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## Just ring twice: Law and society under the rent control regime in Israel, 1948–1954

Maya Mark\*

During the early 1930s a regulatory regime on the rent market was enacted in Mandatory Palestine. Although it was promulgated under specific circumstances and was to remain in effect for a limited period, it remained in force until 1954, due to a variety of economic, political and social factors. The unique circumstances of Israel's formative years intensified the far-reaching social and economic effects of the regulation. At the same time, the judicial system that oversaw the regulation during this period was beset by a variety of administrative and organizational problems. Although the authorities realized that there was an urgent need to replace the Mandatory arrangements, it was only in 1954 that new legislation was enacted, when a number of developments such as the rise of the General Zionists Party, the new economic policy, and deep changes in public opinion led to the annulment of the Mandatory laws.

**Keywords:** regulation; housing; administrative tribunals; Tenant Protection Law; rent control; private property; redistribution of property; austerity

### Introduction

During the early 1930s in Mandatory Palestine, laws were enacted instructing a nominal rental freeze and prohibiting the evacuation of tenants from the apartment in which they resided. These laws were intended to stabilize the housing market, halt the steep rise in rents, and prevent the mass evacuation of tenants. Although these laws were promulgated under specific circumstances and were to remain in effect for a limited period, they remained in force for many years. The housing shortage was exacerbated by World War II, which led to the institutionalization and expansion of control of the rental market in 1940. With the founding of the state and the adoption of Mandatory law in its entirety by means of the Government and Law Ordinance of 1948, the Mandatory legislation in the sphere of housing was likewise incorporated into Israel's code of laws, and the regulation remained in force.

The effect of regulation on the sphere of housing was already evident prior to the establishment of Israel. Yet the massive waves of immigration that inundated the state upon its founding, the rampant inflation, introduction of regulation in the spheres of food and basic commodities, and the economic hardship during those years, intensified the repercussions and effect of regulation. These consequences were far reaching: the regulatory regime not only affected the housing market, but as time passed it shaped the overall social and economic relations among broad sections of the public and stood at the heart of an intense political, ideological, and social debate. The judicial system that oversaw matters relating to regulation added a further dimension of complexity to this area. This was a unique system of courts established during the Mandate period known

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as rental tribunals. It was beset by a variety of administrative and organizational defects and was the butt of considerable criticism over the years.

In light of all these circumstances, upon the establishment of the state the authorities realized that there was a genuine and urgent need to replace the Mandatory arrangements with new legislation. Yet between 1948 and 1954 it remained unclear whether a law that regulated the rental market would indeed be passed by the Knesset; and if it were to be passed, when this would occur and what kind of law this would be. The decision was repeatedly postponed. Emissaries dispatched to government officials came and went, conflicting claims were presented, but the anticipated arrangement failed to materialize. Despite the complex social reality and the problematic status of the system of rental tribunals, it was only in 1954 that legislation was enacted in Israel that replaced the Mandatory laws, updated rents for the first time since 1940, and reformed the legal system.

In this article I shall examine the social, political, and juridical reality within which the rental market operated from the founding of the State of Israel to the passing of the Tenant Protection Law in 1954. Discussion will focus on the social implications of this extended regulatory regime and the dynamics that it generated in various spheres. Furthermore, I shall attempt to address the question of why the regulation of the rental market was delayed for so long in view of the problematic social and economic reality that the regulatory regime generated and the contentious department of the judicial system in this sphere.

The article begins with a brief survey of the legal situation prior to the founding of the state. In the second section, I consider the repercussions of the regulation and the various ways in which it shaped the social and economic relations among different sections of the population. The third section discusses the singular judicial system that was established through the regulatory legislation, including its characteristics, operation, and the criticism that it drew. In the fourth section I seek to determine why it took six long years before the introduction of a reform that transformed the judicial situation in this sphere, as I address the gamut of economic, political, and social causes and circumstances that facilitated the continuation of the regulation for all those years. In the fifth section I discuss the reasons for the change in policy that eventually brought about the replacement of the old regulatory regime by a new arrangement in 1954.

### **Tenant protection laws in Mandatory Palestine**

Most urban development in Israel prior to the 1930s was financed by private capital. The European immigrants brought with them a tradition of renting apartments, and the rent was determined by the free market.<sup>1</sup> In early 1934, due to complaints of the population, the High Commissioner to Palestine appointed a committee to investigate the continuing steep rise in rents in various cities. The committee's recommendations laid down two principles that were to affect the protected rental market in Israel for years to come, namely rent control and restrictions on landlords' ability to evict tenants from their apartments.<sup>2</sup> It appears that the committee was aware of the problems inherent in setting general restrictions on rental and found it necessary to note in the report's summary that "it would be folly to suppose that control of rents prevents acts of social injustice: It may prevent some while causing others."<sup>3</sup> This statement proved to

be extraordinarily prescient. The Mandate government adopted the committee's main recommendations, and in April 1934 rent restrictions were imposed on certain urban areas and were extended each year where necessary.<sup>4</sup>

World War II naturally affected the housing market. Throughout Europe as well as in Palestine, the shortage of raw materials, the slowdown in construction, and the desire to prevent widespread eviction of tenants from their homes led to the adoption of various mechanisms of rent regulation.<sup>5</sup> Thus it was that in 1940 the Rent Restriction Ordinance came into effect, placing the entire country under a regulatory regime that froze rents and significantly restricted the freedom of landlords to evict tenants from their apartments.<sup>6</sup> The idea of a regulated economy was not confined to the Mandate authorities. At that time the industrialized nations were still suffering the consequences of the major crisis that had hit the world economy in 1929 and which was in part perceived as the painful failure of the free market. Regulation was introduced to various spheres throughout the world, and not only in Mandatory Palestine.<sup>7</sup> This intellectual heritage perfectly fitted the political and ideological climate of the young Israeli state. In fact, one of the initial steps taken by Israel's first government was to declare a regime of regulation and control over the food and basic commodities market. As for the sphere of housing, with the establishment of the state in May 1948, the government adopted the Rent Restriction Ordinance to the letter within the framework of the Law and Administration Ordinance.<sup>8</sup>

### **The effects of regulation**

When the state came into being, rent control had been in force for eight years, and a further six years would pass before the judicial situation was altered. This extended period of regulation had notable social, economic, and political repercussions. The law shaped relations between landlords, tenants, and subtenants, gave rise to various social practices, and affected the economic circumstances of the stratum of landlords. This section addresses these repercussions.

#### ***1. The emergence of the institution of "key money"***

As mentioned, the regulatory legislation froze rents and prohibited the eviction of tenants from their apartments. These regulations generated a situation in which tenants paid low rent over an extended period. Thus, a tenant who in 1940 paid a rent of five liras, paid the same amount eight, ten, and fourteen years later, despite the rampant inflation.<sup>9</sup> Moreover, the landlord had virtually no practical way of evicting the tenant from the apartment. Given this state of affairs, whereby the rights of the sitting tenant in many respects outweighed those of the property's owner, anyone seeking to replace the tenant living in the apartment and to take over their rights was prepared to pay a substantial sum in order to take possession of the apartment. It is thus not surprising that many tenants exploited the existing laws and agreed to vacate the apartment in their possession only in exchange for a considerable sum of money. This was the origin of a practice known to this day as "key money," which is an apt description. The purchaser, in fact, receives the "key" to the property, namely the right to enter it. The practice of key money became ever more widespread, until it became an integral part of transactions whereby properties changed hands.<sup>10</sup>

## 2. Subtenants: Creation of a new class

*Just ring twice, and wait a moment  
Then the doors open and the eyes meet*

These lines from Natan Alterman's well-known poem "Just Ring Twice" describe a social practice that impacted many people in those days, namely, subletting. This came about when a tenant transferred their right to rent the apartment (or part of it) to a third party. This practice began during the 1940s in response to the growing density of population in the large cities, but expanded significantly with the founding of the state in 1948. The economic hardship and waves of immigration that inundated the country during its initial years led to a housing shortage that forced many to crowd into an apartment with other families or to rent a room in an apartment occupied by another family. As this phenomenon became widespread, the occupants devised various arrangements, one of which related to the welcoming of visitors. Thus, if someone visited a certain apartment occupied by Cohen and by Levy, the visitor would know that in order to have Cohen open the door he must ring once, while if he wanted Levy to respond to the doorbell he had to ring twice. This was the source of the poem's text.

