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Israel to begin recording settler land claims, deny Palestinians' right of appeal

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After 45 years of running the West Bank, the State of Israel plans to start compiling land registry records of assets controlled by settlers. The registry would bypass regular tabu land-listing processes, and appears designed to prevent Palestinians from appealing the validity of the ownership listings.

Documents obtained by Haaretz indicate that this land registry process comes as official policy whose "legal and diplomatic repercussions" have been reviewed by top officials. The registry process is supported by deputy attorney general Mike Blass, along with Defense Ministry legal adviser Ahaz Ben-Ari, Civil Administration head Brig. Gen. Moti Almoz and Defense Ministry settlement adviser Eitan Broshi. The registry process is expected to receive Defense Minister Ehud Barak's approval later in the month.

The need for such a land registry process grows out of Israel's continued control of the West Bank. In 1967, when IDF forces first occupied the territories, land ownership arrangements enforced by the Jordanians became void. To justify the lack of a formal land ownership registry process, Israel claimed that the occupation in the territories was temporary, whereas such a land registry is a permanent procedure. There was an option of registering land under existing tabu rules from the Ottoman era - but the state cannot initiate such registration processes. The processes can be initiated only by an individual, who is supposed to bring documents that attest to his ownership of the property; property owners in the vicinity are also supposed to be notified of the tabu registry request. Subsequently a review committee convenes to discuss the evidence, compile witness testimony, receive objections, and ultimately announce registration decisions.

Jewish settlements in the territories were established on lands originally "occupied for military reasons" that were subsequently classified as "state lands." For various reasons lands in the territories were not transferred to settler ownership; instead, the settlers were given authorization to reside on them. Under this procedure, the "official responsible for government property" provides "permission" to the World Zionist Organization, or to a housing company, to make use of the land. These entities have no rights to make tabu land registry listings.

After the passage of time, some of the housing companies are currently on the verge of dissolution, and want to bring a halt to current land listing arrangements in the territories. For instance, with regard to the Oranit settlement in 2008, the Delta company, which built the community, announced that it did not intend to make listings of land transactions. Some residents submitted court claims, demanding that Delta compile such listings. The state claimed that Delta was obliged to make these listings. In discussions held by the Civil Administration in this Oranit case, officials entertained the possibility of initiating tabu registration processes in which all historic events that transpired in the area would be put under review - the ways in which the land was classified and allocated would be investigated.

As part of this tabu registration process, Palestinians would be able to submit objections to land registry requests, and their objections could further complicate Israeli attempts to build settlements on privately owned land in the territories.

As a result of this complication, deputy attorney general Blass sponsored a series of consultations. He instructed the civil administration to carry out an orderly process of land registration, one conducted in lieu of the ordinary tabu procedure and designed to recognize settler land rights.

Blass' authorization relies on an IDF order issued in 1974; up to now, this order has been invoked just once, to authorize multi-story construction in Kiryat Arba in the 1980s. Under this order, the "recorder" can carry out land asset registration processes in "certain cases"; the recorder's decisions constitute "decisive proof" of an individual's right to a property.

The defense ministry responds: "This is a problem that has been known to the legal and security system for some time. Due to a request submitted by a number of authorities, including the Oranit council, defense ministry experts, in conjunction with authorities from other agencies, have held a preliminary review of the subject. This review has yet to generate a recommendation for submission to the political leadership."

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