



Palestine Economic Policy Research Institute

A Critical Review of the Proposed Palestinian Consumer Protection Law

**Basim Makhool
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Shaker Khalil**

November 2004

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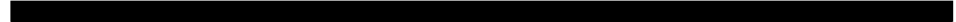
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Acknowledgement

The Palestinian Economic Policy Research Institute (MAS) is pleased to introduce this critical study, which deals with the concept and contents of the draft Consumer Protection Law. The Economic Committee of the PLC requested this study to review the draft law and to form the basis for a public debate that should help develop and finalise it.

The PLC and MAS look forward to a Consumer Protection Law able to create a modern and transparent legal framework that will promote growth and competitiveness while safeguarding consumers' interests. By reviewing the experiences of other countries around the world the study hopes to spread knowledge and to benefit from it. The study also examines the compatibility of the draft law with the Basic Palestinian law as well as other economic laws.

I take the opportunity to show my appreciation to the International Development Research Centre IDRC and the Ford Foundation for supporting the preparation and publishing of this study. MAS would also like to extend its gratitude to the research team and the experts who reviewed and discussed the study, to the Palestinian Institute for standards and measurements for hosting the public debate, and to all those who, by taking part in the debate, helped to enrich and improve it.

Dr. Samir Abdullah
Director General

Abstract

An important element of the Palestine Economic Policy Research Institute (MAS)'s mission is to assist Palestinian government and non-government decision-makers by identifying scenarios and available options to push forward the development process, reinforcing sustainable development opportunities and their implementation within a suitable legal framework. As part of this objective, critical and analytical reviews of proposed social and economic laws, tabled by the Palestinian Legislative Council (PLC), have occupied the Institute's top priority. These reviews provide technical assistance to the PLC and its specialized committees, and help them in their discussion of proposed laws. They aim at contributing to the development of the proposed law, thus reinforcing the legal environment in the Palestinian Territories and creating a conducive legal and investment environment. This study highlights the importance of a Palestinian Consumer Protection Law to protect the Palestinian consumer's rights when it comes to selection of place of residence, drink, clothes, and various goods in order to gain maximum benefit and satisfaction. The law is also supposed to secure the Palestinian consumer's right to live in a clean, healthy environment.

The PNA has devoted a lot of effort to correct legal distortions and imbalances left by the Israeli occupation. To this end, the PNA, through the legislative and executive authorities, raced to assess the legal structure governing and regulating the work of economic, social and political sectors in the West Bank and Gaza Strip. The aim was to identify the parts of existing structure which might be kept and develop the other parts which in away serve Palestinian interests, thus contributing to fostering the bases of state-building and development. In line with international developments and improvements in consumer protection, and the creation of consumer awareness in Palestinian society, the Palestinian National Authority (PNA) realised the importance of introducing a law governing this field.

Consumer Protection: Now and Then

The first consumer group goes back to 1920; the first unions began in 1945. The first international organization for consumer protection was founded in 1960 and by 1997 it had about 158 member countries. The organization chose March 15 every year as international day of consumer.

The importance of consumer protection springs from one of its direct impacts on pushing forward the wheel of development of national production. By raising standards of local products technically, environmentally and socially, there will be an increase in demand for these products. They can replace and compete with imported products from abroad. They can also compete with them in foreign markets. This will lead to an improvement in the investment environment, on the one hand, and facilitate the discovery of competitive advantages of produced goods, thus helping the redistribution of resources and accordingly lead to enhancement of development.

Consumer protection laws are different from many other laws in that they are directly linked with people's lives, rather than the management of economic activity. The laws control and organise the relationships between sellers or service providers and consumers.

International resolutions on consumer protection

The United Nations' General Assembly in its Resolution 39/248 of 1985 approved eight consumer rights. They included the right to satisfy basic needs, the right for safety, the right to education and information, the right to choose, the right for representation, the right to compensation, the right to awareness, and the right to live in a clean, sound environment.