The regulation of the rental market affected the extent of subletting and shaped its contours. As mentioned, the right to occupancy of an apartment acquired great significance, and tenants were disinclined to forfeit it. Many tenants therefore refused to vacate their apartment or to forfeit their rights as occupants. They found a solution in subletting, which allowed them to exercise their legal rights on the one hand, and to benefit from the substantial rent that they charged the subtenants, on the other. Some tenants charged rent that was several times higher than the rent they themselves were paying, thereby making a handsome profit. Thus, a tenant who enjoyed the law's protection may have paid the landlord five liras for the entire apartment, while charging the subtenant ten liras for renting one room in the apartment. Many tenants furthermore let apartments or rooms without obtaining permission from the landlord.

Yet this turned out to be a mixed blessing for tenants. As the practice of subletting developed and was exploited by many tenants, landlords whose contracts with their tenants were valid for a stipulated period began to add a condition to the contract whereby the tenant was expressly prohibited from letting the apartment to anyone without obtaining the landlord's permission. Breach of this agreement was deemed a fundamental breach of contract and provided the landlord with grounds to evict the tenant and the subtenant who had been given access to the apartment without their agreement. It was this issue that led the government, for the first time, to intervene in the rental market, although not in the manner one may have expected.

In late 1949 the government proposed legislation that addressed the specific circumstances portrayed above. The bill determined that despite the existence of a condition in the contract that prohibited this, a tenant would nevertheless be entitled to let the property to a soldier or to a new immigrant, and the law would in this case protect the tenant from claims on the part of the landlord. The bill constituted a further blow to landlords, whose right to administer their property and to receive a fair profit was in any event largely nonexistent. These consequences did not go unnoticed by members of the Knesset, and the bill gave rise to a lively debate. Member of Knesset (MK) Yohanan Bader, for example, exclaimed that the bill sought to "abuse the sanctity of the contract; to impair the juridical concept of ownership; to damage private property."<sup>11</sup> Yet Bader's

was largely a lone voice in championing contractual freedom and the right to property. Nevertheless, Knesset members from both the coalition and the opposition, whose sense of justice appears to have been in some way affronted by the bill, expressed dissatisfaction. MK Abraham Shag of the National Religious Front, which was a member of the coalition, remarked that “this is a proposal that seriously and unjustifiably infringes the right of a property owner to his property . . . no one should engage in commerce with the cow of his fellow man.”<sup>12</sup> He explained thus: “We are about to confiscate the ownership of someone and transfer it to someone else, just like that: the tenant replaces the landlord.”<sup>13</sup> His fellow faction member, David Zvi Pinkas, concurred with him: “Let us not destroy even further the pitiable class known as landlords . . . let us not suppress the landlords by means of draconian laws and let us not say to them that we shall control them without considering their legal rights to their property.”<sup>14</sup> They were joined by a further member of the coalition, MK Idov Cohen of the Progressive Party, who asserted that although the matter was foreign to his “class interests,” his sense of justice obliged him to conclude that the wrongdoing was palpable.<sup>15</sup> Alongside these utterances, it is particularly interesting to observe the reactions of MKs from the ruling Labor Party, Mapai, who likewise, so it appears, were perturbed by the bill. They spoke with caution and their criticism was merely implied, yet their reservations are clearly apparent. Thus, Elyahu Carmeli admitted that the question of rent regulation was a particularly painful issue, to which a general solution must be found.<sup>16</sup> David Bar-Rav-Hai, likewise from Mapai, did not explicitly oppose the bill, but called for a general arrangement that would regulate relations between landlords and tenants to be worked out, admitting that this issue raised genuine questions and that on certain points the law had gone too far.<sup>17</sup> This position was adopted by a further Mapai MK, David Hacoheh, who admitted that landlords had been deprived for many years and spoke up on their behalf.<sup>18</sup>

Upon conclusion of the debate, the bill was returned to the Constitution, Law and Justice Committee to be prepared for a second and third hearing. When the finalized version of the bill was submitted for debate many reservations were expressed on a different matter, namely the decision to apply the law only to certain, albeit broad, sectors, rather than to the entire population, including soldiers, immigrants, civil servants, Knesset members, and cabinet ministers. Participants in the debate maintained that the sectors to which the law was to apply had been carefully selected and that this was a blatantly political decision that served the interests of the ruling Mapai Party.<sup>19</sup> Once again, a furor erupted in the chamber. On this occasion too, unexpected voices joined the traditional objectors from the General Zionists and Herut factions. This time David Bar-Rav-Hai did not mince his words: “Either there should be a general dispensation that bestows this privilege on every resident of the country, or civil servants, and in particular ministers and Knesset members should be removed from the categories of privileged people.”<sup>20</sup> He was seconded by his fellow faction member, Ami Assaf.<sup>21</sup> Zerach Warhaftig of the United Religious Front likewise expressed concern over the apparent problem: “We are placing the clerks in a different, privileged category, and I believe that this will not go down well with the public.”<sup>22</sup> Yet the Knesset passed the law, despite the opposition.<sup>23</sup>

In the end, the regulation of rents led to a proliferation of subtenants and to a transformation of the triangular relations between landlord, tenant, and subtenant. While the phenomenon of subtenants may indeed emerge at any time in response to

various social and economic circumstances, under the auspices of the regime of regulation this institution acquired additional significance.

### 3. *The landlords*

The regulation of rents naturally had a profound financial impact on landlords, among whom was a substantial group of elderly people who had built or purchased an apartment which they regarded as a modest yet stable and sufficient source of income, and who in their old age found themselves without the income on which they had relied.<sup>24</sup> As mentioned, regulation of the housing market was conducted as part of a further regime of regulation, namely, that of rationing and austerity. These were difficult times for the public, which was obliged to accept numerous restrictions, including a shortage of basic commodities.<sup>25</sup> However, whereas the prices of other commodities were updated from time to time, the level of rents had remained unchanged since 1940. We may perhaps better understand the significance of this state of affairs through a concrete tale, one of many, that of Yihye Mizrahi, who in early 1954 wrote a letter to Israeli President Yitzhak Ben-Zvi. Explaining that in 1938 he had let his house to a tenant, who had since then paid a fixed rental of 50 Israeli liras per annum, Mizrahi wrote:

I ask you, Mr. President, to believe me that all the rental payment I receive for my house does not cover the taxes I am required to pay, I do not know why the government has recognized every thing or commodity as vital and raised the price by hundreds of percent while it refuses to recognize rent . . . I have heard more than once that the tenant wishes to transfer the house to whomever he wishes, as if he had purchased the house, and moreover, he tells me that he could pay additional rent but will not pay because the law is on his side, this maxim is repeated by almost all tenants, they refuse to recognize reality and the high cost of living that exists in the country, and all this stems from the government that fails to support landlords by amending the housing law so as to prevent the tenants from abusing them.<sup>26</sup>

The Knesset podium likewise provided a voice for the laments of the landlords: "Among these landlords who are exploited by their tenants are the widows of Zionist leaders and functionaries who came here in the past, transferred their capital, and, encouraged by the Zionist movement, invested money in building houses; workers, teachers, and long-time doctors, people whose children fell in the war and are left without support apart from the two or three apartments they built at the time with their salaries."<sup>27</sup> These are merely a few examples of the numerous speeches, letters, and applications submitted to the various branches of government, all of which expressed the same assertion – World War II had ended, the days of the British Mandate were over, and there was no longer any justification for maintaining the restriction on rents and for continuing to inflict this wrong on the population of landlords.

