



# Refugees and Asylum Seekers and Employment

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## **Introduction**

In 1951, Israel took part in initiating and formulating the Convention Relating to the Status of Refugees, which aimed to guarantee the welfare of World War II refugees. Since Israel's endorsement of the Refugee Convention then until today, millions of individuals have had to flee their homeland for various reasons and become refugees. According to Clause 2 of the Refugee Convention, a refugee is a person who has a *"well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinions."*

Starting from 2006, large numbers of refugees and asylum seekers began arriving in Israel, mostly from various East African countries. In the beginning, only a dozen to a few hundred people crossed the Sinai border each month. However, between mid-2011 to mid-2012, there was a huge influx and thousands began coming into Israel each month. Currently, there are 54,000 refugees residing in Israel,<sup>1</sup> 56.5% of which are Eritrean citizens, approximately 26% which are Sudanese citizens and the rest from other countries, mainly in the African continent.

**Eritrea** (East Africa) – According to January 2012 data from the United Nations High Commissioner for Refugees (UNHCR), there are 266,126 documented Eritrean refugees and asylum seekers scattered around the world who have fled their country and are seeking protection. Since 1993 when the country gained its independence from Ethiopia, Eritrea has had a one-party dictatorship. In the last decade, Eritrea has begun to increasingly violate the rights of its citizens, such as limiting religious freedom to only the four specifically permitted religious sects, entirely controlling the media, prohibiting opposition groups and arresting and torturing journalists and religious figures in state prisons. Civilian life is completely subjugated by the military, in which adolescent Eritrean males are drafted to the military for an unlimited time

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<sup>1</sup> Population, Immigration and Borders Authority (PIBA). *Statistics of Foreigners in Israel*. May 2013. <http://www.piba.gov.il/PublicationAndTender/ForeignWorkersStat/Documents/560843nnew4.pdf>

period when they reach their final year of school, enabling the government firm and anti-democratic control over the lives of Eritrean citizens.<sup>2</sup>

**Sudan** (North East Africa) – According to data by UNHCR from January 2012, there are over 5,000,000 documented refugees and asylum seekers from Sudan, as well as an additional 25,000,000 people who were forced to flee their homes and are displaced within their own country. Since the 1980s, the country has been under the control of various military dictatorships, and suffered a number of violent conflicts between different ethnic groups. Amongst Sudanese asylum seekers arriving in Israel are residents from the Darfur region, which is embroiled in violent ethnic conflicts between African-Muslim and Arab-Muslim residents. Since the 2000s, these violent clashes have escalated into killings that have been classified as genocide.<sup>3</sup> Apart from the Darfur region, there are also asylum seekers from the Nuba Mountains and the south Kordofan area, where the Sudanese government is bombing its own citizens and armed confrontations take place between opposition groups and government activists, affecting civilian life in the area.<sup>4</sup>

Israel categorizes the relevant population into a number of groups that are discussed in this report:

1. **Refugees** - those who have applied to the Ministry of the Interior Refugee Status Determination (RSD) Unit and have had their application approved. People recognized as refugees in Israel are entitled to a temporary resident status, which is renewed every year. This status entitles them to national health insurance and social benefits equal to those of other Israeli residents.
2. **Asylum Seekers** - those who have applied to the RSD Unit and are waiting for a decision to be made.
3. **Persons under collective protection** - those who are prevented from filing a specific asylum request and are automatically directed to the "Infiltrator

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<sup>2</sup> US State Department. *Eritrea: U.S State Department Country Report on Human Rights*. June 2012. <http://awate.com/eritrea-us-state-department-country-report-on-human-rights/>

<sup>3</sup> Amnesty International. *Background on Sudan* (in Hebrew). <http://www.amnesty.org.il/?CategoryID=380&ArticleID=494&SearchParam=sudan>

<sup>4</sup> Human Rights Watch. *Sudan: Bombardment of Civilians in Blue Nile and South Kordofan*. December 10, 2012. <http://www.hrw.org/features/sudan-bombardment-civilians-blue-nile-and-south-kordofan>

Unit." These are citizens of countries declared as dangerous by the UNHCR, or of countries considered as enemies of Israel. Today, collective protection is granted to citizens of Eritrea, Sudan and the Democratic Republic of Congo.

For the purpose of readability, this report uses the term "refugees" to describe the groups Kav LaOved represents, which experience shared difficulties and to which the Convention is applied to them. Kav LaOved avoids using the term "infiltrators," which has negative connotations of criminality and trespassing. This is because the term was used in the 1950s regarding Palestinians staying in Israel illegally, and was meant to portray them as enemies. The term "infiltrators," particularly when used by government officials and public committees, incites adversarial attitudes towards the refugee and asylum seeker population in Israel, and stands in contrast to the UN Refugee Convention.

## **The Work of Kav LaOved – Worker's Hotline with Refugees and Asylum Seekers**

Kav LaOved holds weekly public reception hours for the refugee population. In 2012, Kav LaOved assisted 3,200 refugees, with the help of ten volunteers, some of whom are regular volunteers and others who are students on an academic scholarship.

During public reception, volunteers listen to the workers' descriptions of their circumstances, understand what violations characterize their working conditions, and contact employers. At times, the complaint is quickly settled with a call to the employer, and at times there is a need for further correspondence and negotiation performed by the volunteer. If the volunteer is unsuccessful, the case is then transferred to an external attorney who works with Kav LaOved to represent the worker under pre-decided terms.

