings and, of course, schools and mosques.





Communal housing: a qsar *in Tunisia*

Photo: I. Serageldin

Usufruct Rights

In many African countries, usufruct rights (*ḥaq 'intifā'*) are still widespread and are as important as ownership in matters of land tenure and development processes. Usufruct gives the right of use and exploitation of a property to a person other than the owner. It can only be granted by an owner who has full ownership rights over the property, and is generally given for an extended but not indefinite period. Usufruct is recognized by the *Sharī'a* and regulated by many laws, but no specific time limit was set for the validity and expiration of usufruct rights, which leaves it up to the jurists in each area to define what is reasonable in accordance with local customs and changing conditions.

Usufruct tenure was most common in the rural areas, but also existed in urban centres because it covered the right of using, improving and inhabiting a plot of land. Usufruct rights can be terminated upon paying the usufructuary a just compensation—for example, remitting the cost of any structures built. Unless otherwise stated in the deed, usufruct can be transferred by

legal means, but the owner retains the right of supervision over all transactions. If the land is state-owned, the validity of the transfer depends upon government certification. Usufruct is terminated upon expiration of the specified term, demolition of the improvements made, or non-utilization. Deliberate misuse, abuse, or any use damaging to the property is cause for immediate termination without compensation.

Usufruct can eventually lead to ownership by prescription and is legally considered an intermediate tenure system between ownership and tenancy. It can be sold, let or mortgaged. However, since neither the land nor any improvements on it can ever be divided among heirs, usufruct presents inheritance problems. Where it is still used, as in Sudan, jurists now deem it terminated upon the death of the usufructuary.

Long-Term Leaseholds

Ḥikr is a form of long-term leasehold granted by a property owner under specified conditions and a fixed rental agreement. It probably originated in the ancient customary rights of tribal chiefs to grant to members of the tribe building and settlement privileges on particular plots of land. *Ḥikr* differs from both usufruct and ordinary tenancy, in that it gives the lessee broader rights than are normally associated with tenancy, but can never lead to ownership by prescription. *Ḥikr* is terminated upon expiration of the lease and is not affected by the death of the lessee. Its terms have varied widely in countries where it was practiced, and cover at least the economic life of the improvements that the lessee is authorized to undertake. There are often provisions for extension at the lessee's option for a total period of up to ninety-nine years.

Ḥikr was prevalent in medieval times. It was used by the Mamluk Sultans and emirs to develop new settlements, channel urban expansion to a desired area, and re-use decayed and abandoned older zones. It became a common land tenure system in urban centres It even became customary to lease *waqf* property under *ḥikr* right as a means of deriving a profitable use for the property without being burdened by management and maintenance problems.

Under *ḥikr*, the lessee makes a rental payment which can either be fixed at the outset for the term of the *ḥikr* or allowed to increase in accordance with market rates. *Ḥikr* rights can be legally transferred and mortgaged. However, the lessee cannot unofficially divest himself of his right, nor can he voluntarily allow somebody else to use the land or structures without the consent of the lessor. Any unauthorized user is considered an illegal occupant and can be evicted by the owner. Furthermore, the use of *ḥikr* property for any purpose other than that specified in the lease is illegal, and can result in cancellation of the lease.

Ḥikr gives the lessee full ownership rights to all structures and other improvements made to the property. He is therefore entitled to dispose of any or all of these improvements by legal means, including transfer through sale, but any such disposition is valid only for the term of the *ḥikr*. Thus, a single parcel of land under *ḥikr* can involve two or three different ownership rights, each of which can be held by one or more persons. ownership of the land, ownership of the *ḥikr* right and ownership of the improvements. When a multitude of tenants also enter the picture, the ensuing tenure situations become legally quite intricate.

The rights of *ḥikr* can be terminated before the end of the lease period if the lessee fails to comply with his contractual obligations, if the improvements he constructed are destroyed, if the land is appropriated by the State in the public interest, if the lessee fails to exercise his *ḥikr* rights for the prescribed number of consecutive years, or if he dies before initiating improvements and his heirs do not unanimously claim the *ḥikr* for themselves.

The registration of *ḥikr* rights is required by land registration laws. Owners of *ḥikr* land can buy back *ḥikr* rights and holders of *ḥikr* rights can buy the land. Furthermore, they have preemption rights over each other's transactions so that full ownership rights to the land can obtain. At the termination of the *ḥikr*, the improvements made by the lessee revert to the lessor unless the lease stipulates provisions to the contrary. The lessee is only entitled to a compensation equivalent to the depreciated value of improvements.

