



FINANCIAL ANALYSIS OF WAQF REAL ESTATE REVENUES IN THE WEST BANK: 1994-2014

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ABSTRACT

This paper made a financial analysis of the revenues of the Palestinian Ministry of Waqf (endowment) and specifically its real estate revenues in the West Bank. It was found that 61% of the waqf ministry's total revenues were from real estate. This clearly shows the importance of waqf real estate rentals in the ministry's annual budget. The importance of this study springs from its dependence on primary sources: Palestinian Ministry of Waqf's financial records, and its West Bank directorates ' 2,108 files related to real estate leasing. This was in addition to personal interviews with waqf ministry officials and experts from outside the ministry. In order to achieve the purpose of this study (finding out the factors impeding the development / investment of the ministry's real estate low revenues), the researcher computed the collected data of the leased waqf real estate using the descriptive analytical method. After data analysis, it was found that the West Bank was home to a large number of leased waqf real estate but its revenues were low compared to its size and locations. It was also found that the ministry had a big problem in collecting rentals from the tenants. In 2013, the ministry only managed to collect 1,264,372 Jordanian dinars, though the actual value of dues was JD 4,599,631. In other words, the ministry managed to collect 27% of all dues. The rest remained debts and revolving balance on the tenants. This situation was due to the waqf real estate leasing mechanism pattern of contracts regulating them, the legal extension of

leasing contracts, freezing of rental charges, low collections, accumulation of debts on tenants, and legal legislations.

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Keywords: Waqf, West bank, Islamic endowment, Economic policy, Waqf real estate, Revenues, Ministry of Waqf.

Contribution/ Originality

This study is expected to increase interest in and knowledge of the reality of waqf holdings in Palestine and the problems facing the Palestinian Ministry of Waqf in making optimal use of these holdings. Unlike other studies, this study solely depended on primary sources and provided the first up-to-date logical analysis of data about size of waqf estate and revenues.

1. INTRODUCTION

Since taking over the waqf affairs in 1994, the Palestinian Ministry of Waqf and Religious Affairs(hereinafter ministry of waqf) has faced tremendous challenges in investing the waqf properties. This has been due to the different political regimes which had ruled the Palestinian territories over the decades. All these different successive ruling governments had embodied their own patterns of administration on the operation of waqf properties according to visions and agendas of their own. Over the years, their policies have represented a number of challenges for the ministry of waqf in its endeavor to invest and develop its property and increase its revenues. This paper aims to study the reasons behind the low revenues of the waqf real estate. The paper looks closely into the circumstances behind the low proceeds including the improper mechanisms of waqf real estate leasing, pattern of contracts regulating them, perpetuity of lease period, legal extension of lease contracts, freezing of waqf real estate rentals, low collection and accumulation of debts on the tenants.

1.1. Objectives of the Study

In addition to providing a statement of the Ministry of Waqf revenues, this paper made a financial analysis of the West Bank waqf real estate revenues. It also inferred the reasons that have precluded the development/ investment of these revenues as well as the problems facing the ministry in collecting its dues.

1.2. Problem of the Study

This study raised and sought to answer the following questions:

- 1.What is the current state of affairs of the Ministry of Waqf revenues?
- 2.What is impact of leasing contracts on waqf real estate revenues?
- 3.What is the impact of leasing mechanisms on the waqf real estate returns?
- 4.What is the impact of the legal extension of lease contracts on the waqf real estate revenues?
- 5.What is the impact of freezing waqf real estate rentals on the ministry's revenues?

6. What is the effect of the tenants' refusal to pay for rent on the ministry's returns?

1.3. Significance of the Study

This study is important because it tackles one of the productive sectors in the Palestinian economy and depends primarily on first hand sources: Ministry of Waqf financial records. It endeavors to find out the volume of waqf revenues and analyses them with the purpose of identifying the factors that have affected these revenues. The researcher hopes that this study will contribute to the advancement of this productive sector.

