Development Plans in the West Bank

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ABSTRACT: Development plans in the West Bank are prepared under the 1966 Jordanian law which requires regional, outline and detailed plans to be prepared and all development to have a building permit. The only approved regional plans are those prepared under the Mandate: these envisaged little growth and are used by the Israeli authorities as a pretext for refusing building permits almost everywhere outside the municipalities. Two “amendments” have been prepared (but not approved) by the Israelis and are being implemented: a plan which implicitly reserves extensive areas around Jerusalem for Jewish settlement, and a plan for a road network which would promote the integration of Israel and the West Bank, and sterilise development in large areas of the West Bank. Outline plans for hundreds of villages and municipalities have been drawn up, but hardly any have been approved. Consequently, no framework for the orderly and balanced development of Arab communities exists. There are no “development areas” outside municipalities (and few within them) to provide opportunities for Arab development, though the planning and development of new towns and villages for Israeli citizens of the Jewish faith continues apace.

Introduction

Statutory town planning has had an unusually long history in the West Bank. Furthermore, the law relating to planning has remained remarkably stable in form over a long period and so, as we shall see, have many of the plans, through the periods of British and Jordanian rule and Israeli occupation.

However, although development within the West Bank has supposedly been guided by a sophisticated town planning system for a very long time, it is by no means clear that this planning system has had a significant effect on the pattern of development. Since the military occupation by Israel of the West Bank in 1967, massive changes have taken place and are continuing in the West Bank, three of which may be mentioned: (i) the expropriation and prohibition of use by Arabs of well over half the land area of the West Bank; (ii) construction by the occupying power of a network of new towns and villages for the exclusive use of Israeli citizens of the Jewish faith, and the roads and infrastructure to serve these Jewish settlements, and (iii) construction of military facilities to enforce and administer the occupation.

Land seizure (Halabi, Turner, Benvenisti 1985), Jewish settlements (Harris 1980) and administrative structures (Shehadeh 1985) have been documented elsewhere. There has, however, been little in the way of systematic analysis of the way in which the established system of statutory planning has been used or adapted by the Israeli authorities, and the effects of this on the patterns and prospects of development of the Arab communities. Such a study was commissioned in 1989 by AI Haq, the West Bank affiliate of the International Commission of Jurists. The present paper reports the preliminary findings of one aspect of this study: the nature and significance of development plans in the West Bank.

Not only has orderly town planning in the area been challenged by the extraordinary demands of land seizure, colonisation and military government, but the intrinsic problems of development planning in the West Bank are in urgent need of solution. The area is rather densely developed in an intricate and long-established pattern of small settlements with a very rapid rate of population increase and exceptionally strong development pressures for private housing.

Every statutory planning system has two main components: control and plans. This paper deals only with plans. However, by way of introduction, it needs to be emphasized that controls on the use of land by the occupying authority are exerted as relentlessly as are controls on almost every other aspect of the life of Palestinians in the West Bank, and the provisions of development plans...
are an important means of exerting that control. Two statistics for 1988 may be helpful in illustrating the intensity of this control, both of which relate to the West Bank excluding the municipalities. 230 permits were issued by the Israeli authorities to build houses, and 322 houses were demolished by army bulldozers because they had been built without a building permit (Demolition of Palestinian Homes 1989).

The legal basis for planning in the occupied West Bank remains Jordanian Law no. 79 of 1966 (Law Number 79, 1966); this closely followed the Town Planning Ordinance of 1936 for the Mandate of Palestine — which was itself modelled on the British Town and Country Planning Act of 1932 though with much less devolution of powers to local authorities.

Law no. 79 requires that all development should have a building permit, and provides for three types of development plan: regional plans, outline plans and detailed plans, and for a three-tier hierarchy of planning authority: the High Planning Council (serviced by a Central Planning Department (CPD)), District Commissions and Local Commissions (the last of which were expected to be municipal or village councils). The law has been fundamentally altered by ten military orders published between 1971 and 1988, notably Military Order 418 of 1971 which transfers the powers of all authorities except municipal local commissions to commissions appointed by the Israeli military commander. The net result is an even more centralised system than before: the High Planning Council may prepare regional or outline plans, and all plans are subject to approval by the High Planning Council. The High Planning Council and the Head of the CPD (all of whom are Israeli citizens) effectively make all decisions on plans or granting of building permits except for permits for housing within municipalities. Military Order 418 also allows the High Planning Council to disregard, amend or withdraw any plan or permit, or waive the necessity for a permit at will. This measure has allowed plans to be selectively interpreted so that their restrictive provisions apply only to the Arab inhabitants, and not to the Jewish colonies.

**Regional Plans**

**Overall Situation**

Two plans are of overwhelming significance to planning practice in the West Bank at the present time — and both were prepared almost half a century ago. These plans are the Samaria Regional Plan (referred to as "S15"), which covers the N part of the West Bank, including most of the Jenin, Tulkarem and Nablus districts, and the Jerusalem Regional Plan (referred to as "J15"), which covers most of the rest of the West Bank.

These plans were of course prepared to meet needs which were very different to those of the present time. The population has increased by a factor of at least four in this fifty-year period and, as we shall see, the population of virtually all the towns and villages in the West Bank now far exceeds the population envisaged in these plans.

There are basically two reasons for the present-day significance of these plans. Firstly, they have never been replaced by updated plans (as has happened within Israel, for example) and although amendments have been prepared, none of these amendments have been approved. Furthermore, only a very small number of outline plans have been approved for the urban areas in recent years. Secondly, the Israeli authorities have found it convenient, particularly within the past ten years, to refer to these plans in justifying their policies of general restriction on Arab development — and in particular, preventing Arab development outside existing towns and villages.

The massive programme of Jewish settlements is of course contrary to the regional plans both in land use terms (no new settlements are shown in the plans), and in ethnic terms (the plans make no reference to provision for particular ethnic or religious groups).

**Regional Planning under the Mandate**

The Town Planning Ordinance of 1936 (Town Planning Ordinance No. 28, 1936) envisaged that "Town Planning Areas" could be designated, within which all development would require a permit, and would have to conform with any "town planning scheme". Town Planning Schemes would be prepared for these areas, either "outline", "detailed" or "parcellation", but no mention is made of "regional plans".

Orders were published between 1938 and 1940, which defined the whole of the districts which now form part of the West Bank as town planning areas, and these Orders were consolidated by an Order in 1941 (Limits of Regional Planning Areas, 1941) which defined each district, with the exception of any existing or future municipalities within it as a "Regional Planning Area". The municipalities themselves had previously been designated as town planning areas. Hence, from 1940, all development in Palestine would require a permit, which would have to conform to any "outline" plan.

The practice of regional planning was in its infancy at the time, and its introduction to Palestine resulted in a number of anomalies. The 1936 Ordinance made no specific provision for it, and a new creature was therefore invented: the "outline regional planning scheme". The relationship of outline town planning schemes and the granting of development permits to the "outline regional planning schemes" was not clear; furthermore the areas for which regional plans were to be prepared excluded the most important urban areas — i.e. the municipalities.

The regional plans consist — as do virtually all the development plans prepared in Palestine and Israel since...