### 4. *A complex triangle: The nature of the relationships between landlords, tenants, and subtenants*

As may have been foreseen, the circumstances portrayed above led to deterioration in the relations between tenants, landlords, and subtenants. This was manifested in friction, legal wrangling, and animosity, all of which became quite common, as exemplified by the story of a worker named Sa'ada Jamal. Her case was brought before

the Jerusalem military governor in November 1948 by the Landlords Association, and served, in their words, as “an example and illustration of the anarchy in the city.” Jamal resided in a two-room apartment in the city’s Nahlat Ahim neighborhood. She had let one of the rooms to a tenant who left Jerusalem in June 1948, during the first truce in the War of Independence. Before leaving the city, however, he had allowed eight people to enter his room in return for key money. These new tenants treated Ms. Jamal in a humiliating and harsh manner, and when her room was flooded and she sought to move into the other room, they chased her out. The Landlords Association claimed that such situations had become common, and demanded that the authorities come to the assistance of the citizens.<sup>28</sup>

It was not only the landlords who experienced hardship. The shortage of housing that forced several families to share a crowded apartment affected subtenants as well. The other side of the coin is revealed in a letter sent by a Jerusalem resident to the military governor, in which she writes:

I wish to approach your honor about a “prosaic” matter which is, however, of vital importance to a broad layer of the population, the issue of the subtenants regarding whom no law has been passed to this day to protect them from the landlords. How long shall we remain in the hands of these owners who will treat us however they please? I shall give myself as an example. I have lived in a room with a family of three for eight years. I work quite hard every day (as a nurse), and upon returning home I get no rest: they [The landlords] turn off the water, they knock (in case I may be resting) . . . swear incessantly . . . they locked the outer door and refused me entry and so on and so forth.<sup>29</sup>

Exploitation, profiteering, and maltreatment among landlords, tenants, and subtenants became a part of Israel’s social fabric. It should be noted here that the reality that emerges from these narratives was not, of course, a product of the law alone. The war and the general economic and security situation constituted external factors that played no small part in the hardship that was the lot of many. Nevertheless, it appears that the regime of regulation had certain consequences that were by no means inevitable.

### **The judicial system**

The institutions of state and the political echelon were well aware of the miscarriages of justice and the repercussions that derived from the longstanding regulation of the housing market. The solutions offered generally took the form of directing the public to the judicial system or declaring that the answer to the problem was of a general nature and that things would be resolved once the government got round to formulating a new statutory arrangement in the housing sphere. The latter, as mentioned, took a long time in arriving. As to the second course of action proposed, namely an application to the courts, examination of the relevant legal apparatus indicates a variety of problems that stemmed in part from the system itself.

Section 4 of the Rent Restriction Ordinance passed in 1940 placed jurisdiction on matters of regulation in the hands of a rental court that comprised a chairman and three members. This court was unusual in several respects: its members included representatives of the public, it was not subject to the usual laws of evidence and procedure, and it made provision for singular rules of appeal. The first rental courts were established during the Palestine Mandate in the early 1940s, but with the passing of time, many of them ceased to function and existed merely “on paper.” This came about for a number of reasons. In Jerusalem, for example, the security situation



pertaining prior to the outbreak of the War of Independence precluded the convening of the court, partly because the Arab member of the court would have endangered his life had he attempted to reach the offices of the provincial governor.<sup>30</sup> Circumstances that hampered the functioning of the courts were encountered in other locations as well. These stemmed from a variety of causes, including the death of a court member, illness, and resignation.<sup>31</sup>

As things returned to normal following the establishment of the state and the restoration of calm, the rental courts resumed their activity with renewed vigor. The system expanded considerably. Courts that had been disbanded or had ceased to function were revived and many new ones were established.<sup>32</sup> Yet this expansion was not supported by a parallel organizational-administrative development, and the system gradually sank into what can only be described as chaos. First, it appears that the courts system was decentralized to the extent that the bodies that supervised it, namely, the Ministries of the Interior and Justice, found difficulty in controlling it. In fact, these government ministries did not possess accurate information regarding the number of existing courts.<sup>33</sup> Communications from Interior Ministry officials to the courts attempting to elicit information as to the extent of their activity were regularly ignored.<sup>34</sup> These irregularities extended to matters of maintenance and payment of salaries of the courts' members<sup>35</sup> and characterized even the manner in which hearings were held. It appears that the phenomenon of court members failing to appear at hearings was widespread, and this led to postponements and delays.<sup>36</sup>

Shortcomings in administrative procedure as well as systemic defects in the working of the courts and in the judicial proceeding itself were commonplace. While this is not the place to delve further into this issue, we may mention the lack of familiarity with the procedure stipulated by the law;<sup>37</sup> appointments made by those who were unaware of the law's stipulations;<sup>38</sup> misunderstanding of the court's status as a judicial institution and the involvement of the executive arm in its decisions;<sup>39</sup> and the extreme case in which courts found difficulty in adjudicating since their members did not manage to obtain a copy of the law according to which they were supposed to come to a decision.<sup>40</sup> It should be noted that even those who were in charge of the system lacked knowledge of matters of procedure.<sup>41</sup>

Over the years considerable criticism was leveled at the system, to the extent that in early 1951 the Director of Courts suggested to abolish the rental courts altogether.<sup>42</sup> In a report summarizing over ten years of activity of Tel Aviv's rental courts, Tel Aviv Municipality's attorney noted that "the unwieldy composition of the court resulted in technical hitches in the courts' work."<sup>43</sup> The Director of Courts went so far as to declare that the system was malfunctioning to such an extent that the law itself should be thoroughly overhauled.<sup>44</sup>

### **The first stirrings of reform**

In March 1951 Minister of Justice Pinhas Rosen appointed a nine-member committee, headed by Justice Shmuel Rapaport, to "examine whether and in which manner it is advisable to alter the current rental laws."<sup>45</sup> The committee held its discussions against the backdrop of a lively political and public debate on the housing market, since housing had become a significant issue in the upcoming election campaign. The committee members were well aware of these circumstances, noting in their final report

that their deliberations had been held “while aware that the topic under discussion was of great interest in broad circles . . . particularly during the period of elections to the Knesset.” Upon reading the report one realizes that the committee had sought a compromise: On the one hand, it wished to reduce friction with the public and with the competing associations of landlords and tenants, and to avoid having to address the political interests that allegedly underlay the housing regime. On the other hand, the report reflects a realization on the part of the committee that were it to ignore altogether the political and social circumstances, this would create a partial picture of reality and lead to failure to address important aspects of the issue. While I refrain from taking a stand on the question whether the committee ought to have attempted to conduct a purely economic discussion and whether this was at all possible given the existing circumstances, it appears that the report is redolent with political and ideological bias. This is indicated, for example, by what is presented as one of the basic premises: “From the economic and political point of view, it is essential that the proposed amendment does not result in a considerable rise in the cost of living of the salaried strata, laborers and clerks, which would in turn result in a sharp rise in the cost of living index.”<sup>46</sup> A further example is provided by the assumption that “the committee views the reserve of buildings in the country, be they owned by public bodies or by private citizens, as the property of the people, of great value, which must be protected.”<sup>47</sup>