1.4. Methodology of the Study

In this study, the researcher dealt with the waqf real estate returns depending on primary sources: Ministry of Waqf financial records as well as 2,581 files of waqf real estate lease contracts. Using the descriptive analytical methods, to find out the current state of affairs of the waqf real estate revenues and the reasons behind their dwindling, the researcher computed all the collected data.

1.5. Timeframe and Place Limitations of the Study

This study was limited to the financial records of waqf and its directorates in the West Bank with the purpose of identifying the current state of affairs of the waqf real estate returns. The study covered the period between 1994-2014. The year 1994 marked the advent of the Palestinian National Authority and its takeover of waqf properties in the West Bank and the Gaza Strip.

1.6. Current State of Affairs of the Ministry of Waqf Revenues

In 2013, the waqf real estate rentals amounted to JD 1,264,372 or 61% of the total revenues of the Ministry of Waqf. This clearly reflects the importance of the contribution of waqf real estate rentals to the ministry's annual budget (Al-Hilo, 2014).

Table-1. Revenues of Ministry of Waqf in 2013

Type of revenue	Amount in JD
General waqf rentals	1,264,372
<i>Ihkar</i> collection in Bethlehem	72,295
Miscellaneous incomes (olive oil produce, relocation allowances)	591,783
Rental deposits	35,309
Profits of orphans' factories in Jerusalem	1,487
Family waqf returns (Al-Nimer waqf in Nablus and Al-Hajja Shamseh of Jenin)	41,557

Source: Department of Financial Affairs Ministry of Waqf (2014).

In this context, it should be noted that the Ministry of Waqf has in the last few years devoted a lot of efforts to invest its returns and collect its dues. In 2013, the ministry collected about JD 2,077,613 (Ministry of Waqf Department of Financial Affairs, 2014).

However, despite all these efforts, the ministry's revenues from leasing of waqf real estate property are poor in comparison with the size of the waqf assets in the West Bank. The actual value of rental, necessary to be collected from the tenants, amounted to 4,599,631 dinars (Ministry of Waqf Department of Financial Affairs, 2014). *These low revenues and poor collections are attributed to several factors:*

2. WEAKNESS OF WAQF REAL ESTATE LEASING MECHANISMS AND CONTRACTS GOVERNING THEM

Basically, leasing of waqf holdings must be subject to Islamic shari'a provisions as they are the source of the legal system. According to fiqh scholars, the leasing of waqf has to be in the hands of a judge or leader (Ibn Abdeen Ed-Dimashqi, 1992). Later this power was transferred to a waqf administration which began to oversee the running of waqf property but this role has been restricted to offering of its property for rent and collection of rentals. However, it did not even succeed in performing that role and did not invest its property seriously. It failed to move against the intransigence of tenants and usurpation of waqf rights. Therefore, it has become a necessity to develop its mechanisms and reconsider the contracts regulating the lease of its property (Abed, 2013).

Leasing has been one of the most common methods of investing waqf real estate. Prevailing tradition in leasing waqf property was to lease it for same prices in market. The rental used to be determined through negotiations between the would-be tenant and the waqf employee who would then send his file to his director who in turn would give recommendations to the ministry with details about the property and ask for expression of opinion of rejection or approval. Subsequently, a contract or agreement would be signed between the two parties (Mansour, 2013). This tradition of leasing has been followed since the second half of the 20th century but it has deprived the waqf of collecting the highest proceeds of leased property. This was because the estate was not offered for public auction (Taleb, 2014). In addition, the waqf has failed to conduct surveys of its holdings and their development needs, thus affecting opportunities for their investment (Mansour, 2013).

Lease contracts have represented a big challenge in the development of real estate returns due to the legal protection given to the tenants who pay for rent on time and who have not violated the leasing terms (Atawneh, 2014). And despite the occurrence of some violations, the waqf has failed to take legal actions against them because it has no power to force them to evacuate the property. Also taking them to court takes a long time in Palestinian courts, thus encouraging these tenants to run around (Taleb, 2014). These lease contracts loopholes have enabled these tenants to monopolize the real estate for many decades and allow their children to inherit it after their death, and pay same rental paid a long time ago. Consequently, the real estate returns, since the second half of 20th century, have been low and worthless (Atawneh, 2014).

