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Arab Civil Society Actors and their Quest to Influence Policy-Making

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LEBANESE CIVIL SOCIETY ORGANIZATIONS AND THE OLD TENANCY AGREEMENTS

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The involvement, strategies, and challenges that faced Lebanese civil society organizations in fighting the New Tenancy Law

BACKGROUND

Inherited from the French Mandate at the end of the Second World War, Rent Acts No. 159 and 160 – known as the "old rent" law – were introduced in July 1992 after the end of the civil war (Marot, 2012). As a result, tenancy agreements signed after July 1992 were deregulated after 50 years of hindering the potentiality of amending tenancy contracts that negatively affected the landlords[1] on grounds of socio-economic instability during political turbulence[2]. Despite Laws No. 159/92 and 160/92, owners did not hold any right to amend the terms of the old tenancy agreements although they had the right to recover their rented property on the basis of demolishing the apartment or using it for familial reasons[3].

The Lebanese civil war inevitably took a toll on the urban fabric, demographics and the economy of Beirut. During the postwar era, a Lebanese joint-stock company called Solidere took the lead in reviving the capital's central district. Blessed by the real estate businessman and late Prime Minister Rafik al Hariri, a new alliance was formed between the dominant za'ims[4], power-brokers, and venture capitalists investing in the real estate industry (Saghieh, 2019). Ever since the blueprint of Solidere became a reality, real estate agencies became keen on luring the landlords of old buildings into selling their property. In the 2007-2010 period, the real estate industry became the backbone of the Lebanese economy until it deteriorated in the four years that followed (BankMed, 2014).

According to BankMed's special report (2014), "the real estate sector witnessed a slight improvement in the first five months of 2014, with real estate transactions rising by 8.9% and their value increasing by 26.8%." Corresponding to these values, it was during the fourth month of 2014 that landlords were granted the right to liberate agreements signed before July 1992 pursuant to the 'New Tenancy Law.'[5] This law liberated all residential tenancy contracts freeing the owners from rent control applied by previous laws and regulations. The new law proposed a plan[6] to process the changes inflicted alongside a governmental subsidy presented to help tenants who are in need. Passing the law gave hope to landlords, but left the old tenants, that are the most socio-economically vulnerable, potentially homeless.

Many civil society actors such as stakeholder committees, lawyers, NGOs, researchers, and even members of parliament scrutinized the new tenancy law, given that the new law is stained with impracticality[7] that hindered the proper way of implementation. The frailty of the new tenancy law was not only manifested by improper implementation, but also due to the absence of housing policies implemented by the state (Legal Agenda, 2015). The balance between the right to housing and the right to ownership emerged as a new challenge.

[1] *Pursuant to legislation, landlords were restricted by a de facto extension.*
[2] *Lebanon witnessed many upheavals such as World War Two, the Revolution of 1958, and the strenuous Civil War (1990-1975).*
[3] *A common example of recovering the apartment for familial reasons is the marriage of the landlord or one of his/her family members..*
[4] *An Arabic word that translates to political leader.*
[5] *Referring to the amended Law No. 92/160 throughout the case study.*
[6] *The plan legislated according to the New Tenancy Law stipulates a -12year plan for and a nine-year plan according to old tenancy agreements.*
[7] *The gross public debt according to recent statements by the Ministry of Finance is approximately 85$ billion USD. It would be improbable that the Lebanese government can provide monetary resources to the tenants' Support Fund.*

TENANCY CONTRACTS UNDER THE LEGAL SCOPE

Article 533 of the Lebanese Contracts and Obligations Code defines the lease contract as "a contract to which one is obliged to give another person the right to benefit from something fixed, movable or for a certain period of time in exchange for a fee to which that person is bound to perform." An exception to the general principle, pacta sunt servanda[8], and for socio-economic considerations like maintaining low-income workers and their families in Beirut, the legislature intervened by implementing Decision No. 213/1936 giving the tenants more time to settle rent allowances to property owners (Abdallah, 2014).

