



# LAND ADMINISTRATION AND LAND RIGHTS FOR PEACE AND DEVELOPMENT IN LIBYA

ANALYSIS AND RECOMMENDATIONS

A WORLD IN WHICH EVERYONE ENJOYS SECURE LAND RIGHTS



## **LAND ADMINISTRATION AND LAND RIGHTS FOR PEACE AND DEVELOPMENT IN LIBYA: ANALYSIS AND RECOMMENDATIONS**

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### **ABOUT THIS PAPER**

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### **THE GLOBAL LAND TOOL NETWORK AND THE ARAB LAND INITIATIVE**

The Global Land Tool Network (GLTN) is a multi-sectoral alliance of international partners committed to increasing access to land and tenure security for all, with a focus on the poor, women, and youth. The Network's partners include international rural and urban civil society organizations, research and training institutions, bilateral and multilateral organizations, and international professional bodies. In 2016, GLTN partners launched the Arab Land Initiative to promote equal access to land, peace, stability, and economic growth in the Arab region through good land governance and transparent, efficient and affordable land administration systems. The Initiative empowers land champions from the region by developing capacities, increasing collaboration, and promoting innovation, learning, and sharing of best practices. It also supports the implementation of gender-responsive and fit-for-purpose land tools and approaches at national and local level. For more information, please consult the referenced documents, visit [www.arabstates.gltm.net](http://www.arabstates.gltm.net) or [www.gltm.net](http://www.gltm.net).

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## Acronyms

AOA	Affected Owners Association
BRSC	Biruni Remote Sensing Center
CRA	Civil Registry Authority
DCIM	Department of Combatting Illegal Migration
DEMs	Digital Elevation Models
DCIM	Directorate for Combatting Illegal Migration
EGA	Environment General Authority
GIA	General Information Authority
GIS	Geographic Information System
GORLR	General Organization for Reclamation and Land Reconstruction
GPC	General People's Committee
GLTN	Global Land Tool Network
GNUL	Government of National Unity of Libya
IDPs	Internally Displaced People
IRC	Industrial Research Center
IOM	International Organization for Migration
LTA	Libya Tax Authority
LCRSSS	Libyan Center for Remote Sensing and Space Science
LIA	Libyan Information Authority
LII	Libyan Information Infrastructure
LRS GIS	Libyan Remote Sensing and GIS Society
LRS GIS	Libyan Society for Remote Sensing and Geographic Information System
LSDI	Libyan Spatial Data Infrastructure
LSA	Libyan Surveying Authority
LYD	Libyan Dinar
NAL	National Atlas of Libya
NGOs	Non-governmental organization
NTC	National Transitional Council
PC	Presidential Council
RERA	Real Estate Registration Authority
SRER	Socialist Real Estate Registry
SSA	Stability Support Apparatus
SPA	State Property Authority
SDL	Survey Department of Libya
UN	United Nations
UNDP	United Nations Development Programme
UN-Habitat	United Nations Human Settlements Programme
USGS	United States Geological Survey
UPA	Urban Planning Authority

## Terms

<i>Al-Arasat</i>	Extension of household property, up to half a dunam
<i>Ashriya</i>	Lands distributed and owned by conquerors
<i>Awqaf (Waqf)</i>	Endowment lands
<i>Cyrenaica</i>	The eastern region of Libya
<i>Daftar Khaqani</i>	The first land and property recordation system by Ottomans in 1586
<i>Dunam</i>	Ottoman measurement unit, equivalent 1,000 square metres (10,764 sq ft)
<i>Kharajiyah</i>	Lands that remained in the hands of their original non-Muslim residents
<i>Matruka</i>	Communal lands
<i>Mawat</i>	Lands not owned by anyone, typically found away from towns and inhabited areas
<i>Miri</i>	Lands located outside of built areas and belonging to the state's treasury
<i>Mukhtar / Sheikh</i>	Leader in local social customary system: an elder, or a well-known person who has the knowledge of lands and properties in the area
<i>Mukufa</i>	Lands endowed by Sultans
<i>Mulk</i>	Lands located within planned areas
<i>Tabu</i>	Ownership certificate per the Ottoman legislations
<i>Zakat</i>	Islamic charity



# **1. Introduction**

## **1.1 The importance of land management and land administration**

The good management of land and land-based resources – water, pastures, minerals - is essential for Libya’s social and economic development and environmental sustainability. The centrality of land governance in achieving the Sustainable Development Goals (SDGs) is well recognized. The 2020 Arab Sustainable Development Report acknowledges its relevance to achieve SDGs 1, 2, 5, 11, 15 and 16<sup>1</sup>.

In urban areas, well-functioning land administration will prevent the sprawl of unregulated and underserved settlements in the peripheries, support the provision of adequate and affordable housing, reduce the risks related to climate change and extreme weather events, and make land more affordable for investments, services, and infrastructure. In rural areas, good land management will ensure more productive use of pastures and agricultural land, enable more sustainable food systems, and prevent and reverse land degradation.

The clarification and protection of the housing, land and property rights of individuals, families and groups and the resolution of new and old disputes over ownership and use rights will significantly contribute to peace and stabilisation. Further, securing people’s land and housing rights will enable the enjoyment of a broad range of connected rights: adequate standard of living, protection from violence and health hazards, adequate housing, and food security.

Libya has solid legal, institutional, and administrative foundations for land management and land administration, and rich spatial planning and land registration traditions. However, a combination of factors aggravated by the political instability and the recent conflict led to widespread land tenure insecurity, countless conflicts and grievances related to ownership of land and housing, dysfunctional land registration, sweeping informality, encroachment and illegal appropriation of private and public properties, and unaffordable land and housing prices.

To ensure Libya’s progress towards peace, stability and socio-economic development, Libya’s institutions, non-governmental partners, and the international community must come together to address these challenges and establish a functioning land management and land administration system.

## **1.2 Objectives of the report**

This report is a contribution towards the improvement of land management and land administration in Libya. It provides a description of the legal, institutional and spatial land-related frameworks in the country, and it analyses the key land administration functions: land tenure, land value, land use, land development and land disputes’ resolution. A list of recommendations complements the analysis, with the intention to trigger further discussions and interest in engaging on the topic.

## **1.3 Methodology and audience**

The content of this report is based on desk research and review of laws and regulations, assessments reports, archival data and interviews, and discussions with land management professionals and experts. A questionnaire was developed and used to guide the data collection and interviews. The profile of respondents includes officials from public institutions (40 per cent), academics (20 per cent),

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<sup>1</sup> United Nations Economic and Social Commission for Western Asia (ESCWA), 2020. Arab Sustainable Development Report 2020.

members of civil society (16 per cent) and private sector (16 per cent), and landowners (8 per cent). A roundtable discussion held in June 2021 contributed to the information collection. Public authorities included in the report are the Real Estate Registration Authority, the State Property Authority, the Urban Planning Authority, the Survey Department of Libya, the Ministry of Planning, the Ministry of Finance, the Ministry of Local Government, the Ministry of Transportation, and the Ministry of Agriculture, Livestock and Marine Resources.

The report targets a broad audience of land actors such as public officials, land professionals and practitioners, UN agencies, development and humanitarian stakeholders, civil society, and academia.

The report, first drafted in 2021, was subject to significant limitations: the fluidity of the political context and the resulting changes in the mandates of land-related institutions, the movement restrictions, the lack of accessible online information, and the limitations arising from conducting face-to-face interviews and focus group discussions with stakeholders.

## 1.4 Country overview

Libya has a small population of almost 7 million inhabitants in a large country of 1.76 million square kilometres, laid on the southern shore of the Mediterranean Sea and bordering with Egypt and Sudan to the east, Tunisia and Algeria to the west, and Niger and Chad to the South. Libya's land use patterns are dominated by its geography. Most lands are desert, less than 2 per cent can be cultivated<sup>2</sup>. Fresh water is scarce. Desertification is having a negative impact on the scarce arable land<sup>3</sup>, also threatened by unregulated urban expansion.

The population is concentrated along the sea in the northern side of the country. 80 per cent of the population lives in urban centers, of which over 70 per cent in the rapidly expanding agglomerations of Tripoli and Benghazi. High internal and external migration has a great contribution to urban expansion, although no official data on this exists.

About one and a half million people are "on the move", including 688,121<sup>4</sup> returnees, 41,897<sup>5</sup> refugees and asylum seekers, 610,128<sup>6</sup> migrants and 143,419<sup>7</sup> Internally Displaced People (IDPs). Approximately 14,000 IDPs live in rented accommodation in 24 informal collective sites on government land. The main origin cities of the evicted Libyan population are Tawergha and Misrata (95 per cent), Benghazi (2.2 per cent), Tripolitania area (1 per cent), Murzuq (0.75 per cent), and others.<sup>8</sup>

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<sup>2</sup> Protection Cluster Libya, 2022. Libya: Protection Analysis Update.

<sup>3</sup> Central intelligence agency, 2021. Libya. Retrieved from The World Fact Book.

<sup>4</sup> IOM, 2022. IOM Libya IDP and Returnee report round 42.

<sup>5</sup> UNSMIL, 2021. United Nations Libya: Common Country Analysis 2021.

<sup>6</sup> Ibid.

<sup>7</sup> IOM, 2022. IOM Libya IDP and Returnee report round 42.

<sup>8</sup> Protection Cluster Libya, 2022. Libya: Protection Analysis Update.

### Box 1. Facts about Housing, Land and Property rights in Libya, from the Protection Analysis Update<sup>9</sup>

- ❖ Since 2014, the Libyan judicial system is not fully functioning for both Libyans and non-Libyans similarly.
- ❖ Migrants, refugees, and asylum seekers are normally excluded from any type of government or public services provision. Provision of assistance to non-Libyans without legal status is criminalizing according to Libya's legal framework. This deprives thousands of people from access to the rental market and obstruct the process of direct provision of cash for rent by the humanitarian actors.
- ❖ Two out of three households do not have a written lease contract.
- ❖ The Eviction Tracker recorded 104 evictions in the first months of 2021, of which 18 large-scale expulsions and collective evictions, with total of 10,790 persons including internally displaced people, returnees, migrants, refugees, and asylum seekers. 86 evictions regarded individual households, affecting 11,789 persons in total.
- ❖ There are about 14,000 IDPs, primarily from Tawergha, living in rented accommodation in 24 informal collective sites on government land. Most of the evicted Libyans are from Tawergha and Misrata (95 per cent); others are from Benghazi (2.2 per cent), Tripolitania (1 per cent), Murzuq (0.75 per cent), and others.
- ❖ Most of individual households facing eviction risks are living on privately owned land, while those risking evictions from collective sites are mostly living on government-owned land.
- ❖ The main reason for eviction is the inability to afford rent or utility fees (70 per cent of IDPs and 14 per cent of migrants, refugees, and asylum seekers). Another major cause is the intention of the landlord to repurpose the land (affecting 65 per cent of migrants, refugees, and asylum seekers).
- ❖ As of end 2021, there are at least three detention centers for non-Libyans, at Al-Maya, Al-Zawiya, and Al-Zahra, hosting approximately 5,500 persons without access to basic services. The detention centers were formerly managed by Directorate for Combatting Illegal Migration (DCIM) of the Ministry of Interior and currently managed by Stability Support Apparatus (SSA), an institution affiliated to the Presidential Council.
- ❖ The government showed the intention to recover the land allocated to IDPs for its original purposes and the Ministry of Social Affairs agreed to support the relocation of each household with LYD 12,000 (approximately USD 2,500) cash in a one-off installment for rent in another place.

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<sup>9</sup> Protection Cluster Libya, 2022. Libya: Protection Analysis Update (April 2022).



## 2. Legal and institutional frameworks and data infrastructure

### 2.1 The land-related legal framework

The recent history of land related laws starts with the Ottoman Registration Legislation. Since then, different legislative periods introduce new elements, as summarized in Figure 1 below.