These loopholes include preventing the Ministry of Waqf from changing the annual rental from time to time or raising it to a certain percentage or renewing the contracts in case of the tenant's death. The contracts don't stipulate maintenance of the real estate in the future and manner of its financing, thus affecting the physical state of leased property. This has necessitated the need for rehabilitation (Mansour, 2013).

For the sake of rectifying this situation, it has become a must for the Ministry of Waqf to change the text of the lease contracts governing the running of waqf real estate in order to protect the waqf rights which include increase of annual rentals, cancellation of the legal extension of lease contracts, maintenance of waqf real estate which has become in miserable physical conditions (Atawneh, 2014).

3. EXTERNALIZATION OF LEASE CONTRACT PERIODS AND THEIR LEGAL EXTENSION

The lease contract period is considered one of the key issues in the real estate leasing. It is one of the important matters for the protection of the waqf rights in the future. There is a very close relationship between the period and rental. It is, therefore, illegal to lease a real estate property for an indefinite period simply because one of the major characteristics of lease contracts is that they are temporary.

All fiqh scholars say this in their definition of lease contract (Abdelrahim, 2003). The lease expires with the end of the period of lease contract. The lease terminates with the completion of the term and tenancy ends with the completion of the period as all fiqh scholars have agreed upon. The Hanafi school of thought believes the term of lease in waqf is one year for houses and three years for agricultural land (Abdelrahim, 2003). It is worth noting in this context that the short-term lease contracts are better for waqf than long-term ones because upon completion of lease period, the waqf will have the right to renew the contract with new fees. Often the new rental is higher than the previous one and is equal to the value of the same in the market. In contrast to long-term lease contracts, the rental is fixed over the period of tenancy despite the change in value of money and increase of prices (Mansour, 2013).

This supports the Hanafi's edict of annulling long-term lease in term of time because this would harm the waqf in the long run unless interest necessitates the completion of waqf real estate by asking for an advance payment of two years to come. In this case, the waqf property would be leased for a long period if the tenant agreed to build the waqf real estate. In that case, there must be new contracts every year (Abdelrahim, 2003).

The prevailing tradition in leasing waqf real estate property is to respect the will of the donor of waqf and his conditions stipulated in the waqfiyah. The donor's condition is like that of the lawmaker's understanding and significance. (Jordanian Civil Law # 43, 1976). If the donor of waqf specified the leasing period, then it would be respected and abided by. If he/she did not spell out any such condition, then procedures would be according to those of official bodies assigned by the waqf. Basically, in spelling out the lease period, the waqf is given an opportunity to review and

reconsider the process of leasing on one hand and raising value of rent that matches counterpart rent in the market on the other hand. (Taleb, 2014). However, this has not been materialized and the rental has not changed since the leasing of property. The origin of the problem lies in the automatic renewal of contracts for the tenants who pay regularly for rent and on time and who have not changed the structure of the real estate, and heirs, in case of any, have not disagreed on the operation of the real estate after death of the tenant (Jum'a and Shaker, 1996).

In this case, the contract is renewed automatically every year until tenancy has become for life. In that scenario, the waqf authorities cannot change the rental, thus making real estate returns poor and even worthless (Atawneh, 2014).

This study has found that this problem is one of the most serious problems which has hard hit the waqf real estate returns. The waqf real estate rentals in all West Bank governorates have remained unchanged at annual rates at which the real estate was leased. In East Jerusalem, rates were frozen at the rates of 1967 when the West Bank fell under the Israeli occupation. With change of money value and rise of prices, the value of returns from leased real estate of waqf has eroded ever since to the extent that the waqf has stopped collection of revenues from some leased real estate as it has lost most of its value and no longer covers the costs of its collection (Naser Ed-Deen, 2000). After careful data analysis, the researcher found that more than 252 real estate units had been leased in the 1950s and their tenants still paid same rentals agreed upon at the time with no change in them to the extent that the annual average return was JD 91.6 as opposed to an average return of JD 1,182.3 for contracts that have been renewed recently. When taking into account the number of real estate properties that have been leased in subsequent contracts and average of their returns, the reader can easily infer the huge losses the waqf is suffering from as a result of the automatic renewal of tenant's contracts.