The final report was submitted to the Constitution, Law, and Justice Committee, which proceeded to work on the text of the bill that would become the Tenant Protection Law. A great deal of effort was put into formulating the bill, and a first draft was submitted to the Knesset over a year after the Rapaport Committee had completed its task. The Tenant Protection Law was passed by the Knesset in 1954, and facilitated the raising of rents for the first time since 1940.<sup>48</sup> In presenting the law Minister of Justice Rosen told the Knesset that those who had witnessed the legislative process had heard reports about hundreds of trials conducted since the laws were first introduced in 1940. He expressed his hope that the new legislation would “make a modest contribution to restoring harmony between landlords and tenants, as well as between primary and secondary tenants, although we remain aware that perfect harmony will come about only once the housing shortage is resolved.”<sup>49</sup>

### **How time goes by: The reasons for the continuation of the regulation**

We have thus far described two dimensions of the regulation, as well as its consequences: first, an external socioeconomic dimension encompassing the plight of the landlords, the nature of relationships and power relations among the various groups, and the emergence of the black market in key money; and second, an internal systemic dimension comprising the problems and obstacles encountered by the professional judicial system that was charged with deciding disputes associated with the regulatory regime.

Both these aspects raise two major questions: how is it possible that a regulatory system pertaining to a significant domain remained in place for many years despite the systemic irregularities and the broad social implications? The second question, deriving from the first, relates to the point in time at which the Tenant Protection Law was eventually passed. In other words, why at that precise time?

### *1. A chronicle of expectation*

One may, ostensibly, explain the lengthy period of procrastination that preceded reform of the law by invoking the circumstances that pertained at the time. The country's formative years witnessed an intensive and complex effort to establish governmental, administrative, and judicial institutions against a backdrop of war, absorption of immigration, and economic difficulties. In such conditions, and given the limited resources, the relevant bodies did not find the time to formulate the necessary reform. Likewise, with respect to the courts system, the authorities acted hastily and in difficult conditions, seeking to establish a functioning system that would meet the population's needs, even if its operation was far from perfect. In other words, this was the system in place, and there was no other. Thus, a system inherited from the Mandate period and plagued by numerous defects grew and expanded.

This claim cannot be rejected outright. The regulatory system in general and the rental courts in particular were indeed a relic of Mandate times, and, like other institutions, persisted largely by virtue of inertia. Yet this can only be a partial explanation. First of all, housing is a crucial element in public life. While other issues may be put aside owing to pressure of time and resources, this is not so with respect to housing, in particular when the regime of regulation with all its ailments remained at the center of public attention for years. Second, the regulatory regime remained immune from the massive volume of legislation passed during the initial years of the state, even though it was of such importance to public life. Third, in 1951 the rental courts were restructured to include two rather than three representatives of the public. Had the government shown more interest, it could clearly have introduced a more comprehensive reform at this point, at least to the court's structure, yet chose not to do so.<sup>50</sup> Fourth, to learn something about the regulation of rents it is instructive to inspect the process of regulation of basic commodities. This system too had Mandatory roots, and a judiciary apparatus was in place when the state came into being. Had inertia or lack of planning played a decisive role, one may have expected the two systems to have shared the same fate. Yet in the case of basic commodities, the Provisional Council of State soon passed new regulatory laws to replace the Mandatory legislation and to set up a new court system.<sup>51</sup> To sum up, had the existence of the regulatory regime been no more than a matter of continuity, and had it not served the government's policy, the legislation and the courts would have rapidly disappeared. This explanation, it would seem, is insufficient.

During the period between 1948 and 1954 considerable uncertainty prevailed in regard to the government's intentions as well as its ability to pass legislation regulating the country's rental market. In assessing the social dynamics and the authorities' actions regarding the regulatory regime in general and the rental courts system in particular, one must bear in mind that this entire domain operated in the expectation that a housing law would be enacted. A general consensus regarding the genuine and urgent need for reform of the rental laws had emerged in the early days of the state. Minister of Justice Pinhas Rosen stated on March 27, 1951: "I by no means believe that our tenant protection laws are suited to our reality and to our needs; on the contrary, I am afraid that our legal system for protection of tenants is a rather shaky structure, which should be repaired and improved in good time." Nevertheless, although the problem became ever more acute and called for an institutional solution, during the years preceding the

legislation of the Tenant Protection Law, it was by no means clear whether a law intended to regulate the rental market would in fact be passed by the Knesset, and if so, when it would be passed and what form it would take. A law intended to regulate the sphere of tenant protection was expected to arouse fierce controversy that would jeopardize a final decision on the matter. As Eliezer Malchi asserted: "Discussion of each question aroused great interest and dispute since virtually every person in the society had some sort of interest in each letter of the law's provisions."<sup>52</sup> A decision on the matter was thus postponed time and again. This chronicle of delay was described in a Knesset debate by MK Ya'akov Klibanov: "I would like to remind him [the minister of justice] how often various delegations of landlords have stood before him; how often he has promised them to consider their demands and consoled them [by telling them] that everything would come right, although nothing has been done. I ask: is this the way to act with regard to an issue vital to the nation?"<sup>53</sup> As time passed and the waiting period grew longer, it appears that the general public, jurists, public activists, and members of the Knesset all despaired of the prospect of a statutory solution and began to accept the rental courts as presenting the sole institutional solution they could expect in the foreseeable future.

The uncertainty surrounding the timing of the reform is manifested in various arenas.<sup>54</sup> In fact, shortly before the law was passed, the commissioner of Tel Aviv district was authorized by the Minister of the Interior to issue an order appointing three rental courts in Tel Aviv.<sup>55</sup> That same week, the minister of justice published a list of dozens of candidates to serve as members of courts.<sup>56</sup> The full acquiescence on the part of the Interior and Justice Ministries to a demand emanating "from below" to expand and enlarge the courts system so close to the enactment of the law indicates that the administrative apparatus was likewise skeptical about the likelihood of arriving at an institutional solution to the problems of the housing market. Indeed, between 1948 and 1954 the Ministry of Justice sanctioned the constitution of ever more rental courts. Thus, as time passed and no law came into sight, uncertainty as to the likelihood of reaching a statutory solution increased. All elements of the system continued to act as though the current situation would endure for some time.

This dynamic of uncertainty and expectation of reform of the law goes some way to explaining the comportment of the rental courts and the state's relations with the system. But the more interesting question in this context is what caused this dynamic in the first place, in other words, why a reform was not introduced earlier.

The first and most straightforward explanation is to be found in the relations between the majority and the minority. The stratum of landlords constituted a minority, and like all minorities its influence and electoral power were limited, both in absolute terms and relative to the wider public of tenants, immigrants, and soldiers, who benefited from the tenant protection laws. This was stated in so many words by MK Idov Cohen of the Progressive Party, which was, as we may recall, a member of the coalition. He noted that the Knesset factions were not proposing a law that would redress the situation of the landlords, "and this is because it is well known that they are a small minority in the land, while the tenants are the large majority. I am jeopardizing my popularity for a moment among this majority only because I feel it my duty to express that sense of simple justice that rises up in one's heart."<sup>57</sup>

The second explanation likewise resides in the sphere of political influence. As Yaniv Ben Uzi notes, the population of the established settlements and small

businessmen of which the landlords formed a part had not acquired substantial political influence during the period of the Yishuv (pre-state Jewish society).<sup>58</sup> The landlords, moreover, were not among the core supporters of the ruling party, Mapai. On the contrary, not only was it doubtful that solving the problem of the landlords would bring any political gain, but this was a move that would incur certain damage: negatively impacting the broad stratum of tenants that had for years benefited from the protection of the law and had paid low rents.

