

Land Grabs and the Arab Spring: A Chronicle of Corruption as Statecraft

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The people's land has been a subject central to the Arab awakening. Much of the media have focused more on the mass mobilization in urban centers and the priority of reestablishing central institutions of state. However, a subtext to that story is the deep and complex corruption schemes that characterize the defunct regimes, including their endemic land grabbing practices.

This article considers four states undergoing transformation as part of the "Arab spring" initiated in the form of popular uprisings. It considers the legally liable state as the entity defined by (1) the territory (land and its corresponding natural resources); the people (or peoples) who inhabit the territory and (3) the institutions that manage relations (rights and obligations) among the peoples, the territory and its natural resources as government and other public institutions. These aspects of statecraft are subject to the seven over-riding principles of the International Covenant on Economic, Social and Cultural Rights (Articles 1–3), which guide the state to ensure that all of the enshrined rights are respected, protected and fulfilled by implementing self-determination, nondiscrimination, gender equality, the rule of law, progressive realization (nonretrogression), the maximum of available resources and international cooperation.

The subject of land in this article reviews official-level investigations into the privatization of national resources in four states that accompanied the impoverishment of citizens. While the treaty-bound principles explain "how" specific rights are elaborated in the Covenant. The specific rights concerned are those that are highlighted by the pattern of violations taking place across the Middle East/North Africa (MENA) region. The immediate problems addressed in this report relate to common housing rights conditions across the region that arise from a failure to apply the over-riding principles of implementation effecting normative content of the right to adequate housing and related human rights. These amount to common violations of specific elements of the right to housing, including:

- Access to public goods and services, ranging from poor water quality and distribution to urban planning as a public service;
- Habitability of housing in the form of squalid living conditions for millions;
- Secure tenure guaranteed by law, the violation of which often manifests in the denial of property through government-imposed forced evictions, destruction and/or confiscation.

In certain cases, corruption in the land sector also has affected the human right to food and food sovereignty directly by monopolistic practices and denying needy citizens access to land as an essential productive resource. In addition, the mismanagement of the state's land resources has violated related "process" rights, including rights to:

- Information² and education³ related to equitable access to land necessary for realizing the rights to adequate housing and food;

- Participation⁴ and the principle of free, prior and informed consent of the affected populations;⁵
- Access to justice, including judiciability of the concerned economic, social and cultural rights.⁶

Extreme violations across the region are characteristic of the dramatic deprivation resulting from occupation and demographic manipulation of entire regions, as in the occupations of Palestine and Western Sahara. However, similar practice prevail within territorial states, notably involving Sudanese territories (e.g., Darfur and Nuba Mountains of South Kordofan) and Iran's Persian Gulf coast region of Arab Ahwaz. The composite of these human rights conditions and corresponding state obligations urgent needs to ensure sustainable governance within states and across the region.

The long chronicle of opposition to regimes in Bahrain, Egypt, Libya, Morocco, Syria, Tunisia, Yemen and other states tell of various forms of land grabbing by political and military elites. Taken together, these form a common narrative that promises now to reshape new constitutions, legislation, policy formulation, social mobilization and transitional-justice processes for years to come.

Toward that eventuality, this article presents examples of how land grabbing has taken place, as revealed in national-level investigations in the recent period. Now public information, these chronicles of dispossession in Bahrain, Egypt, Tunisia and Yemen exemplify the decay of statecraft affecting real estate and corresponding human rights obligations, including ICESCR inspired norms for assuring access to productive agricultural lands and fisheries that local communities need for subsistence.

This is not to say that the impetus for the confiscations and other fraudulent deals emanate from an elite passion for farming and fishing. Rather these practices represent the pursuit of self-enrichment by all available means.

A witness of prime land grabbing by the former Tunisian first lady's family characterized the practice: "They took the people's lands," she said. "The Trabelsis are like cockroaches. They fed on everything."⁷ While land grabbing is standard across the embattled regimes, that aspect of State corruption is integral to a wider global phenomenon.

Tunisia

As a final act of Tunisia's Ben Ali regime in January 2011, the outgoing presidency established three committees to guide the transition, including a National Commission for Establishing the Facts about Corruption and Embezzlement. In November of last year, the Commission characterized the subject as "a set of interrelated elements interacting with each other so that the movement of any element of which has implications for the rest of the elements." The Commission's report explained how the corruption regime gradually spread and tightened its grip on all state institutions, distorting economy, judiciary, political institutions and social development.

