



Kav LaOved's Annual Report 2006

Part II – Migrant Workers in Israel

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General Overview: Between Exploitation and Trafficking

Trafficking in migrant workers in Israel is an industry with a staggering annual turnover, officially estimated at no less than \$300,000,000 annually¹. The motive for this crime is the illegally charged high brokerage fees paid by workers entering Israel with a legal work visa. Workers are brought into Israel under fraudulent pretexts regarding their work terms and legal status. Confinement, confiscation of documents, threats of deportation, and occasionally violence are used to coerce workers into accepting inhumane working conditions. The authorities do not only fail to take adequate preventive measures and protect workers, but introduce policies which facilitate trafficking. Here are some examples:

- A Thai farm worker was brought to the airport by an employer to be illegally deported against his will. He went through passport control, but when his employer was no longer there, the worker tore his plane ticket, and tried to turn back. At this point the worker was arrested by the airport police. He was questioned, and reported the attempted forced and illegal deportation by his employer. Instead of protecting the worker, the police decided to finish the employer's deportation attempt. The worker managed to contact Kav LaOved, and asked for help. An extremely urgent court petition prevented the deportation. Two days later the worker was released to work for another employer.²
- On September 2006, the legal employer of P., a Thai national, lost his permit. P. and another worker were transferred to a new employer. It turned out that the new employer no longer worked in agriculture. During his first month on the new job P. worked in the cherry-tomato field belonging to a neighbor. During the second month P. painted a newly built house (which apparently belonged to the employer's son). P. contacted Kav LaOved after two weeks, when he understood that the employer has no intention of employing him in agriculture, and was therefore putting him in an illegal situation. We reported to the Ministry of Industry, Trade and Labor and the Interior Ministry. A few days later P. contacted us again and reported that he is in the Tzochar detention facility. He reported that his employer put him in a car, without saying where they were going, and brought him to the prison on the grounds that "he was causing trouble". It goes without saying that all P.'s belongings were left behind and the last month's salary was not paid. Thus P., rather than the criminal employer against whom he complained, found himself spending two nights in jail. Following Kav LaOved's intervention P. was released to a new employer, hopefully a law abiding one.³
- A migrant worker from Sri Lanka was hired to work with a disabled woman but instead was assigned by the employer's family to cleaning the household, packing household goods in preparation for a house move, and cleaning the neighbor's house without additional pay. Her promised monthly salary of only \$200 dollars was not paid. Her living conditions were intolerable and she was getting very little

¹ "The Migrant Workers Industry is Worth 300 Million Dollars a Year", Zvi Lavi, Ynet, Feb 4, 2007, http://www.kavlaoved.org.il/media-view_eng.asp?id=605

² Kav LaOved's website, <http://www.kavlaoved.org.il/media-view.asp?id=289>

³ Kav LaOved's website, <http://www.kavlaoved.org.il/media-view.asp?id=257>



food. A complaint to the job broker resulted in the family dismissing the worker and threatening to deport her to Sri Lanka. The worker had been imprisoned in their house for 3 days and was about to be taken to the airport when she managed to deceive the family by telling them that her passport was not with her. She managed to escape, and went to the Interior Ministry in order to get a temporary visa, but was refused. Kav LaOved interfered, the worker received a document of "immunity" from arrest, and the state's prosecution office is preparing a lawsuit against the family.⁴

These are just some cases encountered by Kav LaOved during 2006. These cases are not sporadic or incidental occurrences⁵.

According to the Bank of Israel⁶ the number of migrant workers in Israel stood at 189,300 over the same year. These workers constitute over 7% of the total Israeli labour force, and over 9% of the business sector labour force. According to the Israeli Central Bureau of Statistics⁷, just over half (98,000) entered the country with a valid work permit, and the rest entered as tourists. Just under 87,000 migrant worker employment permits were issued for 2006, but employers claim that not all of them have been used because of an alleged lack of workers and occasional restrictions on bringing workers from abroad.⁸

The government determines the total number of migrant worker permits. The Industry, Trade and Labour Ministry divides these permits between employers, who then approach private international middleman. The workers are charged thousands of dollars in the form of an illegal commission fee to come to Israel. It is estimated that 70% of these illegal charges reaches Israeli brokers and employers⁹. They become dependent on their work in Israel in order to cover the debt they incur to pay this charge. In some cases not being able to repay the debt puts workers' lives, homes and families at risk.

Workers are usually promised work for several years, while in reality employers cannot guarantee the existence of a work permit beyond the end of the calendar year. A substantial number of workers discover that their promised job does not even exist. Those, who do receive the jobs they are promised, regularly encounter abusive employers and illegal underpayment, which does not suffice to cover their debt.

