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PALESTINIAN OPPOSITION TO SOCIAL SECURITY: REVOLUTION OR DEVOLUTION?

By Karam Omar

Overview

Social security functions as a safety net to protect workers in cases of illness, injury, and disability, and as a source of income after retirement. Its origins can be traced to the end of the nineteenth century, when Germany introduced the first mandatory social security system in response to workers' demands for more equity in a capitalist economy. Social movements and labor forces across the globe joined this struggle and over the decades workers gained more rights.

Today, social security is considered a social and economic human right according to Article 22 of the Universal Declaration of Human Rights and Article 9 of the International Covenant on Economic, Social, and Cultural Rights. The Palestinian Authority (PA) is a signatory party to the latter and has an obligation to fulfil the rights enshrined in the covenant.

While the PA has attempted to put a social security system in place in the Occupied Palestinian Territory (OPT) for decades, its efforts have come up against various forms of opposition. Most recently, civil society, the private sector, and laborers protested against the PA's 2016 social security law so vociferously and successfully that in June of 2019 a presidential decree halted the law's implementation.

Why did Palestinians, including Palestinian workers, fight against a right that other workers around the world have historically fought for?

This commentary addresses this query through an examination of the neoliberal nature of the social security system proposed as well as the PA's mismanagement of public funds and the current fiscal crisis. It concludes with thoughts on what a social security law beneficial to the Palestinian people would look like, and the steps needed to achieve it.

Social Security in the OPT

When the Palestinian Authority was formed via the 1993 Oslo Accords, the Palestinian Legislative Council began drafting various laws, including the first version of the social security law. The law's enactment eventually took place in 2003 and was to come into effect in 2007, but that year the World Bank recommended that the PA not enforce the law due to a lack of sustainable funding and high enforcement costs. Moreover, much of the Palestinian private sector opposed the law because it would have required employers to pay contributions to the social security fund and thus bear extra costs.

The PA followed the World Bank's recommendation and ultimately annulled the law by a presidential decree in 2007. Analysts speculated that pressure from the Bank and other external organizations seeking to support the private sector, as well as pressure from the private sector itself, brought about the annulment.[1]

The second attempt to introduce a social security law in the OPT proved even more controversial. The law – Law by Decree No. 6 of 2016 on Social Security – was drafted with the assistance of the International Labor Organization in a process described by many as lacking in transparency and participation by Palestinian society. Indeed, neither trade unions nor the private sector were consulted. Firas Jaber, a researcher at Al Marsad – the Social and Economic Policies Monitor, argued that civil society organizations' criticism of the decree's drafting process stemmed from the absence of justice, fairness, and equality.

1. As Rita Giacaman, Islah Jad, and Penny Johnson contend, Oslo has resulted in the institutionalization of the PA as only one actor shaping national economic and social policies, with international organizations, foreign donors, and state parties also exerting significant influence on policymaking.

The new law also revealed the PA's desire to access workers' salaries. Article VII(4) of the 1994 Paris Protocol – the parameters for the economic relationship between Israel and the OPT – regulates social security deductions from wages of Palestinians who work in Israel. The article mandates that the deductions be transferred to the PA upon the establishment of a social security fund. Many critics have cited this ability of the PA to draw on workers' wages as a major factor behind its attempts to introduce a social security law in PA-controlled areas.

The PA initially dismissed opposition to the law. However, as public outrage increased, it began a consultative process that culminated in Law by Decree No. 19 of 2016 on Social Security. This version improved on its predecessor in that it made the PA a guarantor for the fund, thus requiring it to cover any potential fiscal deficit. The new law also gave women the right to maternity leave after making three contributions to the fund, compared to six under the previous law.

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Further, under the previous law workers' funds from savings accounts, retirement plans, and health insurance plans would be transferred to a supplementary fund for investment. Workers opposed this arrangement because the supplementary fund was to be separate from the social security system and therefore more vulnerable to market risk. The new law did not direct these resources to a supplementary fund, but instead kept them in workers' institutions. It also stipulated that the supplementary fund would become optional for workers and its management transferred to the social security system.