The Commission received more than 10,000 files, investigated over 5,000 and referred about 300 cases to the judiciary. Certain administrative institutions did not cooperate with the Commission, such as the Ministry of Justice and, to a lesser extent, the Central Bank, which refused to provide information for the crucial 2006–10 period.

With available information, including that provided by victims, the Commission ascertained that the majority of corruption took place at the intersection of administrative authorities and economic institutions, and fraudulent land deals were at the forefront of corruption cases. The Commission uncovered the mechanisms of corruption to shed light on just how the executive, for example, rezoned agricultural or fallow land for construction, or from one type of built-up land to another, thus, multiplying the economic value of the land several times for the land-holding members of the former president's extended family and their close associates. The Real Estate Bureau is implicated in forging titles to land suitable for construction and illegally turning over state land for privatization at cheap prices, and sometimes for a symbolic one dinar, as has been the case with farms turned over to ministers and others close to the former president. This practice arbitrarily annulled standing contracts between the state and local peasants who had cultivated the land for many years.⁸

This practice linked with transactions of all kinds subject to state-sponsored nepotism that served the ruling elite, by licensing certain economic activities ranging from distribution of automobiles and industries such as manufacture and sale of sugar and alcohol, and the importation of certain grains, fruits and various other goods under the monopolistic control of the president's entourage. These measures sank many independent Tunisian enterprises into bankruptcy and eroded the national economy.⁹

Much essential food production and distribution in Tunisia came directly under the control of the ruling clique not only by land grabbing. Beyond the production side, distribution and importation also formed part of a ubiquitous and integrated system involving most economic fields within the state, encompassing trade in everything from wheat to second-hand clothing.

These revelations at the source of the "Arab Spring" have echoed across the region, shedding new light on the nexus between corrupt governance and the mismanagement of land.

Egypt

After Egypt's revolution of 25 January brought about the fall of its former president and his cabinet members, we have witnessed the trial of some prominent figures involved in land corruption, led by the Mubarak clan. Their methods included land speculation, investment in real estate, the privatization of public-sector companies, construction, capital investment, public procurement and maximizing profits from health-sector investments to coincide with the deteriorating public-health system.

Already the issue of land grabbing, real estate fraud and corresponding human rights

deprivation had reached the level of national discourse well before opposition forces converged on Tahrir Square. People's Assembly deputy Gamal Zahran announced in a 12 November 2007 parliament session that the state had lost some L.E. 800 billion (€98 billion) through illicit privatization of Egyptian territories and benefits distributed to senior officials and businessmen. The estimate was based on a revelation by Major General Engineer `Umar al-Shuwadafānī, head of the National Center for Land Use, when he announced that the land mafia already had seized some 16 million feddans (67,200km²) of the Egyptian people's land.¹⁰

One year after the Egyptian uprising, such cases are proceeding sluggishly before the courts, but some high-profile convictions have resulted.

No official body along the lines of the Tunisian Commission was established out of the Egyptian revolution to investigate the extent of the corruption regime and the individuals involved. However, cases of land grabbing have come to light recently from reports leaked by government agencies, or published as news from cases pending before the courts.

In March 2011, Egypt's Central Bank issued a letter, revealing the names of 138 persons involved in corruption and influence peddling.¹¹ The Attorney General ordered their monies frozen, and some of these figures still await trial.

In December 2011, the auditors of the Urban Communities Authority issued report No. 755 about former President Husni Mubarak, Prime Minister Ahmad Nazif and other ministers taking property, granting lands and villas to senior officials, select companies and elites of other Arab states. These deals were the subject of direct executive order at far less than the actual value and, thus, in violation of the law.¹²

Report 755 also reveals the distribution of villas and chalets for senior officials by direct order from the Minister of Housing. That violated article 30 of Law 89 (1998), which requires the sale or leasing of such real estate by auction. The report tells of irregularities in allocating villas also for senior personnel of the New Urban Communities Authority.