Attitudes toward *ḥikr* have varied over the past several decades. Where pressure on urban land was severe, it was often viewed as an impediment to efficient urban growth because of the length of time for which land was immobilized. In Egypt, *hikr* was first restricted to *waqf* properties for a maximum term of sixty years The majority of existing *ḥikr* then disappeared during the 1950s and 1960s as a result of the abolition of *waqf ahli* in 1952 and the enactment, in 1960, of legislation empowering the *'Awqāf* Minister to decree the termination of *ḥikr* rights.

The skyrocketing prices of urban land in the 1970s have resulted in renewed government interest in various forms of leasehold rather than outright sale for both development and redevelopment purposes in urban centres. These long-term leases carry rights, responsibilities and restrictions very similar to *hikr* whether or not they are referred to as such.

The government leases a tract of land to a developer or beneficiary on a long-term basis for a nominal fee, with stipulations about the manner in which it is to be developed. It can prohibit transfer altogether, or during a specified period of time; it can also set a time limit for the undertaking of improvements for which the land is leased. In the distribution of land for residential development, municipal authorities can set time limits on the erection of structures and preparation of buildings for occupancy. The State retains ownership of the land and the right of supervision and certification of all transactions pertaining to the use and users of the land. It can cancel the lease if the improvements are destroyed, and can appropriate the land for a public purpose. If it chooses to, it can also give full ownership rights to the lessee at any time.

Persons holding land on a leasehold basis cannot give legal permission to others to erect, inhabit or otherwise use structures on the land. This situation often arises as beneficiaries in low income housing developments or sites and services projects disregard restrictions on resale and sublet-

Middle class apartment house in Cairo

Photo· FCH International

ting, and let others build upon their plots and inhabit their dwellings in accordance with unofficial arrangements between parties. Many households thus find themselves in an illegal status and have to rely on the goodwill of local authorities to avoid eviction.

The most extensive use of *ḥikr* is presently in Sudan, where it is used by the government to allocate land for residential development in the urban centres according to a rigid hierarchy of development zones. In Class I zones, plots measure 600 square metres and are leased for an initial period of sixty years, with two renewable options of twenty years each. In Classes II and III, plots range in size from 500 to 300 square metres and are leased for thirty years, with two renewable options of thirty years each. In Class IV zones, plots are 300 square metres and are leased for twenty years, with two renewable options of twenty years each. In Kuwait, land in the older central city areas is given by the State to developers on condition that they provide, as part of the development scheme, a multistoried parking lot to be operated at subsidized rates.

It should be noted that renting is legally considered a tenure system of a lower order than either usufruct or *ḥikr*, since it affords the tenant much more limited rights in terms of use, cost and security of tenure Despite this fact, many countries faced by a growing urban housing shortage have enacted rent control laws which, in addition to setting rent ceilings, have also regulated the relationship between owners and tenants in favour of the latter. The most extreme case is in Egypt, where stringent laws have practically ensured tenants of perpetual rights of tenancy which can easily be passed on to heirs. Understandably, this has only resulted in aggravating the housing shortage as investment in rental housing came to a grinding halt.

Easement Rights

Easement rights (*irtifāq*) are based on old customs and traditions, asserted by the Prophet and reaffirmed by the *Sharī'a*. They include the right of access to water sources, passage on roads and city streets, and use of pasture lands. Hunting, fishing, and food and wood-gathering in forests and wastelands are sometimes considered *irtifāq* rights. Unlike other rights, *irtifāq* can be established by custom or agreement between the parties involved without a formal deed or lease. It is terminated at the expiration of the agreed time limit or if the property to which it is attached disappears, and can also lapse by non-utilization during the legal prescription period.

Changes in social, economic and technological conditions have led to major changes in the nature and practice of *irtifāq* rights. The most common type of *irtifāq* in the urban context, other than the use of lands designated for thoroughfares, utilities and public spaces, deals with private easements for passageways and utilities. The Egyptian civil code permits *irtifāq* over public property. It also stipulates that *irtifāq* can be ended or altered if the conditions that made possible such rights have changed so that they can no longer be exercised, or if the benefit arising from them is outweighed by the cost to the encumbered property. The Sudanese land laws prohibit the acquisition of *irtifāq* rights over government-owned land, and the Town Planning Law of 1950 has authorized the Planning Committee to establish or abolish *irtifāq* rights as needed to ensure orderly development.

Land development controls are generally not considered *irtifāq* rights, but in large-scale urban developments requirements beyond municipal regulations are considered negative *irtifāq* rights encumbering the properties in the development for the benefit of all the property owners. They are therefore usually registered in the title to the land plot. Such rights, previously in force in some low density developments in Cairo, have recently been ignored by local authorities overwhelmed by population pressure and shortage of accommodations. Building permits have been granted which allow for higher densities and greater heights.