Legally employed migrant workers do not have the right to freely change employers. To do so places the workers in violation of their visa and they are subsequently

⁴ Kav LaOved's website, <http://www.kavlaoved.org.il/media-view.asp?id=288>

⁵ See Kav LaOved's report "Concise case studies of migrant worker trafficking, rights violation, and related state misconduct in 2006", http://www.kavlaoved.org.il/UserFiles/news474_file.doc

⁶ Bank of Israel annual report, April, 2007,
<http://www.bankisrael.gov.il/deptdata/mehkar/doch06/eng/doch06e.htm>

⁷ Central Bureau of Statistics Press release dated July 30, 2006,
http://www1.cbs.gov.il/reader/newhodaot/hodaa_template.html?hodaa=200620159

⁸ The Knesset's Migrant Workers Committee, protocol October 24, 2006
<http://www.knesset.gov.il/protocols/data/html/zarim/2006-11-24.html>

⁹ The Knesset's Migrant Workers Committee, protocol January 31, 2007
<http://www.knesset.gov.il/protocols/data/html/zarim/2006-11-21.html>



required by law to immediately leave Israel. Regulations allowing restricted portability between employers do exist, but are difficult to operate without the accompaniment of an Israeli agent (an employer or NGO volunteer). This official policy transforms hard working permit holders into deportable 'escapees,' if they dare to leave their 'importing' employers. Consequently, workers avoid complaining for fear of being dismissed and subsequently losing their visas.

Official research¹⁰ confirms that the main reason behind workers' loss legal status is not overstaying the visa period. Migrant workers in Israel lose their legal status mainly by quitting their legal employer due to non-payment, illegal underpayment, difficult working conditions, long working hours, and abusive treatment by employers. Moreover, workers may unwittingly become illegally employed, if their employers neglect or forget to periodically renew workers' permits at the end of every year, if they are traded between employers, or if the employer's quotas are reduced.

Despite recent new legislation and some sporadic high profile verdicts against delinquent employers, enforcement mechanisms meant to protect migrant workers are still highly inadequate. Lack of translation services and general low prioritising of workers' complaints mean that unrepresented migrant workers do not have genuine access to justice.

The State's deportation policy protects employers from complaints and salary-related lawsuits by employees. Employers enjoy this protection because they have the option to report 'trouble-maker' workers as 'escapees' (whether or not the workers have indeed quit), and summon the police to deport these workers before the workers have the chance to take legal action. Other employers simply force the worker to leave Israel themselves. A deported worker allows the employer to get a new government issued permit under existing quotas. This brings new, cheaper, ill informed, mediation-fee-carrying workers into the workforce, and so the vicious cycle or 'revolving door' continues. The prematurely deported worker may face a staggering debt back home, due to the illegal mediation commissions, which the worker had been made to pay before coming to Israel.

This policy plays into the hands of traffickers. Threats concerning the worker's legal status and deportation are the most prominent tool for coercing migrant workers to accept inhumane working conditions. A substantial percentage of migrant workers in Israel are indeed victims of the fraud and coercion that constitute human trafficking for labour exploitation according to international definitions.

¹⁰ "Factors leading migrant workers to illegal employment" (Hebrew), Y. Ida, The Research and Economy Administration in the Industry, Trade and Labour Ministry, November 2004, <http://www.moital.gov.il/NR/rdonlyres/8C9F809F-85AB-4ABF-BF36-F58EB8FB33BE/0/X6038.pdf> and "Illegally employed Chinese workers in Israel" (Hebrew), R. Bar-Tsuri, June 2005, <http://www.moital.gov.il/NR/rdonlyres/AA7184E8-48EE-49D9-9689-8705BA96C30D/0/X6538.pdf>



Statistics

Quotas

The quotas for legal employment of migrant workers during 2006 were: 15,000 in construction, 26,000 in agriculture, and 3,200 in Industry and services¹¹. 42,843 workers hold caregiver visas (their number is not restricted in advance; each person who suffers a certain specified level of disability may employ a migrant caregiver)¹².

In fact, the number of migrant caregivers who entered with a valid permit is larger than the number of eligible clients due to a form of fraud called "flying visas": brokers bring workers into Israel, abandon them, claim that they have "escaped" their legal employer, and ask for a new worker to be brought in their stead. Based on official statistics, Kav LaOved projected that some 25% of migrant workers who entered Israel in 2006 fell victim to such fraud.¹³

"Flying visa" joins the fact that many workers lose their legal status due to quitting delinquent employers or due to employer negligence to comply with regulations, and the result is that the number of legally employed migrant worker is in fact smaller than the above total. Since its peak of 103,000 in 2001 until 2004 the number of migrant worker employment permits has been regularly declining. In 2005 this decline has stopped.

Immigration, emigration, and deportation

Migrant work as a systemic solution to Israel's labour needs was introduced in the early nineties. Migrant workers were admitted to replace Palestinian workers, who were no longer readily available due to frequent closures and a separation policy, which accompanied the Oslo process. The following graph presents numbers of migrant and Palestinian workers in Israel since 1990¹⁴.

The decline in the number of migrant workers is a result of mass deportation and departures, offset by a substantial amount of entries of migrant workers with legal work visas.