The Second World War was a preamble for the legislature to pass exceptional laws extending the duration of residential tenancy contracts. This was due to a housing crisis and hikes on rent allowances in which many low-income workers could not manage buying houses in order to sustain a living. This intervention was followed by Decree No. 19/1940 extending the duration of tenancy contracts pursuant to the law. This legislative approach remained ongoing until July 1992 after halting extensions of contracts pursuant to Law No. 160/1992.

On April 1, 2014, the New Tenancy Law was born in which the parliament promulgated the law by voting on a single article without any legal deliberation challenging its context (Abdallah, 2014). Yet, before publishing the new law in the Official Gazette, the Lebanese President Michel Suleiman, who had been anticipating the end of his presidential mandate on May 24, 2014, abstained from signing the new law noting that "any law that does not provide social justice is unfair to a particular class or class of citizens" (National News Agency, 2014 May 7). Amidst the division between the tenants' opposition and the landlords' endorsement of the new law, the president dodged the responsibility to the legislative body pursuant to his abstention. Eventually, and according to the Lebanese constitution[9], the law was enacted promptly and published effectively in the Official Gazette on May 8, 2014. Regardless of the motive behind Suleiman's abstention, and legally speaking, his action served the opposing party by granting them time to appeal the law in front of the Constitutional Council (CC).

It is worth mentioning that the new law had two pillars to balance between the right to ownership and the right to housing. The first pillar would be the liberalization of the old tenancy agreements gradually over a period of time. This plan will increase the rental payments by 5 percent of the current market value of the apartment within the aforementioned timeframe. The second pillar is the establishment of a judicial committee that studies the socio-economic status of the tenants living as a family. This committee is responsible for carrying out case studies concerning vulnerable tenants who cannot afford paying the increments. Under this umbrella, the law issued a financial support fund by the government in favor of these families. However, this mechanism was perceived as a patchwork rather than a comprehensive housing policy.

COMMITTEES, LAWYERS AND NGOS: ACTION FOR A HOUSING POLICY

After passing the legislation in April 2014, the tension between the concerned parties escalated. The clash between both committees, the tenants' and landlords' committees, rose to the surface. The Committee to Defend Tenants' Rights (CDTR) took their dissent to the streets rejecting what they coined as the displacement law. Similarly, the Committee of Landlords expressed their discontent on the discretionary implementation of the new law due to the fact that some Lebanese courts were not implementing its legal texts due to the absence of implementing decrees[10].

Possessing a representative post in the National Economic and Social Council whilst being the first to challenge housing policy-related issues since 1950, the CDTR has avoided a rigid hierarchy. The committee opposed the liberalization of old contracts without an alternative housing plan (Bekdache, 2015). On April 11, 2014, old tenants, mainly the families residing in the precinct of Mousaitbeh in Beirut protested in front of former Prime Minister Tamam Salam's residence urging him not to accept this law (National News Agency, 2014). Needless to say, the CDTR witnessed a split due to political intervention in the dynamics of activism. Historically, directors of the CDTR, who have always been associated with the Lebanese Communist Party, had confiscated decision-making in favor of their political agenda (Taha, 2019). Consequently, the majority of deserting active members in the CDTR had created and registered a parallel NGO called the National Committee to Defend Tenants (NCDT). This committee is now reorganizing itself through seeking membership of tenants, professionals, and sympathizers aiming for a national housing policy.

On the other hand, landlords demanding the implementation of the new law reacted by rallying frequently, urging the government to sign the implementing decrees. The landlords' league was represented by lawyers in courts of law. Meanwhile, their structural representation, unlike the tenants' movement, was mainly evident through the league's director and advocate Joseph Zgheib. In one of the recent protests at the Riad al Solh square in downtown Beirut, Zgheib demanded the immediate signature to the implementing decrees amidst a small crowd of angry landlords.