Kav LaOved also provides the option for mediation between workers and employers through independent volunteers. In these cases, the volunteer accompanies the worker throughout the mediation process.

Aside from public reception, volunteers also assist the organization's staff with day to day activities: public lectures for refugees regarding their labor rights, outreach activities to identify workers who do not reach Kav LaOved, dissemination of leaflets with information about rights ("zchutonim") in relevant languages, and field visits and public reception once a month in cities that have large concentrations of refugees such as Eilat, Ashdod, and Arad.

## Chapter 1

### Refugees and Workers: the Employment Issue in the International

#### Refugee Convention

The UN Refugee Convention mentions employment in several of its articles. It also distinguishes between wage-earning employment and self-employment:

**Article 17** addresses wage-earning employment. It specifies that Contracting States shall treat refugees and citizens equally in terms of the right to engage in wage-earning employment. Additionally, if refugees have stayed in the country for longer than a specific period of time, they should not be restricted by the measures imposed on aliens for the protection of the local labor market.

**Article 24** addresses labor legislation and social security. It specifies that the Contracting States shall accord to refugees who are lawfully residing in a territory the same treatment that is given to citizens in terms of, inter alia, social security and benefits relating to old age and retirement.

Regarding self-employed refugees, **Article 18** specifies that "The Contracting States shall accord to a refugee lawfully in their territory treatment as favorable as possible and, in any event, not less favorable than that accorded to aliens generally in the same circumstances, as regards the right to engage on his own account in agriculture, industry, handicrafts and commerce and to establish commercial and industrial companies."

**Article 19** relates to refugees wishing to engage in liberal professions: "Each Contracting State shall accord to refugees lawfully staying in their territory who hold diplomas recognized by the competent authorities of that State, and who are desirous of practicing a liberal profession, treatment as favorable as possible and, in any event, not less favorable than that accorded to aliens generally in the same circumstances."

In contrast to the Convention, Israel appears to restrict refugees in all areas. Firstly, the former Interior Minister, who instituted the refugee policy, is quoted in an

interview to the Ynet News website as saying, "Until I am able to deport them, I will imprison them and make their lives difficult."<sup>5</sup> This does appear to be the policy adopted regarding this sector. Up until 2009, it was normal to grant refugees and asylum seekers B1 work permits but, as their numbers increased, the Ministry of Interior decided to grant them residency permits only. This 2A5 permit is also granted to individuals released from prison under the Entry into Israel Law and does not grant the holders any rights. That is to say, contrary to the Convention to which Israel is a signatory, refugees are not granted any status or permit recognizing their special and sensitive condition and are barred from the basic right to provide for themselves through work. In addition, after several months in which it was observed that refugees continued to work, the Interior Ministry added a phrase previously absent from their visas: "**This temporary permit does not constitute a work permit.**" This phrase deters potential employers of refugees and asylum seekers since it implies that it is forbidden to employ them, despite this not being the case. In 2011, the State of Israel decided not to engage in acts of enforcement against refugee and asylum seeker employers, based upon a High Court ruling.<sup>6</sup>

Furthermore, in May 2013 the Knesset passed a draft of an "anti-money laundering law" ("sending money overseas on behalf of an infiltrator") which means that "infiltrators" will not be able to send money overseas from wages they earn or earned during their stay in Israel. Moreover, the law determines that when the "infiltrator" leaves Israel, he/she will only be able to take a sum not exceeding half the minimum wage times the number of months spent in Israel. Beyond the humanitarian infringement on the basic rights of this sector, this law, in effect, allows the State to appropriate legitimately earned wages from refugees and asylum seekers. Since this is a new law, it is too early to determine its actual effects. However, from both the labor law and the moral aspects, it constitutes a dangerous precedent.

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<sup>5</sup> Ynet. *Eli Yishai: I ordered the arrest of Eritreans and Sudanese , "I will make their lives unbearable"* (in Hebrew). August 16, 2012. <http://www.ynet.co.il/articles/0,7340,L-4269527,00.html>

<sup>6</sup> For further details, see Chapter 2 and the section "Lack of Work Permits."

Refugees are also discriminated against in their tax payments. Most of those contacting Kav LaOved hold permanent jobs and receive payslips. In contrast to Israeli citizens and migrant workers holding B1 permits (which Israel refers to as "foreign workers"), refugees are not granted any income tax relief points. Ironically, this means that refugees currently pay the highest tax rates of any group but do not have the right to obtain services from the State (excluding obviously workers who are paid under the table). The tax authorities have begun contacting employers who grant their workers 2.25 tax relief points, employers who were under the understanding that conditions regarding refugees were the same as those of (legal) migrant workers. The tax authorities request that they desist from granting them the tax relief points and require the refugees to pay their taxes retroactively, in full. Some refugees were required to pay thousands of shekels in back taxes. Kav LaOved data estimates that the State earns over one hundred million shekels a year from taxes paid by working refugees.