A further important element associated with the government's inactivity in this field is the dominant worldview that prevailed during the country's formative years. The political-juridical discourse over notions of private property, property rights, and the realization of individual economic interests was marginal.<sup>59</sup> Rather, notions of egalitarian distribution of resources, the general good, and, more specifically, the provision of accommodation for the recent immigrants were paramount. This discourse naturally impacted the perception of landlords' rights to their property. "I am aware that the landlords claim that this is their property, yet after all, most landlords built their houses years ago, and they should realize that they have profited not only through their own initiative. The entire Yishuv contributed ... they will therefore come to no harm should they now suffer a little because of the apartments law," was how Mapai MK Nahum Lam put it.<sup>60</sup> This example reflects a perception that links private property and individual initiative to the society and community. In its broader context, this perception seeks to balance the individual's right to full realization and control over their property and the public interest. We may also add to our explanation the antagonism felt by many toward the institution of the diaspora landlord, and their desire to get rid of the bourgeoisie, with which the landlords were associated, and to adopt a new narrative that championed the Jewish worker. These sentiments and perceptions merged with a socialist ideology that proclaimed the egalitarian distribution of resources and concern for the welfare of the entire population. Nevertheless, even if these sentiments and notions did impinge on policy, I believe that they provide merely a minor part of the explanation of the dynamic described above, for the Mapai version of socialism never called for the abolition of private property.<sup>61</sup> In this context, MK David Hacoen of Mapai said: "A voice is sometimes heard, and will perhaps be heard from here as well, that on the strength of some socialist philosophy one should not stand up for the landlords even though they are clearly in the right. I regard this type of socialism to be illegitimate."<sup>62</sup>

Indeed, perhaps the major reason for the perpetuation of the regulation of rents was economic necessity. The Mandatory legislation was passed at a time of housing shortage and world war. Yet upon the establishment of the state circumstances were transformed and the housing shortage became far more acute as a result of the large waves of immigration and the difficult security and economic situation. It was, after all, economic necessity that had generated the "twin" to rent regulation, namely, the regime of austerity.<sup>63</sup> The lack of adequate housing caused genuine distress and stemmed from the social, demographic, and economic conditions of the period.<sup>64</sup> Faced with these conditions, and unable to provide alternative solutions, the government utilized all means at its disposal, including existing property, even if this was in private hands. This notion was couched in simple terms by MK Izhar Harari, during the debate on the sublease laws discussed above: "The government has found a way of solving the problem of the soldiers through laws that place the [burden of the] solution on other sections of the public rather than on itself."<sup>65</sup> This argument, broadly speaking, is true of regulation in general. One may thus portray the situation at the time as follows: a

government operating in conditions of budgetary deficit and extreme shortage of resources, in constant fear of economic collapse, was impelled to utilize every resource it had, primarily since it had no alternative, in order to house the hordes of immigrants who inundated the country at the time.<sup>66</sup> In this respect, one may view the regulation of the rental market as a mechanism for the redistribution of property.

### **A new reality**

By passing the Tenant Protection Law in 1954, the government abolished the rent limitation order and re-regulated the relationships between the parties involved in protected rentals. The answer to the question why it was at this precise time that the conditions allowed this reform to take place is a complex one. One may, however, point to a number of factors that coincided in such a way as to enable this step to be taken.

#### ***1. The landlords' campaign***

In the beginning, despite their attempts to discard this image, the landlords were associated with the bourgeoisie and the well-off middle class, whereas the tenants were regarded as the working masses. In his book *The History of the Law of Palestine*, Malchi writes that during this period there occurred what he terms "a change of values in the continuous struggle between social classes": "The classes that exist at present are no longer employer and worker, but rather landlord, tenant, and subtenant."<sup>67</sup> It indeed appears that the campaign against regulation of the rental market was, at least in part, a class and ideological struggle. The campaign waged by the landlords for their rights, was an attempt to divest themselves of the bourgeois image that stood in stark contrast to the Zionist-socialist ethos. It is interesting to note that in their struggle the landlords did not, in general, adopt an ideological position that extolled private property and the right to property, but preferred to remain within the confines of the dominant discourse. They thus made frequent use of the argument of historical justice, presenting themselves as a group that had come to Palestine to build the land and now found themselves deprived of their property. In other words, the landlords did not attempt to justify their claim for fair reward on grounds of the right to their property, but rather on their historical right as builders of the land. As a certain landlord wrote to President Ben-Zvi in January 1953: "A great and terrible wrong perpetrated with no pangs of conscience for the past 13 years on a large and good section of citizens, which has benefited the land and its occupants through its construction efforts and is now discriminated against and exploited – having done no wrong and having also brought much benefit to our land."<sup>68</sup> Another significant element of the landlords' campaign focused simply on the attempt to win the sympathy of the public and the state leadership. To this end they presented countless individual tales of elderly people who had become destitute and widows who found themselves without a roof over their head. After some time the landlords' campaign began to bear fruit. Voices expressing unequivocal identification with the travails of the landlords and calling for a just solution to the issue were raised with increasing frequency both in the contemporary press and in the Knesset. It would, however, appear that other factors contributed to this change, in addition to the success of the campaign itself.

## **2. The austerity program and transformations in public opinion**

During the initial years of statehood, the government waged a concerted propaganda campaign against the phenomenon of the black market in food, which threatened the regime of rationing and austerity. Most of the public grit its teeth under the austerity regime, and although many were compelled to purchase basic commodities on the black market, they looked askance at those who profited from the situation. The black market in key money thus became entwined in the growing resistance to profiteering as such. In other words, once a large section of the public found itself in a situation reminiscent in many respects to that about which the landlords were protesting, it identified with them more readily and could empathize with their claims. Unsurprisingly, overcharging for key money on the part of tenants who exploited the regulatory laws was criticized in terms similar to those used to castigate the profiteering in the food market, as calls to purify the abomination and to eradicate it were heard from all quarters.<sup>69</sup> The linkage between profiteering in the food market and profiteering in the rental market extended beyond terminology. For example, the prohibition on receiving key money was linked at a certain stage to the prohibition on dealing in the black market for basic commodities, since both these practices were perceived to be instances of unacceptable profit making.<sup>70</sup>

An additional factor that induced change in the public's attitude toward the landlords was the growing tendency toward exploitation on the part of primary tenants. They began to be perceived not as a weak sector in need of the law's protection, but rather as an exploitative stratum that made immoral use of the law in order to deprive the landlords and abuse the subtenants. As circumstances gradually evolved, a growing proportion of tenants were no longer impoverished laborers or recent immigrants; some were members of the liberal professions or businessmen who earned a good living but continued to reside in rented accommodation, in some cases in large apartments in central areas of the city, while paying negligible rent. As time passed the department of many of the tenants came under increasing criticism and was on occasion described as profligate: "A particular set of tenants that constitutes an obstacle and a disgrace to us all has established itself . . . those who legislated the law, who prevented landlords from raising rents, neither believed nor imagined that we should arrive at such a magnitude of exploitation . . . this has exceeded all moral dimensions . . . this phenomenon has generated a layer of sharks in our community . . ." <sup>71</sup>

The press, too, expressed considerable criticism of the prevalent exploitation: "The appalling sin of key money constitutes merciless exploitation and completely gratuitous profits. This is the basest parasitism."<sup>72</sup> One can, in fact, discern a process of role reversal: while in the beginning the landlords were perceived as property owners who became rich at the expense of the working class, as the years passed a certain shift occurred and the tenants came to be regarded as profiteers who charged exorbitant key money and exploited both the landlords and their subtenants.