[8]The general legal principle that means "all agreements must be kept."
[9]Refer to Article No. 57 of the Lebanese constitution, "The President of the Republic, after informing the Council of Ministers, shall have the right to request the reconsideration of a law once during the period prescribed for its issue. This request may not be refused. When the President exercises this right, he shall not be required to issue the law until it has been discussed and approved by an absolute majority of all the members legally composing the Chamber. If the time limit expires without the law being issued or returned, the law shall be considered automatically operative and must be promulgated."

[10]Implementing decrees are usually issued in order to facilitate the implementation of any law. In this case, many technical issues like the establishment of the judicial committee responsible for granting subsidies and the funding allocated for old tenants needed an intervention from the cabinet by issuing these implementation decrees. This issue was resolved by issuing implementing Decree No. 2019/4773.

A legal follow-up was provided by a group of lawyers who protested the new tenancy law. This group followed the case voluntarily without any delegation of the Lebanese Bar Association. Adib Zakhour, an active lawyer affiliated with this group, issued a public statement at the Lebanese Bar Association urging lawyers to take a stand against this new law. The Lawyers' Committee and other civil society actors (CSAs) held meetings with many lawmakers and state officials like former Prime Minister Tamam Salam (Presidency of the Council of Ministers, 2014) and Speaker of the Parliament Nabih Berri (National News Agency, 2016). The contribution of the lawyers' activism was by contacting and seeking legislators in order to file their appeal against this law in front of the CC.

Worthy to note that local news outlets hosted many talk shows discussing the implications of the new tenancy law. Some broadcasting channels, such as LBCI and TL[11], hosted special episodes regarding the conflict between both unions without challenging the need for a housing policy. Similarly, a few local newspapers such as Al Akhbar and Assafir were a megaphone for the tenants' case. Overall, according to Zaki Taha (2019), the case was not well covered by the media due to pressure applied on behalf of real estate investors on local media outlets.

NGOs and associations had a role in shedding light on the frailty of the passed law. Public Works, the Legal Agenda, and the Lebanese Economic Association held a joint conference on March 31, 2015, stating that although the new tenancy law helped underprivileged tenants, there was no holistic approach to housing policies. In the conference, NGO representatives raised a question regarding the future of Lebanese citizens who cannot afford reasonable accommodation amidst the economic status quo. Other NGOs, like Public Works, went further by collaborating with the Order of Engineers on launching events and research proposals to an alternative inclusive housing plan.

THE CONSTITUTIONAL COUNCIL SUSPENDS THE LAW INDIRECTLY

On August 6, 2014, the CC issued a decision revoking Articles 7, 13, and paragraph 4 from Article 18 in the new tenancy law after an appeal presented by 10 Lebanese MPs[12]. The decision indirectly halted another 28 articles in the same law. However, the importance of this decision, according to lawyer Zakhour (2014), was by placing responsibility on the parliament and the government to find a housing plan and preserve the right to housing.

Indeed, the council's decision was a wakeup call for the Lebanese legislature by ruling that the right to housing is a constitutional right. Hence, the three articles repealed by the CC were restructured by the Administration and Justice Parliamentary Committee. Hence, on February 27, 2017, the New Tenancy Law has been reissued with few reforms.

The main reforms were decreasing the rate of sale value by 1 percent[13] in order to determine the free market rental value and expanding the beneficiaries of the fund to a minimum of five times[14] the minimum wage whilst calculating the family income of all residents of the wage and beneficiaries of the legal extension of residency.
Apart from the whole reforms passed in 2017, Article 58 in the New Tenancy Law remained a crucial key in suspending the legal consequences until passing the implementing decrees. However, on February 25, 2018, Minister of Finance Ali Hassan Khalil signed the implementing decree, dictating the process of granting the subsidy to beneficiaries. Consequently, President Michel Aoun has signed the implementing decree[15] as well, giving the green light for establishing the judicial committee. In this trajectory, the only issue hindering the execution of the New Tenancy Law is the appropriation of government funds to support vulnerable old tenants (Farfour, 2019).

