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Conference report

The 8th Conference of the International Academic Association on Planning, Law, and Property Rights, Haifa, 10–14 February 2014

The 8th Planning, Law, and Property Rights (PLPR) conference was different from the seven previous PLPR conferences for several reasons. As almost all of the previous conferences (Edmonton 2011 is the only exception) have taken place in February, winter jackets, tights and umbrellas have probably been at least as important for conference participants as their papers. Amsterdam, Warsaw, Aalborg, Dortmund, Edmonton, Belfast or Portland (Oregon) cannot compete with the almost 20° Celsius and the continuously shining sun in Haifa and the rest of Israel. Hence, it seems that Rachelle Alterman, Founding President and Honorary Fellow of PLPR, who was the Chair of the Local Organising Committee, has even better connections than all PLPR members would have expected. The Local Organising Committee members Cygal Pellach, Jesse Fox, Nir Mualam, Dafna Carmon, Micha Drori, Nira Orni, Michelle Oren, Ronan Bar-Lev, Dorit Garfunkel, many student assistants and, last but not least, Rachelle Alterman did indeed do a wonderful job – not only with respect to the delightful climate of Haifa.

Pre-conference day-long workshops

For the first time in the history of PLPR, the conference was held for five days and participants could choose between four pre-conference day-long workshops representing the key challenges for planners and planning-law experts in Israel. During the workshops, the Local Organising Committee was very well supported by city architects and engineers, mayors, NGOs, religious leaders, economists, social activists and lawyers, who all gave the participants the opportunity to get an insight into Israel's planning and property rights system. This was both necessary and highly fascinating, because Israel is different from many OECD countries – in other words: unique. In no other developed country does the state own so much land (almost 94 per cent). The country had, and still has to face, immigration from many parts of the world, a high fertility rate and high population density (Alterman, 2002; 2003).

One workshop examined the historic preservation in the dynamic metropolis of Tel Aviv. As the city of Tel Aviv has the world's largest concentration of buildings built in the modern, or Bauhaus, style in the 1930s, historic preservation is both important and difficult.

Workshop participants learned about the set of conflicts between historic preservation and development in the ancient city of Jaffa, and compared differences between the ancient Jaffa and the more modern Tel Aviv. The extensive compensation rights for 'regulatory takings' in Israeli law are often a financial burden for cities, with respect to historic preservation goals. The kibbutz communal model – a form of collective land ownership in Israel – and its recent transformations were the centre of attention of another workshop. Israel's 256 kibbutzim have created rural or quasi-rural communities with between 200 and 1,000 inhabitants, which is approximately 2 per cent of Israel's population. The kibbutzim could be regarded as a planning laboratory for many reasons: decision-making is fully participatory, the land is in the hand of the nation, local resources are communal and public facilities are all shared. Today, the kibbutzim are not exempt from facing trends such as partial privatisation and economic transformation.

Another workshop focused on national land ownership, Israel's 'reverse' housing crisis and observed how Rishon LeZion, Israel's fourth largest city, dealt with the mass immigration from the former Soviet Union in the 1990s. Rishon's population has doubled over the past twenty years, the city is still growing and average apartment costs are higher than in Jerusalem, Ashdod or Haifa. Rishon's mayor Dov Zur explained the problems, in particular in terms of housing units, new infrastructure, financial burdens and integration. He talked with the participants about the main issue: 'How to develop a city under such extreme circumstances?' National land ownership and a public leasehold land system can solve at least some of the problems. These leasehold contracts can be freely purchased on the market; nevertheless, the city has to face high bureaucracy burdens. Israel's planning system is the most centralised system of the OECD countries and planning permits often require many years.

As Haifa and the Galilee region are the home of the majority of Israel's Arab citizens, another workshop was held in the Arab city of Sakhnin. After a warm welcome in the TEAQ (Town Association for Environmental Quality) Green Building, the home of Israel's first environmental organisation in the Arab sector, Sakhnin's mayor Mazen Ghanaim reported on spatial planning in the Arab sector. He did not hide or avoid speaking about the planning challenges that often have their roots in land conflicts: the political motivation to prevent the growth and expansion of Arab settlements, the regional council's protection of open land or the designation of land for military use. The workshop participants learned that, though they were talking about planning, 'planning is not the problem, it is politics'. Yet planning can be the solution, as Dafna Ben-Baruch and Hussein Tarabeih from the non-profit organisation Schenim – Neighbours¹ showed. Schenim tries to regard Galilee as a unit and focuses on the mediation between Arab and Jewish communities on planning issues through work with their residents. The participants then visited the Misgav Regional Council and learned how planning works in Bedouin villages in the north of

1 More information is available at: <http://neighbors.org.il/en/> (accessed 4 July 2014).

Israel, which often have less than 200 inhabitants. For educated planners, centralisation would come into mind to save infrastructural costs. However, it is not that easy. People living in such villages believe in their right not to have to move; hence, many infrastructural facilities are based on donations and self-help.

