
Migrant Agricultural Workers in Israel:

Context, Issues, and Recommendations for Ensuring Fair Employment

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Introduction

There are approximately 22,000 migrant laborers in the agricultural sector, a figure comprises around 35 percent of workers in the agricultural sector.^{1,2} These agricultural workers, recruited primarily from Thailand (although migrant workers from Sri Lanka and Nepal occasionally arrive) have only a vague understanding of the conditions of employment they will encounter upon arrival.

Israel first turned to migrant labor in the agricultural sector during the 1980s, but dramatically increased the number of visas issued in 1993 when it was argued that the country could no longer rely on Palestinian labor. The decision to use migrant labor to overcome the labor shortage in agriculture was undertaken under pressure exerted by employers, who could not fail to note the enormous profit derived from imported manual labor over the past 20 years in various other sectors of the economy.

Thai migrant agricultural labor in Israel was largely unregulated until 2011, when Israel and Thailand signed the Thailand–Israel Cooperation (TIC) Treaty under which Thai agricultural laborers were to be recruited only by the Thai government or the International Organization for Migration (IOM), thereby eliminating the brokerage fees (of \$11,000 on average) charged by private recruitment agencies in Thailand whose contracts amounted to debt bondage for these laborers. At present when Thai workers arrive in Israel, the Center for International Migration and Immigration (CIMI), an organization founded by the Joint Distribution Committee oversees their placement by private Israeli agencies who are entrusted with ensuring adherence to the conditions of the TIC.

While this agreement does protect the migrant workforce from exorbitant brokerage fees in Thailand, treatment of migrant agricultural workers in Israel itself remains problematic especially since Israeli labor

law is not designed for the protection of migrant workers. This in spite of the fact that according to a 1991 ruling by the Israeli High Court³, that all Israeli labor laws formally apply to foreign workers, irrespective of their status. Because of the tenuous legal status of migrant agricultural workers in Israel, language barriers, and the irregular working conditions in which they are employed, this group of workers regularly face exploitation. Each year Kav LaOved – Worker’s Hotline (KLO) assists thousands of agricultural workers who are deprived of fair employment terms. Through face-to-face consultations, field outreach by Thai-speaking fieldworkers, a hotline, informational materials, and a Facebook group (in Thai), Kav LaOved informs Thai agricultural workers in Israel of their employment rights and imparts knowledge that will assist them in their own private struggle to obtain their rights. Yet clearly this is no substitute for legislation regulating migrant worker rights, which Kav LaOved also influences via advocacy and lobbying.

Arrival to Israel and Working Conditions

Through frequent research and outreach fieldtrips, KLO has identified a pattern of widespread abuse and exploitation of migrant agricultural workers. KLO regularly encounters complaints of unpaid wages (both regular and overtime), salaries below the legal minimum, coerced work during days off, and other manipulative practices.

During the period before 1991 of illegal brokerage fees, indebted workers were afraid to complain to and/or about their employers, even in cases of severe neglect, out of fear that they might be fired and thus be unable to pay back the loans that enabled them to migrate to Israel in the first place. Although these fees have now been regulated and reduced, they still exist and thus some workers still fear being unable to pay back loans taken out.

According to TIC, labor contracts must be signed by migrant workers in a language they understand prior to their arrival in Israel.⁴ Workers must receive a copy of this contract in which salary, deductions, hours, working conditions, and other details are meticulously specified. In practice, however, there is no incentive on the part of Israeli employers to uphold such contracts, as governmental enforcement of penalties for violations of this law is minimal.

The two governmental regulatory bodies responsible for overseeing the labor rights of agricultural workers are the Ministry of Economy, which enforces general labor laws such as minimum wage, overtime pay, rest, etc., and the Immigration Authority, which is responsible for ensuring visa compliance and the maintenance of adequate housing for migrant workers. In reality the Ministry of Economy is unresponsive to KLO requests for clarification of its enforcement practices in the agricultural sector. The data KLO collects from agricultural worker’s testimonies suggest that the enforcement is cursory at best.