1858	1913, 1921	1956	1986	1988	1989	2008	2012
Ottoman Registration Legislation, Articles 138	Italian Legislations, Articles 123	Libyan Kingdom Legislation, Articles 110	Abolishing Land Ownership No. 7, Articles 5	Law No. 11 Establishing Socialist Land Registry, Articles 11	Law No. 12 The Real Estate and Ownership, Articles 51	Executive Regulation of Law No. 17	Division of Real Estate and Public Assets Decree

Figure 1: Laws and Legislations of Land Administration over years

During the **Ottoman time**, the first comprehensive legal framework regulating private, communal, and public properties was established. The Ottoman registration legislation was composed of 138 articles, and it was introduced in 1858 to record land rights. Land categories included: *mulk*, *miri*, *mukufa*, *matruka* and *mawat*<sup>10</sup>. The oldest land tenure in Libya is considered the *awqaf* (religious endowment), derived from Sharia law<sup>11</sup>.

During their 1913-1921 domination, **Italian rulers** continued to use ottoman laws to regulate ownership and administer land and real estates. They introduced few additional pieces of legislation in continuity with the Ottoman system, such as Decree 48/1921 to differentiate urban and rural land registration, and to manage public properties, in addition to *awqaf* estates and private *miri* lands. The Libyan kingdom legislation followed.

During the **monarchy**, from 1951 to 1969, the legal foundation of the modern Libyan state was established, with the aim to organize the administration of civil rights and to strengthen the state's authority over its properties. A constitution and many laws were introduced, related to the establishment and organization of the work of the institutions, the determination of rights and duties of individuals, the definition of civil and commercial rights, and the establishment of legal provisions for other land-related fields. The prohibition of real estate ownership for non-Libyans was introduced in 1960, followed, in 1961, by the expropriation of real estate for public investment law and by the first law to manage the property registration and rental agreements (Law 12/1961). In 1963, the new national administration system replaced the pre-existing federal system and, in 1968, Law 37 regulating investments was passed. Other key land-related laws of that period are the Libyan civil law of 1954, the Petroleum Law 25/1955, the state's financial law in 1967, and the foreign investment fund Law 37/1968.

With the **1969 military coup**, a new era of land administration introduced land reforms aiming at the nationalization of lands and at the confiscation and redistribution of housing, land and properties. During this phase, the housing, land and property rights of the people were weakened vis-à-vis the powers of the state, also considering that the legislation on compensation for the confiscated land

<sup>10</sup> Tute, R. C. (1927). The Ottoman land laws with a commentary on the Ottoman land code of 7th Ramadan 1274. Jerusalem: Greek Convent Press.

<sup>11</sup> Sait, S., & Lim, H. (2006). Land, Law & Islam: Property & Human Rights in the Muslim World.

and properties was only enacted in the late 2000s. In 1973, Law 39 abolished the customary land rights on tribal lands and transformed them into state property, removing them from tribal control.

Law 7/1986 abolished private land ownership and replaced it with land use rights narrowly contingent to residential or productive uses. Citizens who legally owned land had the right to use it for working, herding, or cultivating it only if with “his own or his family members’ effort, without exploiting the effort of others and to satisfy his, his family’s and his heirs’ needs only”. Tenants and workers of someone else’s lands and properties, including farms and factories, were declared as the rights’ holders if they met these same criteria. This philosophy was summarized in popular slogans: “the house is for those who inhabit it” and “the land belongs to those who cultivate it”.

The implementation of these legislations was fragmented, not accompanied by adequate administrative procedures and, according to some, motivated by political patronage rather than common good considerations. This left behind many unresolved disputes and grievances that heavily impact Libya’s land sector up to present times.

The period **following the fall of Qaddafi** in 2011 is characterized by the abolition of some previously enacted laws, and the need to review, update and reform the legal and institutional land frameworks to address the current needs of the Libyan society. The most significant decree is the suspension of the Real Estate Registration Authority, based on the fear of misappropriation of public and private lands. Nevertheless, as of 2021, the debate over the reform and improvement of the land sector has not yet gained traction in Libya. The authors of this report hope that this document will contribute to give attention and momentum to this important topic.

### The key legal instruments

The legal framework includes laws, resolutions, decrees, and executive regulations. An overview of the key legal instruments is below (See Table 1,2,3), while Section 3 describes the most important ones in relation to the land administration functions.

Table 1. Overview of the legal instruments related to ownership and tenure laws	
Legal instruments	Subject
Law of 1858	Ottoman Registration Legislation
Law 48 /1913	Certification of real estate rights
Law 1207 /1921	Proof of real estate rights
Law of 1925	Land Settlement and Registration of 1925
Law of 1965	Real estate registration
Law 10 /1970	Determining some provisions on government housing
Law 63 /1970	Determining a ruling on some cases of sale of state-owned lands
Law 123 /1970	Act over agricultural and reclaimed state-owned land
Executive Regulations of Law 123/1970	Regarding the disposal of state-owned agricultural and reclaimed lands
Law 142 /1970	Tribal Ownership of Wells and Agricultural Lands
Law 83 /1972	Increasing the application period of Law 63/1970
Law 111/1973	Regarding the assignment of the value of the crops on the farms when they are delivered to the beneficiaries for distribution
Law 120 /1973	Increasing the application period of Law 63/1970 establishing some provisions relating to state-owned lands
Law 50 /1974	Returning confiscated and usurped real estate, or compensation
Law 46/1975	Regarding small lands
Law 88 /1975	Determining a ruling on some cases of sale of state-owned lands
Law 28 /1976	Regarding the rental of premises

Law 33 /1977	Ministry of Economy to the Agricultural Council
Law 38 /1977	Determining some provisions related to real estate ownership
Law 4/1978	Concerning the determination of some provisions related to real estate ownership
Law 18 of 1984	Defining the rules for exemption from home ownership instalments or mortgage loan instalments
Law 21 /1984	Provisions relating to the public benefit report and disposition of the land
Decree 227/1985	Amending some provisions of executive regulations of Law 4/1978 establishing some provisions related to real estate ownership
Law 19/1985	Regulating shared ownership of buildings
Law 6 /1986	Amending some provisions of Law 4/1978
Law 7 /1986	Abolition of land ownership
Decree 56/1987	Amending some provisions of Law 4/1978 establishing some provisions
Law 11/1988	Regarding the Socialist Land Registry
Law 12 /1988	Real estate registration Authority
Decree 906/1989	Regarding procedures and foundation for compensation for real estate subject to law 4/1978 defining some provisions related to real estate ownership
Law 11 /1992	Establishing some provisions related to real estate ownership
The executive regulations of Law No. 5 of 1992	Amending some provisions of Law 11/1992 establishing some provisions related to real estate ownership
Executive regulations of Law No. 11 of 1992	Defining some provisions related to real estate ownership
Law 15 /1992	Protecting agricultural lands
Law 25/1994	Amending some provisions of Law 11/1992 establishing some provisions related to real estate ownership
Law 14/1996	Amending the provisions of Law 11/1992 defining some provisions related to real estate ownership
Executive regulations of law 14/1996	Amending the provisions of Law 11/1992 defining some provisions related to real estate ownership
Law 6 /1996	Amending a provision of the Agricultural Land Protection Law
Law 10/1998	Defining some provisions related to property claims, evictions, and evictions related to real estate that has been transferred to the community
Law 21/1999	Amending the provisions of Law 11/1992 defining some provisions related to real estate ownership
Executive Regulations of law 21/1999	Regulations of law 21/1999
Law 5/2001	Amending the provisions of Law 11/1992 defining some provisions related to real estate ownership
Decree 195/2002	Regarding the bases and controls for estimating the value of real estate
Law 3/2004	Amending some provisions of Law 11/1992 defining some provisions related to real estate ownership
Decree 24/2004	Regarding the executive regulations of Law 3/2004 establishing some provisions related to real estate ownership
Decree 108/2006	Regarding the procedures and foundations for completing compensation for real estate subject to the provisions of Law 4/1978
Decree 752/2006	Regarding the procedures and foundations for completing compensation for real estate subject to the provisions of Law 4/1978
Law 17 /2010	Control real estate rights, registration, disputes, procedures
Executive regulations of law 17/2010	The executive regulations of Law 17/2010 regarding real estate registration and state property

Law 20/2015	Determining some provisions dealing with the consequences of Law 4/1978
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Table 2. Land planning and development laws	
Legal instruments	Subject
Resolution 34 /1971	Adoption of a regulation for the use and classification of areas for the city plan of Tripoli
Law 116 /1972	Regulating urban development
Law 32 /1977	Amending some provisions of Law 5/1969 regarding planning and organizing cities and villages
Law 5 /1982	Pasture and forest protection
Law 7 /1982	Environmental protection
Law 15 /1984	Protection species from urban expansion
Law 3 /2001	Urban planning provisions to overcome the effects of the Law 4/1948

Table 3. Real estate appraisal and tax laws	
Legal instruments	Subject
Law 2 /1986	Property taxation
Law 28 /2007	Amending some provisions of laws regarding real estate tax
Decree 316 /2007	Amending a provision in the executive regulations of Law 2/1986 regarding the tax on real estate
Law 7 /2012	Property taxation

## 2.2 Land categories

In 1858, the Ottoman laws of lands and surveying (registration legislation law) defined five land tenure categories: *mulk*, *miri*, *mukufa*, *matruka* and *mawat*.

1. **Mulk** is land located within planned areas, such as cities and towns, and which is owned by individuals. It consists of four types: (a) *al-arasat*, or lands within cities and towns up to half a dunam; (b) portions of former *miri* lands that were transformed into *mulk* land with legitimate justification; (c) *ashriya*, or lands distributed and owned by conquerors; and the (d) *kharajiyah*, or lands that remained in the hands of their original non-Muslim residents.
2. **Miri** is land located outside of built areas and it belongs to the state's treasury, such as farms, pastures, and areas where similar activities that are conducted with the permission of the leaders. Later, the need for the leaders' permission was abolished and replaced with the approval through written decrees of the highest level of authority in the treasury.
3. **Mukufa** is endowed land as prescribed in Sharia law; its revenues go to the *awqaf*. The *mukufa* lands were endowed by the sultans.
4. **Matruka** are communal lands. They are of two types: one is public lands to be used by all people, such as public roads and squares; the second type is communal land used by a specific group of people without being subdivided, such as the pastures shared by villager of a town.
5. **Mawat**, or "dead land" is not owned by anyone, not used for pastures or woods, and it is typically found away from towns and inhabited areas.

Public land is categorized in the following types: agriculture, marine properties, deserts and mountains, and *awqaf* or "endowment lands".

1. **Agriculture land:** Law 123/1970, or the Act over agricultural and reclaimed state-owned land, defines agricultural lands as owned by the state. State authorities, such as the Ministry of Agriculture, Livestock and Marine Resources, are responsible for the allocation of land rights

over agriculture land. The General Organization for Reclamation and Land Reconstruction deals with the reclamation of agricultural land and their allocation for use in accordance with the provisions of the law.

2. **Marine properties:** Water bodies and coastal lands are public properties. The state allows individuals to invest in these lands by submitting applications to the state authorities or their regional branches. All investments are registered with the Real Estate Registration Authority and State Property Authority.
3. **Deserts and mountains:** the royal Law 24/1968 and Law 3/1995 legislate on the preservation of historical heritage and archaeological sites and place the management of such lands under the Ministry of Agriculture, Livestock and Marine Resources and other ministries and state authorities with similar functions. Individuals are allowed to invest in such lands only for “public benefit” purposes, without any type of customary or formally registered land tenure rights.
4. **Waqf** (pl. *awqaf*) or “endowment land” is land used for charitable purposes (the use of *waqf* for non-charitable purposes was abolished by Law 16/1973). Individuals can donate real estate properties and other assets, such as cash to the *Awqaf* department of the Ministry of Awqaf and Islamic affairs that will manage them in coordination with other Islamic entities and register them as Islamic endowment to be a perpetual source of charity (*zakat*). *Awqaf* lands and assets are managed according to the provisions of Sharia law and further codified by the Ottomans.

### 2.3 Institutional framework

Land administration in Libya is divided across several government agencies and institutions. Figure 2 schematically represents the main governmental bodies with land-related mandates, as of early 2021. The main challenges related to the institutional framework are the poorly defined mandates and administrative procedures, the lack of coordination among bodies with complementary responsibilities, and the low technical capacity of personnel. The current volatile political situation further impacts the governance of the land sector. Mandates and responsibilities undergo frequent reshuffles, with negative impact on the effectiveness of institutions and their capacity to embark in the much-needed long-sighted reforms.