Table-2. Relationship between date of leasing and average of waqf real estate returns

Period	1950-59	1960-69	1970-79	1980-89	1990-99	2000-13	Total
Number of real estate units	252	143	280	348	473	576	2,108
Percentage	12%	6.8%	13.3%	18.2%	22.4%	27.3%	100%
Average of returns in Jordanian dinars	91.6	152.5	186.9	384.3	543	1,182.3	42,343

The origin of this problem is attributed to the laws effective in the Palestinian territories. They are all out-of-date Jordanian laws which go back to days of the Jordanian rule of the West Bank (1948-1967). This applies particularly to the waqf law well known as (Landlords and Tenants Law # 5, 1964) which is based on the Jordanian (Landlords and Tenants Law # 63, 1953) of 1953 (Atawneh, 2014). One area of weakness in this law is that it has given the tenant full protection with the force of law and the right to continue benefitting from the real estate leased to him. Therefore, it is not unusual to hear people saying, "The tenant is owner." This law has harmed both waqf and the private sector's landlords. The rule of legal continuation of the contract, stipulated by

the law, is a great injustice to the landlords because this legal continuity means in most cases old rentals which don't match the benefit the tenant gets from the leased property (Kreishan, 2014). This has impeded significantly the process of investment as a result of the legal judgment of tenant's continuity. It has also left negative effects on waqf returns (Kreishan, 2014). Due to this injustice, voices of protest have been heard demanding fairness and an end to the automatic legal extension of the lease contract because the landlord has the right to preserve his right in the future because of spent capital and costly real estate investment and due to market fluctuation and erosion of money value (Mansour, 2013).

Despite the numerous changes made on the Landlords and Tenant Law in Jordan, these cannot be applied in the Palestinian Territories due to the political disengagement between Jordan and the West Bank, on one hand, and time condition stated in the Presidential decree # 1 of 1994, on the other hand. The decree calls for continuation of applying the laws and regulations effective only before June 5, 1967 (Abu-Dayeh, 2006). That is, these amendments made on the law cannot be taken according to this decree. This means that the Palestinian National Authority only recognizes the old legislation which was made to protect the tenant and did not take the subsequent legal amendments made on the law which addressed many problems related to amendment of the original rentals and the legal extension of the lease contracts (Yaseen, 2014). Therefore, it has become a necessity to issue a new presidential decree that takes all the Jordanian amendments made on the Landlords and Tenants Law as the Palestinian Legislative Council has been paralyzed since 2007 in the wake of the split between the Gaza Strip and the West Bank. The legal quorum, to enact new law, cannot be guaranteed (Al-Haj Ali, 2014).

4. FREEZE OF RENTALS

Most of waqf real estate in the West Bank and Jerusalem were leased many decades ago. Some go back to the 1950s. These years had witnessed many political upheavals and historic changes. For example, some of the waqf real estate units in Jerusalem were leased during the British occupation of Palestine (1917-1948). Since then, there has been no change in their rentals; others were leased after the nakba (disaster) of 1948 and during the Jordanian rule. However, these rentals were frozen at 1967 rates, the year of termination of the Jordanian rule over the West Bank and its fall under the Israeli military occupation which in its turn subjected land and real estate rentals, which were valid before 1967, to military orders freezing prices associated with the economic index. Therefore, it became impossible to raise rentals except to percentages imposed by the Israeli occupation authorities. This situation had led to dramatic drop in waqf real estate returns over the years to the extent that they had become worthless (Yousef, 2010). This was also coupled with rise of prices, and increase of maintenance costs, thus making the problem worse and causing great confusion for the waqf administration which had hesitated in investing sufficient amounts to maintain waqf real estate. Its revenues were much less than the costs of renovation and maintenance, thus affecting negatively the state of real estate, their opportunities for occupancy and suitability for use (Yousef, 2010). For instance, the average rental of 80% of Jerusalem waqf real

estate was less than 500 Jordanian dinars, much less than the actual value of leasing private real estate in Jerusalem.

