Background Paper

Roundtable (5):

Pension and Social Security Systems in Palestine

25 June 2014

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Introduction

Pension funds are central to all today's social protection systems, but with different degrees of coverage and in various forms. The provision of adequate social protection is a fundamental right of individuals and indisputable manifestation of the historic development of the concept of human rights at the global and country levels. The Palestinian official position is consistent with a global orientation- patronized by the International Development Association- based on a development approach that is instituted in the individual's entitlement to descent standards of living and appropriate social services.

The State of Palestine has recognized this indispensable right and thus asserted in its 2014-2016 Strategic Plan that the government is exerting efforts to develop a right-based, more integrated, holistic social protection system that offers unbiased high-quality, sustainable services to all population groups. As such, the system is intended to bridge the development gap between different regions in the country. The government will make sure that this system has more financial sustainability and less dependence on foreign aid. One of the policy priorities is to complete building a right-based social protection regime that provides quality services, decent life and opportunities for all people, especially the poor, individuals with disabilities, children, youth, women and the elderly[1].

Just the same, retirement funds and social security systems in modern societies are considered a lever for investment and, just like the banking system, they represent effective tools to centralize capital. Such systems are socially, economically and financially essential- capable of raising funds to invest in long-term economic projects, thus offsetting underinvestment. These funds have provided the financial sources that developed economies needed to finance costly long-term megaprojects whose financing is beyond the capabilities of banks. Statistics show that most developed countries now have assets in pension funds outweighing their GDPs[2].

The Palestinian government's approval of the non-state pension system on February 18, 2014 has instigated considerable debate between proponents (particularly private businesses which considered the system the best option for Palestine) and opponents (notably trade unions, Palestinian Pension Authority and human rights organizations).

This paper reviews the development of pension systems in Palestine, including the non-state pension system, and examines the grounds proponents/opponents build on in their opposition/support of the law.

Conflicting Policies

The review of this sector has revealed improvisation in its management and programs; absence of a clear vision that guides its development; and flopped work. This reflects poor experience and ineffective institutional work, where the pension departments sometimes jump randomly from one program to another without planning, halt a program in its early stages or cut other programs that had been prioritized as key social protection programs in the plan.

The Palestinian National Authority had a legacy of two different retirement systems. In the Gaza Strip, it used to apply the pension insurance system specified in Law 8/1964 and the Civil Service

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1 State of Palestine (2014). National Development Plan 2014-2016.

2 Atef Alawneh (2014). "Reading in the opposition to the non-state pension system." Al-Quds Newspaper, March 14, 2014. Available online http://www.alquds.com/en/node/495626
For more information on the economic role of these funds, see Alawneh, A. (2011). Reform of pension systems in Palestine. Ramallah, Palestine.

Retirement System (2 percent) set forth in Law 34/1959 in the West Bank (both are peculiar to the government sector). Later, the new government employees in both regions have been enrolled in the Insurance and Pension System.

In 2003, the Palestinian Legislative Council passed the Social Insurance Law which was then published in the Official Gazette. The new law accounted for old-age, disability, death and work injuries insurance schemes. The Law had been doing well in its initial stages of preparing regulations and setting up an insurance fund when it was abolished by a presidential decree in 2007.

The pension systems in the public sector were integrated in the Pension Law 7/2005 which regulates retirement for employees currently under the age of 45.

In 2007, the Pension Law was amended by the Presidential Decree 5/2007, so that it now covers all workers in the public and private sectors. The schemes are managed by the Palestinian Pension Authority. The amendment also involved abolishing the Social Insurance Law, which represents a radical change in viewing social security. Prior to the amendment, social security legislations would treat the public sector and the private sector differently, claiming that each sector has its own terms of employment.

Currently, the Palestinian Pension Authority manages the Palestinian pension regime through five retirement systems, namely: the Insurance and Pension System set forth in Law 8/1964; the Palestinian Security Forces Retirement System elucidated in Law 16/ 2004; the Civil Service Retirement System (2 percent) set forth in Law 34/1959 applicable in the West Bank; the Defined Benefits System and the Defined Contribution System instituted in Law 7/2005; and the retirement system for the president, the ministers, the MPs and the governors. With the exception of the Public Pension System, the role of the Pension Authority is restricted to the administrative aspects. Allocations for beneficiaries are disbursed by the Ministry of Finance.

In 2010, the Law was amended a second time. The new amendment has allowed establishing private pension systems such that beneficiaries from the Public Pension System can join non-state pension schemes.