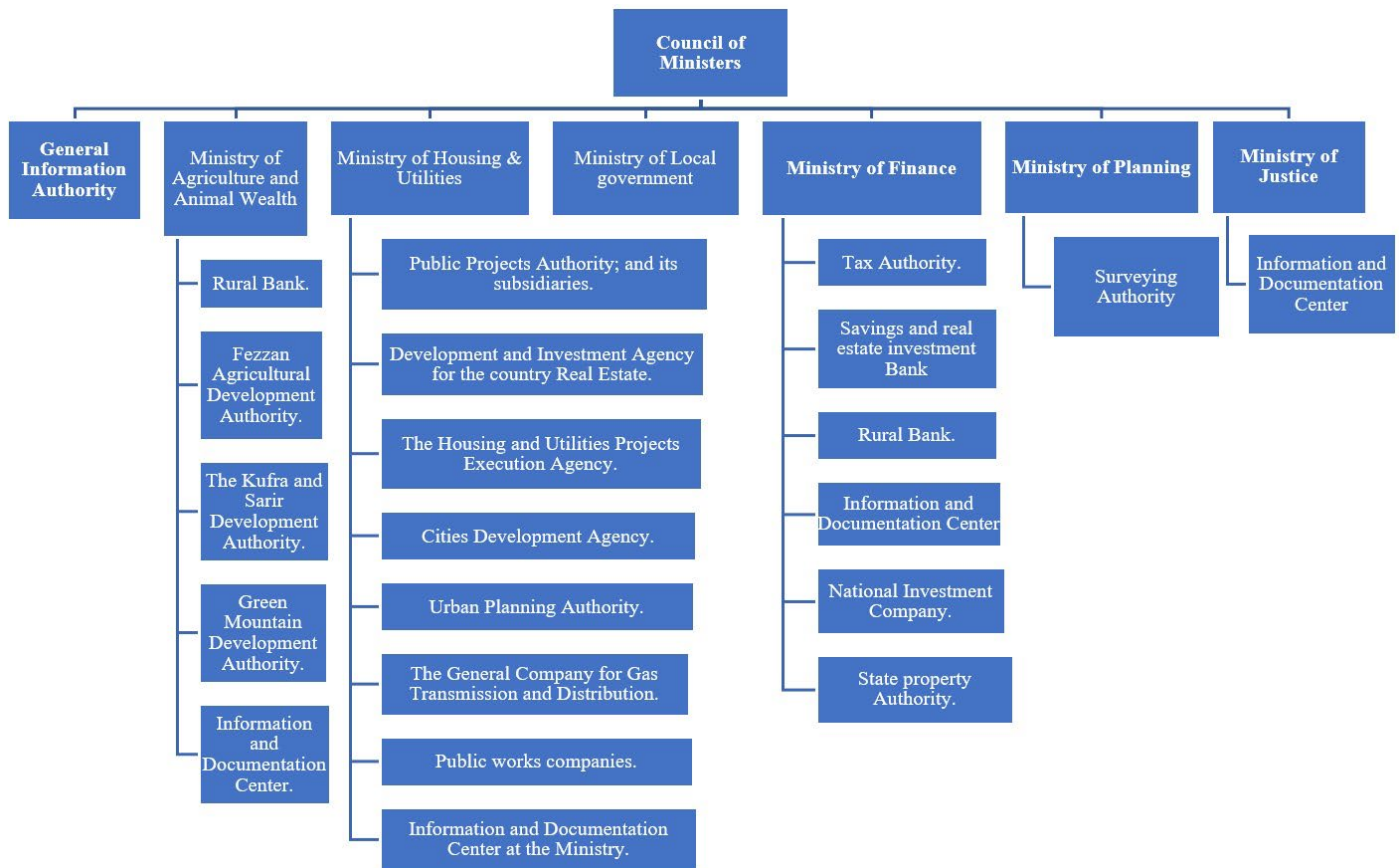


Figure 2: Institutional framework of the land sector (early 2021)

## 2.4 Spatial data infrastructure

The status of Libya’s spatial infrastructure is shaped by two contradicting factors: the significant technical and technological advances introduced by some actors, and a weak regulatory framework that hinders the capacity of the country to take full advantage of its expertise and innovation.

The Italian authorities established an aerial imagery system during their colonization. The usage of aerial imagery continued to be the main source of cadastral maps and the base for real estate registration by the Italians, during the monarchy and the Jamahiriya political era.

The Survey Department of Libya – created in 1979 as the sole responsible for establishing and managing the mapping system, including base maps, master plans, local plans, and cadastral maps - used this database of aerial imagery to build its spatial data infrastructure. It provides maps at different scales, 1:50,000 and 1:25,000 in the 1980s, and then 1:5,000 and 1:2,000 during the Second-Generation Plans (1980-2000). This work is published in the National Atlas of Libya, which became the basis of geographic studies and mapping services.

The current data infrastructure builds on system created by the Survey Department of Libya. The spatial data is composed by cadastral maps, topographic maps, and aerial and satellite imagery.

**Cadastral maps** are the most important element of the spatial data infrastructure for both urban and rural areas. They constitute the base for the technical description of any property to be registered. Cadastral maps are the reference for land boundaries at the local level. The districts’ boundaries within



municipalities or the provinces at regional level are determined on the basis of the spatial planning system.

Any property must be registered in the cadastral frames or sheets (urban) and cadastral plates (rural). When an owner or a buyer applies for a *tabu*, or certificate of ownership, they must provide all required documents including the surveying technical description, the acknowledgement of the local *mukhtar*, the neighbours' signatures, and the ownership approval. All transactions including demarcation, transferring, census work and changes on the property must be done on the cadastral map, therefore, a functioning land management system able to preserve ownership rights requires a functioning cadastral system.

A key challenge is how to register properties that were initially registered in the old system, on the basis of statements of national authorities' officials, particularly in rural areas where there are no clear and precise cadastral plates, but only the description of the land that was used to apply for the ownership registration. This method worked well at the local level however now the challenge is how to digitalize the boundaries of a property that is not linked to a digital cadastral system nor to an old analogue aerial imagery.



Figure 3: Aerial Image of Tripoli 1977 (Survey Department of Libya, 1978)



Figure 4: Tripoli Master Plan (Survey Department of Libya, 1978)



Figure 5: Cadastral map Tripoli scale 1:1000 (Real Estate Registration Authority, 2021)

**Aerial and satellite imagery** - The production and use of aerial imagery has a long history in Libya dating back to when the Italians introduced it for producing agricultural plans. In the 1950s, during the monarchy, the Libyan government established an aerial imagery project. After the establishment of the Survey Department of Libya, many mapping projects were implemented and a lot of aerial imagery indexes were made available, although these have not been used since the 1980s. Nowadays, there are several authorities and departments dealing with aerial and satellite imagery, including the Survey Department of Libya (the national authority responsible for mapping and aerial imagery), the Biruni Remote Sensing Center (BRSC) under the Ministry of Defense, and the Libyan Center for Remote Sensing and Space Science (LCRSSS), established in 1989, which provides satellite imagery of different resolutions, conducts astronomy observation, earthquake monitoring and remote sensing sciences, and provides training to universities and research centers.

**Topographic maps** - The mapping project conducted in the 1970s produced topographic and geological maps covering about 65-70 per cent of the country. The project aimed at producing: (1) topographic maps at the 1:50,000 scale for populated areas and at the 1:250,000 scale for the rural and developed areas; and (2) geological maps at the 1:250,000 scale covering all urban and rural developed areas, as well as mineral exploration and production areas (oil and gas fields). The geological maps were produced by the Survey Department of Libya while the topographic maps were

produced by the Industrial Research Center by collecting and updating maps of the United States Geological Survey (USGS).

This project was implemented by the Ministry of Planning and the Survey Department of Libya, and it was published in 1978 as a basis for planning and education purposes. The Survey Department of Libya had contracts with several foreign engineering companies for aerial imagery for planning purposes, such as the Polservice Company (which produced the planning studies for the Tripoli region), IGN (a French consulting engineering company that provided training and technical support to the Survey Department of Libya on geographic information) and the Biruni Remote Sensing Center, among others. There have been several subsequent mapping initiatives, some of which could not be implemented due to the political instability after 2011. One example is the Libyan National Mapping Project of 2010, which included institutional development and capacity building, the creation of a comprehensive geodatabase and a GIS portal.

The Libyan Spatial Data Infrastructure (LSDI) is an initiative led and managed by the General Information Authority established in 2005 and reinstated in 2020. The Libyan Society for Remote Sensing and Geographic Information System (LRSGIS) was contracted to train, build digital databases and provide technical support for the General Information Authority. This project will assist in building the digital spatial data infrastructure for the country's base maps, population censuses, and other spatial the information databases.

Currently, the country is in the process of transforming its analogue spatial system into a digital data infrastructure, using GIS and remote sensing techniques, through several unofficial and uncoordinated projects and initiatives. National authorities have utilized the topographic and geological maps for their urban and regional planning project, industrial and infrastructure mega projects, such as those approved in the early 2000s, or planning housing and urban utilities' interventions. The production of cadastral maps used to be a major duty of the Survey Department of Libya, nowadays, the production has changed as the techniques are spreading using the satellite imagery that is available digitally and covering all the globe. The Urban Planning Authority contracted private companies to conduct regional plans<sup>12</sup>.

The land administration section within all these authorities and national departments have developed their own datasets, which were never unified or shared data format. Therefore, the need to introduce national standards for the data produced and integrate the data sets is a priority for the country.

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<sup>12</sup> Including: 1) The Tripoli Region – National Consulting Bureau, 2) The Benghazi Region – Emara Engineering Consultants, 3) The El-Khalij Region – Engineering Research and Consultation Bureau, and 4) The Fezzan Region – Engineering Consulting Office for Utilities.

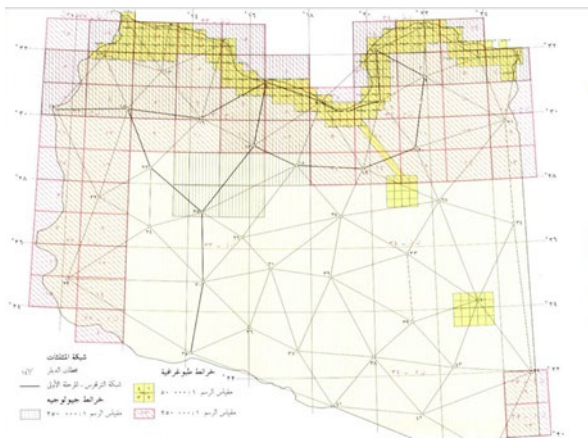


Figure 6: Topographic mapping coverage (Survey Department of Libya, 1978) Aerial Imagery coverage (Mosaic) (Surveying Authority, 1978)

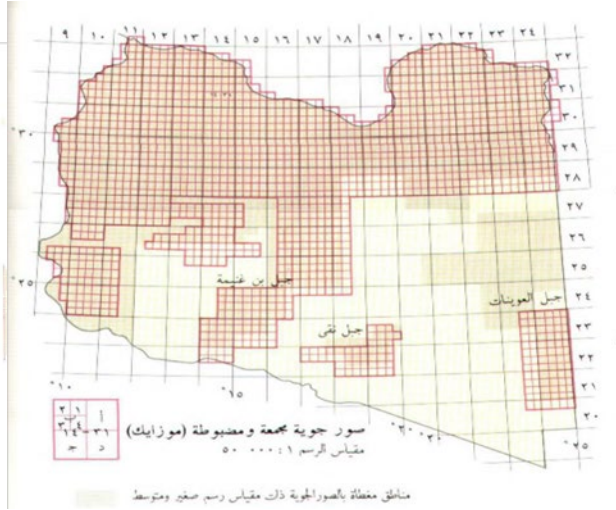


Figure 7: Aerial Imagery coverage (Mosaic) (Survey Department of Libya, 1978)

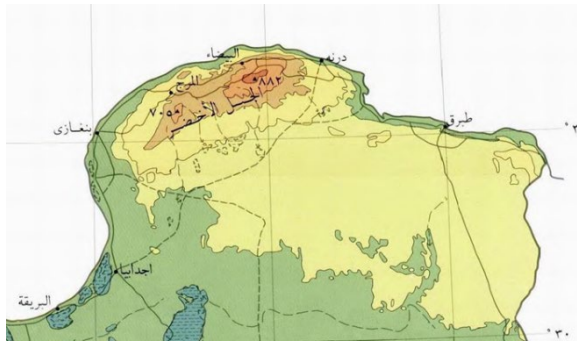


Figure 8: Topographic Map Eastern Libya (Survey Department of Libya, 1978)

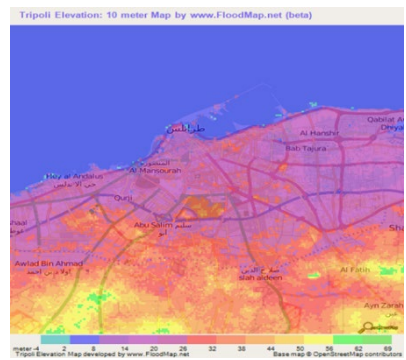


Figure 9: Tripoli 10 Meter Digital Elevation Model DEM (Flood Map, 2020)

## 2.5 Women's land rights

Article 17 of the universal Declaration of Human Rights stipulates the right of every person to own property and have an adequate standard of living regardless of gender. The International Covenant on Civil and Political Right, ratified by Libya in 1976, has prohibit legislation and policies that discriminate against women. Article 11 of the International Covenant on Economic, Social, and Cultural Rights, ratified by Libya in 1976, guarantees the right of an adequate housing for all.