¹¹ The Knesset's Migrant Workers Committee, protocol November 21, 2006
<http://www.knesset.gov.il/protocols/data/html/zarim/2006-11-21.html>

¹² The Knesset's Migrant Workers Committee, protocol September 13, 2005

¹³ "number of caregivers 4 times number of permits", Ruth Sinai, Haaretz, November 21, 2006,
<http://www.kavlaoved.org.il/media-view.asp?id=305>

¹⁴ Statistical Appendix to bank of Israel annual report 2006,
http://www.bankisrael.gov.il/deptdata/mehkar/doch06/heb/e_3.xls



Year	Number of deportations of migrant workers ¹⁵	Number of entries of workers with permits ¹⁶
1995		78,300
1996	960	90,800
1997	2,768	64,000
1998	4,037	64,200
1999	4,615	53,300
2000	742	52,200
2001	1,915	78,200
2002	6,490	33,200
2003	21,000-25,668	31,000
2004	15,700-21,022	34,000
2005	6,526	29,000
2006	3,591	Not yet available

¹⁵ 1996-2002 deportation data are based on Police detainee identification numbers (courtesy of the Hotline for Migrant Workers). Higher estimates for 2003-2004 data are quoted from a Private communication from the Immigration Administration dated February 22, 2005. Lower estimates for 2003-2004 are quoted from "Migrant workers without permits arrested and deported from Israel in the years 2003-2004" (Hebrew), R. Ben-Tsuri, The Planning, Research and Economy Administration in the Industry, Trade and Labour Ministry, March 2005, <http://www.moital.gov.il/NR/rdonlyres/BCC93E5F-F7E8-48BD-B78B-309DD2E93AFF/0/ozgorshu.pdf>. 2005 data are quoted from "Number of foreign workers deported drops sharply", by Relly Saar, Haaretz, December 29, 2005, http://www.kavlaoved.org.il/katava_main.asp?news_id=1659&sivug_id=4. 2006 data are from a Private communication from the Immigration Administration dated March 5, 2007.

¹⁶ Israeli Central Bureau of Statistics press releases July 28, 2004, http://www.cbs.gov.il/hodaot2004/17_04_198t1.pdf and July 28, 2005, http://www1.cbs.gov.il/reader/newhodaot/hodaa_template.html?hodaa=200520165



In 2002 the Immigration Authority was established and assigned a quota of removing 50,000 migrant workers by deportation or by their own 'free will'. The quota has since increased to 100,000 in 2004, and reduced to 70,000 for 2005¹⁷. Meeting such stringent quotas necessarily requires violations of human rights. The reduced number of deportations since 2005 is explained by the workers' increased experience at avoiding the police and by the cutbacks to deportation staff.

Demographics

According to Israeli Central Bureau of Statistics data, the largest groups of migrant workers come from the Philippines, Thailand, the former Soviet Union, Romania, China and Nepal. Other workers come from other countries in South East Asia and Eastern Europe and the Middle East. African and South American workers account for small but relatively well organised communities.

The number of women who entered Israel in 2005 accounted for 49% of entrants. They are mostly employed in the 24-hour homecare industry. The typical migrant worker is in his thirties, and left a family back home¹⁸. A small minority manage to bring their families to Israel, or form a family in Israel despite contrary regulations (see the 'families' section below). Some 900 children and 1,450 family members received residency permits according to criteria set by the Interior Ministry for the legalisation of the situation of children of migrant workers¹⁹. Some children, who do not meet the criteria, are still in an illegal situation.

Brokerage fees

The typical journey to Israel for a migrant worker begins by borrowing thousands of dollars to pay for brokerage fees. This illegal charge secures a legal work permit. The existence of this charge, as well as the fact that about 70% of it reaches employers and middlemen in Israel, has been confirmed both in police, parliament and State Comptroller publications²⁰. Since mid 2006, job brokers can legally charge migrant workers a mediation fee of approximately \$750 on top of direct expenses. Despite ample evidence of violations, this restriction is not enforced.

¹⁷ Government decision 2445-6, August 15, 2004

¹⁸ "Factors leading migrant workers to illegal employment" (Hebrew), Y. Ida, The Research and Economy Administration in the Industry, Trade and Labour Ministry, November 2004, <http://www.moital.gov.il/NR/rdonlyres/8C9F809F-85AB-4ABF-BF36-F58EB8FB33BE/0/X6038.pdf>, and Israeli Central Bureau of Statistics press release July 28, 2005, http://www1.cbs.gov.il/reader/newhodaot/hodaa_template.html?hodaa=200520165

¹⁹ "Foreign worker residency requests fall below expectations", Shahar Ilan, Haaretz, September 4, 2006, <http://www.haaretz.com/hasen/spages/758496.html>

²⁰ State Comptroller report 53B for the year 2002, and police quotes published "working on commissions" (Hebrew), Assaf Zohar, Globes, October 8, 2002, http://www.kavlaoved.org.il/katava_main_heb.asp?news_id=301&sivug_id=2, The Knesset's Migrant Workers Committee, protocol January 31, 2007 <http://www.knesset.gov.il/protocols/data/html/zarim/2006-11-21.html>



Illegally charged brokerage fees require workers to take high interest loans and mortgage their property. If they are forced to return prematurely, they cannot pay back their loans, and find their property, and sometimes even their lives, at risk. The high mediation fees encourage employers to "import" new worker, rather than look for unemployed migrant workers already in Israel. In some cases, employers forcefully and illegally deport workers, not only to avoid paying them what they deserve, but also to guarantee the leaving of the worker, which is a condition for receiving a new permit to bring a new brokerage fee paying worker.