## Chapter 2

### **Workers and Discrimination: Main Problems for Asylum Seekers and Refugees**

Labor laws apply to all workers in Israel regardless of their legal status. The employer is required to employ workers according to Israeli labor laws and furthermore when it concerns a sector with a collective agreement (which affords additional rights all workers in that specific sector). The head of the Foreign Workers Department at the Ministry of Industry, Trade and Labor (MOITAL) confirms, ***“It should be clarified: rights enforcement is only done in consideration of labor relations and should have nothing to do with the question of the legality of the worker's status in Israel or with the existence of employment permits! These subjects will be separately examined by the authorized bodies.”***<sup>7</sup>

Although this situation might seem absurd, whereby workers without any legal permits to live in Israel are entitled to workers' rights, this legislation was in fact intended to encourage the employment of Israelis and those who do hold a visa that allows them to work. This is designed to prevent a phenomenon in which employers can avoid paying for due rights by employing vulnerable workers (such as migrant workers) and violating their rights, thus causing the labor market to prefer exploitation of workers over fair pay.

**Lack of work permits** - The main problem regarding employment of asylum seekers and refugees is the lack of work permits. The complex legal status of refugees de-facto creates a new group of “foreign workers” which is not subject to existing regulations of employment of migrant workers in Israel. Unlike migrant workers, refugees are not tied to their employer or to a particular sector and therefore do not lose their status when they quit their jobs. However, as described earlier, Israel does not give refugees work permits, making it difficult for them to earn money and

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<sup>7</sup> Ministry of Industry, Trade and Labor. *About the only one in charge of the rights of migrant workers* (in Hebrew). <http://www.moital.gov.il/NR/exeres/E9833B23-3C82-429D-BF05-B0E78248D1C1.htm>

provide for themselves and their families. Since Israel does not give refugees social or economic assistance to ensure their livelihood, Kav LaOved and other civil society organizations appealed to the High Court of Justice, demanding that the State give refugees work permits (January 16, 2011, The High Court of Justice, case number 6312/10, Kav LaOved et al. vs. Government et al.). The State argued that the detention facility that is being constructed in the south of Israel addresses the State's responsibility towards refugees, and that until it is ready, the State is willing to commit to not enforcing the current law (in which employment of refugees is illegal) against employers of refugees and asylum seekers with this status. The High Court of Justice incorporated that commitment in its verdict, which **resulted in this temporary situation in which refugees are not allowed to work, but there is no risk to employing them.** Most refugees do not understand their situation; they assume that they are not allowed to work, and therefore are willing to give up most of their rights and take any job offered to them. Some employers take advantage of this situation.

**Lack of reference in labor legislation to the unique situation of refugees** - According to the Foreign Workers Law, a "foreign worker" is a person who is "not an Israeli citizen or resident." The term "resident" has different meanings in different laws.<sup>8</sup> According to the Entry into Israel Law (1952), a resident is determined by the type of visa he/she has; but according to different rulings, residency depends on where the person usually resides and how long he/she has been in Israel.

As stated by the UN Refugee Convention, the essence of why refugees reside in a location, such as Israel, is for their protection. Given this, the purpose of their stay is not work, though it is necessary for sustenance (professional literature does point out that work can serve as a tool for rehabilitation). For this reason, it makes no sense that laws which are designed to regulate the arrival of migrant workers who come to Israel on a temporary basis, in order to work and earn money, are applied to a population whose aims and reasons for arrival are drastically different.

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<sup>8</sup> High Court Ruling 129/63 Matlon vs. The Regional Rabbinical Court, ruling 1640 17, Labor Court Appeal 04-73/45: Senuka vs. the National Insurance Institute, Labor Court Ruling 79/17, page 83: civil appeal 477/02 Gonen vs. the Haifa Assessor, section 8 in the ruling Justice Hayut.

Yet, according to a position paper from MOITAL and based on the practice of the Ministry of Interior, state authorities apply the Foreign Workers Law to refugees in its entirety. Ministry of Interior inspectors may not prosecute employers of refugees, but based on complaints received by Kav LaOved, it appears that they call employers for questioning and require their full compliance with the Foreign Workers Law (see Appendix B). The decision of the High Court of Justice in 6312/10, which has been in effect for more than two years, leaves both workers and employers in a state of confusion and exposes them to layoffs and penalties, respectively.

The following are a few examples from the Foreign Workers Law which demonstrate the problems associated with the current situation:

- Section 1(2)(c) of the Foreign Workers Law states that *“the employer must include medical documents to the request for a work permit and permission for visiting Israel in order to work according to the Entry into Israel Law.”* This section and Section 1(4) deal with the filing of an application for a work permit for a migrant worker, and is irrelevant to a population that does not come to Israel as a result of employment and is not entitled to receive a working permit.
- Section 1(5)(a) holds that *“the employer secures, at his own expense, appropriate housing for the use of the foreign worker [...]”* This section does not distinguish between foreign workers who come to Israel on their own for a specific period of time, and refugees who often arrive with their families or establish a family in Israel. Most of the refugees live away from their place of employment, sometimes with other workers or with family members. Obviously, there is no expectation that the employer will provide housing for the entire family, but neither would it make sense for the refugee to leave his family solely for the purpose of fulfilling a requirement in the Foreign Workers Law which requires employers to provide workers with adequate housing.
- According to Section 1(11)(d) *“a foreign worker is entitled to the money paid on his behalf to a fund or a bank including all the profits which have*

*accumulated... provided that the worker permanently left Israel and has not stayed in Israel beyond what is permitted in the Entry into Israel Law.”* Again, the law does not distinguish between those who come to Israel for a specific period to earn money and refugees who intend to stay in Israel until it is safe to return to their homelands. It makes no sense for them that leaving Israel would be the only measure of eligibility to receive funds which have been paid on their behalf for pension and other social rights.