Parallel sessions

On Wednesday, the conference officially started at the Faculty of Architecture and Town Planning at the Technion – Israel Institute of Technology in Haifa. Israel's third largest city is often regarded as a successful model for the peaceful co-existence of all citizens and thus, although not only for that reason, as an appropriate place for international conferences. As an industrial city, Haifa has to face the typical challenges of globalisation. However, the redevelopment of the Port of Haifa, the Matam hi-tech park, the universities and many tourist sites and attractions are only some of the many reasons for looking forward positively into Haifa's future. According to a saying about the three best-known Israeli cities, 'Jerusalem prays, Tel Aviv plays and Haifa works'. Thus, after a warm welcome, the almost 150 participants from thirty countries worldwide started to work. However, it did not feel like working. As the workshops gave the opportunity to examine Israel's main planning challenges, the parallel sessions during the conference gave a more global insight. A simple word count in the book of abstracts² demonstrates that the participants' papers contained what the name of the association demands. The five most mentioned nouns in the book of abstracts are planning (403 times), land (313 times), right/rights (297 times), law/laws (200 times) and property (184 times). Although this word count illustrates that the participants' papers were close to the name of the association, this playful quantitative analysis does not say anything about the variety of the presentations in the parallel sessions. Similar to previous PLPR conferences, researchers linked planning, law and property rights with housing, environmental issues, urban management, governance, heritage and culture, public participation and climate change.

Two presentations shall illustrate, on the one hand, the global point of view and, on the other hand, the experimental character of the research of PLPR members. Michelle Oren (*Technion – Israel Institute of Technology*) presented her research findings based on a content analysis of 188 national constitutions with the focus on the human right to housing. The key methodological task for such an analysis is to standardise housing aspects for an analysis on a global level – in other words, to answer the question: 'What does housing adequacy mean?' Oren used a list of aspects, published by the UN Committee on Economic, Social and Cultural Rights, as a starting point to develop housing indicators: legal security of tenure, availability of services and

² The book of abstracts is available at: <http://plpr2014.net.technion.ac.il/files/2014/02/ABSTRACTS-book-web.pdf> (accessed 4 July 2014).

materials, facilities and infrastructure, affordability, habitability, accessibility, location and cultural adequacy. She found that the indicators that stand for tenure security are the most frequently mentioned in the national constitutions. Thomas Hartmann (*Utrecht University*) and John Sheehan (*Australian Property Institute*) started their presentation based on the assumption that an inflexible view on law and property rights may result in lock-in situations. Such lock-in situations occur, inter alia, due to the fact that property rights are usually assigned forever. Therefore, Hartmann and Sheehan reconsidered property rights as bundles of rights and added the aspects of time and scale. If, at the time of a planning decision, planners cannot foresee what will happen in the future, they have to rethink the dogma of the infinity of property rights. Hartmann and Sheehan provoked, in particular, those who regard property rights, once they are asserted, as inviolable with the simple question: Are there situations in spatial planning where it might be appropriate to assign some of the sticks of the bundle only temporarily or under certain conditions to owners of resources?

The southern Bedouin settlements (similar but different to those discussed in one of the workshops) were subject of a parallel session. Avinoam Meir, Batya Roded and Arnon Ben-Israel (all from *Ben-Gurion University*) criticised in their presentation the government policy for absent formal participation with respect to Bedouin settlements by planning a massive road upgrade project in the northern Negev. The presenters concluded that spatial planning of roads and their upgrade must be perceived as a socio-cultural action and not just as a technology.

Three parallel sessions observed the management of coastlines – a subject that due to climate change and population growth is becoming more and more part of the agenda of scholars. In one of these sessions, Rachelle Alterman and Rachel Adam (both from the *Technion – Israel Institute of Technology*) introduced the Mare Nostrum Project. This project, financed by the European Union through the European Neighbourhood and Partnership Instrument, tries to promote sustainable and harmonious cooperation at the Mediterranean basin level by dealing with common challenges and emphasising its endogenous potential (Alterman et al., 2013).