The charges have increased dramatically in 2006. The main reason for the increase is higher taxes set by the State on employers of migrant workers. The secondary reason is improved regulations which make it likelier for migrants to retain work permits for longer periods of time. Kav LaOved research indicates that the average brokerage fees paid by Philippine workers stand at over \$4,250, of which typically over half is charged in Israel²¹. Thai workers tend to pay higher fees (recently, \$8,000-\$10,000), while Romanians tend to pay lower fees. Chinese workers pay the highest average brokerage fees among migrant workers in Israel: \$16,800 for workers who came after July 2005 (a 66% rise with respect to the average in 2001-2004; more recent data for 2006 suggests that the average has already increased to \$18,000)²². Thai workers report monthly interest rates of 2-4%, while over 1/3 of surveyed Filipinos reported 10% monthly (!) interest rates. We have encountered workers, especially in agriculture, who discovered that their salaries were simply not high to keep up repayments of their loans.

Salaries and cost of labour

The typical wages of migrant workers are far below the general average. The average wages for migrant and Palestinian workers, whose wages are reported to the National Insurance Institute, are just under 4,226 Shekels per month. This salary is 55% of the average salary in the Israeli labour market. Both average wages increased similarly in real terms compared to 2005²³. Typical wages in agriculture are 102 Shekels per 8 hour day, and 13 Shekels per each overtime hour. Typical wages for live-in caregivers is \$600 per month. These wages are far below the minimum wage.

The new employment scheme in the construction sector seems to have increased the wages of migrant construction workers. Most of them, however, still do not make the legal minimum, and the increase in wages is offset against the sharp increase in

²¹ "Collection of job broker's fees from Filipino migrant workers", Kav LaOved, Spetember 5, 2006, http://www.kavlaoved.org.il/UserFiles/news291_file.pdf

²² Interim report on the employment of migrant workers in construction by placement agencies (Hebrew), Kav LaOved and the Hotline for Migrant Workers, March 2007.

²³ "Monthly Bulletin of Statistics", Central Bureau of Statistics, http://www1.cbs.gov.il/reader/yarhon/yarmenu_e_new.html#11 and Bank of Israel, main Israeli economic data, http://www.bankisrael.gov.il/deptdata/mehkar/doch06/heb/e_6.xls



illegally charged brokerage fees, so the overall situation has not genuinely improved²⁴.

Kav LaOved's experience as well as official studies indicate that illegally employed workers make more money than those legally employed²⁵. This is explained by the bargaining possibilities of illegal workers, who traded their legal status for the freedom to change employers at will. These data reinforces estimates that only half of all migrant workers in Israel are paid minimum wages (\$750 per month, not including overtime)²⁶, as opposed to 16% of the general population²⁷. According to estimates by the Treasury²⁸ the cost of employing a migrant worker in construction or agriculture is 70% of the cost of employing an Israeli worker, even though this cost includes extra taxation, recently established to increase migrant worker employment costs.

Policy Updates

In recent years we have witnessed growing transparency of operations and regulations, improvements in legislation and enforcement, and a build up of legal achievements which make it easier for Kav LaOved as an NGO to protect workers. Nevertheless, some State agents (notably the Interior Ministry) still violate their own regulations and refuse to protect the rights of migrant workers, and workers unaccompanied by NGOs rarely have access to justice. The binding of workers to specific employers, despite its comparison to slavery by the High Court of Justice, has not yet been replaced, and the State's new employment schemes are in many ways nothing more than cosmetic alterations. Enforcement is only beginning to take advantage of new legislation, but the main priority is still fining illegal employers and tracking down false documents, rather than protecting victims. The unification of Border Control and migrant worker administration under the Population Administration in the Interior Ministry, which is supposed to resolve bureaucratic difficulties, has been deferred until January 2009.²⁹

²⁴ Interim report on the employment of migrant workers in construction by placement agencies (Hebrew), Kav LaOved and the Hotline for Migrant Workers, March 2007.

²⁵ "Factors leading migrant workers to illegal employment" (Hebrew), Y. Ida, The Research and Economy Administration in the Industry, Trade and Labour Ministry, November 2004, <http://www.moital.gov.il/NR/rdonlyres/8C9F809F-85AB-4ABF-BF36-F58EB8FB33BE/0/X6038.pdf>

²⁶ "The Effect of Migrant Workers on Employment, Real Wages and Inequality: The Case of Israel - 1995 to 2000", Daniel Gottlieb, <http://www.bankisrael.gov.il/deptdata/neumim/neum121e.pdf>

²⁷ State Comptroller Report 54B (Hebrew), page 821, <http://www.mevaker.gov.il/serve/contentTree.asp?bookid=404&id=57&contentid=&parentcid=undefined&sw=1024&hw=698>

²⁸ "Inter-ministerial report on planning the employment method of migrant workers in Israel and the distribution of migrant worker employment permits", August 2004 (Endorn Committee report, Hebrew), <http://www.mof.gov.il/budget/2004-7211.pdf>

²⁹ The unification of border control, migrant worker administration under the Population Administration in the Interior Ministry has been deferred until January 2009.