Due to lack of adequate legislation for refugees, the situation on the ground gives employers various excuses to avoid compensating social rights. According to complaints filed at Kav LaOved, many employers perceive refugees as illegal workers and arbitrarily determine which state laws apply to them and which do not (see Appendix C).

**Violations of the right to medical treatment** - The link in the Israeli legal system between health insurance and employment creates a problematic situation that prevents many refugees from getting access to medical care. Private insurance companies make it very difficult for refugees to insure themselves. As a result, refugees become dependent on their employers. A refugee who comes to Israel in poor health (which is expected given the long route and risks which refugees face as they flee their home country) will find it difficult to find a job and will remain without medical coverage during that time. Even after finding work, insurance companies may refuse to insure a person who has prior health conditions, which may result in the refugee losing the job due to inability to obtain medical insurance.

Abdullah (fictitious name) came to Kav LaOved after being hospitalized for 10 days due to a work accident. Since Abdullah did not know that the law permits him to work, he worked at odd jobs for sustenance, waiting to be picked up by employers in Ashdod, where he lived. One day he was picked up by an employer for an asphalt job. The worker, who only spoke Arabic, could not communicate with the employer. Due to negligence, boiling tar was poured on his hands, causing severe burns that required plastic surgery. Apart from the language barrier, his visa status contributed to this distressing situation: if the worker knew that the court practically allows him to work, he would have looked for less dangerous types of work with an employer who understands Arabic. Since Abdullah did not have any information about his employer, Kav LaOved was not able to help him submit a claim to the National Insurance Institute and he had to pay for his medical treatment at a time when he was incapable of working or earning a living.

**Language barriers** – Many cultural gaps exist between employees and their employers. Misunderstanding the law often leads to many communication problems between employees and employers. On several occasions Kav LaOved received workers who thought that they were dismissed by their employers while the employers thought that the worker had resigned. In some cases this issue may affect the workers' health, such as when it concerns jobs that require extra safety such as the need to wear helmets in construction sites, the ability to operate complex machinery, etc.

Tesfay (fictitious name), an Eritrean worker, came to us when he was asked by the employer to add additional responsibilities to his workload, without additional payment. Having worked already for two years with the same employer, he objected to this change but, without a common language, failed to properly explain his objection to his employer. Hence, the employer thought the worker was quitting because he refused to work under these conditions. The worker, on the other hand, thought that the employer fired him because he had refused the new arrangements.

**Bank accounts** - Until 2010, refugees and asylum seekers were not eligible to open a bank account without a passport and furthermore many of the workers do not possess any official documents from their home countries. As a result, they cannot deposit paychecks. Instead, refugees have to ask their employers to use alternative ways for payment and on many occasions the employers refuse to do so. Kav LaOved is trying to help refugees who have not received their salaries as a result of this situation. Even though the Supervisor of Banks did announce an arrangement in 2010 that would make all refugees eligible to open bank accounts, opening a bank account is still very difficult for refugees due to imposed hurdles and bureaucratic problems.<sup>9</sup> As of now, only few succeed in opening a bank account.

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<sup>9</sup> Bank of Israel. *Official Letter Regarding Opening Bank Accounts for Asylum Seekers in Israel* (in Hebrew). August 15, 2010.  
<http://www.boi.org.il/he/BankingSupervision/LettersAndCircularsSupervisorOfBanks/LettersOfTheBankingSupervisionDepartment/201105.pdf>

In October, Kav LaOved received a request from an employer to help her worker open a bank account. Kav LaOved sent her the statement made by the Supervisor of Banks (from 2010) and she sent the worker to a nearby bank branch. Despite the fact that the worker showed the official statement from the Supervisor of Banks that allows workers to open bank accounts, the bank insisted on seeing a B1 visa to open an account. The employer suggested to the worker to open an account in Tel Aviv, assuming that a bank in the big city where many refugees live would be more familiar with the process. But the Tel Aviv bank also rejected the worker and advised her to go to other banks in South Tel Aviv (where many refugees reside).

As a result of this case and others, Kav Laoved submitted four complaints to the Supervisor of Banks during 2012.

**Refugees fired during their pregnancies** – In 2012, 15 women appealed to Kav LaOved after getting laid off during their pregnancies. According to the Employment of Women Law, pregnant women cannot be fired because of pregnancy and cannot be laid off for any reason if they have worked at the place of employment for more than five months. When it comes to women who lack official status in Israel, this is a particularly difficult problem. These women are covered by the National Insurance Institute so long as they are employed and their employer pays their insurance premiums. A woman who does not work and is not covered has to pay the hospital fees herself (which, in the case of a normal pregnancy, amounts to 9,000 NIS or 2,500 USD) and also loses the maternity allowance, in addition to not having a regular income.

## Chapter 3

### Common Rights Violations among Refugees and Asylum Seekers

**Failure to pay protective labor benefits** - Each and every worker in the Israeli workforce is entitled to receive convalescence pay at the end of the work year. The number of days for which a worker is entitled to convalescence pay depends upon his/her veterancy in the job (how long they have worked). Workers are also entitled to take paid vacation days, the number of which depends on veterancy as well. In the event that a worker ends his/her employment and has not used all of the vacation days, he/she may receive monetary compensation for them. Furthermore, after completing three months on the job, a worker who has not been absent from work on days before and after holidays is entitled to full payment for nine holiday days each year. Most complaints received by Kav LaOved concern non-payment of these protective labor benefits. Many refugees work continuously, without using the vacation days to which they are entitled, except when they must renew their visas every three months. There are also instances in which employers pay workers a monthly sum for unused vacation time while they are still on the job; this is in violation of the law, which states that workers, while still employed, must be given actual vacation time rather than redeeming it for payment. Many employers also pay workers their convalescence benefits at the end of their employment period rather than on a yearly basis as mandated by law.