The former president and his prime minister reportedly squandered some L.E.44 million (€5.4 million) of public money by ordering the allocation of 120,000m of *The Marina* tourism complex to UAE President Sheikh Khalīfa bin Zayid al-Nahyān. Besides the dubious terms of the transaction, foreigners' land ownership is prohibited under law.

However, notorious beneficiaries of this legal breach include Saudi Prince Walīd Bin Talāl's Mubarak-era acquisition of 100,000 feddans (420.08 million m²/104,000 acres) in the Toshka southern desert irrigation and development project. In June 2011, Egypt's Ministry of Agriculture ultimately permitted the prince to retain and eventually own 25,000 feddans (105.02 million m²/25,951 acres).¹³

In March 2011, a book appeared under the title *The Economics of Corruption in Egypt*, in which the author Farūq `Abd ul-Khāliq analyzed systematic corruption in Egypt. He recounted how corruption has shifted from individual deviations to the social structure, affecting all entities of state and society. He found that the fields of corruption in Egypt exceeded those categories proffered by the organization Transparency International. These encompass 16 fields, at the forefront of which are construction, land allocation, distribution of apartments in new cities, and infrastructure. The total value of land lost in illicit allocations by the Ministry of Housing for the benefit of favored businessmen amounted to L.E.136.1 billion (€16.6 billion). All such operations had the backing of the president himself, his ministers and the premiers `Atif `Ubaid, Ahmad Nazif (serving in 1999–2004 and 2004–11, respectively).¹⁴

Given the sheer volume, depth and complexity of the corruption, as well as the difficulty in accessing information, the author has proposed the establishment of an independent national anticorruption commission composed of legal experts, academics, media professionals and economists without political and ideological affiliations to investigate, pursue and prevent corruption and protect public assets.

Yemen

Corruption in land across Yemen, especially in the provinces of Hudaida and Aden, also formed a main factor in the outbreak of the popular revolution and the overthrow of the former Yemeni president. The problem has been so severe in the southern region that it has sparked a resurgence of the secession movement there.

The growing phenomenon of land grabbing by officials and military was the subject of an important 2008 report by a parliamentary committee under the chairmanship of Sālih Bāsra and `Abd ul-Qādir Hilāl. That investigation revealed how influential 15 military and political figures looted much of the lands in five governorates: Aden, Dhala, Ta`iz, Abyan, and Lahj. (That report did not cover the western Province of Hudaida, discussed below.)

The 500-page parliamentary report documented lands stolen in the south, and recommended that then-President `Ali `Abdullah Sālih choose between patronizing his 15 loyal accomplices in the recent wave of land grabs, or seek legitimacy instead with the 22 million citizens of Yemen. He chose the former.

The parliamentary study did not disclose the culprits' names, nor have any of those figures been tried. However, in 2012, after Sālih's fall, parts of that report were leaked. It revealed the looting of 1,357 houses and 63 government properties in Aden alone.

A second parliamentary committee, headed by Sinān al-`Ājī, issued another report in April 2010 dealing with encroachments on land in Hudaida Province favoring 148 political, economic and religious and tribal leaders.

That latter report recorded 400 cases of infringement. The committee also had received 106 complaints from citizens of armed gangs establishing themselves on the stolen

lands. The findings pointed to certain officials who maintained their official posts for long periods as major agents of the land grabbing trend. It also recommended the arrest, trial and punishment of all those who sell fake deeds or unlawfully claim ownership, whatever their status.

The Habitat International Coalition's Housing and Land Rights Network already has recorded numerous cases of land grabbing and appropriation of land by force in Yemen and other countries.¹⁵ The south Yemen land confiscations alone are reported to amount to a land area equal to the entire neighboring country of Bahrain. Parliament's 2010 report warned that unlawful land acquisition would spawn new unrest in Yemen and threaten social peace for years to come.¹⁶

Bahrain

The case of Bahrain is outstanding in its severity, as it is the country with the smallest land base (760km²) and largely dependent on food imports. That area includes more than 70km of the Bahrain coast reclaimed over the past thirty years, increasing the landmass by over 10%.¹⁷ However, more than 90% of the newly created land has been privatized, despite legal prohibitions, making the coastline into private property of the ruling family.¹⁸ Because of the commercialization of coastal land, many of Bahrain's traditionally small family fisheries have lost their livelihood; and the country, a heritage.¹⁹ Moreover, nearly half of the island nation's landed property remains foreclosed to Bahrainis while occupied by United States military bases serving the U.S. Navy's Fifth Fleet.