Table-3.Classification of waqf real estate in Jerusalem according to their returns (1950-2013).

location	Returns	Less than 100 dinars	100-499	500-999	1,000-1,499	1,500-1,999	2000 or more	Total
Jerusalem	Number of real estate units	136	264	73	9	6	7	495
	Percentage	27.5%	53.3%	14.8%	1.8%	1.2%	1.4%	100%

Like Jerusalem, the current state of affairs of West Bank waqf real estate returns was no better. There has been no change in real estate rentals agreed upon since their lease. The contracts governing them have not been renewed except in limited cases (Mansour, 2013). The Landlords and Tenants Law #62 of 1953 prevents the landlord from raising the rental charges and prevents him from limiting the period of leasing. This has been despite the Jordanian Landlords and Tenants Law # 5 (1964)'s exclusion- from protection of waqf real estate units leased to establish enterprises on them which was imposed by the previous law. But the loophole in the law is that it does not include in its provisions all waqf real estate. Rather, it restricts its provisions to those properties leased for the purpose of setting up enterprises only. (Omar, 2011). This has made the waqf real estate be leased for a long time and in return for very low charges though the actual market price exceeds those charges many times, thus contributing vehemently to the weakening and loss of waqf and that has affected with time the waqf real estate revenues and made them very low and symbolic and even worthless though originally, investment in waqf real estate property must be of high level of investment and proceeds (Abu-Arubu', 2005).

Table-4.Classification of waqf real estates in the West Bank according to their returns.

Returns	Less than 100 dinars	100-499	500-999	1,000-1,499	1,500-1,999	2,000 or more	Total
Number of real estate units	596	903	339	115	66	89	2,108
Percentage	28.3%	42.8%	16.1%	5.5%	3.1%	4.2%	100%
Grand total	28.3%	71.1%	87.2%	92.7%	95.8%	100%	100%

One of the obstacles facing the optimal use of real estate assets in the West Bank is the non-renewal of the real estate lease contracts according to the current value in the market. This is primarily because of the laws effective in the West Bank which stipulate that the tenant has the right to leased property as long as he is using it and he is paying for rent regularly but without any regard to the real estate return or year of lease. This has made the waqf real estate units lose their economic value and has created incompetency in optimal use of the waqf resources (Atawneh,

2014). A large portion of the tenants' returns are the result of difference between the actual rental rate (what must be paid) and the paid rental (agreed upon in the lease contract). This is what is well known as consumer's surplus of service or goods. There is an ability to pay the actual amount, and with the tenant still making profits. However, the law has made the tenant enjoy all these concessions at the expense of the landlord. This is in addition to giving the tenant a big negotiating position in case of changing the real estate to another form (Eshtayyeh, 2006).