State-Owned Lands

Public Lands

Land over which no private party has full ownership rights is state-owned (*mīrī*) land. This includes deserts, forests, wastelands, vacant unclaimed land and expropriated land. The government has broad powers and wide latitude to use these lands for the community welfare. It may dispose of them for any development purpose or may transfer them to private parties. The extent and location of government-owned land in the Middle East today varies widely, depending on the evolution of land policies in each country during the late nineteenth and early twentieth centuries.

Urban land always remained in private hands, so government ownership in the urban centres was limited. The *waqf* properties were of course immune to State encroachment for higher development or redevelopment purposes. Until the end of the nineteenth century, the lack of taxation provided little incentive for government interference in the urban land development process. In colonial times, private enterprise focused on developing new, European-style settlements, while the adjacent indigenous urban areas received little or no attention from government authorities. Since World War II, rapid urbanization, migration, the proliferation of uncontrolled settlements and their associated social, economic and political problems have prompted government to take a more prominent role in shaping the urban environment.

Where the hinterlands of major cities consisted in large part of desert, forests and wasteland that had remained *mīrī*, the government is today in possession of significant land resources which could successfully be used to channel urban growth in the desired directions. This is the case in Saudi Arabia, Kuwait and Sudan, and to a large extent in Jordan, Iraq and Syria. In contrast, urban sprawl in Egypt is engulfing valuable agricultural land now in private ownership. Severe restrictions were issued in 1973 to prevent the conversion of agricultural land to other uses, but the ability to enforce these restrictions on the fringe areas of major urban centres is very limited.

Administration and Disposition of Government Land

The allocation and development of government land in urban areas is regulated by the central authorities in charge of planning and housing, and by local municipal authorities.

In Iraq, municipalities distribute land plots for housing purposes at subsidized prices. The sizes range from 200 square metres for labourers to 600 square metres for government officials.

In Saudi Arabia, a 1954 decree turned government-owned land within muncipal boundaries over to the local authorities for sale to the private sector. Land inside the urban area was to be sold by public auction. Land outside the urban area was to be sold at prices set by an official appraisal committee, except that any land to be used for income-producing projects had to be sold by public auction. To promote low and moderate income housing, residential lots were appraised at nominal prices. No more than one parcel could be purchased by any individual, and priority was given to limited income persons who did not currently own a house. In 1966, the government initiated a programme of land grants consisting of individual plots of 400 square metres in planned subdivisions for limited income families. Although the land was sold or granted and registered in fee simple ownership, the municipalities retained the right to reappropriate the land if the owner did not start construction within one year.

Without some rational land policy, municipalities may end up facing a perpetual shortage of land for public projects, having disposed of lands in their possession without taking into consideration the requirements of future growth. Similarly, the concept of highest and best use has led to the

A market area in Yemen

Photo. I. Serageldin

development of government land for financial profit, rather than for satisfaction of urban needs. Low and middle income housing projects have consequently been relegated to marginal locations, as rising prices put a premium on centrally-located government land.

Land Designated for Public Use and Utilities

Lands committed for public utilities and use, including the irrigation and transportation networks, rivers and streams, bridges and public open spaces, are protected by law in accordance with the *Sharī'a*. The State must safeguard public access to and use of these areas; they cannot be transferred to private ownership either by prescription or government action. This category of land is continually being augmented by government and private developers alike. In accordance with the *Sharī'a*, people have common rights on these lands. The State can neither charge rent for their use nor prevent anyone from using them, unless it can demonstrate that such a prohibition is in the public interest. Despite the mandatory restrictions governing admittance to military and police installations, they are nevertheless classified in this category due to the public nature of the services they render.

Public Appropriation of Private Land

The State has the authority to appropriate privately-owned lands where such action is in the public interest. Procedures regulating this right of eminent domain vary between countries only in matters of detail. They all require that the government explicitly state the public purpose for which land is being appropriated and that it give affected property owners official notification and adequate compensation. This compensation is usually based on the market price of the real estate on the date of the appropriation decree, as estimated by an appraisal committee. It is paid to each proprietor in accordance with the nature of his property right and his share in it. The public authorities are generally obliged to take at the owner's request any residual parts of the appropriated property that the owner feels he cannot sell or use economically.

Decrees affirming the right of the State to appropriate land for urban improvements were issued in Egypt in the 1840s, and expanded in scope in 1871 to include *waqf* properties. They were subsequently embodied in the 1891 Decree, along with regulations codifying the expropriation procedures. Similar regulations were enacted elsewhere in the early part of the twentieth century, as concern grew over urban conditions and expansion. These rights were later extended to municipal authorities for easier implementation of public projects and the redevelopment of blighted areas.