Over the years preceding the uprisings against the Āl Khalīfa ruling family, youth and regime opponents had been protesting the lack of housing and livelihood prospects that result from the self-enrichment by the "royals" and their supporters.²⁰ The rulers' confiscation of lands and all access to the sea, coincident with material discrimination in the provision of public goods and services that favor the minority Sunnis, became an issue of such contention that the Council of Deputies (lower house of parliament) undertook an investigation into the privatization of public lands and resources. Published in March 2010, the study identified 65km² of public land valued at more than US\$40 billion transferred to private hands since 2003, without proper payment to the public treasury.²¹

The Bahraini parliamentary study uncovered how the system has functioned. Bahraini land grabs especially have involved state property that the king has transferred to private hands at the expense of the general citizenry by a repertoire of 16 corrupt techniques.²²

The available data has confirmed that some of the state properties have transferred to private parties without charge, and without the state benefitting from any return on them. The king has made royal gifts of property intended for public benefit, such as reclaimed land, which is constitutionally banned from privatization. By mid-2008, private parties had taken 94% of this land for "special projects."²³

The parliamentary report also revealed cases of seizure and forgery of title deeds as part of an organized and systematic policy of land fraud. Cases of bribery, particularly those associated with the royal-controlled Alba company (Aluminium Bahrain BSC),²⁴ became notorious. The official investigation alleged that, over the years, the prime minister's advisor Shaikh `Isa bin `Ali al-Khalifa has received bribes estimated at \$2 billion dollars (an amount equivalent to the state budget for one full year). The king then issued royal pardons for the defendants, while the cases were still before British and U.S. courts.²⁵

Given that corruption in the management of state property is so complex, the Bahraini parliamentary report recommended follow-up at the legislative, executive and judiciary levels. It proposed that a Committee on Financial and Economic Affairs manage state property with powers to investigate and requisition needed information and documentation, since the lack of access to reliable information had impeded the initial investigation.

Conclusion

A global report of Transparency International (TI) for 2011 confirmed that public awareness on issues of corruption has increased following the uprisings in the countries of the Arab Spring.²⁶ However, TI also reported a decline in the perception of acts of corruption in those countries, especially Egypt, Tunisia and Yemen.²⁷ Meanwhile, anecdotal reports suggest that various forms of land grabbing actually have increased during current instability across the region.

Internal land grabbing, as well as of other means of plundering natural resources and wealth, has been institutionalized and systematic over the decades-long rule of the region's state regimes. This official practice forms a common denominator and major cause of the outbreak of the revolutions in the Middle East/North Africa (MENA) region.

Land corruption is commonly a manifestation of failed governance more generally, and vice versa, as emphasized in several recent reports on the risks and manifestations of corruption in the land sector.²⁸ For example, in MENA, Iraq, Kuwait, Lebanon and Morocco were among the 69 countries that TI surveyed in 2009. The MENA countries had the highest percentage (40%) of respondents who reported paying a bribe in the foregoing 12 months.²⁹ By charting corruption by government service, the land sector ranked third most corrupt across the composite of 69 countries polled from all regions.

Fully two thirds of the world maintains poor land-titling practices, whereby the title is neither related to maps or registries, nor linked to financial institutions or backed by law.³⁰ Such conditions often are not sustainable over time, and typically lead to disputes and housing and land rights violations, including population displacements, loss of food security, natural environment and national heritage. The administration of land is not only a matter of registering title, but also about linking information and harmonizing legal systems with human rights and equity in access to services and means of subsistence.

The Arab Spring and its aftermath are teaching us the importance of decent governance in land administration as a pillar of sustainable statecraft. In the MENA region, corrupt land-administration practices have made that a costly lesson indeed.