KLO has documented that in most cases it takes 2–3 months for an inspector to respond to a complaint. Moreover, inspectors often come without translators, so in effect they only communicate with the employers, who may have incentive to lie about the conditions. While the enforcement branch of the Immigration Authority does act to remove agricultural workers from inadequate housing conditions and to find new places of employment for these workers, even in the worst cases they rarely impose sanctions on employers for violations of labor law. Since they do not revoke the right of employers to hire new migrant workers even if they have been found to violate labor law, a new set of migrant workers can simply replace previous workers in the exact same sub-standard living conditions.

In this context of unfair treatment, appalling living conditions, and lack of enforcement of labor law, migrant agricultural workers are entrapped in a “**system of bondage**” in which employment is fully

contingent upon employers and recruiting agencies. This is due to the fact that visas of migrant agricultural workers are valid only if the workers are currently employed. Under these legal restrictions, quitting a demeaning job before securing another one can result in arrest or deportation.

It is virtually impossible for migrant agricultural workers to change employers in cases where their rights are being infringed; although this is permitted by the Ministry of Interior, in practice only the private recruitment agencies have the resources and knowledge to locate alternative employment. However, since these agencies receive a one-time-only commission from CIMI for employing new workers, **agencies have no financial incentive to find viable alternatives for migrant workers whom they have already placed.** This reality is further exacerbated by the fact that migrant agricultural workers generally live on or close to the rural agricultural sites where they work, and in combination with the long hours and the few days-off they generally have, it is nearly impossible to establish a connection with any other employer on their own initiative.

Another illegal practice is that of **irregular distribution of payslips** to workers at the end of each month. Although required by law, most employers of migrant agricultural workers do not give workers payslips. The minority of workers that do receive payslips cannot understand them, as details of payment and other explanations are in Hebrew. Upon close examination of these payslips, KLO has frequently discovered falsified information pertaining to hours worked, social rights, and deductions.

In addition to payslips, KLO has seen a number of cases in which **employers have illegally confiscated migrant agricultural workers' legal documents, including passports.** Despite a decision by the Israeli High Court of Justice⁵ in 2006 that migrant workers must be allowed to keep their passports in their own possession, KLO has

encountered numerous cases where passports are held by employers. This exacerbates the unstated reality of de facto bondage to places of employment. Moreover, migrant agricultural workers also report that employers hold their insurance and medical documents, thus forcing workers to attain permission from their employer prior to receiving medical attention for an injury or sickness. There are many cases in which an employee would not want an employer to know that s/he requires a doctor, particularly in cases of medical conditions that might impair their ability to work. As it is the right of every worker to have access to medical care without the threat of potential consequences at her/his place of work, the fact that employers hold workers' important documents is another clear breach of law.

Even though the law requires Israeli employers to open **bank accounts in Israel** for agricultural workers⁶, most workers get their salaries transferred directly to bank accounts in Thailand by their private recruitment agencies, which then deduct a regular monthly commission from the salary for providing the service. As most workers do not receive payslips, they are often unaware as to how much money they are due each month and how much the recruiting agency deducts for its own transaction fees. In cases where the recruiting agency is not involved in salary payment, KLO has also encountered cases where Israeli residents of a given agricultural community make a business out of transferring money back to Thailand, again at burdensome rates and in a less than transparent fashion.

Breaking through patterns of exploitation is all the more difficult since migrant workers in the agricultural sector are not unionized, and thus lack opportunities for **collective bargaining.** The isolation of agricultural communities, the inherent difficulty in forming social networks to overcome this isolation, and the distance from organizations situated in metropolitan areas that provide assistance (such as KLO) all mean that migrant workers are fully dependent upon on their sole set

of immediate contacts: their employers and the private recruitment agencies.