Quotas

The quotas for the employment of migrant workers in 2007 are as follows: 15,000 for construction until October 2007, and then 12,000 workers, 29,000 in agriculture, 900 for ethnic restaurants (paid at least 8,000 Shekels per month), 1,400 for industry (paid at least 5,000 Shekels per month) and none for Eilat hotels, except for experts paid at least twice the average Israeli salary³⁰. Altogether, this yields an increase of 2,100 workers compared to 2006. The number of permits for home healthcare workers is not capped, and depends on the number of elderly or disabled people who meet Social Security criteria for employing migrant care workers.

Trafficking

In 2006 a new law was enacted to criminalise the various aspects of trafficking in human beings and employment terms akin to slavery. The legislation treats an array of different crimes related to trafficking for forced labour, and sets long prison terms for the most severe forms of these crimes. Kav LaOved was involved in helping draft the law and in correcting some of the shortcomings of earlier versions.

This is a welcome step forward, but it is too early to tell if the new legislation will be enforced to a satisfactory extent. We hope that the new law will be enforced much more effectively than previous laws banning passport confiscation and exploitation, which were practically a dead letter. Systemic problems concerning the new legislation include lack of authority for the inter-ministerial coordinator appointed to fight trafficking (for instance, she cannot prevent the deportation of a victim), and lack of protection to victims of trafficking for forced labour, such as a shelter.

New employment schemes

Construction

The government has endorsed the recommendations of the Andoran committee³¹, which have gradually come into effect during 2005. Briefly, these recommendations state that migrant construction worker employment permits will be given to placement agencies, rather than to employers. The placement agencies will be free to direct workers to any employer in the construction industry. Thus employers become free of the burden of obtaining their own migrant worker employment permits. The purpose of the reform is to increase the cost of migrant labour, allow portability of workers between employers, and better enforce labour laws. The workers' wages are paid by the placement agency, which in turn is free to charge as much as it wants from the employers. Kav LaOved and the Hotline for Migrant Workers have been researching

³⁰ Government decisions 446, September 12, 2006; 1000, January 7, 2007; and 1205, February 15, 2007

³¹ "Inter-ministerial report on planning the employment method of migrant workers in Israel and the distribution of migrant worker employment permits", August 2004 (Endorn Committee report, Hebrew), <http://www.mof.gov.il/budget/2004-7211.pdf>



the implementation of the scheme. Here are the main findings of the interim research report³²:

- Workers do not have an effective possibility of changing employers while working for a given placement agencies. In fact, one third of the placement agencies are subsidiaries of specific contractors.
- It is difficult for workers to change placement agencies. Such changes are restricted to limited time slots, and require a ruling by the inspector in the Ministry of Industry Trade and Labour that the worker's rights have been violated. Since the inspector does not have translation services, and since her investigations take a long time, she is inaccessible to the workers. Altogether, attempting to change placement agencies puts the worker at risk of losing his work visa. During the transition period some workers suffer illegal deductions from their wages.
- Despite the requirement to pay workers for at least 236 monthly work hours, even if they work less, workers complain of lack of not being assigned work and not being paid. The authorities' decision to interpret the 236 hour minimum as a yearly average rather than a monthly minimum makes it difficult to enforce, especially when workers change placement agencies. Kav LaOved is contesting this interpretation at the Supreme Court.
- Many workers still do not receive written work contracts, and are promised periods of legal work which employers cannot guarantee. Some workers do not receive payslips and attendance cards. Most workers are under-informed concerning their rights and enforcement mechanisms.
- Mediation fees have soared by 66% since the beginning of the implementation of the new scheme, and have recently reached an average of \$18,000. The increase in workers' salaries, which are on average only 87% of the minimum wage, does not quite compensate for that increase.
- The only sanctions set against delinquent placement agencies are small reductions of migrant worker "import" quotas. These sanctions do not adequately reflect the gravity of their rights violations.
- The State neglected to transfer to some 500 workers who left Israel a sum of 700 Shekels per months saved for them by employers as a legally required severance pay and pension substitute. The State claims to have had bureaucratic problems, but the problem might in fact be more deeply rooted. Some workers are still not even aware that this sum is saved on their behalf.
- The State has earned over 191,000,000 Shekels in special fees related to the new employment fees over a period of 16 months. It seems that the main beneficiary of the new employment scheme, and the main instigator for the increase in brokerage fees is the State. The State does not invest this money into protecting migrant construction workers from exploitation.

Agriculture and Homecare

The government has decided to change the employment scheme in agriculture and homecare as well. The arrangement will be similar to that in the construction sector, but placement agencies will not be considered as employers, and their role will be restricted to placement and supervision. Arrangements are to be made to prevent

³² Interim report on the employment of migrant workers in construction by placement agencies (Hebrew), Kav LaOved and the Hotline for Migrant Workers, March 2007.