The **Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)**, ratified by Libya in 1989, sets to eliminate all forms of discrimination against women. However, when Libya acceded to CEDAW, it entered reservations to article 2 (on the right to non-discrimination) and article 16 (c) and (d) (on non-discrimination in all matters relating to marriage and family relations), stating that that the convention must be implemented in accordance with Sharia law. In 1995, Libya submitted a new general reservation that the treaty's implementation cannot conflict with personal status laws derived from Sharia law. Such reservations undermine the object and purpose of the treaty. Still, in 2004, Libya signed the first Optional Protocol to CEDAW, which allows the Committee on the Elimination of Discrimination against Women to receive and consider complaints from individuals or group.

Conversely, **under Libyan law**, women have equal rights to men. Law 20/1991 asserts that all male and female citizens of Libya are equal in respect of their rights, including to work, hold political positions and be employed in governmental institution, social security and financial rights<sup>13</sup> and to own, buy, sell, and transfer properties. Although Libyan laws do not explicitly discriminate against women, men are more likely to be the ones dealing with decisions and transactions related to land and properties.

Law 6/1959 regarding the protection of **women's inheritance rights** is still in effect to the present times. The first article stipulates that women's inheritance shares are defined in accordance with the provisions of Islamic Sharia and therefore generally half of those of their male counterparts (although the percentage varies depending on the specific family situation). The second article stipulates that it is not permissible to strip a woman from her inheritance rights, including by preventing and banning her from acquiring, using, disposing of it, and exercising her full rights over her property. Every violation of the provisions of this law is punishable by imprisonment and granting the rightful amount of inheritance.

However, cultural norms and male dominated practices often lead to women's renouncing to their lesser inheritance shares in favour of their brothers and male relatives, either by choice or by coercion. In many cases, women choose not to claim their inheritance to maintain their relationships with the brothers who would not accept sharing the land and properties inherited with their sisters. The custom is to keep the lands for male family members and give movable assets such as money to women, allegedly to protect family's properties from being transferred by their sisters to non-family members.

In his article, the Supreme Court Counsellor Juma Abu Zeid<sup>14</sup> reviewed some of the cases where women are stripped of their inheritance shares, particularly in the eastern side of the country. Such violations were already common in the 1960s pushing King Idris to present the issue to the House of Representatives. Abu Zeid discussed the legality of denying women's inheritance rights with tribal sheikhs. Their response was that the land of the tribe was acquired and preserved for hundreds of years by men with arms, if necessary. As it is so essential for grazing, agriculture and livelihood, losing it would create conflicts with other tribes that may turn into wars.

In this **critical conversation** on women's land rights several aspects intersect: the contradictions of international and national statutory laws and customary practices, unresolved tensions between the individual land rights of men and women, and the management practices of communal lands where the needs of the community must be balanced with the needs and rights of its individuals.

Sex **disaggregated data** on land ownership, land tenure security, use of and control over land resources in urban and rural areas is not available. An evidence-based analysis of the situation would create a solid base to assess and address the gaps between laws, practices and future needs of Libyan men and women.

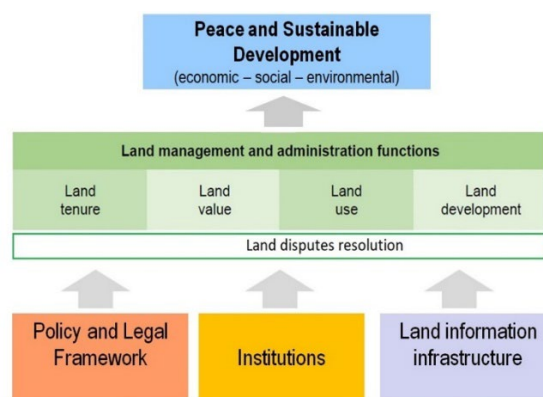
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<sup>13</sup> Pargeter, A., 2010. Libya. In S. Kelly, & J. Breslin, Women's Rights in the Middle East and North Africa: Progress Amid Resistance (Freedom in the World).

<sup>14</sup> Abu Zeid, J. A., 2020. The problem of depriving women of inheritance in Libyan society.

### 3. The land administration functions

This section of the report presents an initial assessment of Libya's land administration, articulated around the five key land administration functions: land tenure, land value, land use, land development and land disputes resolution.



Adapted from Williamson et al. (2010)

Figure 10: Land management and administration system

#### 3.1 Land Tenure

Land tenure is the relationship between the land and the people, individuals, or groups. It describes who has the right to do what, where, for how long, and under which circumstances and conditions. This relationship can be legally, customary, or informally defined and it determines how land rights are managed and allocated<sup>15</sup>. In land administration, the land tenure functions define access to land and its resources; cadastral mapping and defining of boundaries of land plots; registering and altering properties; documenting sales, leases, and usufruct rights; and the related technical and administrative processes conducted by the dedicated institutions and authorities.

The legal frameworks regulating land tenure changed significantly in Libya since the mid-19th Century, below and overview of this evolution.

##### Ottoman and Italian rule

There are many laws related to land tenure and property ownership in Libya. The first and oldest law is the Ottoman **real estate registration law** that was issued by the Department of Land and Survey in 1858. It consists of two chapters: (1) immovable property, and (2) the abandoned lands and public lands. This is the most significant law, due to the length of the empire of the Islamic caliphate, lasting for several centuries. This property management system was and still is the strongest and most influential, as it was based on the property itself rather than on the owners.

Italian rulers issued several laws, perhaps the most important of them are Law 48/1913 and Law 1207/1921 and the Land Settlement and Registration Law of 1925. Law 1207/1921 concerns the establishment and **preservation of real estate rights** in Tripoli and Cyrenaica (the eastern region of Libya). It also includes the value of commissions on registration, issuance of ownership and transfers, and taxes.

##### Independence

The first Libyan real estate **registration law** was issued by the King Idris of Libya. After the perusal of article 64 of the constitution and of the real estate system law 1207/1921, and the civil code, and based on what was presented by the Minister of justice and the approval of the council of ministries,

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<sup>15</sup> Global Land Tool Network, 2022. <https://glttn.net/>

the real estate was divided into: state real estate properties, public tribes' real estate (communal), private real estate, general endowments, and private endowments.

### **The Qaddafi era**

Land tenure and property ownership gets at the center of the new political theory behind the 1969 coup. This era witnessed the **confiscation of private properties** (Law 4/1978) and the **nationalization**, in 1979, of private factories, craftsmen units, and shops, leaving behind a long trail of disputes and grievances among landowners.

Law 123/1970 concerning **agricultural and reclaimed state-owned land** defined two types of land: (1) agricultural lands owned by the state or that will be transferred to the state at a later stage - with the exception of lands whose management is entrusted to the Ministry of Agriculture Livestock and Marine Resources or to one of the public authorities, and lands allocated by the State for purposes other than agricultural investment; and (2) desert lands allocated for agricultural reclamation (conversion of desert land to agricultural land), reconstruction, and land distribution projects by a decision of the Council of Ministers, based on the proposal of the Minister of Agriculture, Livestock and Marine Resources, in agreement with the Minister of Housing and Construction. The laws and executive regulations of Law 123/1970 and Law 142 /1970 regarding agricultural production and tribal ownership of wells were extremely relevant at the time, because agriculture was the main economic sector in Libya during the 1960s and 1970s.

Law 39/1973 **abolished the customary land rights on tribal lands** and transformed them into state property, removing them – at least legally – from under tribal control. While the intended objective of this decision was to facilitate land use planning, conflicts over lands negatively impacted national planning and spread the fear of being evicted and stripped from their land rights among the tribes. Pastoralists were mostly affected, and the issue has not been resolved yet. In addition, the country experienced administration boundary instability at the regional and local levels.

Law 111/1973 was issued to regulate the agricultural production and the **distribution of lands** among beneficiaries in national projects in certain areas in the country. Law 46/1975 regulated the small lands for individuals as part of the national plan to promote the role of agriculture in the national economy.

Law 38/1977 forbade to own, acquire, register or claim any **real right on the basis of possession**, whatever the date of its commencement and regardless of its duration. All ownership registrations made as of the 7<sup>th</sup> of October 1951 based on possession were cancelled: “Every assignment or grant of property made by colonists to their clients in return for betraying the homeland shall be void, all real estate registrations made for these properties shall be cancelled”.

Law 4/1978 is one of the most impactful and controversial laws in Libyan history: “every adult citizen has the **right to own a home on the condition** of residing or possessing a land suitable to build a home on it”. The issuing of this law resulted in mass confiscations of properties and expropriations. The ownership of buildings intended for housing or other uses (except crafts or industries by owners) was transferred to the state. Similarly, undeveloped lands and lands suitable for construction were devolved to the state, for allocation to other eligible citizens. Later on, Law 6/1986 amended Law 4/1978; articles 2, 5, 7, and 10 were repealed, without changing the essence of the law that remained effective.



Law 18/1984 regarded the **exemption from the payment** of home ownership installments or real estate loans for citizen whose net monthly income did not exceed a certain value<sup>16</sup> and families of martyrs.

Law 21/1984 regulated the **compensation for the expropriation** of land for public benefit. Compensation only applies to: (1) land suitable for construction; (2) properties in which the owner practices his profession, crafts, or industry; and (3) plantations, trees, and agricultural farms.

Law 19/1985 regulated the **management of condominiums** (buildings with more than one owner) and coordinated the relationship between the owners, the municipality, and the service providers: "Each building shall have an association consisting of the owners from whom they shall choose a manager for the building. If its units exceed sixteen, it shall also have a council, called the owners' council, consisting of three members chosen by the association from among its members".

Law 7/1986 was one of the most problematic laws of the country. It **abolished land ownership entirely**. "(1) Land in the Socialist People's Libyan Arab Jamahiriya is not owned by anyone, and it is not permissible for it to be the subject of ownership transfers. (2) Every citizen who legally owns a land has the right to use it for work, agriculture, and herding, whenever he uses it with his own effort and the effort of his family members, without exploiting the effort of others and within the limits of satisfying his needs and the needs of his family members, and this is for his heirs after him. (3) Ownership registration of lands received prior to the entry force of this law shall be considered void. (4) Contracts for owning a land in return of planting considered void, regardless of the date of their contracts, and the occupant of the agricultural land is considered to be the holder of it under this law, whenever he meets the conditions stipulated in Article two". This law legally abolished private property ownership (houses, lands, even trucks and cars) and transferred to the tenants and workers.