**Dismissal** - As with all workers in Israel, refugees are entitled to receive written advance notice as well as severance pay commensurate with their time worked on the job. Many complaints reaching Kav LaOved deal with dismissals made orally and without written advance notice as mandated by law, enabling employers to avoid paying severance benefits.

**Pension** - In 2008, an expanded mandatory pension order was issued that obligated employers to allocate pension funds to all workers in the workforce. Furthermore,

the Ministry of Industry, Trade, and Labor issued a clarification regarding pension allocation for foreign workers. Despite this, most employers shirk this responsibility, claiming that it does not apply to refugees and asylum seekers. Aside from the employers' independent interpretation of the law, the Ministry of Industry, Trade, and Labor has also created impediments to payment since pension funds will not accept beneficiaries who are not Israeli citizens. Although the Ministry of Industry, Trade, and Labor asserted in 2008 that it will solve this problem, today, five years after the expansion order was issued, not a single step has been taken on this matter.

The Ministry of Industry, Trade, and Labor's official directive stipulates that employers shall deposit monthly pension allocations in an interest-and linkage-bearing bank account. Nevertheless, many employers fail to comply with this requirement as well, and so it has become the norm to demand pension benefits that were not allocated by the employer according to law, only upon termination of employment.

**Non-payment of overtime** - According to the Hours of Work and Rest Law, a work day shall not exceed eight hours (or, in the case of a five-day work week, 8.6 hours a day). Although the Law defines special cases in which a worker may be required to work overtime and be paid appropriately (125% of hourly wages for the first two hours of overtime and 150% for every hour beyond that), most refugee workers put in many hours of overtime on a regular basis for years and report being paid uniform wages for all working hours, including overtime.

**Withheld wages** - Complaints on wage withholding are especially common among refugees who have been in Israel a relatively short time, some of whom live on the streets and work in short-term jobs. Regarding such complaints, the workers usually do not know the employer's or company's details, and Kav LaOved encourages workers after they come to the office to locate the name and address of their past employment. Unfortunately, case files are sometimes closed without success due to a lack of relevant information or evidence.

In parallel to Kav LaOved directly addressing complaints about withheld wages, such complaints are also forwarded to the Enforcement Division at the Ministry of Industry, Trade, and Labor. Over the course of 2012, 29 complaints of this type were forwarded. See Appendix A for a detailed list of complaints received by Kav LaOved in 2012.

## **Summary and Conclusions**

In Kav LaOved's opinion, the handling of refugees and asylum seekers in the law requires special consideration and emphasis. Article 24 of the Convention Relating to the Status of Refugees, which addresses employment and social security, states that refugees lawfully residing in a territory should receive the same treatment afforded to citizens – including on matters related to social security, as well as old age and retirement rights. When the Refugee Convention uses the term "refugees lawfully residing in a territory," it does not refer only to refugees who have completed the recognition procedure as managed by the state authorities. The premise of any discussion about the term "refugee" in the Convention is that the recognition of a person as a refugee in any country is declarative in nature, rather than constitutive. In other words, a person is a refugee once the definition of "refugee" in the Convention is true for that person, and not when the country only recognizes that person as a refugee.

Clause 31(1) in the Refugee Convention limits possibilities to place sanctions on refugees due to illegally entering the country in which she or he seeks refuge. The clause provides protection for refugees, provided they crossed a border to escape danger and immediately announced their presence in the receiving country. Such persons who identified themselves to the state authorities (i.e. filed for asylum and “presented themselves” to the country for tests and inquiries) is a "lawfully situated refugee." Therefore, the rights conferred by the Refugee Convention to refugees who are lawfully staying in a territory, including the rights mentioned in Article 20 of the Convention, are also relevant to asylum seekers who have applied for asylum and whose application have not yet been decided upon. The meaning of this is that international law does not allow discrimination against refugees in the form of a legislative arrangement that limits and conditions their labor and social security rights.

In the practical sense, the presence of refugees and asylum seekers in Israel is different from that of migrant workers: refugees arrive to Israel for an indefinite period of time. Their return to their countries of origin depends not only on the policy or decisions of the Minister of Interior, but also on the prevailing situation in these origin countries, as well as the receiving countries' obligations as stipulated by international law.

Furthermore, refugees' right to health and social rights must be disconnected from the right to work. The current situation, in which they are bound together, results in a state where a refugee who cannot work for various reasons will not be eligible for fulfillment of any basic rights. In these cases, it is reasonable to assume that he/she will physically and emotionally deteriorate and face a life of sickness and mental distress.