"importing" new workers while unemployed workers are still found in Israel. The arrangements leave quite a few questions open and include several loopholes.³³ The new schemes are to be implemented as of May 1, 2007 (homecare) and August 1, 2007 (agriculture).³⁴

Taxation and mediation charges

For the last couple of years the government has been trying to reduce demand for migrant workers by levying special taxes on migrant worker employment. For 2006, the levy for employing construction workers rose from 4,000 to 12,000 NIS per worker per year (between May 2005 August 2006 the State collected over 191,000,000 NIS in such fees³⁵). The agricultural levy of around 1,000 NIS was cancelled. In addition, employers of migrant workers (except for homecare) are required to pay a tax of 10% of their salaries³⁶. This taxation may amount to an incentive for the State to allow the exploitative migrant worker industry to exist, as now the State is taking a share of the profits. On the other hand, severe obstacles have been put along the paths of workers who tried to get tax returns for previous years due to illegal tax collection by the State.³⁷

Families

Migrant workers in Israel do not have the right to form a family. According to current regulations, workers who have family members in Israel, or workers who found a non-Israeli partner in Israel (even if they are not married), will not have their permits renewed. Workers who find an Israeli partner may receive a residency permit, if the Interior Ministry is convinced that the relationship is genuine. Migrant workers who give birth in Israel must leave within 3 months after birth, even if their employers are willing to keep employing them. The motivation behind this policy is a racist phobia of migrant workers demographically taking over Israel³⁸. This decision is contested in the Supreme Court by Kav LaOved. These issues are covered in Kav LaOved's and the Association for Civil Rights in Israel "No state for love: violations of the right to family of migrant workers in Israel"³⁹

³³ See "A callous approach to caregiver reform", Roy Wagner, the Jerusalem Post, October 26, 2006, http://www.kavlaoved.org.il/media-view_eng.asp?id=135

³⁴ Government decision 1205, February 15, 2007

³⁵ Interim report on the employment of migrant workers in construction by placement agencies (Hebrew), Kav LaOved and the Hotline for Migrant Workers, March 2007.

³⁶ Tax authority press release, December 14, 2005 (Hebrew) <http://www.mof.gov.il/taxes/hodaa151205.htm>

³⁷ "Tax Authority illegally blocking Romanians' refunds", Ruth Sinai, Haaretz, December 14, 2006, http://www.kavlaoved.org.il/media-view_eng.asp?id=117

³⁸ See, for example, "Court to rule on deporting 'new mother' workers", Relly Sa'ar, Haaretz, December 13, 2005, http://www.kavlaoved.org.il/katava_main_heb.asp?news_id=1635&sivug_id=4

³⁹ Available at <http://www.kavlaoved.org.il/tal/No%20state%20for%20love.doc>



Children of migrant workers have the right to free education, and subsidised health care. Not all migrant children effectively enjoy these rights. There are still cases where the State of Israel deports unaccompanied minors.⁴⁰

In June 2005 criteria were set to allow children of migrant workers and their parents to become residents under restrictive conditions. In June 2006 these conditions have been relaxed to the following:

- The child is between the ages 6 and 14
- The child's parents entered Israel legally
- The child studies in an Israeli school and speaks Hebrew

The total number of children who have used this amnesty is 900, together with 1, family members. There are still, however, children who fight for their legal status in Israel.⁴¹

Worker Rights, their Violation, and Related Recent Developments

Work terms and legal status

Most Israeli laws regarding minimum wages and related benefits apply independently of the worker's civil or legal status, as they include no contrary indication. According to the Migrant Workers Employment Law enacted in 1999 and amended in 2001, employers must arrange satisfactory lodging in compliance with guidelines and price ranges set by the Ministry of Industry, Trade and Labour.

This formal equality, however, does not prevent widespread violation of labour laws and human rights in practice. A notable exception to the formal equality concerns overtime for domestic workers, which require constant individual and systemic legal action. After several different Court decisions, the National Labour Court rules that 24-hour live-in caregivers are not entitled to any overtime pay. Kav LaOved is contesting this ruling in the High Court of Justice.⁴²

Workers are allowed to stay in Israel for up to 5 years and 3 months, and in the case of home healthcare workers even longer, provided they work for the same employer, and that employer is dependent on them. Migrant worker permits must be renewed annually, and depend on active employment by an employer who has a migrant worker employment permit.

⁴⁰ "Children with no protection", Yonatan Bergman, ACRI, <http://www.acri.org.il/english-acri/engine/story.asp?id=246>

⁴¹ "Foreign worker residency requests fall below expectations", Shahar Ilan, Haaretz, September 4, 2006, <http://www.kavlaoved.org.il/media-view.asp?id=307> and "We are the children", Nurit Wurgaft, Haaretz, <http://www.kavlaoved.org.il/media-view.asp?id=143>

⁴² For details see <http://www.kavlaoved.org.il/media-view.asp?id=607>



The right to change employer

The right to change employer is the most effective protection against exploitation and trafficking. It allows workers to escape situations of coercion without giving up the chance of working legally and cover the debt they had incurred in order to work in Israel.