The UN approved these rights according to the following guidelines:

- Providing physical safety for consumers. This is done through the introduction of policies, legal systems, precautionary safety measures and international and national standards.
- Reinforcing and protecting consumers' economic interests. This is achieved through the implementation of government policies which enable the consumer to get the optimal benefit from his economic resources.
- Guaranteeing the safety and quality of consumer goods and services. This can be achieved by introducing and encouraging the implementation of compulsory and voluntary standards to guarantee the safety and quality of goods and services, and by reconsidering them periodically in accordance with international standards set up for food safety.
- Facilitating distribution of consumer goods and basic services. This can be achieved by the government's adoption of policies which guarantee the efficient distribution of consumer goods and services.

- Encouraging measures which enable consumers to get compensation. This can be achieved through cooperation with the consumer to introduce to him procedures followed to settle trade conflicts and to inform him of his rights.
- Setting up education and mass media programs. These programs are aimed at creating consumer awareness and enhancing the ability to make choices and preferences among goods and services.

Standards and specifications, and their impact on consumers

Standards and specifications are meant to ensure consumers' health and safety and improve product quality, which will lead to the call on producers to reduce costs and prices. They also aim at raising production efficiency, improving local investment, and balancing the relationship between the buyer and the seller. In order to realise the objectives of standards, there is a need for both consumer and producer awareness about published standards and specifications.

One of the characteristics of the present stage is the unification of standards at the international and regional levels among countries of the world. This trend has been reinforced by international developments in trade and agreements pertinent to it. One such agreement was that regarding the safety of food, plants and animals.

After its advent, the PNA established the Institute of Standards and Specifications to protect the health and safety of consumers and the Palestinian environment, to raise the quality of Palestinian products and increase their competitive edge, and to contribute to the support of Palestinian national economy and its development.

Summary of Proposed Consumer Protection Law

The Proposed Palestinian Consumer Protection Law is composed of eight chapters and fifty articles. The first chapter dwells on definitions and general rules. The chapter has six articles focusing on some definitions of terms, purpose of the proposed law, the necessity of using Arabic in consumer awareness publication and the need for establishment of consumer protection societies. The second chapter tackles the consumer's right to access good quality goods. The third chapter is devoted to the safety of products and services, which was dealt with in eight articles.

In chapter four the proposed law deals with integrity in economic and business transactions (Article II). Chapter five is dedicated to a proposed Palestinian consumer protection society, in term of its establishment and legal status and the possibility of it receiving consumers' complaints. Chapter six focused on judicial disciplinary issues, powers of judicial commissioners and their specialisations. Chapter seven was devoted to penalties. Chapter eight included concluding rules and remarks.

Critical remarks on the Proposed Consumer Protection Law

After reviewing the items of the Proposed Palestinian Consumer Protection Law, it was clear that the PNA had fully realised the importance of having an up-to-date law that protects the consumer, guaranteeing and safeguarding his rights. However, the law neglected a number of basic and substantial issues. For example, the proposed law failed to dwell on all rights of the consumer approved by the UN General Assembly. The law charged the government or the consumer protection societies with the protection of consumers. In our estimation this is wrong, given the weak Palestinian experience in the field and the absence of consumer protection societies in Palestine. Furthermore, the proposed law failed to highlight those business practices which contravene the proposed Palestinian Competition Law, and neither does it mention prohibiting the imposition of unfair sales conditions on consumers. In addition, the proposed law failed to spell out the qualifications which the judicial control commissioner should have. It also did not dwell on closure of commercial stores or withdrawal of their licenses if and when they violate the articles of the law. These are deterring penalties which can be used when necessary in accordance with the type or nature of the violation.

The proposed law's potential to protect the consumer

In light of this critical study of the proposed law, it is clear that several universally-essential components in consumer protection laws were introduced. However, some other aspects have been neglected. Therefore, the researchers recommend the articles of the proposed law be redrafted to fill in these gaps so that the most comprehensive law takes effect to protect the consumer and improve the investment environment in the Palestinian Territories. However, the basic issue is not the creation or the passing of a law or legislation. Rather, the basic issue is the execution of the law on the ground. To this end, an effective judiciary system is required to settle trade disputes.