In late 2013, the government formed a national committee entrusted with drafting a Social Security Act by 2015. The national team comprises production partners: the government, trade unions, representatives of the private sector and NGOs, and legal experts. In February 2014, the government approved the non-state pension system, a project the private sector has been working on since 2010.

The Non-state Pension System

The Non-state Pension System is a complementary, optional scheme that targets some 50-55 thousand employees from 70 large businesses. The provident funds in these businesses will be transferred to the new fund. The system requires these companies to invest generated funds in the domestic market. Some experts estimate such investments at billions of dollars over a five-year period.

The Non-state Pension System is based on the defined contributions system, where the employees pay 10 percent of their salaries while the employers pay 12 percent of these salaries (which is the same percentage in the government sector). The employees receive the amounts paid in addition to their profits (a minimum of 6 percent) distributed through their post-employment life.

Unlike the fragile, unsustainable Social Security System (which ensures social protection and is based on a defined-benefit system run by the government which intervenes when it defaults), the Non-state Pension is an individual system where entitlements and benefits are set by the contracting parties (employees and employers). The system will be run by a public joint stock company under the supervision of the Palestine Capital Market Authority. The funds of subscribers will be independent of the funds of the investing company.

Representatives of the private sector refer to international experiences and Palestinian situation to justify their support for this system, which is opposed by labor representatives and the Palestinian Pension Authority. Each argument is based on the party's understanding of the system. For proponents, investment of accumulated funds is a priority; for opponents, achieving socioeconomic rights has priority over investment.

Why a Non-state Pension System?

To identify the arguments of proponents, the study relied on two sources: radio interviews and newspaper articles, especially Alawneh's article in Al-Quds Newspaper (March 14, 2014) in which he defended the new System and refuted the arguments of opponents:

- The private sector's reluctance to join the Public Pension Fund: The reforms of the pension systems and the government's management were not successful. More than seven years after issuing the presidential decree, only few institutions (municipalities, universities) joined the scheme, while no single private company has to date enrolled.
- There is a need to develop several systems that take into account the particularity of NGOs and businesses which provide labor benefits beyond those stipulated in the Palestinian Labor Law 7/2000.
- The System addresses the issue of Palestinians working in the Israeli economy, as it allows the transfer of funds deducted from their wages to an individual pension system based on a defined-contribution in line with the Paris Protocols.
- The System provides pension benefits for old-age, disability and breadwinner death, which is part of the social protection in line with the global trend that details all aspects of social protection.
- The Supplementary System raises the post-employment salary to about 75 percent (well above the ratio in the proposed social security system) and allows capitalizing on the governmental benefits system, currently inoperative.
- The System is an effective investment financial tool that will yield remarkable payoff well beyond the revenues generated by the government system.
- The System secures financial sustainability. It is regulated by the Palestine Capital Market Authority, making it possible to effectively ensure the rights of subscribers.
- The System reduces the general budget burden.

Arguments of Opponents

The counterargument came in the first place from the Palestinian General Federation of Trade Unions:

> The government's approval of the non-state pension system clashes with the rationale behind social security systems. It also collides with the basic law and international conventions. We consider it an investment project where a small class- whose aim is to impoverish the poor and enrich the rich- exploits labors rights and controls the livelihoods of workers, the largest sector of the people.

According to labor unions, the Non-state Pension System is much of a profitable enterprise rather than a social security regime. Under the new system, a small class will reap big benefits at the expense of workers, while what is really needed in Palestine is a system that protects the fundamental rights of workers- the rights that must be secured by the government. The new system is also discriminatory and biased towards specific segments of the population, giving them special privileges to the exclusion of other segments.

Some criticisms are grounded in law. Human rights organizations and Palestine Pension Authority argue that the system clashes with the law, especially the Basic Law which states that social protection must be regulated in accordance with a law, not a system. Additionally, retirement in the non-governmental sectors is already regulated by the Palestinian Pension Law and its amendments, they contend.

Other opponents argue that the new regime enhances class stratification in the Palestinian society and contradicts with the idea of social security, which is based on the provision of universal protection for all citizens.

Key Questions

1. Where does the supplementary pension system fit in the social protection regime? Do we need a communal mandatory social security system in order to put this supplementary system into practice? Will there be several competing supplemental funds, along with a mandatory retirement fund, or will all pension funds be optional? Will that be consistent with the philosophy of the government with regard to ensuring economic and social rights?
2. Will social security issues be addressed in one package or singly (with specific arrangements for each issue)?
3. What is the impact of establishing special funds on the sustainability of a national social security system, which will forfeit the amounts stacked in large companies?
4. Who will benefit from the funds deducted from the wages of Palestinians working in the Israeli economy? Who has the right to claim and collect such funds?