After the burning of the Real Estate Registration Authority in 1987, the state issued law 11/1988 to establish a new authority. "A registry called the **Socialist Real Estate Registry** shall be established and managed by the Socialist Real Estate Registration and Documentation, and the data registered in the Socialist Real Estate Registry shall have official proof". The state later issued Law 12/1988 to detail the tasks and roles of the Socialist Real Estate Registration, how to apply for ownership, and identify the offices affiliated with the Registry that play complementary technical roles.

Law 11/1992 gave owners the right to **claim compensation** for the confiscation based on Law 4/1978. Article 7 states that "The owner of a house or a land has the right to resort to the People's Court to claim fair compensation under the following conditions: (1) the complainant should not be subject to provisions of Law 1/1982; (2) the complainant proves that the house or land that is subject of compensation is his only property; (3) File a claim for compensation within a calendar year from the date of this law; (4) The compensation stipulated in this article shall be determined in accordance with the principles issued by a decision of the General People's Committee; (5) In all cases, the court may not order the return of the house or the land referred to in this article. Law 14/1996 replaced Article five of Law 11/1992, stating that **renting housing is prohibited**. Few exceptions are contemplated: public legal persons may rent housing owned by non-permanent residents.

Law 5/1992 aimed at **protecting agricultural lands after the expansion of urban areas** over urban peripheries and the encroachment on forests: "The current plans of towns and cities shall be reviewed in accordance with the provisions of this law. It is prohibited to dispose of agricultural lands for other than agricultural investment, and to divide it with the intention of sell it to others, except after

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<sup>16</sup> Value of the basic pension stipulated in Law No. 13 of 1980

obtaining a license from the General People's Committee for Agriculture and Land Reconstruction for the utmost necessity. It is also not permissible to build on agricultural land, nor may it be divided with the intention of transforming it for any purpose other than agricultural production". Law 6/1996 replaced the article 7 of law 15/1992 as follows: "Whoever violates the provisions of this law shall be punished with imprisonment for a period of not less than three months and not exceeding a year and a fine equivalent to the damage caused by the violator to agricultural lands".

Law 17/2010, also known as law of real estate and public property, is one of the most important pieces of legislation issued by the Ministry of Justice in collaboration with United Nations Development Programme (UNDP) as part of the justice reform project. This law intends to restore, reform, and correct the **role of the real estate property registry** after the burning of the registries and the expropriation of thousands of private properties since early 1970s. This law establishes the **Real Estate Registration Authority and the State Property Authority**, as independent public institutions with the power to determine the number of branches, offices, and areas of competence necessary to achieve their objectives. The law lists the documents required to obtain an ownership document: the owner or partner, the one who has the right of usufruct, the trustee who has a monopoly or usufructuary of the endowment land, the mortgage creditor, the judicial custodian, the person who is finally convicted of a debt for the purpose of execution on the real estate, the claimant of the right over an unregistered real estate submitting the necessary documents and file registration to the competent court. The application of the ownership must include: 1) Personal data, father's name and last name, nationality, place of residence, date of birth. 2) Characteristics of agents or entrusted of the property. 3) Necessary data for the designation of the property, its description, its area, its boundaries, property contents, constructions, trees, wells, utilities and annexes with an indication of its uses, type and condition of the property in general, and everything that helps describing the property accurately.

After the political shift from the Qaddafi era to the 2011 revolution, the **Real Estate Registry was suspended** to avoid encroachments on public and private properties. The National Transitional Council of Libya issued Law 20/2015 regarding the **abolition of many laws** based upon Law 4/1978, including: all legal effects arising from the implementation of Law 4/1978 and provisions related to real estate ownership and all complementary and amending legislations; Law 21/1984 regarding the provisions for the determination of public interest; Law 7/1986 regarding the abolition of land ownership; and Law 11/1992 establishing special provisions regarding real estate ownership.

### **Land tenure insecurity**

The series of legislations introduced over the past decades to translate the changing political direction into the management of land, housing, and properties were fragmented, often not thoroughly thought through and not accompanied with a suitable land administration system. Land rights of individuals and groups were overridden, and the implementation of laws often unevenly applied. This resulted in widespread land tenure insecurity and informality, and a large number of land disputes and land-related grievances.

The Real Estate Registration Authority has not yet been able to develop a complete set of records, since the burning of the old registry in the early 1980s. Although there are no reliable statistics on land tenure security, land ownership and land use, sources converge in describing the land tenure security of people in Libya as weak. The reasons include the political use of legislation, property confiscation, expropriation of private properties, and displacement as collective punishment. Some groups living in customary areas have been forced to leave their lands because of their political loyalties or due to the tribal conflicts, especially in the western and southern regions.

Since 2014, instability and conflict led to **mass displacement**. The International Organization for Migration (IOM) estimates the presence of 350,000 displaced people<sup>17</sup> in Libya, including about 179,000 IDPs, in addition to, 662,000 returnees and over 621,000 migrants. Besides the immense human suffering, challenges related to displacement include the destruction of houses and properties, secondary occupation, the loss of documentation, reduced access to services and dispute resolution mechanisms, and limited access to civil documentation.

The cost of re-establishing a new life after displacement is very high and families struggle to overcome the disruption of the social fabric and the economic and psychological shock. Most displaced people struggle to buy or rent adequate houses, due to dramatic rise in prices. Most displaced people flee to urban areas where it is easier to make a living compared to rural areas.

**Gender inequalities** also affect the way men and women access housing, land and property rights. Although Libyan laws do not explicitly discriminate against women, men are more likely to be the ones dealing with decisions and transactions related to land and properties. As per Sharia inheritance laws, women are generally entitled to half of the inheritance shares of their male counterparts, but case of renunciation of inheritance are common and women tend to get movable personal properties, such as money or jewellery, rather than real properties.

### **Rise of real estate prices**

This crisis brought attention to the unprecedented **rise in the real estate prices** after 2011, as well as the lack of fixed standards in valuing the real estate in Libya. Some respondents cited illegal money laundry (including of wealth originated by looting of state public and private properties) as one of the causes of the increase of real estate prices after 2011. Others attribute it to internal migration and forced displacement of nearly one million citizens during wars and tribal and regional disputes. Additional causes behind the rise of real estate prices are the lack of functional land markets, the scarcity of serviced and legally subdivided land plots to satisfy the demand, and the lack of a functioning transportation network in most urban centers.

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<sup>17</sup> International Organization for Migration, 2021. Libya — Migrant Report. Round 39.

## **Box 2: Short history of land and property registration in Libya**

Libya has a long tradition in land and property registration. The land and property rights were codified during the Ottoman era, and the State has the prerogative of recording and registering such land rights and issuing the corresponding documentation. The first land and property recordation system was established by the Ottomans in 1586 and it is known as '*Daftar Khaqani*'. This early Ottoman system was operated by a council of scholars known and respected for their honesty. They were in charge of keeping this special registry that could only be opened if commanded by the Sultan and under the supervision of the scholarly elite.

The *tabu* system was introduced in 1858, and later amended in 1861 and 1867. The *tabu* certified the right of using a plot of land for agriculture: after three year of temporary ownership and paying taxes, the land user would receive the *tabu*. A subsequent ownership legislation gave the right to foreigners and companies to own properties on Ottoman lands; Russian, French and British citizens and companies benefitted from this right to build settlements and churches.

The Italian Decree 48/1913 regarding the certification of real estate rights was applied, at first, to the coastal areas and provided for the establishment of branches of the real estate registry in Tripoli, Cyrenaica and the surrounding areas. Building on the Ottoman system, with Decree 48/1913 and an additional legislation in 1934, Italy further regulated the land and property registration system to manage both public and private properties, *waqf* land and collective properties, divided in urban and rural. The Italian Law 1207/1921 defined the principles, the types, and the proofs for the establishment of real estate rights, describing the organisation and the procedures of land registration. One of the most prominent elements of this decree is the recognition of forms of evidence from previous legislations, including *tabus*, *waqf* records, judicial ruling and certificates provided by *sheikhs* or *mukhtars*, as they all contributed to give legal evidence to the ownership claims after the damages of documents, buildings and the registration headquarters during the war between the Libyans and the Italian colonialists.

The Libyan kingdom and the Qaddafi era followed with the consequent nationalization and land and property redistribution schemes. A major dramatic event that marked by the burning of Real Estate Registration Authority 1985, where most of the land and property records got lost.

## The land and property registration system

The **old real estate registration** archive had the complete set of cadastral plates for both urban and rural areas. The entire archive was burned during the unrests of 1985. Unfortunately, all the files and information of the Libyan land registry were completely burned, and there was no trace left. The regime was forced to establish a new real estate registry; however, as most files were burned and no other copies existed, the challenge was difficult to overcome. Further, the new establishment did not collect information from the previous archives, despite the legislation enacted to rebuild the real estate registry.



Figure 11. The burning of Real Estate Registration Authority 1985 (Alfajr Aljadeed Newspaper)

In current times, the **Survey Department of Libya** is responsible for the cadastral system, which is derived from the national mapping projects that began with a limited aerial photogrammetry cover on the urban areas under the Italian rule. This effort was expanded with joint regional planning programs of the Survey Department of Libya and the Urban Planning Authority.

The **spatial aspect** of the land and property registration system relies on cadastral maps based on aerial photos, which cover urban areas but not the whole country. The Real Estate Registration Authority has to develop the remaining maps from the digital images with the support of the new Geographic Information System (GIS) and Remote Sensing (RS) techniques. An estimated two thirds of the lands were covered, but over the decades the Survey Department of Libya was not able to cover all country's lands due to the financial and administration obstacles.

The latest version of the land registration processes involved every branch of the Real Estate Registration Authority, until each technical team gave the final approval for the release of the ownership certificate, or *tabu*. This **procedure** is defined by article 2 of Property Law 17/2010 regarding the control, registration, procedure and dispute of real estate rights. The accompanying Executive Regulation 433/2010 issued by the Council of Ministries states that the Real Estate Registration Authority and the State Property Authority are the sole authorized to handle all property registration procedures, including sales, leases, and transfers. It also clearly mentions that the Real Estate Registration Authority and the State Property Authority hold all rights to create, transfer, and alter private and public properties. These properties must be registered based on the requests submitted by individuals and public entities and supported by the following documents: 1) a statement filled by the applicant and approved by the relevant authority indicating the type of the property (private, public, etc.); 2) a sketch of the property site approved by a local office showing the boundaries and attributes of the property; and 3) any other documents that can constitute evidence of the ownership rights.

The procedures of **registration outside urban areas** must be approved by an appointed knowledgeable person, such as a *mukhtar*, an elder, or a well-known person who gained the experience and the knowledge of the area. This person signs the designated form by the government, indicating the boundaries of the land and the names of neighboring owners and of the witnesses. The boundaries and the witnesses' signature are recorded by the *mukhtar* and the technical team goes with the filled form to the government authority which approves the application and issues a temporary certificate subject to objection and appeal.

The alternative to the old system was limited to what has been built after the incident, yet, all initiatives and proposed projects have faced insurmountable **obstacles and major difficulties** in terms of funding and technical competencies. There had been several initiatives to unify the work of the Survey Department of Libya and the Urban Planning Authority to adopt base maps for the country as a reference for all technical and planning projects. However, those attempts and initiatives failed as a result of the lack of institutional coordination and administrative instability, where most of authorities had been coordinated constantly under several ministries and never been stable in planning and decision-making process over decades. Furthermore, the cadastral information is not linked to the spatial data such as land use, land cover, and national natural resources maps. Due to many difficulties, there have been several obstacles to approve the Third Generation National Urban Plans 2030.

Experts at both Real Estate Registration Authority and Survey Department of Libya indicate that technical issues are their **main concern** and that current budgets allocated do not meet the minimum requirements to enable them to discharge their duties and provide services to people and public administration. In addition to the financial crisis, the bureaucratic nature of the legal and administrative procedures and lack of qualified human resources and trained and experienced technical staff pose a significant challenge to the users of the system.

The bureaucracy and the usage of private services in the Real Estate Registration Authority has caused corruption in the application and the process towards obtaining the *tabu*, or ownership certificates. This kind of services has led to the establishment of an informal system for property registration. This will constitute a major challenge to overcome the process of reforming and re-establishing a functional, inclusive and effective land and property registration system.