Though the Israeli law allows the expulsion of tenants from homes when they fail to pay their rentals and change the function/ purpose and use of the real estate, there has always been a lot of pressure on the Jerusalem Waqf Administration not to sue these tenants in Israeli courts or to take any legal action against them in order not to allow the Israeli courts or Israeli police to interfere in waqf affairs and in tenants (Israeli Military Order # 1271, 1989). The Israeli occupation authorities don't recognize the presence of the Islamic shari'a court and its authority. Therefore, the waqf has become helpless as it has no executive authority and accordingly, it can't impose its rulings on the tenants. As a result, the tenants of waqf holdings in Jerusalem are protected and are tenants for life (Yousef, 2010). Therefore, it is not strange for the waqf administration in Jerusalem to wait for the death of tenants or their voluntary evacuation of the leased property in order to conclude new lease contracts which have a higher commercial value. Unfortunately, this rarely happens. (Abu-Arubu', 2005). On the other hand, the property owner, the waqf, is deprived of choosing new tenants due to the concessions given to the old tenants which do not allow increase of rental except within the limits of the agreement between the tenant and the landlord. These are usually agreed upon through negotiations between the property employee and the old tenant. Most of the time, these negotiations are unequal due to the Landlord and Tenant Law, effective in the West Bank, which represents a negotiating force in favor of the tenant (Eshtayyeh, 2006). The financial statements in this study have showed that the change of rental charges in old contracts to match their counterparts in the local market has left a positive and substantial effect on the waqf real estate returns. The average of rental proceeds, from leased waqf real estate, has risen from JD 91.6 in the 1950s to JD 1,182.3 in the first decade of the 21 century. This increase is attributed to the renewal of some lease contracts between 2000-2010. The door is still open for further growth if more lease contracts are renewed to match value of private sector counterpart real estate. To reinforce this trend, the researcher has conducted a study of 32 leased real estate units in Nablus. These units had their lease contracts renewed which matched relatively the value of their counterparts in market. The researcher concluded that the difference in returns which amounted to 812% in favor of the waqf.

Table-5. Waqf real estate whose contracts have been renewed to match value of the same in market

Location	Number of leased estates	Total amount of old returns in dinars	Number of estates whose contracts have been renewed	Total amount of new returns in dinars	Difference in value in dinars	Percentage
Nablus	32	1,894	32	17,275	15,380	812%

Source: Nablus Waqf Directorate (2012).

5. DEBTS AND DROP OF COLLECTIONS

The relationship between the landlord and the tenant has always been problematic. The gap between them is still wide due to some tenants' failure to honor the contracts they have signed with the waqf. This problem has aggravated due to the absence of a systematic mechanism to settle the dispute with this group of tenants and their evasion from paying their financial dues. This dilemma has overshadowed the future of the waqf sector and paralyzed its efforts to develop the Palestinian society since the general waqf rentals are the financing source of the waqf investments.

Table-6. Debts owed by the government institutions and apparatuses to Ministry of Waqf.

Institution\apparatus	Amount in JDs	Total in JDs
Preventive Security	94,970	94,970
Ministry of Interior	58,327	153,297
Military Medical Services	16,400	169,697
General Security	11,500	181,197
Shari'a Courts	5,543	186,740
Ministry of Health	30,268	217,008
Scientific Committee of Northern Districts	24,320	241,328
Ministry of Transportation	49,987	291,315
Ministry of Social Affairs	4,375	295,690
Ministry of Education	349,512	645,202
Prisoners Club	32,710	677,912
Presidential Guard Apparatus	48,120	726,032
Palestinian United for Football	34,820	760,852
Industrial Estates Authority	250,000	1,010,852
Public Works Ministry	960	1,011,812

Source: Department of Financial Affairs Ministry of Waqf (2014).

One of the things that affects the income of the waqf is that some tenants resort to delay the payment of rent thinking that waqf real estate is a charitable property and therefore the delay is permissible particularly if they are needy. This is despite all waqf arguments and fiqh legislations which taboo leasing waqf property to an oppressor, a bankrupt, or procrastinator (Al-Douri, 1996). In addition, government institutions and security apparatuses' failure to pay their dues to the waqf has also affected the collection from private sector's tenants and investors. By end of 2013, the Waqf Ministry managed to collect JD 1,264,372 out of a total of JD 4,599,631 which were supposed to be collected (Ministry of Waqf Department of Financial Affairs, 2014). In other words, the Ministry of Waqf collected 27.5% of all its dues. The rest was transferred as a revolving balance, for next year, on the tenants.

The private sector's evasion of paying their rentals to waqf is that some tenants in Jerusalem, for example, take advantage of the absence of a national judiciary and a shari'a court in the city. These tenants know that the waqf administration cannot sue them in Israeli courts for political and national reasons and priority in Jerusalem is for steadfastness rather than rental collection (Yousef, 2010). In the West Bank, despite the presence of national courts, some tenants also don't pay waqf rentals due to the weakness of Palestinian judiciary.