## **3. The new economic policy and the rise of the General Zionists**

Alongside these explanations, the developments portrayed above should be examined within a broader sociopolitical context. The decision to annul the Mandatory regulatory arrangement was influenced by additional processes that were occurring at the time. First was the declaration of the new economic policy in 1952, which comprised the

ending of inflationary government funding, devaluation of the currency, annulment of control over some products, and an easing of control over others.<sup>73</sup> Second, the central regulatory system of food and basic commodities rationing that operated alongside the regulation of the rental market had undergone significant modification.<sup>74</sup> A further important factor was the rise of the General Zionists Party, which in late 1952 became Mapai's senior coalition partner in Israel's fourth government. This party grew out of a unification of several organizations, including the Federation of Landlords, and favored the free market, a liberal economy, and individual capital.<sup>75</sup> It represented the country's long-established residents, members of the middle class, and people who ran their own businesses, and it was only natural that its Knesset members had championed the landlords' campaign over the years.<sup>76</sup> Among the issues at the center of the election campaign that began in 1951 were the above-mentioned dichotomies: socialism versus the bourgeoisie, the free market versus centralism, as well as several topics that were integral to regulation, such as the cost of living, just distribution, and housing. "Let us live in this country!" the slogan used in the General Zionists' campaign, expressed the economic and class interests of the landlord sector and of a broad section of the public that had had enough of austerity. The General Zionists obtained 20 seats in the elections held on July 30, 1951, almost trebling their representation. For a range of reasons, however, the coalition negotiations with the party broke down and it did not become a partner in Israel's third government headed by Mapai. Just over a year after taking power, on December 19, 1952, this government was replaced by the fourth government, in which the General Zionists Party constituted a major partner. Mapai itself underwent certain transformations in light of the changed circumstances and voting trends. The population refused to accept the economic restraints and resisted the limits placed on its freedoms. The election results broadcast a clear signal that the established population, which had in the past been willing to accept personal sacrifice for the general good, had grown somewhat weary of bearing this burden.<sup>77</sup> This development, whereby a party that championed the principles of the free market and individual capital became a senior partner in the coalition, fused with additional factors mentioned here such as the new economic program, the weakening of the parallel regulatory system, namely, the control over food, and the landlords' successful campaign. All these contributed significantly to the annulment of the regulatory regime and its replacement by a new arrangement.<sup>78</sup>

A further element that led to the reform being implemented at this time was the overall transformation in the sphere of housing. The construction boom in the public sphere, the offer of housing solutions that did not require ownership of the apartments, the establishment of development towns, and large-scale construction activity in the immigrant *moshavim*, the periphery, and the neighborhoods of major cities, all paved the way for an albeit long overdue solution to the housing problem.<sup>79</sup>

A series of social, economic, and political factors thus eventually led to the annulment of the Mandatory laws pertaining to rent and their replacement by a new law passed by the Knesset.

## Conclusion

Since housing is a sphere of considerable social and economic importance, the regulatory regime stood at the center of a fierce political and public dispute. Ideas and



standpoints on social disparities, distributive justice, equality, class struggle, and political power relations all played a part in the debate, which took place under singular historical circumstances: a difficult security situation, an economy struggling to survive, rampant inflation, absorption of immigration of an unprecedented magnitude, and the establishment of a state, with all that it entailed. Along with the extended period of regulation, these circumstances tended to generate extreme conditions within the housing market and to radicalize public reaction. Over time, as the regulatory regime persisted, social practices that transgressed the decrees of the regulatory legislation emerged and undermined this regime. This was particularly evident in the black market that blossomed under the noses of the authorities. The leadership was well aware that regulation had its imperfections. The public's resistance to regulation was likewise well known, and its growing intensity, one imagines, could have been foreseen from the outset. Yet this was a sphere beset by weighty economic and political interests and one that constituted a cornerstone of Zionist ideology, namely the provision of accommodation to every Jew. As such, it encompassed considerable political and ideological significance, which deterred the political leadership from reforming the sphere for many years. It is difficult to determine the relative weight of necessity and of the other factors enumerated here: a worldview that did not sanctify private property; the political weakness of the unrepresented sector of the landlords, which constituted a minority whose rights could be infringed with impunity; the fact that this was a meaningful and accessible economic resource that could be easily controlled; the desire to offer an economic benefit to tenants; or sheer necessity created by the economic circumstances and the housing shortage. Nonetheless, while the regulation seriously infringed landlords' property rights, did them a prolonged injustice, and created numerous social anomalies, a broad stratum of tenants that numerically far exceeded that of the landlords enjoyed cheap and accessible housing for many years.

The tale of the regulation of the rental market in Israel's early years is thus a complex one, and of interest in several respects. First, this is a fascinating chapter of history that provides a glimpse into the social processes and structures that characterized the country's formative years. In this context, the regulation of rents shaped the relations and the reality of daily life in many Israeli homes in those years. Second, this is a narrative of colliding value systems: control versus free market, and individualism versus the general good. Third, the landlords' campaign encompassed further confrontations: the class struggle between old-timers and property owners on the one hand, and those who arrived on the later waves of immigration and the workers on the other, as well as the struggle waged between Mapai and the General Zionists. Fourth, this is a story of the dialogue conducted between law and society, and of the significant role played by the law in fashioning everyday life, relations between people, and the constitution of public life and the public sphere. Over a period of many years, the regulatory laws shaped economic and social relations between broad sections of the population, and they serve as an instructive example of the manner in which law shapes and constitutes social reality, from the superstructure of economic institutions, political power and political influence, and the dynamics between various groups and classes within society, to the design of the physical space occupied by people and the impact on interpersonal relationships between individuals and their fellows, their neighbors, and their families.