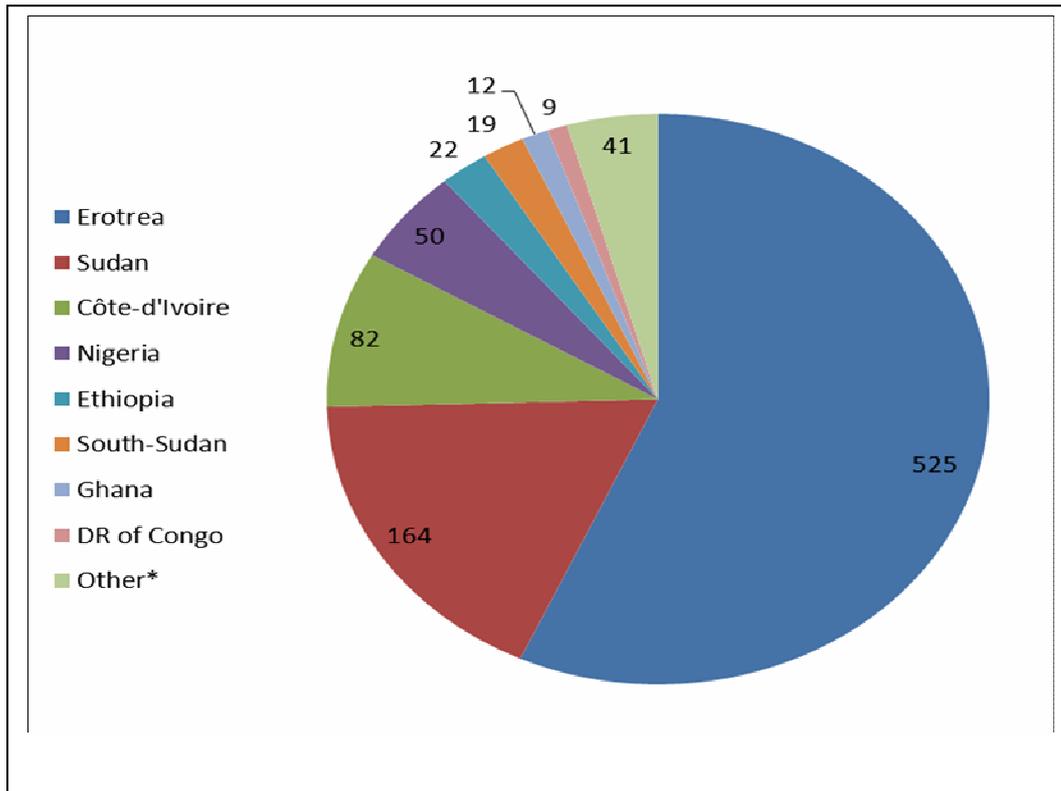
**Israel must propose and pass labor laws that address the specific circumstances of refugees. Also, by simply upholding the same rights for refugees currently afforded to residents of Israel, the gaps and contradictions created in the current situation can be eliminated. Giving refugees equal rights is the only way that Israel can prevent future cases of exploitation and oppression which currently plague refugees in the labor market today.**

## Appendix A

Total new cases opened during the year 2012: 924

Total sums gained: ₪4,848,844.59

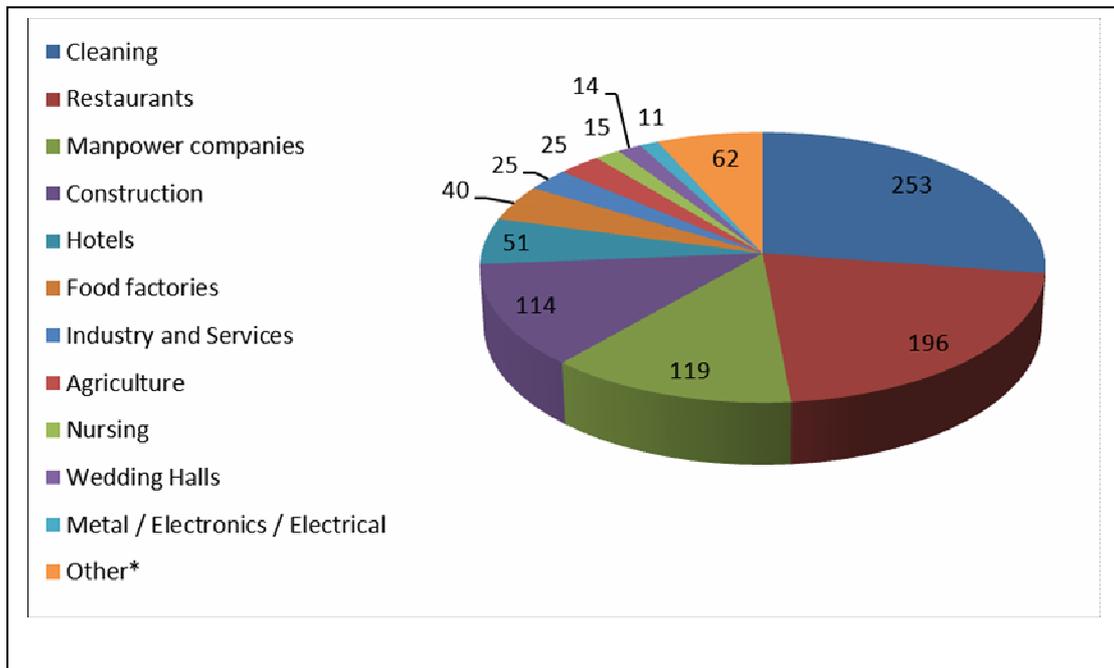
### New Cases Opened in 2012 According to Country of Origin:



\*Five workers or less from the following countries opened cases at Kav LaOved in 2012:

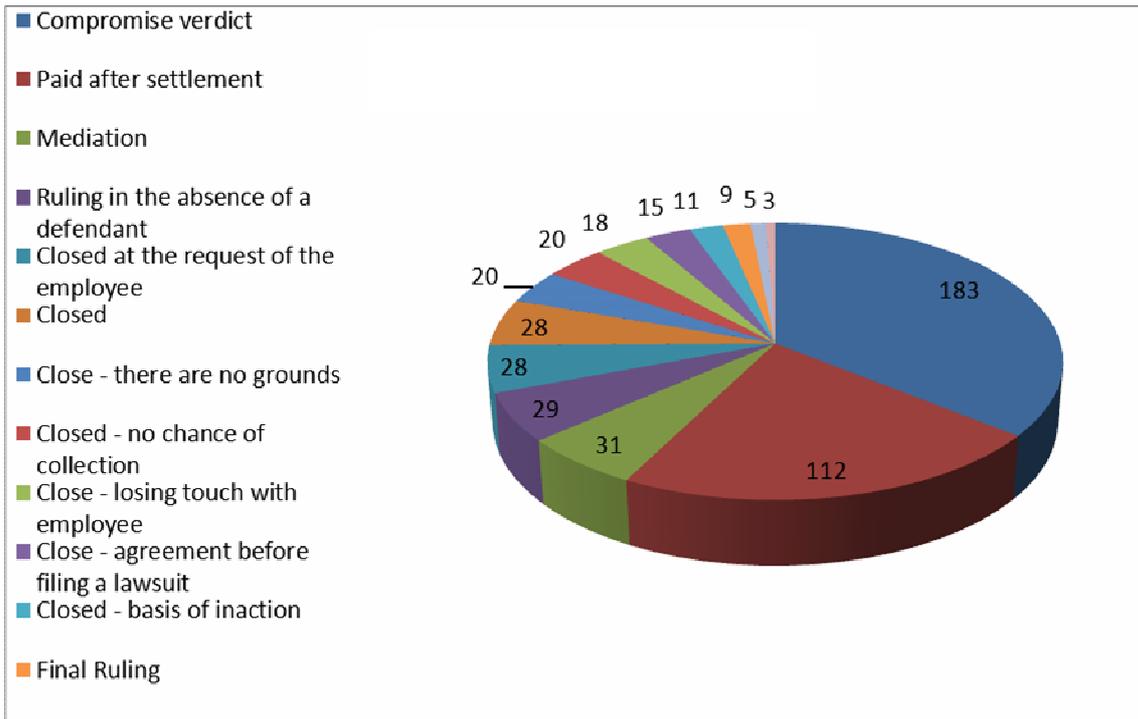
Liberia, Colombia, Guinea, Senegal, Kenya, Togo, Burkina Faso, South Africa, Algeria, Guinea-Bissau, India, Central African Republic, Niger, Nepal, Burundi, Rwanda, Somalia, Sierra Leone, Sri Lanka, Tanzania and Chad.