Despite these changes, opposition to the law from the Palestinian private sector and its labor force only increased. The private sector's main concern remained the same, namely that the law would oblige it to pay contributions to the fund. The law would also oblige it to pay minimum wage. According to Palestinian government data, 16% of the Palestinian labor force in the West Bank receives a salary below the official minimum wage. However, it is likely that this percentage is higher due to a lack of PA supervision and enforcement.

The new law would also have required private sector employers to pay their employees severance. Under Palestinian labor law, workers are entitled to end-of-service benefits in the form of a month's salary for every year they have worked for their employer. Because the social security law would replace that provision, employers would be obliged to pay all their employees severance – as if they had stopped working – for the new system of contributions and benefits to begin.

Many small, medium, and large businesses could have failed due to their inability to pay these large sums. Naturally, employers in the private sector were unhappy with any arrangement that would reduce their profits, increase their costs, and potentially close their doors. Yet Palestinian workers also staged many strikes and protests. Though employers may have encouraged their workers to protest due to their economic interests, this should not negate the workers' interests in opposing the law. The opposition succeeded: On June 28, 2019 a presidential decree froze the law's implementation.

Why did Palestinian workers fight against a right that would ostensibly benefit them? The answer lies in the neoliberal nature of the law, as well as the public's mistrust of the PA.

Privatizing Social Security

The framework under which the social security law would operate is of a neoliberal nature, whereby the PA only manages the fund and does not contribute to it. Rather, it would invest it in the private sector.[2] Even in a sovereign state with a more stable economy, such as the once similarly neoliberal Chile, such privatization of social security has proven disastrous.

Much like the OPT today, Chile was once a laboratory for neoliberal US ideologies. The Chilean government created a privatized social security system funded solely by contributions from employees. This closely resembles the system proposed in the OPT, though OPT employers would also be required to contribute to the fund. The contributions in Chile were placed in private

2. On paper the social security fund is independent from the PA, though this is not the case in practice as PA employees would run it.

accounts in the private sector. With the 2008 global economic crisis, the value of these accounts dropped 30-35%, prompting a large-scale reform movement.

Privatizing the social security system and placing it in the hands of a high-risk, profit-driven sector thus carries many risks. In the case of the Palestinian economy, one must also take into consideration its unique external and internal factors. Similar to Wall Street's financial collapse, the current growth of the Palestinian economy is fueled by an unsustainable expansion in credit to the PA, its employees, and the private sector.

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Palestinian banks, like pre-2008 US banks, have lax lending and credit scoring systems. One only need tour Ramallah, the PA's administrative capital, to view the glut of high-end cafes, villas, and cars funded by this credit expansion. Many analysts believe that a burst in the OPT's credit bubble is only a matter of time.

Furthermore, the Palestinian economy is at the mercy of the Israeli occupier who controls borders, trade, Palestinian clearance revenues, and natural resources. At the time that Palestinian workers were protesting the social security law, Israeli raids in West Bank cities, particularly Ramallah, served as a reminder of who in fact controls the OPT.

Therefore, should the security situation deteriorate, Israeli raids coupled with a curfew could cost the Palestinian economy millions or even billions in lost revenue. Any such losses, whether due to a credit bubble burst or the Israeli occupation, would affect the proposed social security funds that would be placed in Palestinian banks and invested in the Palestinian economy.

Palestinians well understand this situation, and as such they voiced their anger and dissatisfaction with the law – even with the PA pledged as a guarantor of the funds. Indeed, the public's deep mistrust in the PA's political and economic functioning spurred its opposition.

A Corrupt and Incompetent Authority

A 2017 survey indicated that Palestinians view PA corruption as the second largest issue they face, with the economic crisis ranking first and the occupation third. It is therefore hardly a surprise that many Palestinians contend that the lack of public confidence in the PA is a prime reason behind their rejection of the social security law.

One of the reasons for this is that the PA is built on neopatrimonialism – according to Marwa Fatafta, "a hybrid model in which state structures, laws, and regulations are formally in place but overridden by informal politics and networks of patronage, kinship, and tribalism." Accordingly, public positions are often offered in accordance with loyalty to those at the top of the political hierarchy rather than because of merit. In this system, officials use their public positions for personal gain and often deploy them as a path to the state's resources and to strengthen their power or influence.[3]

For instance, a 2017 report from the Coalition for Accountability and Integrity (AMAN) documented eight cases in which officials did not pay customs and taxes on their purchase of private vehicles. The amount of wasted public funds reached $357,600, which would have otherwise gone to the public treasury. These funds, the report noted, were sufficient to cover three months of a Ministry of Social Development program that supplies 1,670 needy families with cash resources.