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## Notes

1. Plessner, *Political Economy of Israel*, 10; Manirav, "Hok haganat ha-dayar"; Shemesh, *Ha-madrikh ha-huki*.
2. Report of Rents Committee of Enquiry, *Palestine Gazette* (hereafter *PG*), no. 430, Supp. 2, March 26, 1934.
3. *Ibid.*, 266.
4. Landlords and Tenants (Ejection and Rent Restriction) Ordinance, no. 11 of 1934, *PG*, no. 432 Supp. 1, April 5, 1934, 137.
5. See, for example, Report of the Advisory Committee on Rental, 4, Israel State Archives, Jerusalem (hereafter ISA), C-15/5725; *Divrei ha-Knesset* [Knesset Record] (hereafter *DK*) 14 (1953): 1816. See also the presentation of the Tenant Protection Law, 1953 by Minister of Justice Pinhas Rosen, *ibid.*
6. Rent Restriction (Dwelling-Houses) Ordinance, 1940, *PG* 1065 Supp. 2, December 20, 1940, 230. As mentioned, the ordinance in force up to then applied only to certain urban areas. However, the mass movement of people from the cities, where the existing laws were applied, to rural areas and to unregulated cities led many landlords to exploit the lack of control and to charge extortionate rent. The new legislation sought to prevent such behavior "wherever the apartments are located" (Draft: An Ordinance to Prevent Profiteering in the Rent of Dwelling-Houses, *PG* 1049, Supp. 2, October 10, 1940, 1057).
7. See Rozin, *Hovat ha-ahavah ha-kashah*, 21; Seidman, "Unexceptional for Once," 18;
8. See clause 11 of the ordinance, which stipulates that the law in force in Palestine on May 14, 1948, would continue to be valid.
9. See Gross, "Ha-medinyut ha-kalkalit be-Yisrael," 325, 334; Naor, "Ha-tzena," 97–98.
10. See, for example, Report of the Public Committee on the Matter of Key Money, March 26, 1957, ISA C-4704/15.; Nun Ben Nun, "Yoman Kalkali" [Economic journal], *Davar*, June 22, 1949, 2; B. Goldberg, "Hok ha-batim ha-hadashim 1953 alul lehamit sho'ah al alfei mishpahot dayarim" [The new houses law is liable to devastate thousands of tenant families], *Davar*, May 5, 1954, 2; "Skirat shvakim" [Market survey], *Davar*, February 25, 1953, 2; Shlomo Rimmer, "Darush shinui be-medinyut ha-bniyah veva-diyur" [A change in construction and housing policy is required], *Davar*, May 20, 1952, 2; Zvi Magen, "Safsarut be-nikhsei nifkadim" [Profiteering from absentees' properties], *Davar*, October 26, 1950, 2. See also *DK* 7 (5711–1951): 334, 331, 338.
11. *DK* 5 (1950): 1512.
12. *Ibid.*, 1506.
13. *Ibid.*, 1504.
14. *Ibid.*, 1508.
15. *Ibid.*, 1503. See also the address by MK Moshe Ben Ami of the Sephardi Party, *ibid.*, 193.
16. *Ibid.*, 1516.
17. *Ibid.*, 1509.
18. *Ibid.*, 1510.
19. MK Yisrael Bar Yehuda, Mapam, *ibid.*, 7 (1951): 59.
20. *Ibid.*, 60.
21. *Ibid.*, 62.
22. *Ibid.*, 61.
23. Tenant Protection (Sublease, Accommodation of Guests and Exchanges) Law, 5711–1950.
24. The infringement of landlords' proprietary rights is a specific instance of the broader juridical issues of governmental appropriation, nationalization of property, and expropriation. In-depth discussion of these issues goes beyond the scope of this article, as does the exploration

- of fundamental questions that they raise, such as the proportionality of infringement of property rights, the circumstances in which it is justifiable to infringe upon private property in order to attain a worthy social objective, as well as the question of the compensation offered in such cases. The following are examples of the extensive literature and judgments that address these questions: Supreme Court judgment 2390/96 *Yehudit Kressik v. The State of Israel*, verdict 65 (2) 662; Dagan, "Shikulim halukatiyim," 491; Dagan, "Dinei netilah shiltonit," 673; Gross, "Zekhut ha-kinyan," 405.
25. For more on this topic, see Rozin, *Hovat ha-ahavah ha-kashah*; Naor, "Ha-tzena."
  26. Yihye Moshe Mizrahi of Tiberias to the State President of Israel Yitzhak Ben-Zvi, March 9, 1954, ISA C-13/12.
  27. *DK* 14 (1953): 1821.
  28. Jerusalem Landlords Association to Dov Yosef, Military Governor, November 18, 1948, ISA, C-274/9.
  29. B. Beckelman to Dov Yosef, Governor of Jerusalem, December 6, 1948, ISA, C-274/9.
  30. See Advocate Martin Woolfson to Minister of Justice, August 1, 1948, ISA 5732/C-5. Despite applications by the public and promises made by the authorities to reactivate the courts, irregularities in the courts' operation persisted for many years after the founding of the state and after the bombardments and hostilities had come to an end. See, for example, Y. Governik, Deputy Director of the General Administration Branch, to the Ministry of Justice, November 4, 1949, ISA 2210/C-4.
  31. See, for example, Director of the Courts Department to Pinhas Rosen, Minister of Justice, October 21, 1949 ISA 5658/C-9. A further example is provided by the court in Safed, originally established in 1944 (notification of which was posted in *PG*, no. 1352, Supp. 2, August 17, 1944, 619, which ceased to function for several years because its Arab member had left, another member had resigned, and the third had died. The court was reestablished only in 1953 (ISA 5732/C-5).
  32. Even small settlements such as Kfar Shemaryahu, Ramat Hadar, Kiryat Yam, and Even Yehuda, were allocated their own courts. Sixteen rental courts functioned in the center of the country in early 1952. See S. Yeshayahu to the General Administration Branch at the Ministry of the Interior, January 10, 1952, ISA 5732/C-2.
  33. In early December 1951, for example, the Ministry of Justice submitted a request to the Interior Ministry to provide it with a list of all the courts functioning in the country and the dates of their establishment. The Interior Ministry did not possess such a list either and had to approach the District Commissioners, requesting them to submit the list of courts in their districts as soon as possible. See ISA 5732/C-2.
  34. See, for example, Report on the Activity of the Rental Courts, March 13, 1952, ISA 2210/C-56; Courts Director to the Legal Advisor to the Government, January 15, 1951, ISA 5732/C-2.
  35. Director of the Courts Division to the Minister of Justice, November 30, 1950, ISA 5658/C-10.
  36. See State Attorney to the Minister of Justice regarding the defective constitution of the Tel Aviv and Petah Tikva rental courts, December 14, 1949, ISA 5658/C-10; Director of the Courts Division to Pinhas Rosen, Minister of Justice, October 21, 1949, ISA 5658/C-9; Minutes no. 16C of Meeting of the Sub-Committee on the Tenant Protection Law of the Constitution, Law and Justice Committee, the Second Knesset, January 4, 1954, 1, ISA 73/C-26.
  37. Ignorance of the fundamental and the procedural law was manifested also in the working of the courts themselves. They on occasion contacted various judicial and administrative bodies to request instructions regarding legal issues. See, for example, Shlomo Har-Even, Chairman of the Netanya Rental Court, to the Interior Ministry's Legal Advisor, January 11, 1949, ISA 5658/C-8; Secretary of the Jerusalem Rental Court to the Ministry of Justice, August 9, 1949, ISA 5658/9; President of Tel Aviv District Court to Chairman of the Givatayim (Apartments) Rental Court, July 5, 1951, ISA 5732/5.
  38. For example, in December 1953 the Ramat Hadar Local Council asked the Ministry of Justice how it should make appointments to the courts, without distinguishing between the rental court, which addressed the issue of the level of rents, and the court that dealt with small