G, a Thai agricultural worker at an agricultural community, decided to strike along with his fellow workers, all of whom were being paid below minimum wage and coerced into working long overtime hours. Employers at the agricultural community reported the strike to the recruiting agency responsible for bringing the migrants to Israel. The agency immediately sent a representative to the agricultural community where G was identified as the strike leader. The agency representative promptly instructed him to pack his bags and took him by force to the agency offices. There, G was required to sign documents in Hebrew that he did not understand and was then immediately sent to the airport. When G realized that he was being deported, he contacted Kav LaOved. By phone, a Kav LaOved staff member explained to him that his deportation was illegal and that he did not need to board the plane. Nonetheless, G chose to return to his own country as he immediately realized that he would be blacklisted in Israel. After the deportation, the fearful workers at G's agricultural community decided to end their strike and return to work under sub-standard labor conditions.

The **language barrier** is another crucial factor that places migrant workers at a disadvantage vis-a-vis their employers. As Thai workers usually do not speak or read English or Hebrew, their knowledge of their rights and their basic terms of employment is fully contingent upon interpreters who communicate with employers, doctors, and state authorities on their behalf. As noted above, though the responsibility lies with government bodies to provide translators and access to information, inspections and meetings rarely take place with Thai translators present. This communication barrier renders the Thai workforce unable to communicate abuse and exploitation to the authorities.

Abuse of migrant agricultural workers also prevails in the agricultural fields themselves where **spraying of pesticides and other toxic**

chemicals is a normal activity and migrant agricultural workers are generally the ones who perform this work. Frequently they do not receive proper training or protective gear, except for a thin piece of cloth that covers the nose and mouth. Even though the law requires that labels on the chemicals be in Thai to enable workers to understand the dangers associated with spraying, in practice they are almost always in Hebrew. Misuse of these powerful toxins produces deleterious side effects such as asthma, rashes, and other skin abrasions.

Beyond the spraying of pesticides, exploitation of Thai agricultural workers has drastic impact upon the health of the workers in general. In the first five months of 2013, 13 migrant agricultural workers from Thailand died due to cardiac arrest. This phenomenon, known as **Brugada Syndrome**, is known in northern Thailand where most Thai migrant workers in Israel originate. One of its causes is mental and physical stress. One worker who died from the condition was reported by friends and co-workers to have worked 18 hours a day, 7 days a week. This case, and the relatively high number of Brugada Syndrome-related deaths of Thai workers in Israel as compared to Thailand, causes great concern that the employment conditions of Thai workers in Israel constitute an imminent danger to their lives. In the Spring of 2013, KLO requested that the Ministry of Health conduct a thorough investigation. Given that KLO statistics show that the average work day of migrant agricultural workers is 10.4 hours a day, 7 days a week, KLO is deeply concerned about the fatal risks entailed in Thai agricultural worker employment.

Minimum Wage

Payment of minimum wage is the basis of Israeli labor law. Many additional aspects of labor law – vacation and recuperation payment, pension, overtime, and more – are predicated upon the assumption

that a worker is paid at least minimum wage. The Minimum Wage Law guarantees the payment of a monthly, daily, or hourly minimum wage to all workers employed full-time in Israel. Yet despite its central importance, the business newspaper The Marker recently reported that 12.2% of workers in Israel today earn less than the minimum wage.⁷

The agricultural sector has the highest percentage of minimum wage violations of any labor sector in Israel, with 33% of workers paid below the minimum wage.⁸

Though failure to pay minimum wage is a criminal offense, the fact that nearly one-third of the agricultural sector is paid below the minimum wage suggests inadequate attention on the part of the government to blatant violations of the law. Migrant agricultural workers are disproportionately affected by this systematic abuse of labor law, as they comprise nearly 35 percent of the agricultural labor force in Israel.

