



Palestine Economic Policy Research Institute

Critical Review of the Proposed Palestinian Law on Renting Residential and Commercial Properties

Riyad Abdel Karim

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Abstract

Current legislation in force in Palestine comprises Law 62 of 1953 applicable in the West Bank, Law 44 of 1940 concerning the renting of residential buildings applicable in the Gaza Strip, and Law 6 of 1941 on the renting of commercial buildings, also applicable in the Gaza Strip.

These laws maintain the rights of the tenant since they specifically give the tenant the right to continue occupation of the property in question even after the period of the lease has ended. The current legislation by fully protecting the tenant has contributed to deterioration and resulting imbalance between the supply and demand in residential and commercial properties causing a housing problem, a sharp rise in new leases.

This legal extension of the lease is contrary to the nature of a rental contract that grants the right to a party to benefit from a specific place for a specific period of time. At the end of the specified period, the parties to the contract should have the freedom to agree or not to the extension of the lease under the same conditions.

The main elements in a rental contract are agreement on the time period and on the rent. This is not made available in the prevailing legislation that allows the lease to be extended legally at the same conditions in spite of annual inflation rates.

As part of the Palestinian National Authority's (PNA) work on the unification of laws in the West Bank and Gaza Strip, a bill on the renting of residential & commercial properties has been drafted for presentation and discussion in the Palestinian Legislative Council (PLC). The proposed legislation aims to remove the imbalance caused by the current legislation in favor of the tenant, but the proposed law failed to be based on the equitable concept of balancing the rights of the landlord with those of the tenant. The proposed legislation, composed of 57 articles in 8 chapters, would dramatically change the existing law, which has prevailed for

decades. It proposes to lift the protection from the tenant, which will have a great impact on socio-economic relations and will have critical implications particularly in view of the current socio-economic prevailing conditions in the WBGS.

A comparison of the current legislation with that of neighboring countries such as Egypt, Jordan, Syria, Lebanon and Iraq, shows that it is very similar, especially to that applied in Egypt and Jordan. With the exception of Jordanian legislation, which allows the rent to be increased following the end of the rental period, all other laws maintain the right of the tenant to continue to occupy the premises even after the end of the lease. In addition, many countries put a ceiling on the amount of rent without any consideration for the loss incurred by landlords as a result of inflation.

The principle of the proposed law should be most equitable to both parties to the lease. It should be based on protecting the rights of the tenant by allowing him to continue to occupy the property while protecting the rights of the owner to increase the rent annually by a certain percentage that does not exceed the official inflation rate. This principle is applied in rental contracts in the United States.

Since the lease is considered to be an important document, it should be in writing and should be registered at an official department such as a municipality or local government department. This is clearly stipulated in the legislation of other countries since the registration of the lease resolves many problems that can arise between the parties.

The question of the maintenance of the property needs clarification in the proposed law. This needs to be modified and the subject of maintenance should be clarified.

Much of the legislation in neighboring countries puts a limit on the amount of rent payable, but the proposed Palestinian legislation does not tackle this issue and leaves it to the market forces.

Many buildings in Palestine are under trust ownership. This subject deserves to be dealt with in separate articles in the Palestinian legislation, as has been the case in some legislation in Arab countries.

A particular type of tenancy used in some industrial countries, known as 'financed leasing', is considered as an organized type of relationship between the parties to a lease. This should be given special consideration in certain articles of the Palestinian bill.

In conclusion, there is a strong need to change the prevailing legislation regarding the renting of residential & commercial properties. But, the crucial need is to ensure that the new legislation will be based on an equitable concept that balances the interests of the landlord with those of the tenant. Thus encouraging investment in housing and commercial buildings and at the same time protecting the stability of the tenant for a reasonable annual increase in the rent by a certain percentage commensurate with inflation rates.

The modifications suggested may improve the overall bill by taking into consideration the interests of both parties to the contract and thus encouraging socio-economic development and stability in the Palestinian territories.