[11]The official public Lebanese broadcasting channel, Tele Liban, directed by the government.
[12]MPs appeal filed by Abdullatif Al Zein, Hagop Pakradounian, Kassem Hachem, Alwaleed Sukariyeh, Ziad Aswad, Nadim el Gemayel, Nawaf al Mousawi, Bilal Farhat, Elie Marouni, and Fadi al Habre. The Lawyers' Committee tried to influence these legislators individually.
[13]The legislator decreased it to 4 percent, down from 5 percent which was mentioned in the 2014 version.
[14]After that it was three times the minimum wage of the whole beneficiary family's income.
[15]Decree No. 2019/4773.

CONCLUSION

CSAs were active on three levels: in courts, in the street, and in the media, throughout their fight for adequate housing policies. Their activism, approach, and setbacks accompanied their battle against the tenancy law and paved the way for a new discourse. The right to ownership was ruled as a constitutional right; however, the right to housing is emerging as an entitlement to a defined housing policy. Old tenants waiting to get evicted from the capital, leading to homelessness, will be a challenge for policy-makers. In a nutshell, the New Tenancy Law exposed policy-makers to their failure to set a clear housing policy.

LESSONS LEARNED

• Communist partisanship was evident in the work dynamics of the CDTR. Reconciliation to attain a unified vision and mission in fighting for the right to adequate housing alongside other actors is crucial when dealing with social issues.

• The old tenancy case is one brick in the dome of an inclusive housing policy. The umbrella of beneficiaries was restricted to only two parties: old tenants and landlords. CSAs, including lawyers, researchers and unions, fell short on reaching out to all citizens inclusively by focusing only on old tenants.

• CSAs neglected the importance of media exposure in a fast-paced digital era. Advocating and campaigning are an essential part of supporting any cause. Informing and engaging beneficiaries via the media is a prerequisite that has been neglected by the committees.

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BREAKING THE MOLD PROJECT

In mid- 2018, the "Civil Society Actors and Policymaking in the Arab World" program at IFI, with the support of Open Society Foundations, launched the second round of its extended research project "Arab Civil Society Actors and their Quest to Influence Policy-Making". This project mapped and analyzed the attempts of Arab civil society, in all its orientations, structures, and differences, to influence public policy across a variety of domains. This research produced 92 case studies outlining the role of civil society in impacting political, social, economic, gender, educational, health-related, and environmental policies in ten Arab countries: Lebanon, Syria, Palestine, Jordan, Egypt, Morocco, Tunisia, Yemen, and the Arab Gulf.
Over two dozen researchers and research groups from the above countries participated in this project, which was conducted over a year and a half. The results were reviewed by an advisory committee for methodology to ensure alignment with the project's goals, and were presented by the researchers in various themed sessions over the course of the two days.

THE CIVIL SOCIETY ACTORS AND POLICY-MAKING PROGRAM

at the Issam Fares Institute for Public Policy and International Affairs at AUB, examines the role that civil society actors play in shaping and making policy. Specifically, the program focuses on the following aspects: how civil society actors organize themselves into advocacy coalitions; how policy networks are formed to influence policy processes and outcomes; and how policy research institutes contribute their research into policy. The program also explores the media's expanding role, which some claim has catalyzed the Uprisings throughout the region.

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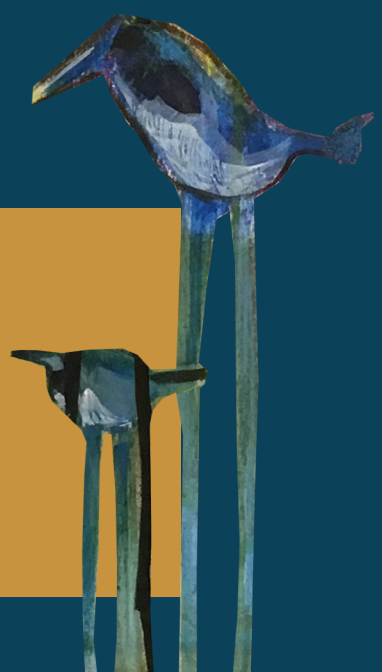

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