In Iraq, Lebanon, Syria, Egypt and Jordan, betterment taxes can be imposed on adjoining properties if their value appreciates as a result of governmental action.

It should be noted that government can appropriate land for industrial, commercial, residential and other construction projects which may benefit private parties, if responsible authorities assert that the action is in the public interest.

In some countries the government can acquire part of a property without compensation, as long as it is designated as land for public use and utilities. Such appropriation occurs mostly in relation to the planning, layout and widening of thoroughfares. Provisions to the same effect are embodied in subdivision regulations and building codes which require compulsory set-back of new structures fronting narrow streets.

Despite the breadth of their powers, governments find appropriation procedures time-consuming, complicated by confused ownership patterns, unclear and non-registered titles and rising land values.

Development Regulations

Historical Background

Historically, the city has not been a distinct corporate entity in the Islamic state. Western medieval concepts of citizenship, charters and formal municipal institutions did not develop in Islamic countries.

Regulatory measures were concerned with the protection and use of public rights of way, ensuring the security of the city, and safeguarding the rights of inhabitants and travelers. The State enforced regulations concerning sanitation, public order and commercial transactions through the office of the *Muḥtassib*. As the urban centres developed, the importance of this office increased until the *Muḥtassib* came to oversee all of the city's municipal, economic and policing functions.

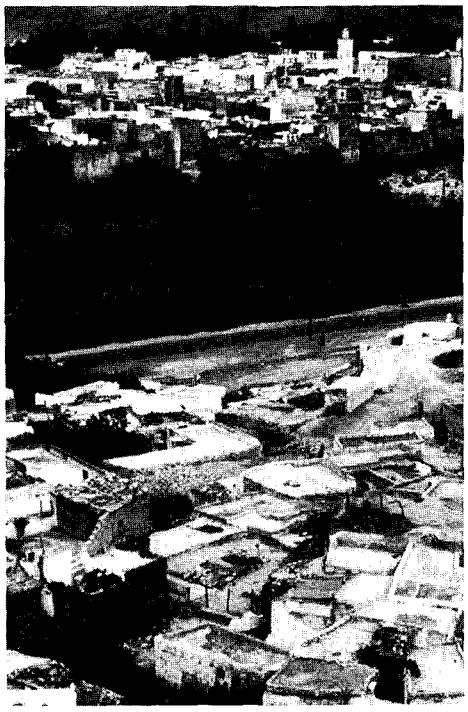
Streets and public spaces were of particular concern. The dimensions of major thoroughfares allowed the easy passage of horsemen and loaded camels as dictated by defense and commercial needs. Any structures which encroached on the public right of way could be removed, as could any unsound structures which threatened public safety. Any activity regarded as a health hazard could be relocated, together with other noxious industries, to the urban periphery. On occasion the State ordered the rehabilitation of vacant, dilapidated buildings. Property owners who failed to comply could be forced to sell or rent the properties to someone willing to repair and improve them.

The rights of all inhabitants and travelers to use thoroughfares, public spaces and marketplaces for circulation, commercial transactions and other permissible activities were affirmed by the *Sharī'a*. Priority was usually on the basis of precedence. Restricted *irtifāq* rights were even applied to other open spaces, including the courtyards of large multi-purpose developments (with the permission of their owners), and in mosques, provided that these rights were not exercised in a manner that would interfere with their use for prayer.

The first municipalities were established in the early part of the twentieth century; their

powers have generally been subordinated to various central and regional authorities. Attempts at decentralization and the development of local government institutions have only met with partial success. The most recent example is in Egypt, where the 1975 local government law and subsequent amendments have delegated wide powers and responsibilities to governorates and local authorities ill equipped to discharge them, generating numerous problems of implementation.

Faced with mounting pressure on urban land and infrastructure and deteriorating urban environments, government response has been incremental promulgation and amendment of laws and regulations. This has contributed to the inability of municipalities to oversee land development with any efficiency, a fact clearly apparent in the larger urban centres where pressure is most acute. Unprecedented rates of urban expansion have led to jurisdictional problems, chronic traffic congestion, lagging infrastructures and overstrained facilities and services. Furthermore, development controls apply solely to land within municipal boundaries. These boundaries are adjusted at intervals to encompass new urban expansion, but there is little control over activities on the periphery.