- businesses. See Yosef Kokia, Director of the Ministry of Justice, to Ramat Hadar Local Council, December 16, 1953, ISA 5732/C-5.
39. In a particular instance the chairman of the Netanya rental court sought to consult the Interior Ministry about one of the cases. The Interior Ministry's legal advisor replied thus: "As a legal advisor to the Interior Ministry, that is, as an official who engages in administration, I am not authorized to guide the court on questions that await its decision . . . one of the fundamental rules of a democratic regime is the separation of powers – the legislature, the executive, and the judiciary, and particular care should be taken that the executive branch does not intervene in the courts' sphere of activity." Dr. N.A. Hornstein, Legal Advisor to the Interior Ministry, to Shlomo Har-Even, Chairman of the Netanya Rental Court, January 14, 1949, ISA 5658/C-8.
  40. See, for example, Hadera District Officer to Ministry of Justice, January 27, 1952, ISA 5732/C-5. See also Yosef Picker, Chairman of Ramat Hasharon Rental Court, to Ministry of Justice, August 14, 1953, *ibid*.
  41. See, for example, L. Henman, Deputy Legal Advisor to the Government, to Director of the Courts Department, May 28, 1952; and General Secretary of the Netanya Court to the Ministry of Justice, May 7, 1952, *ibid*. It was eventually agreed upon that the Government Secretary would submit the documents to Koshmirski. Government Secretary to Secretary of the Netanya Rental Court, June 9, 1952, *ibid*.
  42. Director of Courts to the Legal Advisor to the Government, January 15, 1951, ISA 5732/C-2.
  43. Report on the activity of the rental courts, March 13, 1952, ISA 2210/C-56.
  44. Director of the Courts Department to the General Administration Branch of the Interior Ministry, February 28, 1950; and Y. Governik, District Commissioner, to Director of Courts, February 14, 1950, ISA 2210/C-4.
  45. The committee's letter of appointment was published in *Yalkut ha-Pirsumim* [Official Announcements Gazette], no. 142, March 1, 1951, 641.
  46. *Ibid.*, 5.
  47. *Ibid*.
  48. The Tenants' Protection Law, 5014–1954. The law constituted merely the harbinger of a long series of public committees and statutory amendments, which culminated only in 1972, when the Tenant Protection Law that is in force today was published. The new law incorporated all its predecessors, and enabled the government to adjust rentals once a year. Since 1973 the government indeed raises controlled rents each year.
  49. *DK* 14 (1953): 1818–19.
  50. Rent Restriction (Dwelling-Houses) Ordinance (Amendment) Law, 5712–1951. *Sefer ha-hukim*, no. 88, December 26, 1951.
  51. Prevention of Profiteering and Speculation (Jurisdiction) Ordinance, 1948, *Iton Rishmi*, no. 44, January 21, 1949.
  52. Malchi, *Toldot ha-mishpat be-Eretz-Yisrael*, 176
  53. MK Klibanov, General Zionists faction, *DK* 5 (1950): 1515.
  54. One such example is provided by the correspondence conducted in 1953 between a local lawyer from Even Yehuda named Shmuel Hadari and the director general of the Ministry of Justice. Hadari applied to the Ministry of Justice on behalf of a client resident in Even Yehuda, enquiring whether a rental court actually existed in the town, adding "If such a court does not exist, I request that it be appointed." He also wrote that he was aware that the Knesset was currently holding debates about a new law, yet, "this has gone on for years now, and who knows when the law will be enacted, and when it is enacted – when the judges will be appointed, and so forth." Attorney Shmuel Hadari to Ministry of Justice, December 24, 1953, ISA C-5732/5. The reestablishment of the court in Nazareth was likewise affected by the uncertainty surrounding the enactment of the rental law and its timing. It appears that the court set up in the city in 1944 (the court's composition was published in *PG*, no. 1352, Supp. 2, August 17, 1944, 619) existed only "on paper," since some its incumbents had died while others were absent. M. Kremer, Commissioner of Special Positions, to Director General of the Ministry of Justice, September 8, 1953; and Yosef Kokia to Commissioner of Special Positions at the Ministry of the Interior, August 16, 1953, ISA C-5732/5. In this context, a Justice Ministry official wrote in 1953 that since one could not know when the tenant

- protection law would be passed by the Knesset, steps should be taken to set up a rental court in the city. See, S. Landman to the Galilee Governor, July 27, 1953, ISA C-5732/3.
55. ISA C-2210/6.
  56. *Yalkut ha-Pirsumim*, no. 332, February 4, 1954.
  57. *DK 5* (1950): 1504. See also Y.M.P to President Yitzhak Ben-Zvi, January 17, 1953, ISA 51/14-4.
  58. Ben-Uzi, “Tenu lihyot ba-aretz ha-zot!”
  59. For more on this topic, see Shiloah, *Merkaz holekh ve-ne’elam*, Lissak, *Ha-elitah shel ha-yishuv ha-yehudi*; Elro’i, “Gedud ha-avodah’ shel ba’alei ha-melakhah.”
  60. MK Lam, *DK 3* (1950): 196.
  61. Eisenstadt, *Ha-demokratiyah be-Yisrael*, 135–40; Shapira, *Demokratiyah be-Yisrael*, 160; Bareli, *Mapai be-reshit ha-atzma’ut*; Kedar, *Mamlakhtiyut*, 152.
  62. MK David Hacohen, *DK 14* (1953): 1821.
  63. In late April 1949 Prime Minister David Ben-Gurion, announced the implementation of a regime of rationing and austerity, which took the form of regulation of the market in such a way as to nullify differences in financial means between citizens by introducing an egalitarian distribution of basic commodities. See also Yosef, *Yonah ve-herev*, 228; Ga’aton, “Tikhnun kalkali be-Yisrael,” 179, 183.
  64. See Barkay, *Yemei bereshit shel ha-meshek ha-yisre’eli*, 99; Gross, “Ha-mediniyut ha-kalkalit,” 331.
  65. *DK 1* (1949): 598.
  66. See Gross, “Ha-mediniyut ha-kalkalit”; Gross, “Kalkalat Yisra’el,” 137, 141.
  67. Malchi, *Toldot ha-mishpat be-eretz-Yisrael*, 175.
  68. Y.M.P. to President Yitzhak Ben-Zvi, January 17, 1953, ISA N-4/51.
  69. *DK 3* (1950): 193.
  70. The Tenant Protection (Sublease, Accommodation of Guests and Exchanges) Law, 5711–1950, stipulated that the punishment imposed on someone convicted of receiving key money was equivalent to that imposed on someone convicted under section 6 of the Prevention of Profiteering and Speculation (Jurisdiction) Ordinance, 1948. See also *DK 5* (1950): 1507.
  71. MK David Hacohen, *DK 14* (1953): 1821. See also *DK 3* (1950): 193; MK Idov Cohen, *DK 5* (1950): 1503.
  72. S. Adler, “Mikhtavim la-ma’arekhet” [Letters to the editor], *Davar*, February 7, 1949, 2; see also “Be-netivei ha-bikoret” [On the paths of criticism], October 11, 1951, 2.
  73. For more on this topic, see Horowitz, *Hayim be-moked*, 115–22; Bader, “Ha-prat le’umat ha-medinah,” 28; Halevy and Kalinov-Malul, *Ha-hitpathut ha-kalkalit shel Yisrael*, 6; Rozin, “Israel and the Right to Travel Abroad.”
  74. See, for example, Seidman, “Unexceptional For Once,” 129.
  75. See Rozin, *Hovat ha-ahavah ha-kashah*, 141; Tzahor, “Ma’arakhot ha-behirot ha-rishonot,” 27, 36. For more on this issue, see Goldstein, “Shki’at ha-tziyonim ha-klaliyim.”
  76. See, for example, MK Yaakov Gil, *DK 5* (1950): 1505; MK Israel Rokah and MK Yaakov Klivanov, *ibid*, 1509; MK Sapir, *DK 3* (1950): 191 (1950). On the identity of those who arrived in the various waves of immigration, see Sivan, *Dor tashah*.
  77. See Rozin, *Hovat ha-ahavah ha-kashah*, 188–89; Ben Porat, *Heikhan hem ha-burganim ha-hem*; Gross, “Yozmah hofshit le’umat shuk metukhnan,” 73; On the quest for individual expression and disengagement from the grip of the community, see Shapira, “Dor ba-aretz,” 202.
  78. See Weitz, “Miflagah mitmodetet im kishalon.”
  79. See, for example, Patenkin, *Ha-meshek ha-yisre’eli ba-asor ha-rishon*, 76.

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