KLO has compiled a list of 200 migrant agricultural workers who have been paid under the minimum wage by employers all over Israel. The workers documented in this list make anywhere from NIS 15–20 per hour (the minimum wage today is NIS 23.12 or \$7 per hour) and work between 9–13 hours per day. Nearly all these workers make under the hourly minimum wage even during overtime, which according to Israeli labor law is supposed to equal 125% of the regular pay for the first two overtime hours and 150% of regular pay for every subsequent hour.

In light of these conditions, KLO filed 95 complaints about specific violations of the minimum wage law with the Ministry of Economy in 2013. Though the organization consistently requests updates regarding the status of these complaints, the response from the Ministry of Economy has been consistent stonewalling.

Housing Conditions

Through field visits and constant contact with migrant agricultural workers, KLO has identified a pattern of unacceptable living conditions for workers in various agricultural communities around the country. These conditions include lack of adequate bathrooms and showers, crowded living situations, lack of privacy, and living quarters that have no ventilation, cooling, heating, or cooking facilities.

Workers commonly live in storage sheds or other makeshift structures. Their living quarters are sometimes outside the housing boundaries of the agricultural community. As there is no signage to indicate that these structures unfit for human habitation are actually migrant workers' living quarters, these workers are "hidden out of sight" when not in the fields.

As most migrant agricultural worker housing was never designed as housing, it is often ill-equipped for the extreme temperature ranges found in Israel. KLO visited agricultural communities in the desert south of the Dead Sea that do not provide air conditioning or any other relief from the sweltering summer heat. Another agricultural settlement houses workers in caravans inside unused hothouses. While this may keep workers warm and protected against the winter cold, they become unbearably hot and difficult to breathe in during the summer. KLO has also encountered numerous instances of sub-standard winter residences: outdoor showers, holes in the wall repaired only with cardboard, and no heating.

According to the Procedure for Employment of Migrant Workers in Agriculture which came into effect in 2012 and the Regulations of Proper Housing which came into effect in 2000⁹, Israeli employers must provide migrant workers with adequate living space, lockers or closets with locks for their personal possessions, blankets, heaters, access to a stove, washing machine, and functional bathrooms and

showers – the number of which are calculated according to the number of residents. Although these regulations are clear and include penalties for employers who do not comply with these standards, the formal complaints that KLO has lodged with the Immigration Authority demanding enforcement of the law have been met with stonewalling similar to that of the Ministry of Economy.

Female Agricultural Workers

Female agricultural workers currently employed in Israel comprise around 10 percent of the total migrant agricultural workforce. As a result of their minority position in the agricultural laborforce, female agricultural workers face added difficulties. Most commonly, they are often forced to live in entirely male quarters where their basic right to private showers, bathrooms, and bedrooms is neglected.

Further, KLO has encountered numerous cases of sexual harassment of female agricultural workers by employers or their family members. Many female workers find it difficult to report or remove themselves from such situations because of fear of losing their job; in addition, the remote location of agricultural communities makes leaving the site and reporting the violations to police or other authorities especially daunting. An accurate account of the number of cases of sexual harassment is unclear due to under-reporting and because investigations are poorly conducted, given their low priority and lack of reliable translators.¹⁰

In the last six months, KLO has been in constant communication with the Israeli Police regarding the identification of violations. It has also joined forces with other agencies in civil society involved in the nationwide campaign against sexual harassment. In cooperation with the Center for Victims of Sex Trafficking, KLO is presently directing female workers who are victims of sex crimes to this Center's services. Furthermore, a flyer was developed to raise awareness among Thai

female workers of their rights as women working in Israel, with special attention to gender-specific needs and issues. This has been distributed not only to the Thai women currently working in Israel, but to all female workers departing from Thailand. Recognizing the urgency of this issue, KLO submitted both a position paper and recommended regulations to protect female agricultural workers to the Knesset (the Parliament) and discussed this issue with parliament members in late 2013. The recommended regulations are currently under review.