There are two legal avenues for workers to change employers in Israel. The first, "transfer between employers regulation", requires the worker to quit the employer, approach the Interior Ministry, and obtain a temporary tourist visa (if they meet certain criteria concerning the duration of stay and a 'clean' record concerning their legal status). Then the workers are required to find a legal employer within a month or two. The second, "closed skies regulation", applies to workers who have been arrested. Under some conditions they may be eligible for reassignment with legal employers by the State. During 2006 this procedure was applied to about 1/3 of arrested workers, a significant improvement with respect to the past⁴³. This is a significant improvement over past data, but still not a satisfactory solution to the "revolving door" reality.

Kav LaOved is fighting regularly to extend and implement existing procedures. Even though Kav LaOved's efforts led to the extension of the procedure allowing to change employers to all migrant workers (with few exceptions, such as the Turkish workers employed by Yilmazlar under a special reciprocal agreement between Israel and Turkey), Kav LaOved still had to provide legal assistance to agriculture workers who wanted to change employers, as Interior Ministry officials argued lack of jurisdiction to apply the procedure. The most notable success during 2006 concerning the right to change employers is the sporadic application of the "closed skies regulation" to workers who had not been arrested. This issue is the concern of a pending Supreme Court petition by Kav LaOved.

One should note that despite the legal possibility to change employers, workers who lost their legal status through no fault of their own are still often denied the right to seek alternative legal employment by Interior Ministry officials. Another ongoing issue is that of "release letters". Despite contrary internal procedures and legal precedents, some Interior Ministry officials still demand workers to present "release letters" from the employers as a condition to seek alternative legal employment. Kav LaOved had to intervene legally in some 40 such cases over 2006. Furthermore, the possibility to bring new workers from abroad, and get a share of the brokerage fees, makes it very difficult for workers who leave delinquent employers to obtain new legal employment, and thereby retain their legal status.

Health

Regulations set in accordance with Migrant Workers Law state that employers must arrange health insurance for workers, and cover 2/3 of the insurance costs. The

⁴³ The Knesset's Migrant Workers Committee, protocol November 21, 2006
<http://www.knesset.gov.il/protocols/data/html/zarim/2006-11-21.html>



regulation also sets limitations on costs and the extent of coverage. The minimum insurance requirements are comparable to the mandatory health insurance for Israeli citizens. The same regulation, however, provides insurance companies with methods to avoid coverage of migrants. First, if a worker is diagnosed as having lost the ability to work for more than 90 days, the insurance company can return the worker to his country of origin without providing medical care, even if no treatment is available at the country of origin. Second there are problems related to coverage of existing (but previously undiagnosed) medical problems and to coverage continuity upon work termination or change of employer.

Migrant workers' children have access to standard public healthcare if their parents pay insurance fees. This insurance does not cover treatment of health problems which started before the insurance period, and is not cheap in terms of migrant workers' salaries.

Uninsured workers must cover medical expenses themselves, which is usually not affordable. Nevertheless, migrant workers have the right to emergency treatment at hospitals regardless of financial situation. Long term and non-emergency treatment for uninsured workers is available only, if at all, from charity run free clinics and relying on medications "left over" from other patients and on volunteer doctors.

Social security

Legally employed migrant workers are entitled to Social Security coverage from the National Insurance Institute in cases of work related accidents, maternity, and employer bankruptcy (other Social Security benefits are restricted to residents). Migrant workers are denied access to other aspects of Social Security regardless of the duration of their stay in Israel. This issue is being contested in the Supreme Court by Kav LaOved.

In 2002, the National Insurance Institute decided to deny the possibility of Social Security coverage for illegally employed workers. Kav LaOved, together with a coalition of NGOs fought this decision in court. As a result, illegally employed workers are now entitled to receive coverage for medical treatment. They are also entitled to compensation for work related accidents, but only starting from the moment they leave Israel, and excluding the period of illegal stay. Needless to say, without maintaining contact with a local lawyer, such payments are very difficult to obtain.

Migrant workers, who give birth in Israel, and whose employer paid their Social Security fees, are entitled to hospitalisation costs, and to a small fixed maternity grant, provided they worked at least six months up until 42 days before giving birth. These contingencies do not apply to Israeli citizens and their spouses, who are entitled to such benefits regardless of work status. If the mother has a valid visa, she is also entitled to at most 84 days paid maternity leave (depending on duration of work). A migrant worker who was medically advised to stop working during her pregnancy is not entitled to any compensation, unlike Israeli citizens.



Rights of detainees and access to justice

According to current legislation, people suspected of an illegal stay in Israel may be detained for at most 24 hours before seeing a border-control official. They may not be deported for the first 72 hours after being arrested without their consent, in order to provide a chance to appeal deportation decrees. Kav LaOved dealt with several cases during 2006 in which Immigration Police personnel attempted to falsely receive the "consent" of migrant workers to be deported without seeing a tribunal. The workers were asked to sign papers in Hebrew, or papers which they weren't given enough time to read through.

Detainees may then be held for up to 14 days before they are brought to a special tribunal (in practice the period was shortened to 4 days; for comparison, detention of Israeli citizens must be immediately approved by an officer, and confirmed within 24 hours by a judge.). The tribunal can release detainees on bail for humanitarian reasons, or when convinced that the detainee will leave the country without police escort. This procedure requires, of course, proper representation of detainees.