## Inquiries Received in 2012 by Sector

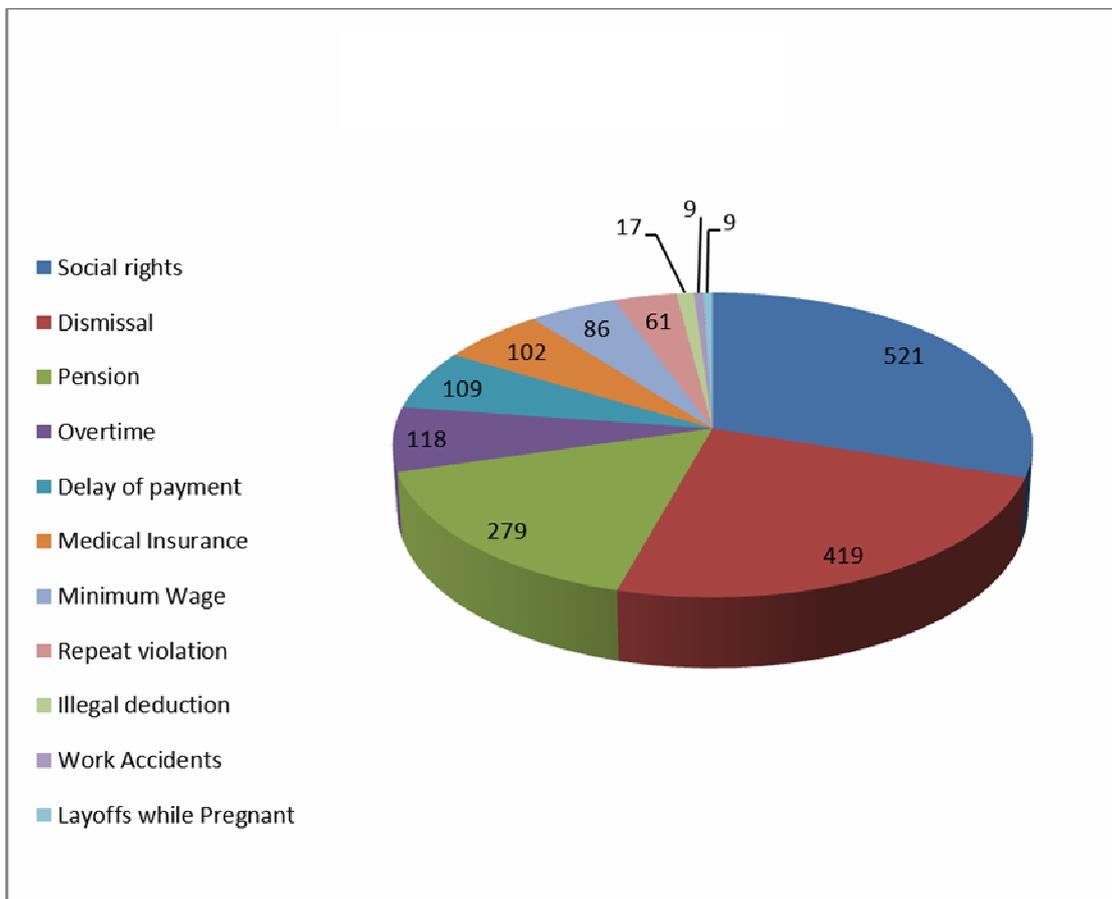


\* Ten workers or less from the following sectors opened cases at Kav LaOved in 2012: transportation, carpentry, gas stations, supermarkets/vegetable shops, garages, painting houses, laundromats, textiles, childcare, service and sales, guarding/security, printing, waitressing, marketing and sales, nursing homes and night clubs.

## Cases Closed in 2012



## Inquiries Received in 2012 by Type of Complaint



## Appendix B

# Copy of letter from a Ministry of Interior inspector summoning an employer of a refugee worker for questioning



### יחידת האכיפה למעסיקים



לכבוד:

[Redacted]

תל אביב - יפו

ז' אב תשע"ב  
יום תמישי 26 יולי 2012  
ת"י: 50283461012  
אכיפה: 169370 (זרים 12)

### הנדון: דרישה להמצאת מסמכים ומידע

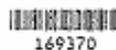
- בתאריך 04/06/2012 נערכה ביקורת על-ידי צוות מפקחי יחידת האכיפה למעסיקים / יחידת עו / משטרת ישראל תל אביב - יפו לשם אכיפת חוק עובדים זרים (איסור העסקה שלא כדין (הבטחת תנאים הוגנים) התשנ"א - 1991 (להלן "חוק עובדים זרים").
- בחוקף סמכותי ע"פ סעיף 6 לחוק עובדים זרים, הנכס נדרשים להמציא לנו בתוך 14 ימים מיום קבלת דרישה זו, את המסמכים המפורטים להלן והנוגעים לביצוע הוראות חוק עובדים זרים.  
דרישה זו מתייחסת אך ורק לעובדים המסומנים לעמודת השמאלית ברשימה המצייג
  - תלושי שכר וכרטיסי נוכחות בעבודה ל-3 חודשים עוקבים הכוללים את תאריך הביקורת,
  - חוזי העסקה בינך ובין העובדים בשמם ותרגום של חוזים אלה לשפת העברית.
  - פוליסות ביטוח רפואי או כל מסמך רשמי המאשר כי לעובדים היה ביטוח תקף ביום הביקורת.
  - חווה שכורות או כל מסמך אחר המאשר העמדת מעורים הולמים לעובדים,
  - חזה התקשרות עם חברת כוח אדם /או/תאגיד במידה ומעורב/ת בהעסקת העובדים,
  - חשבונות מס שהוצאו על-ידי חברת כוח האדם /או/ התאגיד בינך תשלום על-פי החוזה.
  - הבקשה להעסקת עובדים אלה כפי שהוגשה לרשויות - והתשובה שנתקבלה לגביה.
  - כל מסמך אחר הרלוונטי לחקירה
- אי מילוי אחר דרישה זו מהווה עבירה לפי סעיף 6(ה) לחוק עובדים זרים ודינה מאסר שישה חודשים או קנס מנהלי בסך 5,000 ש"ח.
- דרישה זו מהווה התראה כמשמעותה בסעיף 6(ה) לחוק עובדים זרים.  
נא לצרף למשלוח גם מסמך דרישה זה. בלעדיו, לא ניתן יהיה להתייחס למשלוח בצורת הראויה.

בכבוד רב,  
יצחק עזרא מלול - חקירות

המסמך (במסירה ידנית): \_\_\_\_\_ תפקידו: \_\_\_\_\_ חתימה: \_\_\_\_\_



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מקור - לידי המעסיק או נציגו

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## Appendix C

**A legal opinion from a lawyer claiming that employers of refugees are not required to pay pension for refugee workers, and that it is their prerogative to decide whether or not to pay; this is in direct violation of the 2008 mandatory pension order**

		מזכר	
29.3.2012	תאריך	[REDACTED]	אל :
54601	תיק:	בע"מ [REDACTED]	
		<u>בע"מ - העסקת פליטים</u>	הנושא :
			לשאלת המפקח משה סרנגה בדבר ביטוח פנסיוני לפליטים ;
			1. העסקת עובד אשר הלנו פליט אינה מטילה חבות פנסיונית על המעסיק.
			2. יחד עם זאת, אין מניעה חוקית ככל שהדבר מתאפשר "טכנית" לבצע לעובדים הפליטים תוכנית חסכון ו/או להפריש בגינם הפרשות בהתאם לנהוג במעסיק או לפי צו ההרחבה הכללי לביטוח פנסיוני מקיף. הדבר נתון כאמור לשיקול דעתו של המעסיק.
			3. נשמח לעמוד לרשותכם בכל שאלה ו/או הבהרה נוספת.