Lastly, some respondents indicated the drift of concerned authorities towards tribal, regional, and political gains rather than focusing on delivering on their technical mandate as a major cause of concern.

## 3.2 Land value

Land valuation includes assessing land value and properties and calculating and gathering revenues through land-based taxes. The land valuation is an important factor to govern urban development, control land prices, and establish functioning land markets that can sustain investments and re-invigorate the economy.

### Value and price of land

The estimated **value of the land** is based on the following considerations: location within the city, including proximity to places of urban significance and the conditions of the land plots; compensation offered for comparable properties during expropriations for public use in the same year; and minimum and maximum estimated values of land in each section of the city. In terms of taxes, the law imposed a **tax on vacant lands** within urban limits at 5.2 per cent, annually, of its value based on the minimum value of January of each year, however, taxes do not apply to public lands.

Previously, Law 116/1972 was established to keep the price of land under control by prohibiting the **speculation on urban vacant land**, so that vacant land could be available for construction at reasonable prices and that the state could implement urban development projects. To control land prices, the law asserts that the prices of vacant lands within cities' master plans shall be fixed to year 1964 estimated value, with increase of 5 per cent for each subsequent year. The law also describes how to calculate the value of subdivided lands.



The **price of land** has increased dramatically since 2014. During the interviews conducted for the preparation of this report, the majority of respondents confirmed that land and property prices are unaffordable in both urban centers (76 per cent) and rural area (68 per cent). According to UN-Habitat, housing is affordable when the house price is not more than three times the annual household income (or the monthly rent is less than 30 per cent of the monthly household income). The respondents to the questionnaire stated that purchasing the house where they currently live would now cost the equivalent of 7 to 50 years of income, clearly highlighting a major affordability issue. Such rise of prices, combined with the dysfunctional land registrations system, hinders private and public investments.

An official system for the **valuation of private properties** does not exist and there are no licensed valuation experts that can be depended on. Property valuation is done by the private market outside of the control of governmental ministries and authorities, and linked to the private property offices, where all transactions - such as selling, buying, and leasing properties - are done.

As confirmed by government's officials, there is an institutionalized method to assess the **value of public properties** rented to individuals, still based on the prices of two decades ago (not more than 15-20 per cent of its current market value). The interviewed respondents proposed a change in the valuation of real estate properties to be more in line with market prices. The State Property Authority has official appraisers for its properties and for the real estate registration process. Many private appraisers are also present on the market.

### **Land and property taxes and fees**

The Libyan land and property taxation is part of the national taxation system under the responsibility of the Libya Tax Authority. The property taxation was established during the Ottoman era and extended by the Italians, in both urban and rural areas.

Law 21/1968 is the first tax law issued in Libya, followed by Law 64/1973, Law 2/1986, Law 11/2004, and lastly Law 7/2010<sup>18</sup>. **Taxes on vacant land** are allocated and distributed by the Council of Ministers to municipalities, according to their urban development projects' needs (as per Law 116/1972). This law, through its detailed articles, set the necessary regulations and tools to control land prices. In 2007, the mandate of collecting the taxes described in Law 2/1968 was shifted to local and regional taxation branches, but the low amounts collected, tax evasion and corruption are hindering the effectiveness of land and property taxation as a mechanism to generate resources for local development.

Land and properties taxes are considered generally very low, and many social groups and types of lands and housing are exempted. The Ministry of Finance collects taxes and oversees the tax collection process in coordination with the Survey Department of Libya that is responsible of producing the cadastral maps. The Libyan Tax Authority, through its competent offices, is responsible for receiving and collecting tax returns and initiating other related procedures.

Interviewed public officials consider legislation on land-related taxation insufficient. Furthermore, only registered properties are taxed. As most properties built after 2011 are not officially registered, they are not included in the annual fiscal taxation collection.

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18 libyanaccountant (2021). Tax and summary of Libya's tax law. Retrieved from Libyan accountant: <https://libyanaccountant.blogspot.com/>

There is a **tax on urban housing** and related land. Many tax exemptions, however, exist, including for: homeowners already exempted from paying the installments of building construction and ownership loans; lands whose area does not exceed five hundred square meters; owners of dwellings whose covered area does not exceed specified limits, as following<sup>19</sup>. The tax on housing is set at one dinar for each square meter that exceeds the exemption limit, provided that it is not less than seven dinars as a minimum. The tax on land attached to housing is set at five dinars for every hundred square meters that exceeds the exemption limit stipulated in this law. This is a very low tax on properties and still estimated with the value of decades ago.

This land administration function is not extensively legislated upon, reflecting the scarce understanding and interest in this important field, a weakness in the Libya’s land administration system. Most of the taxation laws were never amended or updated after having been issued. Unfortunately, no consolidated data exist neither on properties nor on the property taxes.

### 3.3 Land Use

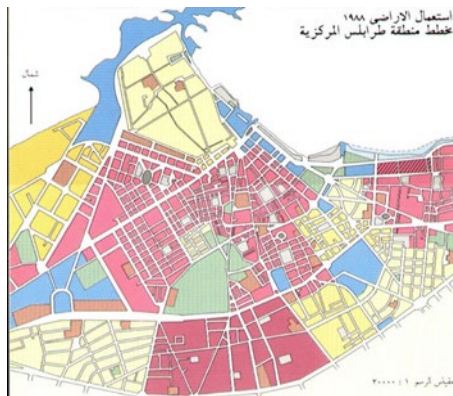


Figure 12: Land Use Tripoli (Survey Department of Libya, 1978)

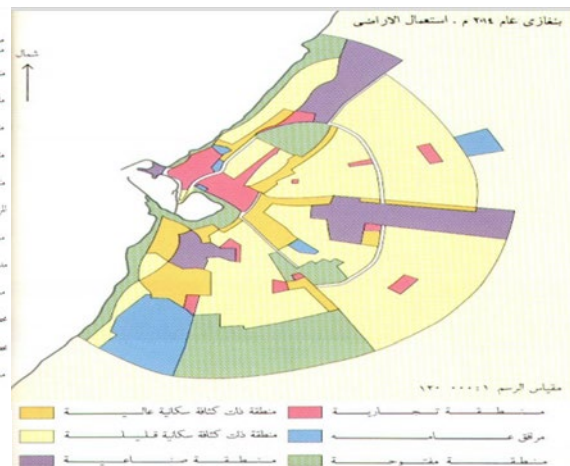


Figure 13: Land Use Benghazi (Survey Department of Libya, 1978)

Before 2011, Libya’s authorities dedicated a great amount of attention in regulating and advancing land use strategies and plans. Libya had three urban planning and development schemes (or generations) in the period of almost four decades.

Law 3/2011 is comprehensive and detailed in legislating the urban planning functions. It provides definitions and objectives, defines the competent authorities, and describes the planning types and levels: national plans, regional plans, local plans, and urban plans, to be complemented by integrated utilities schemes. The country is divided into four planning regions: Tripoli, Benghazi, El-Khalij, and Fezzan Regions, which have been the cornerstone of the Libyan planning system since 1960s. In

<sup>19</sup> 150 meters for a dwelling inhabited by three people or less, 270 meters for the dwelling inhabited by four to seven people, 320 for a dwelling of eight to ten people, 500 for a dwelling of more than ten people.

contrast, the regional and local planning divisions have changed several times, resulting in negative consequences on cities and towns' land use, structures, and landscape.<sup>20</sup>

Figure 14 shows the map of national administrative division in 1970s with only 10 provinces, while Figure 15 shows the increase the number of provinces during 1970s and 1980s to 24 provinces. Their boundaries have changed again in the 1990s and 2000s, resulting in 33 provinces. Recently, the Ministry of local Government has approved about 101 municipalities, replacing the provinces system that was established in late 1950s.

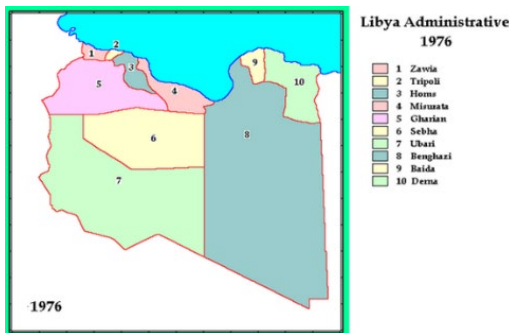


Figure 14: Libyan Provinces (Baladiat) 1976 (ZUM, 1976)

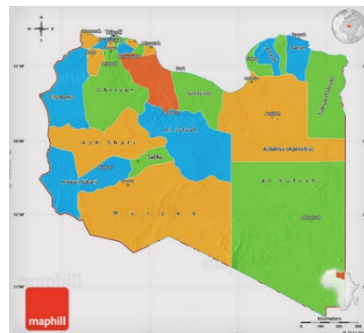


Figure 15: Libyan Provinces (Baladiat) 1984 (Maphill, 2011)



Figure 16: Planning Regions 2005 (ESRI, 2006)

### The three generations of plans

**The first planning generation** covered the 1966-1980 period and resulted in the creation of master and layout plans for several cities and towns. These plans were developed at the same time as the country's first economic plan after the discovery of oil. Dramatic economic and social changes took place during the late 1970s when oil revenues were directed to building infrastructure and developing the economy. The planning authorities evaluated the first-generation plans in preparation to the second planning generation. This was done in the context of increased revenues from the oil resources and of the national social transformation that required revising the plans to meet the new demands in infrastructure and services.

**The second planning generation** (1980-2000) addressed the lack of national integration and aimed at building a solid planning foundation, connecting town and regional plans to the national planning system. The first-generation plans lacked a comprehensive vision, a gap that the second-generation plan aimed at filling. This new planning phase envisaged: (1) National Physical Perspective Plan 1980 – 2000; (2) Provision Regional Development Plans; (3) Sub-regional Plans; and (4) 244 urban plans consisting of master plans, layouts, and detailed neighbourhood plans.

<sup>20</sup> Urban Planning Authority, 2006. National Spatial Planning Policy.

**The third generation of urban plans** covered the 2000-2025 period. The Urban Planning Authority (UPA) collaborated with the Ministry of Planning and UN-Habitat to prepare the third-generation plans, aiming particularly at addressing the shortage of lands for housing and the expansion of urban areas over arable lands. This new generation of plans aimed at managing the regional and sub-regional planning schemes and undertaking in depth studies on social and natural resources<sup>21</sup>, in coordination with economic planning institutions. The most important goals were a national framework and guidelines for urban planning policies, and the production of digital data at the regional and sub-regional scale. Significant efforts were placed on the training of the technical staff, including with the support of UN-Habitat.

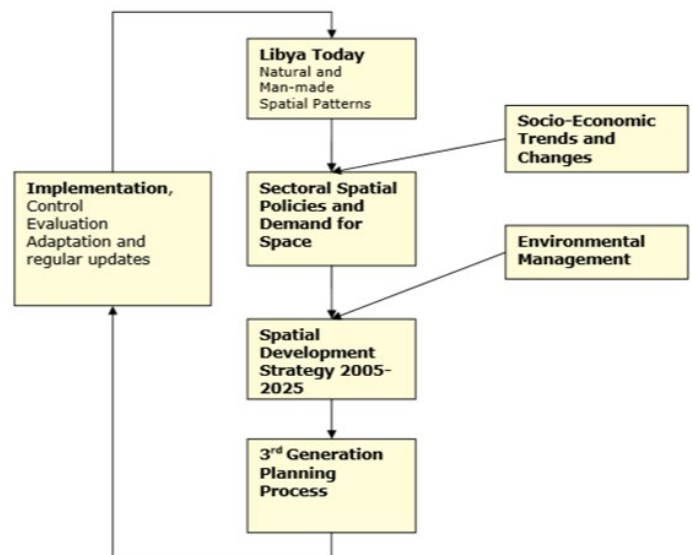


Figure 17: The process of the spatial planning of the third-generation of urban plans, including several components of natural physical planning, spatial policies, the environmental management, and the development strategies.

The implementation of the third-generation plans was affected and halted by the conflict started in 2011 and the subsequent instability.