Table-7. Percentage of collections by the Ministry of Waqf in 2013

Directorate	Percentage of collection
Jenin	11%
Ramallah	16.5%
Bethlehem	17%
Hebron	3%
Dura	7.5%
Nablus	20.5%
Jericho	20%
Salfit	18%
Tulkarm	15%
Qalqilya	27%
Yattah	40%
Jerusalem suburbs	12%

Source: Ministry of Waqf Department of Financial Affairs (2014).

If waqf took these tenants to the court to evacuate them, it would take a long time, thus encouraging them to run around when it comes to payment of waqf dues (Yaseen, 2014). The presence of the Israeli military occupation and its measures have also made it more complicated for waqf collection of dues. For example, the closure of 56 commercial stores, belonging to waqf, in Hebron in 1996 has precluded tenants' payments of waqf rentals (Hebron Waqf Directorate, 2013). Also political interventions have also contributed to the weakness of the ability of Ministry of Waqf to collect its rentals.

For example, hoarders in Bethlehem have been exempted from paying *ihkar* (Bethlehem Waqf Directorate, 2013), thus doubling the ministry's debts owed by beneficiaries as a result of hoarding property of waqf in Bethlehem. By July 30, 2013, these debts amounted to JD 1,637,222 (Ministry of Waqf Department of Financial Affairs, 2014).

The government institutions' failure to pay their dues is attributed to the common belief that the waqf properties belong to the Ministry of Waqf and therefore the proceeds from leasing waqf property belong to the government itself; they also argue that efforts are devoted to serve the society whether it is building of schools or health clinics (Taleb, 2014). This belief is undoubtedly a dangerous precedence for the waqf and its future in the West Bank as all leasing operations are concluded in agreements and legal texts. The government institutions' respect of these agreements falls within the context of their respect of the Palestinian law and judiciary (Omar, 2011).

In a related development, the Palestinian government, since the beginning of 2014, has been seeking to annex the Ministry of Waqf funds to its budget and spend them according to its financial agendas. This decision has angered the ministry and has withstood this endeavor. In its rejection of the decision, the ministry cited legal texts. Article 4 of Law # 26 of 1966 stipulates that the "Ministry of Waqf shall have a legal person as well as a financial and administrative independence. It shall have the right to litigate, in this capacity, and deputize whomever it wants in judicial proceedings pertinent to it (Landlords and Tenants Law # 26, 1966). The Palestinian government, in its decision, cited Public Budget Law which clearly states that any revenues coming

to any government institution or ministry shall enter the unified account of the Ministry of Finance and shall be spent in line with the government agendas Palestinian General Budget Law # 7 of 1998. because the government itself pays the salaries of the Ministry of Waqf employees which amounted to 128 million shekels in 2014. (Ministry of Waqf Department of Financial Affairs, 2014).

5.1. Findings of the Study

-The waqf real estate returns in 2013 amounted to JD 1,264,372. This amount reflects the importance of the contribution of the waqf real estate returns to the overall budget of the ministry.

-The mechanisms of leasing old estates was a big challenge facing the Ministry of Waqf in its endeavor to develop the revenues of these estates. The ministry offered its real estate units for lease according to the tenant's request rather than according to a public auction, thus guaranteeing a rental for the estate equal to its counterpart in the private sector in the market.

-Lease contracts were found to be also a big challenge in developing waqf real estate returns due to the legal protection which tenants enjoy given their respect of commitment to pay their dues on time and their refrain from violating the lease conditions. This has given the tenants the right to make use of the real estate with the force of law to the extent that people now keep saying " The tenant is owner ". This has hit hard the landlords in general and the waqf in particular.

-Non-renewal of real estate contracts to match the same in the market was one of the obstacles facing the optimal use of waqf real estate assets in the West Bank. This is basically due to the laws effective, in the West Bank, which stipulate that the tenant shall have the right to the estate as long as it's used and he/she pays rental charges regularly. The law ignored the real estate return and the year of lease.