Squatter settlement on the periphery of the Fez madina

Photo: H-U Khan

Master Plans and Zoning Regulations

Mixed land use, and even mixed use in different parts of the same building, has been the traditional pattern of urban development in Islamic cities Certain uses have no fixed locational constraints, and the rights of small-scale retailing and other activities to take place directly in the streets and public spaces have been established by age-old custom and affirmed by medieval jurists.

Most countries do have some broad land zoning categories for planning purposes, but past experience with zoning has been largely unsuccessful because it conflicts with a deep-rooted cultural heritage.

In Egypt, Iraq, Sudan and Lebanon, there is no segregation of commercial, residential and other uses beyond the provision for industrial zones where large factories are required to locate. Small industries and workshops continue to locate where they find it convenient.

Residential zones are sometimes defined according to lot size, as in Sudan and Iraq, or according to both density and building dimensions, as in Jordan. The 1976 building code in Egypt establishes zones with different floor area ratios, without restrictions on the uses permitted in each zone.

Syria experimented with zoning in Damascus. The first ordinance issued in 1938 and revised in 1948 specified commercial zones, industrial zones and three types of residential zones: single family, multiple family, and old areas and worker zones. However, a series of municipal decrees since 1949 dismantled the rigid segregation of uses, to permit the intermix of dwellings, businesses, shops and workshops.

In Saudi Arabia, broad zoning principles are embodied in the Regulations for the Construction of Roads and Buildings, which is the basic document on land development controls. It prohibits commercial and industrial uses in residential zones, and the use of residential structures for any other purpose without a special permit. Industrial uses are prohibited in commercial zones and noxious uses cannot locate even in industrial zones without a special permit.

Subdivision Regulations

Subdivision regulations generally stipulate requirements for land coverage, street dimensions and open spaces which the developer must provide without compensation. Upon approval of the subdivision plan, streets and open areas become part of the government-owned land designated for public utilities and use. Subdivision projects must conform with the general master plan, if any exists, and must be approved by the planning authorities, local and/or central, before titles can be registered. In countries where there are provisions for designating land to be used for community facilities, as in Saudi Arabia, compensation is made for this land. In Egypt, the current subdivision law dates back to 1940, and is highly inadequate under the conditions which prevail today in the larger urban centres; in practice, it is ignored by small-scale developers.

The Building Codes

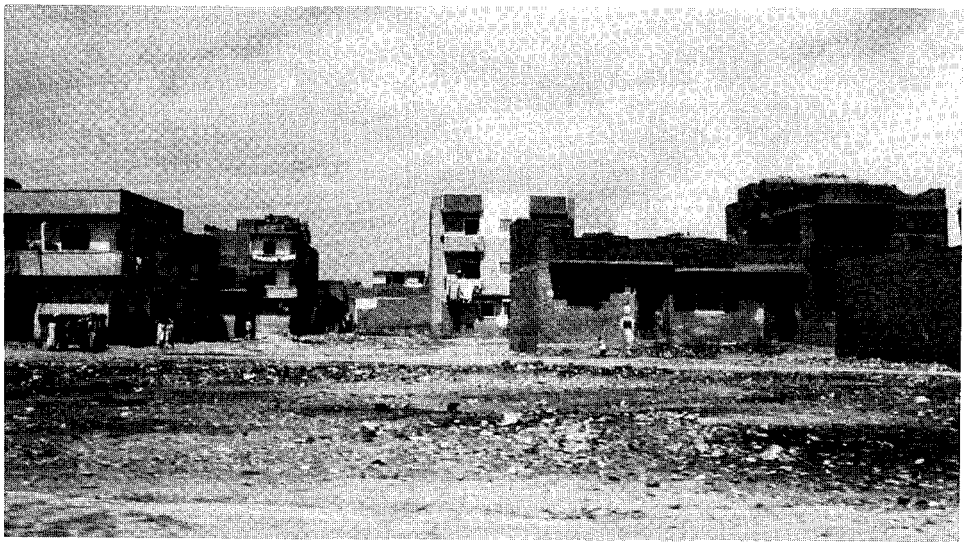
The major land development controls are currently found in the building codes and regulations. Where national building codes are the main instrument for urban development control, as they are in Egypt, these codes can be quite elaborate. They may include lot coverage, set-back requirements (particularly along the street frontage), height limitations and restrictions on the projection of bay windows and balconies beyond the building line. Increasing traffic congestion has also brought about various requirements for off-street

parking space, either as part of national or local ordinances or in separate legislation.