Not all detained workers have access to translation during the judicial process (this depends on the detention facility and the detainee's language). In police stations and in border control hearings, detainees' access to lawyers is highly restricted. This often results in illegal premature deportation of detainees. The Hotline for Migrant Workers and the Association for Civil Rights in Israel still work to improve this situation. Detainees' access to lawyers in airports has significantly improved due to such efforts.

Workers who make complaints to the police against employers and brokers are protected by police regulation from deportation, and may receive an "immunity" document from the Police. Unaccompanied workers are often refused assistance due to lack of translation, even though the police is legally responsible for providing translation. Recently we learned of a worker who, when coming to complain to the Police, was asked to inform on illegally employed migrant workers⁴⁴. This case demonstrates the problem of assigning the same Police forces to protect migrant workers and deport illegally employed workers. Kav LaOved petitioned the Supreme Court to order the Police to separate the personnel involved in these two functions.

Charges made by employers tend to receive significantly more attention than complaints by workers and the police are usually happy to abide by employers' wishes to deport 'problematic' workers. We regularly record cases where an employer calls the police, tells them that their worker 'escaped' and therefore became illegal, and asks the police to have the worker deported. The police, seeking to meet their deportation quotas, come willingly, and workers are deported before getting the chance to claim what they deserve. Nevertheless, we must note that over the year 2006 the Police have significantly improved its attitude to Kav LaOved's complaints on behalf of migrant workers.

⁴⁴ "Immigration cops tried to recruit Romanian worker complaining of sexual harassment", Ruth Sinai, Haaretz, December 22, 2006, <http://www.kavlaoved.org.il/media-view.asp?id=115>



Enforcement

Responsibility for enforcement of violations of migrant worker rights is divided between the Immigration Authority and the Industry, Trade and Labour Ministry. Labour inspectors are supposed to find delinquent employers and set fines in labour law related offences, and the police are supposed to prosecute criminal matters. The overall incompetence of the enforcement bodies in the Industry, Trade and Labour Ministry has been severely criticised by the State Comptroller in report no. 54B for the year 2003, and the Immigration Authority's efforts, entitled "a series of failures", are reviewed in the State Comptroller's report no. 55B for the year 2004. Particularly absurd are cases where workers lose their legal status because employers violated migrant workers employment regulations (such as lodging or salary related regulations). In such cases the workers are usually unaware that they are no longer allowed to work for their employers, and may end up arrested and deported.

Most enforcement efforts still target locating and deporting migrant workers, and fining employer who employ migrant workers illegally. During 2006 we saw some improvement in revoking employers' permits as a means of enforcement against delinquent employers. Unfortunately, the staff in charge of such enforcement in the Ministry is small, and only 14 delinquent companies have lost their licenses in 2006. Even companies which lose their licenses sometime continue to operate, either illegally or under a new identity. We hope that recent amendments in legislation will indeed lead to the prosecution and punishment of exploiters and traffickers. Currently, such prosecution and punishment is still sporadic.

Complaints of police brutality and misconduct related to the manhunt against migrant workers have continued throughout 2006, but to a smaller extent. A notable example was an assault against the wife of the Dominican Republic's ambassador to Israel⁴⁵. The State Comptroller severely criticized the Police Misconduct Investigation Unit in his report 56A for the year 2005, and noted that most complaints are closed without investigation. On a more positive note, Kav LaOved helped an Indian worker, who was falsely arrested and brutally beaten by a policeman, to file a complaint at the Department of Police Investigations. The policeman was indicted, and the case is still pending.

Distribution of information to workers

Despite the fact that migrant workers have been coming to Israel for over a decade, and in spite of obligations set in the Israeli ratified ILO convention no. 97, the Israeli authorities do not distribute worker rights informational leaflets to migrant workers entering Israel. Our efforts have, however, led the production and online publication an official information leaflet in several languages. The Israeli embassy in Thailand also initiated the distribution of the official information leaflet to prospective workers who come to arrange visas.

⁴⁵ "Israeli police assault Dominican Republic ambassador's wife", Caribbean Net News, February 7, 2006, <http://www.caribbeannetnews.com/cgi-script/csArticles/articles/000003/000382.htm>



Sexual assault of migrant workers

Kav LaOved handles hundreds of cases of sexually assaulted migrant workers every year. This phenomenon is especially prevalent among domestic workers, who live with their employers 24 hours, and do not enjoy a clear separation between their private life and work. We have also found that on many occasions sexually assaulted migrant workers do not wish to include the sexual aspect in their complaints for various reasons, so the information we have on file does not accurately track sexual assault victims. We can only assume that the scope of the problem is much greater than the data we have at Kav LaOved indicates. Kav LaOved has issued a report on the subject at the beginning of 2007.⁴⁶

⁴⁶" Sexual assault of migrant workers in Israel", Hanny Ben-Israel, Kav LaOved, February 9, 2007, http://www.kavlaoved.org.il/media-view_eng.asp?id=381