Y is a Thai woman who arrived in Israel two years ago to work in an agricultural community. She and another woman were the only female workers among 40 male workers. When the other woman's work permit expired and she left Israel, Y was left as the only female worker. Y was then moved to a storage room by herself that had no bathroom or shower. Y's employer told her that her new job was to clean his house as well as the houses of all his family members who were members of the agricultural community. She cleaned a total of seven houses every day, and was paid only NIS 16 per hour, far below minimum wage. The employer's extended family soon began to sexually harass her. The employer's father would touch her inappropriately and try to kiss her, while the son would come to her 'room' each day and tell her that she was expected to sleep with him once his wife left for vacation. Frightened, Y called Kav LaOved: the first time she notified KLO of her conditions; the second time because she was afraid she was trapped. Kav LaOved immediately helped Y to leave this agricultural community and took her to a friend's house to find a new job. Kav LaOved is now in the process of both filing a complaint with the police on Y's behalf and alerting the authorities about the situation in that agricultural community.

Updates to the Thailand-Israel Cooperation Agreement (TIC)

The signing of the TIC agreement, the result of six years of negotiation between the two countries, represents a significant advance in the

rights of Thai migrant workers. One year after the first Thai workers were brought into Israel via the TIC, KLO held several meetings with CIMI and the Ministry of Interior with regard to irregularities in the implementation of the agreement. Although protection of workers from exploitation by private recruitment agencies had been instituted, KLO closely monitors the entire situation of employment of migrant agricultural workers in Israel. Largely because of KLO intervention, the Israeli High Court of Justice is also closely monitoring the agreement.

Because of persistent contact with the authorities, in late 2012 KLO was finally able to gain access to the exact details of the TIC agreement, receiving the text of the standardized employment contract to be signed by the worker in Thailand and the text of the document listing the commitments and obligations of the Israeli private recruitment agency towards the employee. Upon noticing serious violations of Israeli labor law in these documents, and upon filing complaints with the Ministry of Labor and with the Ministry of Economy and upon not receiving any official response, KLO is contemplating litigation to obtain proper redress.

In 2013, KLO discovered additional problems with the agreement, specifically that the obligation to open a bank account in Israel for migrant agricultural workers had been omitted from the standard contract stipulated under TIC. While employers can thus freely handle their workers' salaries (supposedly transferring the funds to bank accounts in Thailand and giving workers small cash "allowances"), it leaves workers without any mechanism to document whether they receive all the funds to which they are entitled. Moreover, migrant workers have no access to their own earned income while working in Israel, a serious infringement of workers' rights. The omission of this obligation from the standard TIC contract not only means that Thai workers do not even know that they are required to have an Israeli bank account, but also that they do not know that their right to have

one has been infringed; hence, they do not file complaints. The lack of enforcement of this regulation and its omission in the text of the TIC contract were the subjects of a recent KLO complaint to various government bodies. KLO has not yet received an official response. KLO staff has also issued Freedom of Information requests to the Immigration Authority and the Ministry of Economy regarding their enforcement of employers' obligations to open an Israeli bank account for Thai agricultural workers.

Although regulations were instituted to permit recruiting agencies to collect limited fees within the framework of the bilateral agreement, these agencies have put much effort into schemes to annul TIC. KLO thus achieved a major victory when Israeli manpower agencies withdrew their High Court petition to halt implementation of TIC in 2012.

Conclusions

The plight of migrant agricultural workers in Israel is a problem that requires immediate attention at a number of levels. For example, the lack of Thai translators present during investigations conducted by the Ministry of Economy and the Immigration Authority implicates these agencies in the widespread abuse of migrant agricultural workers. As the cases that these authorities investigate often include forged payslips, lack of verifying documents, and mendacity on the part of employers, it is essential that representatives of governmental authorities can maintain direct contact with the migrant workers whose rights they are tasked with protecting. Without an adequate budget for translators, this is impossible. Therefore, both the Ministry of Economy and the Immigration Authority must be pressed to utilize translators, improve their capabilities in field inspections¹² and be more aggressive in the enforcement of labor law.