### 3.4 Land Development

In land administration, the land development functions deal with the implementation of the plans. This includes planning and regulating construction, building services and infrastructure, acquiring land for the public, changing land uses, land use permits, distributing development costs, and the like.

The development planning system has gone through different stages, starting from the 1963/1969 plans. In 1966, the Ministry of Planning announced the national plan and the preparation of urban plans, general and master plans to be conducted through two consultancy firms in Tripoli and Benghazi. The development plan included housing projects and transportation infrastructure. The Ministry of Local Government in collaboration with the Ministry of Planning and the Ministry of Housing and Construction established the national housing and infrastructure plans.

The Ministries of Local Government, Planning, and Housing and Construction prepared the first comprehensive **urban and town planning law**, Law 5/1969<sup>22</sup>. This law defines the role and duties of the Urban Planning Authority in overseeing planning and certification, legal foundations, laws and acts, establishment of roads, land subdivisions, land use and classification, buildings, informal settlements, responsible and involved parties, management of transitions and punishments.

Law 32/1977 amended a few articles of Law No. 5/1969 and further defines the regulations for the **construction on roads and highways** within and over urban areas. Building closer than one hundred meters from the **seashore** is forbidden, with the exception of facilities designated for tourism

<sup>21</sup> Urban Planning Authority, 2006. National Spatial Planning Policy.

<sup>22</sup> Aroma, A., 1998. Libya: The development of Cities and Urban Planning. Beirut: Multaqa Printing and Publication.

purposes by the government or public authorities. This law gave municipalities wider scope and powers regarding tax collection, infrastructure projects, management of housing projects and public utilities, and land management.

Law 5/1982 protects **agricultural lands and forests**. It defines forests, reserves, protected pastures, private forests, and trees that need to be protected and defines the penalties for those acting in violation of the law. Law 7/1982 protects the **environment** from urban expansion and other encroachments. It defines the environment and the prohibited pollutants, defines the role of the authorities in charge of law enforcement, and states the need for local, regional, and international collaboration with the Libyan Environment General Authority to protect the environment.

### **The challenges**

Over decades, there were continuous changes in the political and administrative system, shortage of technical capacities and funds greatly affected the work of planning and development authorities and delay the implementation of the master plans.

The main land development challenges of contemporary Libya are regulating the urban sprawl around urban centers, maintaining and developing new infrastructures and services, such as roads, waterlines, and electric power plants, sewage, dams, and rainwater drainage.

Urbanization became a significant phenomenon since the 1970s. Even though population growth rate declined sharply from 5.1 per cent in 1973-1984 to 1.8 per cent in 2006-2020, cities kept growing and the country is now over 80 per cent urban. This phenomenon also brought along an “urban bias”<sup>23</sup> or the dominance of urban needs over rural ones in policy making and government’s decisions, further contributing to the decline of rural areas. The economic transformation determined by the rise of the oil sector and the decline of the agriculture sector resulted in a sharp increase of food imports. The consequences of the disparities between different sectors, economically and geographically, increased the disparity in the population concentration across the country<sup>24</sup>.

Large cities, particularly Tripoli and Benghazi, expanded rapidly over surrounding arable lands, affecting natural resources and the environment. Peri urban agricultural areas face water shortages and desertification. The loss of arable lands increased the demand and therefore the price of land, causing land conflicts and increasing pressure on the planning system.

The lack of basic services in rural areas has pushed many people, and particularly the youth, to move to cities in search for a better life and job opportunities. The gap between rural and urban communities continue to widen. The shortage of adequate housing in the rapidly expanding urban area keeps increasing, and so are the prices.

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<sup>23</sup> Hope, K. R., 1998. Urbanization and Urban Growth in Africa. *Journal of Asian and African Studies*.

<sup>24</sup> Ghanem, S., 1987. The oil industry and the Libyan economy: The past, the present and the likely future. In *The Economic development of Libya*. Croom Helm London.

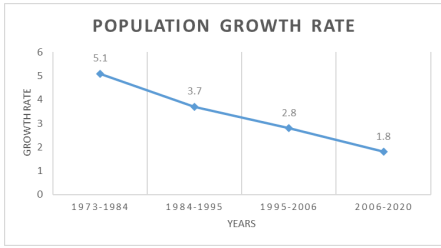


Figure 18: Population growth rate 1973-2020 (LIA, 1973, 1984, 1995, 2006)

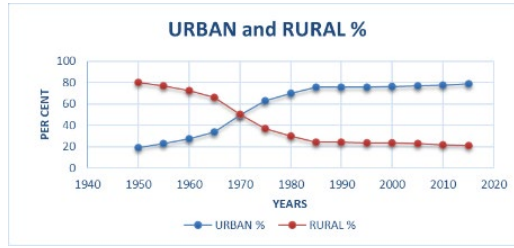


Figure 19: Urban and Rural Percentage 1950-2015 (UN-DESA, 2014)

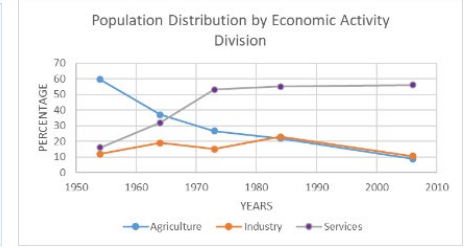


Figure 20: Population Distribution by Economic Activity Division (General Information Authority, 1973, 1984, 1995, 2006)

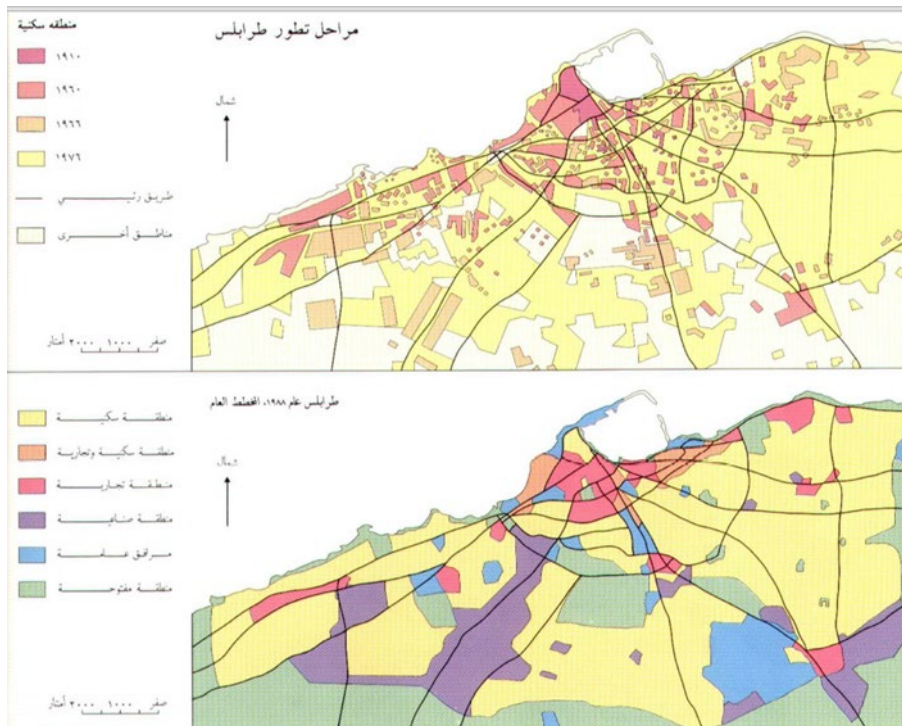


Figure 21: Urban growth of Tripoli (Survey Department of Libya, 1978)

### 3.5 Land dispute resolution

Land related disputes arise from competing interests and needs over land tenure, land use, land value and land development in any contexts. Countries with fragile institutions, weak land administration systems, and affected by conflicts – like Libya – have a higher prevalence of such conflicts and are generally less effective in resolving them. This aggravates land tenure insecurity, prevents investments and has overall negative consequences on the functioning of the land sector.

Further, the many changes in the land tenure laws and the unresolved land rights' disputes that arose from such changes created over the years layers of land rights violations, dispossessions and forced evictions that undermine peace and reconciliation efforts in contemporary Libya. Over decades, tens of thousands of properties were confiscated often without adequate or no compensation at all and redistributed to categories of beneficiaries often selected based on political loyalty. Properties confiscated are estimated to be between 56,000 to 75,000, but only 25,148 requests were submitted



to the compensation committee since 2006<sup>25</sup>. Such historical injustices and grievances call for a renewed attention on the land disputes' resolution mechanisms.

In Libya, there is a plurality of dispute resolution mechanisms: the formal courts system, peace and conciliation committees, social committees and customary solutions at the level of tribes and families.

### **The formal court system**

The formal civil legal system in Libya mostly draws from the Egyptian and Islamic legal traditions. In its design it is comprehensive, as it deals with all disputes among individuals and the public, including those related to land. The system has significant weaknesses: it is extremely slow and cases take very long time before the final rulings are issued, there is low capacity among the personnel, it still operated manually and has not been digitalized. The lack of enforcement of the court decisions has been the main concern for the people seeking justice. Many respondents showed a low level of confidence in the ability of the system to deal with the current situation and only 4 per cent of the respondents indicated that they trust it (Questionnaire by the author, 2021) while a large number of respondent (40 per cent) was not even sure that such system is still functioning. Many land users and landowners, either individually or through owners' associations, recur to other avenues to manage their dispute, with some levels of success.

### **Alternative disputes resolution systems**

The weaknesses and limitation of the formal court system led to an increase in those who resort to alternative mechanisms. Over 70 per cent of respondents declared to be aware of such mechanisms that include peace and conciliation committees, social committees and customary solutions at the level of tribes and families. Such "social dispute resolution systems" rely on the elders of families and tribes, considered the wisest and most experienced people. They take the lead in discussing and deciding on the controversies based on their knowledge. The enforcement of the decisions is the result of the credibility, influence and respect of the elders within the society.

### **Women's access to justice**

Women's access to justice did not emerge as a key area of concern in the interviews conducted during the preparation of report. Most state that, with the exception of inheritance's shares and renunciation practices, women and men are treated equally by the law and Libya's civil law provides severe penalties for the violation of women's rights. Insufficient information was found to assess whether discriminatory practices are widespread, in contradiction to the legal provisions.

### **Priorities**

Most respondents agreed on the fact that Libya's authorities should take urgent **action to mitigate the negative effects that Law 4/1978** had on expropriation and reallocation of residential and commercial properties and the resulting tensions and disruptions of the social fabric of the society. Many of the recipients of these properties received ownership certificates from the Real Estate Registration Authority in early 1980s, although the burning of the Real Estate Registration Authority in 1985 led to the destruction of many of these and other records. Disputes and grievances about Law 4/1978 and its implementation run through decades of Libya's history.

To address the disputes arising from it, the Council of Ministers issued Decree 108/2006, defining the procedures for compensations of expropriation based on Law 4/1978. A High Committee led by a

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<sup>25</sup> Ibrahim, S., & Otto, J. M., 2017. Resolving real property disputes in post-Gaddafi Libya, in the context of transitional justice. Van Vollenhoven Institute.

judge and composed by additional sub-committees was established to solve the disputes and overcome the negative effects of the law over the decades, particularly in Tripoli where most economic activities and properties are located. Affected owners had hoped that the 2011 revolution would have led to administrative and legal changes resulting in the restitution of their properties or in a fair compensation. The Affected Owners Association was established to fast-track the process. From their perspective, there are two essential points: (1) the delay in resolving the crisis, as compensation was still not paid to the majority of the owners, and (2) the dispute around the value of compensation which was set to only 20 per cent of the current value. Even though conspicuous amounts were allocated by the former government for compensation, those who requested it after 2009 have never received it due to the mismanagement and the lack of real political will to solve such issue, as stated by Affected Owners Association<sup>26</sup>.

On the other hand, many experts and officials from concerned authorities highlight the importance of protecting the rights “new owners” as per Law 4/1978, as they received their ownership rights lawfully, their ownership certificates are legally valid, and they have been using their properties for decades. The disappointment and disillusion about the lack of action of the new government and of the legal system on this front is still an open wound in Libya’s reconciliation process.