In Iraq and Saudi Arabia, national codes contain only basic development control measures. Municipalities are responsible for supplemental ordinances and regulations related to new master plans, and for detailing development controls in the various urban zones. In Syria, the 1969 code placed severe constraints on urban buildings in terms of plot coverage, height and per capita land area. In Egypt, the 1976 code attempted to reduce density, plot coverage and building height by introducing the concept of floor area ratio rather than rigid dimensional regulations. Whether such complicated notions as density of occupancy or controls based on performance standards will prove enforceable remains to be seen.

Controls on land development and building construction derive their legal strength from regulations, and are therefore on a lower level than easement rights (*irtifāq*). History has consistently shown that controls which conflict with the character of the Islamic city are either not applied or are ignored. Furthermore, population pressure, housing shortages, and especially the scarcity of urban land serviced with basic infrastructure and utilities have invariably led to violations within the built-up areas and controlled settlements in the urban periphery.

Although various laws and regulations contain clauses empowering municipal authorities to remove code violations by demolition and to impose fines upon violators, these clauses have not been major deterrents as far as the lower strata of the urban population are concerned. In Egypt, where pressure is severe and violations widespread, the government recognized its inability to cope with the situation; once, in 1966, it legalized existing subdivisions and buildings in contravention with the codes. In Sudan, squatters on the outskirts of Khartoum and Port Sudan are subdividing government-owned land, building homes and awaiting the eventual regularization of their status and extension of utilities to their settlements.



Informal settlement, Cairo

Photo FCH International

Conclusion

Land is a basic source of wealth in a community, characterized by limitation in quantity and wide variation in value. It was therefore natural that principles governing its acquisition, utilization and transfer be directly derived from the prescriptions of the *Sharī'a*

Land tenure systems regulate the possession and disposition of land (*ḥiyāza* and *taṣṣaruf*). As a form of private property, land tenure is a conditional right. It is guaranteed by law subject to: 1) the right of the State at all times to enforce whatever actions are necessary to ensure the community welfare regardless of the interest of individual property owners; 2) the right of the poor to a legitimate share of the wealth represented by private property, with the State functioning as an intermediary in the income redistribution process, through taxation and subsidization; 3) the right of other persons not to be harmed or suffer deprivation. Through these restrictions unequal distribution of wealth can be reconciled with the equity demanded by social justice in an Islamic society. Historically these notions were violated by acquisitive ruling elites and unscrupulous individuals. The fact that protest was always aimed at curbing flagrant abuses, never at rejecting the basic systems, is testimony to a profound acceptance of the underlying *Sharī'a* principles.

Land development controls regulate the utilization of land (*'intifā'*). They are therefore subject to change as social, economic and political circumstances alter. Regulations will be followed if a majority of the population perceives them as being in their own best interest as well as for the common good. Regulations can be dictated by economic or political considerations, but must never conflict with sociocultural patterns. At no time can they entail a disruption of local lifestyles. There is no way in which regulatory measures can be successfully enforced if they are alien, meaningless, or have outlived their usefulness. History attests to this.

The failure of the conventional Western instruments of land development control introduced in the Arab Middle East is due not to intrinsic weaknesses, but rather to their unsuitability in situations of rapid and heterogeneous urban growth. They are

designed to prevent undesirable patterns of development, not to implement growth strategies. They are incompatible with the sociocultural character of the Islamic city. They institute complicated standards and cumbersome procedures that people find unfamiliar and difficult to comprehend, and consequently tend to ignore.

No one can claim the capacity to legislate for future circumstances, and it is hardly surprising that government authorities found themselves unprepared to cope with the developmental pressures of the past decade in the Middle East. Population growth, migration movements, demographic factors and economic variables have combined to generate runaway market forces in the urban areas. In a reversal of historical trends, urban real estate has become the safest and most profitable investment. Land speculation and the activities of investors seeking to maximize current returns have sent land prices and housing costs soaring to unprecedented levels. It has become painfully apparent that, if left unrestrained, these forces can undermine all attempts at rational urban planning and generate unacceptable social consequences.

The problems are complex, the dimensions staggering. Yet, whatever the reasons for their original failure to keep the urban situation under control, government authorities are now expected to discharge their social welfare obligations and curb the spiralling costs of food, shelter and community services. In this process they are bound to re-examine their land policies and search for new solutions.

The wide latitude given the State by the *Sharī'a* in the administration of land offers unlimited potential for innovative approaches to the development of urban land. There is no need to import unfamiliar concepts which are ill-adapted to local customs and traditions. While there is little justification to seek tenure systems outside those sanctioned by the *Sharī'a*, there is an obvious need to devise efficient regulatory measures in order to ensure orderly urban development. New circumstances demand a departure from the practices established over the past decades.