Endnotes

- ¹ The author is coordinator of the Middle East/North African Program of the Habitat International Coalition's Housing and Land Rights Network. During 2011, he also served as representative of the UN High Commissioner for Human Rights in Tunisia.
- ² Articles 2.3 and 16 of the International Covenant on Civil and Political Rights (ICCPR).
- ³ Article 13 of the International Covenant on Economic, Social and Cultural Rights.
- ⁴ Article 25 of ICCPR.
- ⁵ *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*, 9 March 2012, at 9.9; Guideline 3: Free, Prior and Informed Consent (FPIC) in Civil Society Organizations' Proposals to the FAO Guidelines on Responsible Governance of Land and Natural Resources Tenure (2011); also Parshuram Tamang, "An Overview of the Principle of Free, Prior and Informed Consent and Indigenous Peoples in International and Domestic Law and Practices," contribution to Workshop on Free, Prior and Informed Consent (New York, 17–19 January 2005), UN Department of Economic and Social Affairs, Division for Social Policy and Development, Secretariat of the Permanent Forum on Indigenous Issues.
- ⁶ Article 8 of the Universal Declaration of Human Rights; Article 2, paragraph 3 (b), of the International Covenant on Civil and Political Rights; and General comment No. 9: The domestic application of the Covenant of the Committee on Economic, Social and Cultural Rights.
- ⁷ "Cockroach Trabelsis," in *HLRN Violation Database* (VDB), at: <http://www.hlrn.org/violation.php?id=o2hqZQ==>, citing Borzou Daraghi, "Neighbors in Tunisia express disgust over former first lady's family," *Los Angeles Times* (17 January 2011).
- ⁸ "Section Two: Means of Illicit Enrichment," *Report of the National Commission to Establish the Fact about Corruption and Embezzlement* (تقرير اللجنة الوطنية لتقصي الحقائق حول الفساد والرشوة) [Arabic], p. 12, at: http://www.hlrn.org/img/documents/RapportCorruption_CICM.pdf.
- ⁹ *Ibid*, p. 13.
- ¹⁰ Citizen Gate, "Report on the 'corruption' in Egypt: The Egyptian government has allocated land to cronies space equal to an area of 5 Arab countries" (تقرير عن "الفساد" في مصر الحكومة المصرية خصصت للمحاسيب مساحات أراضي تساوي مساحة 5 دول) [Arabic] (March 2012), <http://www.mwatan.net/?p=363>.
- ¹¹ "Egypt: Names of 138 Personalities Who Looted Egypt" (مصر: أسماء 138 شخصية نهبت مصر) [Arabic], *HIC-MENA News*, at: <http://www.hic-mena.org/arabic/news.php?id=pHBkZq==>.
- ¹² "Report of the Urban Communities Authority Reveals the Involvement of Sulaimān and Shaḥīq in State-land Grabbing," *al-Ayam al-Masriyya* (22 April 2012), at: http://www.alayam-almasria.com/default_ar.aspx?id=11488; excerpts of the original document at: http://ayam25.com/index.php?option=com_content&view=category&id=1:2010-12-09-22-46-00&layout=blog&Itemid=3.
- ¹³ "Prince Alwaleed and Minister of Agriculture sign contract for Toshka Land," *AMEinfo* (8 June 2011), at: <http://www.ameinfo.com/267536.html>.
- ¹⁴ Farūq `Abd ul-Khālīq, *The Economics of Corruption in Egypt: How Egypt and Egyptians Became Corrupt (1974–2010)* (2010–1974) (Cairo: al-Shurūq International Library, 2011) [Arabic], at: <http://www.hlrn.org/img/documents/corruption%20economic%20of%20egypt.pdf>.
- ¹⁵ HLRN, *Violation Database*, at: <http://www.hlrn.org/violationsearch.php>.
- ¹⁶ "Yemen: (Hilal-Bāstra) Report the Names of Land Grabbers" (اليمن: تقرير (هلال - باصرة) اسما ناهبي الأراضي) [Arabic], *HIC-MENA News* (1 May 2012), at: <http://www.hic-mena.org/news.php?id=pG9taQ==>.
- ¹⁷ Ibrahim Sherif el-Sayed "Territorial and Coastal Usurpation" (باصتغا يضارالا و لحاوسلا) The Secretariat and Four Associations Forum, 10 November 2005 (*Arabic*).
- ¹⁸ *State's Property: National Fights Go on until Citizens' Lands Restored* ("المعارك الوطنية ستستمر حتى تسترجع أملاك الدولة") [Arabic], *al-Wasat News* (12 May 2010), at: <http://www.alwasatnews.com/2805/news/read/420213/1.html> (*Arabic*).
- ¹⁹ Sahar Aziz & Abdulla Musalem, *Citizens, Not Subjects: Debunking the Sectarian Narrative of Bahrain's Pro-Democracy Movement* (Institute for Social Policy and Understanding, Washington DC, July 2011) http://ispu.org/pdfs/640_ISPU%20Report_Bahrain_Aziz_Musalem_WEB.pdf, p. 11.
- ²⁰ "Bahrain: Royal Land Seizures, Poor Housing at Root of Unrest," *HIC-MENA News* (3 April 2009), at: <http://hic-mena.org/pNewsId.asp?Id=839>.