-The ministry's collection, from the waqf real estate leasing , was low and did not exceed 27.5% of the rental value that had to be collected. This was due to the private and public sectors' failure to pay their dues to the waqf.

6. RECOMMENDATIONS

-The Ministry of Waqf should introduce new mechanisms when it offers real estate property for lease including public auction, advertising in local papers, and production of a waqf pamphlet of the most important properties suitable for investment.

-The Ministry of Waqf should amend the lease contract versions regulating the waqf real estate operations to protect the waqf rights: increase of annual rentals, cancellation of legal extension of lease contracts, maintenance and renovation of real estate units which have become in miserable physical conditions.

-Leasing of waqf real estate property should be on the basis of a limited period. The waqf administration has to do away with automatic renewal since more than 88% of leased real estate units in the West Bank are for commercial use. A legal study of real estate units whose lease terms have expired should be conducted to produce new lease contracts which would suit the prices of the

same in the local market or cancel them if possible in order to release them again in public auction or invest them by the waqf. Tenants who have changed their trades should be sued and forced to sign new contracts to allow increase of rentals in line with the articles of the relevant laws.

-The Ministry of Waqf should raise the key money for real estate lease, and raise rentals when contracts are renewed. It has to oblige the tenants to pay the rental regularly every year. This could be done by introducing new articles to the law or by issuing a presidential decree.

-In all new waqfs, there is a necessity for adoption of the principle of an allocation for development. That is, some of the waqf investment returns should be earmarked for increase of capital, thus expanding existing waqf funds and keeping abreast of the new burgeoning needs in the field. If waqf legislations stipulate the presence of development allocations, it then becomes a must on every waqf donor to do so even if he/ she did not mention it in his/her deed, or then it becomes one of the tangible assets.

-The Ministry of Waqf should legally sue the tenants who have failed to pay the waqf real estate rentals. Waqf issues in Palestinian courts should be given top priority. New policies for collection of dues from leasing should be set up. Tenants must be obliged to pay the rentals on time. Otherwise legal measures would be taken against violators.

In this context, the issue of forced evacuation of leased property should be termed as urgent and should be settled in a record period of time. That is, if failure to pay the rent was proved within legal conditions, the court should issue a judgment to immediately evacuate the tenants from the leased property.

6.1. Definition of Terms

The West Bank is a landlocked territory near the eastern Mediterranean coast with borders with Israel and Jordan. The West Bank, including East Jerusalem, has a land area of 5,844 km² and its area represents 21% of the total area of historical Palestine. Between 1948-1967, it came under the Jordanian rule. From 1967-1994, it fell under the Israeli military occupation. In the wake of the Palestinian-Israeli peace agreements in the early 1990s, some of its areas became under the rule of the Palestinian National Authority.

Governorate is an administrative division/ unit of a country. It usually includes the major town and surrounding villages and lands according to zoning maps of local government.

Waqf, from Arabic, literally " stoppage, immobilization of ownership of property", is an endowment of land, real estate and shops by a Muslim for a religious, educational or charitable cause. That is, its confinement and prohibition of property use is through selling, purchasing or giving it as a gift. Its proceeds are given away for the poor within the conditions set by the donor of waqf.

Ihkar, hoarding of waqf property, land or real estate, is a tenancy, according to which the land of waqf remains in the lands of a tenant known as a hoarder as long as he pays the rent. He is allowed to farm it or build on it. He also has the right to sell or transfer it to whoever he wants.

Lease contract is a contractual agreement by which one party leases a real estate property or an immovable or utility in general for a limited period in exchange for a monthly or annual amount of money agreed upon when signing the contract.

Rental deposits are rentals which the new tenant pays upon signing the lease contract. At the beginning of the new year, the amount is transferred to collections or rentals to discharge him (the tenant) of paying duly attested.

Legal extension is the extension of the contract with the force of law between the landlord and the tenant regardless of the time specified in the agreement, allowing the latter to make use of leased property with the force of law.

Rental is the amount which would be paid as agreed upon in the contract between the landlord and the tenant. The tenant pays this amount to the landlord in return for use of the leased property.

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