Legislators today are deeply conscious of the need to take bold steps to meet the challenges facing them. The limited viability of models transferred from outside is a strong incentive to search for solutions from inside. Immediate pragmatic action is necessary to avoid being constantly outpaced by the rate of change.

References

Arabic Sources

'Abd Al Hay ('Ibn 'Abd Al Kabīr Al 'Idrīsī) Al Kittānī, *Al Tarātīb Al 'Idāriyya*, 2 Vols (Rabat, 1346*H*) A study of the organization of the first Islamic community at Medina, including administrative practices and regulations

'Abd Al Mun'im Al Badrāwī, *Al Ḥuqūq Al 'Ayniyya Al 'Aṣliyya* (Cairo, 1968) A standard textbook on real estate legislation in Egypt focusing on basic property rights under the civil code

'Abū Al Ḥasan ('Alī 'Ibn Muḥammad) Al Māwardi, *Al 'Aḥkām Al Ṣulṭāniyya Wal Wilāyāt Al Dīniyya* (Cairo, 1353*H*) The classic treatise on political institutions and administrative practices in the late 'Abbasid period. The juristic interpretations presented seek to sanction existing situations rather than question the deviation from *Sharī'a* principles.

'Abū 'Ubaid (Al Qāsim 'Ibn Sallām Al 'Azdī), *Kitāb Al 'Amwāl*, Muḥammad Hāmid Al Fiqī, ed (Cairo, 1353*H*) A classic text discussing the regulation and taxation of all forms of property and sources of wealth It was written during the early part of the ninth century and presents the accepted basic concepts and procedural differences related to juristic interpretations

'Abū Yūsuf (Ya'qūb 'Ibn 'Ibrāhīm), *Kitāb Al Kharāj* (Cairo, 1352*H*), This treatise on property and taxation of land and produce was written during the reign of Hārūn Al Rashīd and reflects the influence of the teachings of Imam 'Abū Ḥanīfa on the author, a judge

'Aḥmad 'Ibn 'Amr (Al Shībānī) Al Khaṣṣāf, *Aḥkām Al Waqf* (Cairo, 1332*H*) A long and difficult text discussing all aspects of the *waqf* system as practiced in Baghdad during the middle of the ninth century, where the author held the highest judicial office Despite its somewhat confusing organization it is the earliest comprehensive work devoted to this subject.

Hāmid Muṣṭafā, *Al Milkiyya Al 'Iqāriyya Fil 'Irāq*, League of Arab Nations, Institute for Higher Arab Studies (Cairo, 1964) A standard textbook on real estate legislation in Iraq

Hasan 'Abd Al Wahhāb, *Takhṭīṭ Al Qāhira Wa Tanẓīmihā Mundhu Nash'atihā* (Cairo, 1967) A short pamphlet on the development of Cairo with interesting notes on municipal functions and regulations

Kingdom of Saudi Arabia, Ministry of Municipal and Rural Affairs, Public Relations Department, *Al 'Anẓima, Al Lawā'iḥ, Al Ta'līmāt*, 'Abd Al Karīm 'Ibn Ḥamd 'Ibn Ibrāhīm Al Ḥaqīl, ed. (Riyadh, Vols I & II, 1973; Vol III, 1975; Vol IV, 1976) A chronological compilation of regulations pertaining to the administrative and functional responsibilities of municipalities in Saudi Arabia It is expected that additional volumes will be issued periodically as necessary

League of Arab Nations, Institute for Arab Studies and Research, Department of Legal and *Sharī'a* Studies and Research, Seminar on Land Registration Laws in Arab Countries, March 21–26, 1972 Arabic title, *Al Ḥalqa Al Dirāsiyya Li Qawānīn Al Shahr Al 'Iqārī Fil Bilād Al 'Arabiyya* (Cairo, 1973) Proceedings of the seminar on land registration laws in the Arab countries. This volume contains the most detailed discussion of the problems pertaining to land titles and registration systems in Arab countries. In addition to excellent country case studies, there are comparative tables summarizing the various legal requirements and procedures for each country.