**Other key areas** where a functioning land disputes resolution system will be crucial include addressing historical injustices and deprivation of land rights in customary and pastoralist areas, regularization of land and housing rights in informal settlements, addressing secondary occupations due to displacement, clarification and regularization of housing, land and property rights in the registry.

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<sup>26</sup> Hemali, O., 2021. Affected Owners Association and Laws of Confiscated Properties No. 4 No. 88 (A. Attwairi, Interviewer).

## 4. Recommendations

### 4.1 Summary of the challenges

The good management of land and land-based resources is essential for Libya's social and economic development and environmental sustainability, both in urban and rural areas. The protection of housing, land and property rights and the resolution of disputes and historical grievances over ownership and use rights will significantly contribute to peace and stability and will enable the enjoyment of connected rights, including an adequate standard of living, protection from violence and health hazards, adequate housing, and food security.

Land management has solid legal, institutional, and administrative foundations in Libya, and it is supported by rich spatial planning and land registration traditions. However, at present, people face widespread land tenure insecurity, dysfunctional land registration system, encroachment and illegal appropriation of private and public properties, unaffordable land and housing prices.

The hike in the cost of lands, coupled with a dysfunctional land registration system, severely constrains public and private investments, negatively affecting economic development and the quality of life of the 80 per cent of people living in urban centers. Unregulated urban expansion is creating large and un-serviced informal settlements in urban fringes at the expense of agricultural areas and forests, increasing land degradation and desertification and exposing the communities to health and environmental hazards.

### 4.2 Overall recommendations

#### Process

The recommendations presented are based on the information gathered in the report. They are initial suggestions intended at triggering further discussions and engagement on the topic of land management and land administration. It is the hope of UN-Habitat and the Global Land Tool Network that such recommendations will contribute to the establishment of a **nationally led multistakeholder process for the reform of the land sector** and lead to the implementation of key priority actions, with the technical and financial support of national and international actors.

The preparation of a **national land administration strategy** for Libya is recommended, incorporating the principles of fit-for-purpose land administration and successful national and international experiences from comparable contexts. The strategy must: set out the main objectives of a reformed land administration system; identify the reforms needed in the spatial, legal, and institutional frameworks; define and guide implementation of priority interventions (e.g. the re-establishment of a functioning land and property registration system, the resolution of disputes over land ownership, etc.); and define the capacities and resources needed to implement and sustain the reformed land administration system and its interventions.

#### Legal framework

The succession of foreign rulers and national governments with different political orientation left marks in the legal and institutional land administration framework of Libya. This calls for the **review, harmonization, and modernization of the legal provisions**. New legislation will have to be introduced to address some of the burning land-related issues that are still destabilizing the Libyan society (e.g. the consequences of Law 4/1978 and Law 39/1973, etc.).

**Trust** in the legal system and in the authorities must be restored, including by enforcing rule of law, fighting corruption, protecting land rights and enhancing the land administration system overall.

## **Institutional arrangements**

The various **land administration functions** are performed through several **institutions** at national and regional levels. The fluidity of the institutional architecture severely constrains the functioning of the overall system. It makes it difficult to assess and (re)define mandates and roles of individual authorities, identify the areas and modalities of collaboration, and to improve and simplify the workflow of land administration processes that require the intervention of different authorities.

In the interim period, further **changes should be minimized**, until a clear vision for a modern land administration system that responds to the need of the contemporary Libyan society is developed and a revised institutional structure is proposed accordingly. Some of the experts consulted advocated for the unification of the land administration functions and their dedicated specialized institutions under one umbrella; others advocated for simplified and better-connected workflows and processes, supported by digitalized systems. The range of options is wide, and technical and political aspects are to be taken in consideration.

Authorities and institutions with functions related to land administration must have **clarity on their mandate**, expected results, processes and procedures. An incremental approach can be introduced to start with the implementation of the most essential functions and progressively expand and evolve. Equally, **institutional coordination** should be ensured, with clear guidelines.

### **Re-establishment of the registration system**

The suspension of the land and property registration should be lifted at the soonest and the land registration system should be re-established.

An adequate **preparatory process** should be undertaken before lifting such suspension, to define the timeline and the steps that will be taken to review, clear and formalize the informal or incomplete land transactions occurred from 2011 to present. The role of involved institutions and other stakeholders (e.g. owners' associations, communities, etc.) should be defined.

At the same time, a detailed **review of the land and property registration** process and system should be undertaken to simplify, digitize and align it as much as possible with the principles of fit-for-purpose land administration<sup>27</sup>. This reform can be implemented incrementally. The new records brought into the system can have a different status than those from before 2011 for a transitional period, to allow competing claims to be filed or objections to be raised. Different or lesser type of evidence and supporting documents could be allowed. Similarly, a simplified process for **updating existing records** (e.g. record transactions, inheritance, etc.) should be established.

The reform of the registry could envisage the creation of a **unified, multipurpose cadastre** that hosts all different type of private, public and communal properties, tax records, etc. Alternatively, the different sets of land-related registries could be **linked**.

The **digitization** of the land and property registry also needs to be considered. It will reduce costs, increase transparency, facilitate data analysis and evidence-based decision making, and ease the safeguarding of the copies of the records and of the maps. The further decentralization of the services can be considered.

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<sup>27</sup> UN-Habitat/GLTN, Kadaster International, 2016. Fit-For-Purpose Land Administration: Guiding Principles for Country Implementation.

The development of the **technical infrastructure** and of the **capacities** of the personnel from the concerned institutions should be developed, in partnership with organizations already active in the country and in partnership with international organizations with experience in the field.

### **Spatial framework**

The **national spatial framework** has solid foundations and its improvement and updating should be a key element of the national land administration strategy. The gaps of Libya's spatial framework should be assessed and necessary reforms should be introduced, starting from introducing **national standards** for the data produced, confirming the **national geodetic reference frame** and the positioning systems to which the large amounts of spatial data already available should be linked - including existing satellite and aerial imagery, existing cadastral maps, topographic surveys, the national base maps prepared by the Initiative of Libyan Spatial Data Infrastructure and others.

A **complete, digital cartographic system** should be developed using existing information and new technologies. A full set of digital cadastral maps should be prepared.

A system of **national and regional information centers** should be established building on existing authorities and institutions, and promoting public-private partnerships.

**Digital transformation, data interoperability and accessibility** should be prioritized. This will reduce the costs of updating and maintaining land-related data, increase transparency, and make land information more accessible to decision makers.

### **Capacity development**

The successful functioning of the land sector will not be possible without capacitated institutions and individuals. **Skilled human resources** should be sourced locally as much as possible. The **education and training institutions**, such as the universities, have a key role to play to form the Libyan youth in land governance, and the various land administration disciplines (planning, surveying, law, spatial sciences, public administration, IT and remote sensing, etc.). Their **curricula should be reformed** and adapted to respond to the modern needs of the Libyan land sector.

On the other hand, the land administration sector should be reformed to be able to function as much as possible with the human resources already available in the country, rather than relying heavily on international experts and consultancy companies. This is one of the key principles of fit-for-purpose land administration.

## **4.3 Land tenure**

Ensuring **land tenure security** and providing **adequate housing** for all is a priority for Libya, as these two elements directly contribute to peace and stabilization. A range of options should be explored: clarifying, recording and registering land and housing rights of people living in informal areas that can be regularized, facilitating private investments in the housing market for all income groups, resolving outstanding disputes over housing, land and properties (including for those who saw their properties expropriated following Law 4/1978), reconstruction or repairing of destroyed and damaged properties, etc.

The **rental market** needs to be further assessed and its functioning enhanced by ensuring that rental contracts are correctly used and equally protect the rights of the owners and the tenants. It is estimated that most properties are now rented for less than a quarter of their market value, which can create distortion in the rental market, disincentivize the rental offer, and increase the number of vacant houses.

A **review of the land tenure types**, and related rights, should be undertaken to assess if they match the needs of modern-day Libya. Some of the aspects that would benefit from a review: the communal rights of tribes, pastoralists and other agrarian communities; the type of short-term use rights for land and housing (e.g. individual and collective rental agreements over public or private land); the required administrative and legal requirements for the parties entering in such short-term agreements; the type of land tenure options available for internally displaced people, refugees and asylum seekers and migrants; etc.

Attention should be given to the protection of housing, land and property rights of **women and vulnerable** groups. Sex-disaggregated data should be collected, to assess the level of concern based on evidence. Successful regional approaches should be domesticated and promoted, in line with the key messages “Empower and Improve the Life of Women by Protecting their Land, Housing and Property Rights in the Arab Region”<sup>28</sup>.

#### 4.4 Land value and taxation

All consulted experts agree that land valuation and taxation require further attention, particularly to mitigate the striking increase in the cost of land and properties. **Land markets need to be monitored and regulated**. A mechanism to monitor the cost of purchasing and renting land, housing and properties is needed. This will have a stabilizing influence that will enhance the confidence for those investing in construction projects.

Apart from the State Property Authority, since the 1980s the state has withdrawn from its oversight role to the valuation of the real estate, and all valuations are now conducted by private sector market actors. Principles and methodologies to guide **valuation** should be re-introduced. Finetuning the valuation methodology is also important for (re)establishing adequate restitution, compensation and disputes’ resolution processes that can resolve the long-standing conflicts and challenges left by the expropriations that followed Law 4/1978.

The **taxation** of land and properties is very limited. Taxes and fees are very low, many categories are exempted, the collection rate is low, and the authorities do not look at land and property taxation as a useful tool to generate financial resources to be invested in local development. Taxing land and property will help curbing the astonishing increase in the price of urban and peri urban properties. Some respondents also encouraged the introduction of taxes on vacant lands. An in-depth assessment of this instrument is required to better understand how to deploy it more effectively to mitigate the land markets distortions, direct development and generate resources.

#### 4.5 Land use and development

The discontinuity in spatial planning efforts has left a gap that contributed to haphazard urban expansion, balanced national development, and lack of protection of public land and common resources. **Planning efforts** at the national, regional and city level should restart at the soonest. The Third Generation Planning phase should be reshaped, or a new phase should start with new long-term goals that consider the much changed social and economic conditions and needs on the ground.

Planning tools should be modernized, and the process should be better coordinated with other sectors and other land administration functions. Multistakeholder **participatory approaches** should be

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<sup>28</sup> UN-Habitat, 2022. Empower and Improve the Life of Women by Protecting their Land, Housing and Property Rights in the Arab Region.

promoted, including all specialized institutions, private sector and other relevant actors in the development of the plans.

An urgent aspect to be managed is the massive expansion of cities and the presence of new slums that exacerbate the problems of basic services, infrastructure, waste management and transportation that cities already had. City-wide strategies should be put in place to control the expansion of **informal settlements**, decide which areas can be regularized and upgraded and prioritize integrated interventions at the neighbourhood level. Suitable and possibly serviced land should be made available to direct urban expansion (or the densification of existing settlements) towards formal and planned areas.

Spatial planning solutions should also benefit **displaced people**, refugees, migrants, and landless categories, ensuring that they are not left behind.

#### **4.6 Land disputes resolution**

Significant efforts should be dedicated to the resolution of old and new disputes around ownership or use rights over housing, land, and properties. This is very important for peace and reconciliation, for the re-establishment of a functioning land and property registry and to unlock financial investments.

It is worth considering putting in place a **transitional justice mechanism** dealing with land disputes in bulk, after their categorization in main typologies. Clear policies and procedures should support such transitional justice mechanism but also the deliberations of the various parts of the justice system (formal, customary, community based...).

The **judiciary** as well as the **alternative disputes' resolution mechanisms** should be strengthened, and their interface should be clarified to ensure the various disputes' resolution mechanisms work well together and do not undermine each other. Digitalization, effective decentralization, and capacity development are some of the interventions recommended.



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## ABOUT THIS PUBLICATION

This report is a contribution towards the improvement of land management and land administration in Libya. It provides a description of the legal, institutional and spatial land-related frameworks in the country, and it analyses the key land administration functions: land tenure, land value, land use, land development and land disputes' resolution. A list of recommendations complements the analysis, with the intention to trigger further discussions and interest in engaging on the topic. The report targets a broad audience of land actors such as public officials, land professionals and practitioners, UN agencies, development and humanitarian stakeholders, civil society, and academia.

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