While the situation of migrant agricultural workers in Israel has improved since the enactment of TIC, much work remains to be done to ensure that they are employed under fair conditions and are granted full protection of the law. Abuses on the part of employers, coupled with the lack of active monitoring or enforcement on the part of the government, create an untenable situation for these workers. The blatant violations of human and workers' rights are tantamount to an indirect government subsidy of the agricultural sector implemented on the backs of helpless workers.

Given the current state of the agricultural sector in Israel, KLO recommends in the strongest of terms that Israel drastically improve its enforcement of labor law regarding migrant agricultural workers, and that it acts to revoke licenses for the employment of foreign workers from farmers who refuse to comply with the law. These two crucial steps would serve to direct the agricultural sector toward fair

employment of the foreign workers who serve as its backbone.

Footnotes

- 1 Labor Needs in the Agricultural Sector, 2010. <http://www.knesset.gov.il/mmm/data/pdf/mo2697.pdf> (Hebrew).
- 2 Labor Needs in the Agricultural Sector, 2010. <http://www.knesset.gov.il/mmm/data/pdf/mo2697.pdf> (Hebrew).
- 3 Foreign Workers Law, 1991. http://www.nevo.co.il/law_html/law01/P178_002.htm (Hebrew).
- 4 http://www.moital.gov.il/cmsTamat/Templates/N_Internal_Page.aspx?FRAMELESS=false&NRNODEGUID={0DAC60AD-A0D9-4029-B6E0-1E390DFABE70}&NRORIGINALURL=%2fNR%2fexeres%2foDAC60AD-A0D9-4029-B6E0-1E390DFABE70.htm&NRCACHEHINT=Guest#a11
- 5 Psak Din, the Website for Law in Israel. http://www.psakdin.co.il/fileprint.asp?filename=/avoda/private/ver_brhh.htm (Hebrew).
- 6 Immigration Authority Website, Employment Procedure for Foreign Agricultural Workers for the Year 2011, section 8. <http://www.piba.gov.il/PublicationAndTender/Publications/Pages/00406.aspx> (Hebrew).
- 7 The Marker. "Level of Violations of the Minimum Wage Law – ; in Agriculture – " <http://www.themarker.com/career/1.2100414> (Hebrew).
- 8 Ibid.
- 9 Regulations of Proper Housing, Ministry of Economy. <http://www.moital.gov.il/NR/exeres/2010B191-0D7F-4CC4-AD60-A077FFDE673C.htm> (Hebrew).
- 10 Female Migrant Workers Report. Kav LaOved, 2010.
- 11 In 2011, the Knesset passed the "Law for Increased Enforcement of Labor Law." Yet Kav LaOved and other organizations in civil society have not noticed a resulting improvement in enforcement capability by either the Ministry of Economy or the Immigration Authority.

Kav LaOved (Worker's Hotline) is an independent non-profit, non-governmental organization committed to the defense of workers' rights and the enforcement of Israeli labor law designed to protect every worker in Israel, irrespective of nationality, religion, gender, and legal status.

Modes of Action

Individual assistance to workers via public reception hours, the telephone hotline, the website and social media, field visits and more

Legal and procedural support by advising and representing workers

Public advocacy through development of position papers, attendance in parliamentary committees, ongoing dialogue with various government ministries, and principled petitions to Israeli labor courts

Cooperative partnership with state authorities, monitoring current policies, encouraging effective enforcement over employers, and supervising the granting of employment licenses and work permits

Education and community outreach by raising awareness of worker's rights to individual workers and society at large through workshops, lectures, research, reports and media

Partnerships with a wide range of Israeli and international organizations,

✓ 17 לעובד
Worker's Hotline
✓ عنوان العامل

www.kavlaoved.org.il/en



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