Muḥammad 'Abd Al Jawwād Muḥammad, *Milkiyat Al 'Arāḍī Fil 'Islām* (Cairo, 1971–72) This study of the concept and principles of land reform and nationalization provides a useful secondary source for studying the historical development of land tenure systems and practices

Muḥammad 'Abū Zahra, *Al Takāful Al 'Ijtimā'ī Fil 'Islām* (Cairo, 1964) A concise statement on social equity in the Islamic state Section 2 is devoted to a discussion of private property (including land ownership) and the restrictions imposed on it by the *Sharī'a*

Muḥammad 'Abū Zahra, *Muḥāḍarāt Fil Waqf*, League of Arab Nations, Institute for Higher Arab Studies (Cairo, 1959) One of the best studies available on the *waqf* system. Although it is focused on the Egyptian legislation, it offers a good overview of the historical development of the institution and presents valuable comparative discussion of the positions held by the different schools of Islamic jurisprudence on all the major issues involved

Muḥammad Ḍiyā' Al Dīn Al Rayis, *Al Kharāj Wal Nuẓum Al Māliyya Lil Dawla Al Islāmiyya* (Cairo, 1969) This book is concerned with the administration of finances in the Islamic state from the time of the Prophet to the 'Abbasids Sources and amount of tax collections are examined in great detail as well as outlays on various classes of expenditures.

Sa'īd Muḥammad Aḥmad Al Mahdī, *Al Wajīz Fi Qawānīn Al Milkiyya Al 'Iqāriyya Fil Sūdān* (Cairo, 1976) A concise text on real estate legislation in the Sudan mainly concerned with the acquisition of property rights and the principles of *shuf'a*

Sa'īd Muḥammad Aḥmad Al Mahdī, *Qawānīn Al Milkiyya Al 'Iqāriyya Fil Sūdān* (Cairo, 1977) A sequel to the above booklet, focusing on the restriction imposed on property rights under the different tenure systems, including mortgaging.

Yaḥyā 'Ibn 'Ādam ('Ibn Sulaymān) Al Qurashī, *Kitāb Al Kharāj*, Aḥmad Muḥammad Shakir, ed (Cairo, 1384*H*) A text on agricultural property and taxation written at the turn of the eighth century, probably during the reign of Hārūn Al Rashīd The author is a younger contemporary of 'Abū Yūsuf the judge, the author of a similar text listed above

Other Sources

Awad, M H "The Evolution of Landownership in the Sudan," *Middle East Journal* 25 (1971), pp 212–228

Belkeziz, A "L'évolution du régime de la propriété immobilière au Maroc," *Revue Juridique et Politique Indépendance et Coopération* 24 (1970), pp 663–682

Bouslama, A "L'évolution du régime de la propriété immobilière en Tunisie," *Revue Juridique et Politique Indépendance et Coopération* 24 (1970), pp 683–694

Brugman, J "The Islamic law of inheritance," in *Essays on Oriental Laws of Succession* by J Brugman *et al* (Leiden, 1969), pp 82–92

Chehata, C "Le Concept de propriété en droit musulman, école hanéfite," *Zeitschrift für Vergleichende Rechtwissenschaft* 75 (1976), pp 202–209

Dilger, K "Eigentumsordnung und Sozialismus in den arabischen Staaten," *Zeitschrift für Vergleichende Rechtwissenschaft* 75 (1976), pp 171–201

Dunning, H C "Land Reform in Ethiopia: A case study in non-development," *University of California at Los Angeles Law Review* (1970), pp 271–307

El Hathloul, Saleh A "Design Principles for Housing Development in Arab Muslim Cities," in S Dakhil, *Housing Problems in Developing Countries*, (New York, 1978)

Gibb, Sir Hamilton and Harold Bowen, London, *Islamic Society and the West* (Oxford University Press, Vol I, 1950; Vol II, 1957)

Ibrahim, Laila Ali *Mamluk Monuments of Cairo* (Cairo, Italian Cultural Institute, 1976)

Ibrahim, Laila Ali "Middle Class Living Units in Mamluk Cairo: Architecture and Terminology," *Art and Archaeology Research Papers* (Dec 1978), pp 24–31

Ibrahim, Laila Ali Unpublished research on Mamluk architecture

Melone, S "Régimes matrimoniaux et droits fonciers en Afrique," *Penant* 81 (1971), pp 141–161

Ochola, J "Ownership of Land in African Customary Tenure," *Vierteljahresberichte* 38 (1970), pp 423–450

Pestman, P W "The law of succession in ancient Egypt," in *Essays on Oriental Laws of Succession*, by J Brugman *et al* (Leiden, 1969), pp 58–77

Sand, P H "Die Reform des äthiopischen Erbrechts: Problematik einer Synthetischen Rezeption," *Rabels Zeitschrift für Auslandisches und Internationales Privatrecht* 33 (1969), pp 413–454

United Nations, Department of Economic and Social Affairs *Urban Land Policies and Land Use Control Measures,* Middle East, Vol V; Africa, Vol I (New York, 1973)

United Nations, Department of Economic and Social Affairs *World Housing Survey, 1974* (New York, 1976)

Yusuf, S M *Studies in Islamic History and Culture* (Lahore, Institute of Islamic Culture) 1970