The PA's inability to manage and act as a guarantor for the Palestinian people's funds was also made clear in 2016 when it borrowed around $2 billion from the state's pension fund. This led to a fiscal deficit in the fund and further deteriorated public confidence in the leadership.

The current fiscal crisis also shows the PA's short-sighted economic policies. In recent years, the PA has shifted away from donor aid and become more dependent on clearance revenues and credit expansion. While a shift from donor aid may be desirable, these policies, in which the PA has focused on increasing

3. Jamil Hilal, "The Palestinian Political System After Oslo: A Critical Assessment" (in Arabic), Muwatin, second edition, 2006.

imports and deriving revenue from import taxes to meet the market's demands, rather than investing in a productive local economy that would become a prime source of revenue through local taxes, are unsustainable. As Yasser Salah has argued, the PA's shift to revenue from import taxes as a main source of income demonstrates its short-term profit orientation and inability to form long-term development policies.

The dangers of this approach were demonstrated in February 2019, when the Israeli government implemented a July 2018 law through which the Israeli authorities deduct around 6% (in addition to the 3% they deduct based on the Oslo Accords agreement) from the clearance revenues they collect on behalf of the PA – an amount they deem equivalent to the sum the PA pays to the families of Palestinian martyrs and prisoners. In response, the PA rejected any clearance revenue transfers, which represent 65% of its income and cover over half of its expenditures. To meet its basic obligations and pay public sector employees, the PA began to borrow from local banks, but so far it has only been able to pay 50% to 60% of public employees' salaries.

The crisis puts the Palestinian Authority and the Palestinian economy's viability into question. It is hardly surprising that one of the main slogans for the campaign against the social security law was, "This social security law has no security." Not only has the PA demonstrated that it is incapable of creating egalitarian and beneficial living conditions for Palestinians, it has also shown that its survival techniques more closely resemble a game of Russian roulette, with only a matter of time before its luck runs out.

Hence the Palestinian public's anger at the social security law emerged from the PA's desire to access its population's salaries, its inability to act as a guarantor, and its long history of mismanagement of public funds. What can be done to reverse – or at least amend – such a course?

Ways Forward: Accountability and Democracy

A social security law beneficial for the Palestinian people would be very different than the one proposed by the PA. It would first and foremost not be contingent on high-risk private investment mechanisms. Indeed, profit should not even come into play, as the law should be primarily concerned with providing real social security rights to Palestinian workers. Investment should therefore be elective, and the fund would be best managed by workers' unions.

Such a social security fund would derive its contributions from the PA, income tax (with those with lower incomes exempt from contributing), and employers, whose contributions above the minimum level required would depend on their profits. This means that if one employer derives more profits than another, it should contribute more than its counterpart.

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To create the conditions ripe for such a law, deep changes are required. First, the PA should push for presidential and parliamentary elections and initiate a nationwide campaign to combat corruption on an institutional and individual level. Officials cannot be held accountable to voters in the absence of democracy. Without genuine efforts to combat public corruption, the status quo is likely to remain. Although such reforms will not change the fact that the OPT is under military occupation, genuine efforts by the PA to improve itself are likely to create public trust and support for future policies.

Efforts are also needed to reach a reconciliation agreement between the two dominant ruling parties, Fatah and Hamas. The division, which has lasted for more than 12 years, has been a major obstacle to the PA's quasi-state project. When Hamas won the legislative elections in 2006, the PA, headed by Fatah, should have respected the Palestinian people's decision by not yielding to international boycott and pressure regarding Hamas. The PA should now work to remedy this history by engaging with Hamas politically.

The campaign against the social security law succeeded in halting the legislation – a great accomplishment. But the win may signal something even more important: the birth of a movement by the Palestinian public. As Majed Al-Arouri wrote, before the social security law, the Palestinian street used to growl but not bite. The ability of Palestinians to lead a successful campaign against one of the PA's policies could be the start of a rights movement calling for deeper changes to a deficient and corrupt system.

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