With respect to the parallel sessions, the reader might allow a personal remark here. As much as the presentations were exciting and in many cases inspiring, the discussions that followed were not – they were more than that! Frequently, the audience – provoked or inspired (or both) by one or more of the presentations – did a wonderful job of calling the presenters' theories into question or helping them to specify the hypothesis. Ben Davy's (*TU Dortmund University*) presentation concerning the relationship between human dignity and private property, for instance, emerged as a quite emotional debate about poverty, justice, the correct reading of John Locke and the responsibility of planners from the viewpoint of human dignity. Perhaps the pre-conference workshop over the first two days provided a sort of warm-up: the conference participants could get to know each other (particularly those who did not already) and share some friendly

words so that there was less unnecessary polite distance and more room for controversial (and profitable!) discussion in the parallel sessions.

Keynotes and special plenary session

In a conference full of highlights, keynote speakers seemed to be under duress to stand out. They did not fail. Hanoch Dagan (*Tel Aviv University*), the first keynote speaker, talked about 'Expropriatory compensation, distributive justice and the rule of law' and focused on the complex relationship between full and partial compensation. First, Dagan defended the necessity of partial compensation against those who regard private property ownership as the 'sole and despotic dominion' and demand full compensation in every case. By placing the usual justifications of partial compensation into question, he proposed to accommodate personhood and community as property values into a principled regime of partial compensation.

Chris Webster (*Hong Kong University*) spoke about 'Urbanisation and development as the fragmentation of property rights' and asked: 'What is the limit of human densification, in particular with respect to health?' Although Webster's keynote speech was based in particular on his experiences in Hong Kong, urbanisation and densification are of high relevance to many countries worldwide, and Israel is one of them. Webster stated that two types of the tragedy of the commons can occur in public spaces: on the one hand, fragmentation leads to under-supply of the shared space that makes cities work (type I: over-fragmentation), on the other hand, overuse of shared space can lead to its degradation (type II: under-fragmentation).

Webster's presentation was very well supplemented by Jerold S. Kayden's (*Harvard University Graduate School of Design*) keynote speech. 'Can planning law make public space?' asked Kayden and emphasised the meaning, but also the pluralism, of public spaces: theorists, homeless people, lawyers, private property owners, children, political activists and many more have different perceptions and claims to public space. Kayden demonstrated that the question of owner only sometimes relates to the quality of the space. More important are the architectural elements and, in particular, the underlying rules of use. By talking about the experiences in New York (Kayden, 2000), Kayden pointed out that sometimes people have more land-use rights in privately owned space than in public spaces that are highly regulated.

One of the conference highlights was the special plenary session, 'Judicial perspectives'. The Honorable Justice (ret.) Dalia Dorner reported in her keynote speech on her work at the Israel Supreme Court. Justice Dorner judged planning relevant cases, inter alia, on the reduction of compensation for expropriation or on infrastructural measures for Bedouin settlements. In her speech, Dorner pointed out that Israel could be described as a 'defending democracy' and therefore the court must find a balance between human rights and the security of its citizens. Dorner's visit to the Technion

in Haifa was not only exciting because of her keynote speech, but also due to Dorner having announced that same day that she would run for the Israeli Presidency. Accordingly, the first question from the audience was not about planning, but her candidacy. As the Israeli President has always been male, she wants to motivate more women to run for office. The discussants Justice Russell Brown (*Court of Queen's Bench of Alberta*), Judge Mirosław Gdesz from *Warsaw*, Judge Peter Buchsbaum from *New Jersey Judiciary* (ret.) and Robert Stokes, Member of the *Parliament of New South Wales – Australia*, then talked in particular about how to find a balance between the security of the citizens and respecting the private property rights of landowners. Mirosław Gdesz claimed that in Poland private property owners enjoy many rights, but have too few obligations.

General Assembly and PLPR to Greece in 2015

Every two years the General Assembly has to elect a new Executive Committee and the conference in Haifa fell on just such an election year. Ben Davy (*TU Dortmund University*) stays in his position as President, Richard Norton (*University of Michigan*) is the new Vice-President and Michael Kolocek (*TU Dortmund University*) replaces Thomas Hartmann (*Utrecht University*) as Secretary-General. Cygal Pellach (*Technion – Israel Institute of Technology*), one of the Local Organisers, takes over from Fennie van Straalen (*Wageningen University*) as PhD Coordinator.

The next PLPR conference will be held at the Department of Planning and Regional Development, University of Thessaly, Volos, Greece (23–27 February 2015). More information is available on the Association's website.³

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3 See online at: <http://plpr-association.org/> (accessed 4 July 2014).