²¹ *Report of the Parliamentary Committee to Investigate Public and Private Property of the State, March 2010* (تقرير 2010 [Arabic], at: <http://www.hlrn.org/img/documents/amlak-2-4-t.pdf> (Arabic). See also “Bahrain Public Lands Sold and Rented to Private Investors,” *The National* (25 March 2010), at: <http://www.thenational.ae/news/worldwide/middle-east/bahraini-public-lands-sold-and-rented-to-private-investors>.

²² These include:

1. Creating chaos in the inventory of state property;
2. Encroachment on private lands re-registered to Khalifa family members at no charge;
3. In the north around al-Manama, most land grants were distributed free of charge, of which just 12 grabs comprised an area of 37km²;
4. Public land granted to the Āl Khaifa-controlled Stone Co. before their registration as state land;
5. Issuing replacement title deeds on the claim that the original was lost, without requesting the replacement deed, which violates the Land Registration Law;
6. Granting constitutionally nationalized reclaimed lands for private investment;
7. The Land Survey and Registration Authority unilaterally dissolving state ownership;
8. Land reclaimed from the sea with state funds, such as Jufair and the Diplomatic Area, illegally excluded from state property, with some title deeds having disappeared from the Ministry of Finance with changes in the file numbering sequence to hide the missing files;
9. The lack of an accurate inventory of state land;
10. Poor planning and management of the stock of state land, whereas many important public projects have been carried out on lands without proper ownership documents (e.g., the University of Bahrain campus);
11. Forfeiting valuable archaeological sites by failing to register them in the name of the state;
12. Land acquired for public purpose over some 22 years, but not registered as public, as in the case of Dilmun Paradise Water Park;
13. The absence of strategic planning of housing projects, exacerbating the scarcity of land;
14. Ambiguity and withholding of information relating to land-use and planning;
15. Shortcomings in the Ministry of Finance’s maintenance of state lands, validating royal orders to amend land records;
16. The lack of integrity of the Land Survey and Registration Authority in its role to uphold the public interest.

²³ *Report of the Parliamentary Committee*, op. cit., p. 21.

²⁴ Dylan Bowman, “Alba suing US firm for over \$1bn,” *Arabian Business* (2 March 2008), at: <http://www.arabianbusiness.com/alba-suing-us-firm-for-over-1bn-151370.html>; Elizabeth Broomhall, “Bahrain royal accused in \$6m UK corruption case” *Arabian Business* (31 October 2011), at: <http://www.arabianbusiness.com/bahrain-royal-accused-in-6m-uk-corruption-case-427874.html>.

²⁵ “Former Alba Employees Pardoned,” *Gulf Daily News* (19 January 2012), at: <http://www.gulf-daily-news.com/NewsDetails.aspx?storyid=321929>.

²⁶ Abbās al-Khashāly, “Transparency International: The Arab Revolutions Increased Awareness of Corruption and the Combating It Takes Time” (”الشفافية الدولية: الثورات العربية زادت الوعي بالفساد ومكافحته تتطلب وقتاً”), *Deutsche Welle*, at: <http://www.dw.de/dw/article/9799/0,,15571320,00.html>.

²⁷ Transparency International, “Perceptions of Corruption 2011,” at: <http://cpi.transparency.org/cpi2011/results/>.

²⁸ UN Economic Council for Europe (UNECE), “Study on the Challenges of Fraud to Land Administration Institutions” (2011), at: <http://www.unece.org/index.php?id=24802>.

²⁹ Transparency International, *Global Corruption Barometer, 2009*, Figure 3, p. 7, at: <http://www.transparency.org/content/download/43788/701097>.

³⁰ UNECE, op. cit.