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## National Insurance and Non-Israeli Workers:

Failures in treatment of claims presented  
by migrant, asylum seeker, and Palestinian  
workers

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## **Introduction**

The National Insurance Law guarantees that migrants, asylum seekers, and Palestinians employed by Israeli employers will receive insurance coverage through the Israeli National Insurance Institute (NII) – though the degree to which they receive benefits is dependent on their residency or visa status – with regard to 1) work accidents, 2) employer bankruptcy or closure, and 3) pregnancy and maternity costs, and 4) child welfare.

This report deals with the structure, management, and enforcement of the rights that the NII is legally required to provide to these three categories of workers. After assessing issues in the NII database that impose hardships upon non-Israeli workers, this report then examines in-depth the inadequate handling of work accident-related insurance claims and maternity insurance claims on the part of the NII.

## **The National Insurance Institute Database**

The NII database processes cases of non-Israeli workers in a manner that places unnecessary burden on these workers in that its computer system is not designed to identify non-Israeli workers by passport number. Rather it uses visa number, which these workers may not have. This prevents undocumented non-Israeli workers from checking the status of their claims over the phone, as full registration in the database is required before NII operators can provide the necessary telephone pincode. Instead, these workers must physically appear at their NII branch to check the statuses of their claims. Given that the 2005 law guarantees insurance to non-Israeli workers irrespective of legal status, this problem is a gross oversight. Furthermore, such lack of NII coordination is all the more egregious in light of the fact that the databases of many other government agencies – including the

Ministry of Interior and the Ministry of Economy – are able to identify non-Israeli workers according to the documents that they do hold.

## **Work Accident Insurance**

According to the NII website, work accident insurance for non-Israeli workers is as follows:

“This department insures workers and their family members in cases of work accidents with provisions identical to those of Israeli workers ... including financial support such as reimbursement for hospitalization, medical care, physiotherapy, rehabilitation, and assistive devices.”<sup>1</sup>

Kav LaOved has identified a number of obstacles in applications for work accident insurance among migrant workers, asylum seekers, and Palestinians including insufficient reporting of work accidents, and delays in coverage of medical costs. Kav LaOved’s fieldwork also reveals the difficulty Palestinian workers have both in confirming work accidents and in receiving adequate hospital treatment.

## **Insufficient Reporting of Work Accidents**

In 2013 up to November 28, 28 workers were killed in work accidents; in 2012, 31 workers were killed; in 2011, 38 workers were killed, a 14% increase from 2010, when 23 workers were killed. Of the workers who died, nearly 30% were Palestinians, migrant workers, or asylum seekers. In the last five years, 141 workers have been killed working in construction, and amounts to half of all workers killed in work accidents.<sup>2</sup>

According to the NII, payments made to workers for on-the-job injuries increase each year. In 2009, the NII paid a total of NIS 3,285,153 for workplace injuries. In 2010, such payments rose by 6%, and again by 5% at the beginning of 2011. During the six-year period from 2006–2011,

there was a 50% increase in payments for work injuries.

Though this increase indicates improved reporting of work accidents, there is a glaring lack of organized and precise information regarding work accidents among Palestinians, migrant workers without permits, and workers who are asylum seekers. This lack of information and reporting regarding work accidents in the building industry was the subject of a recent report by the Knesset's Center for Research and Information.<sup>3</sup>

This insufficient reporting is not merely an indication of negligence among employers. Due to the fact that many of these workers have no permits, employers avoid reporting accidents because hiring them may have been illegal in the first place. If they do report such accidents, employers know that they will then have to acquire permits and pay tax and insurance for their workers. Hence, there are clear monetary incentives to hiding employment of undocumented workers. Further, it is clear that there is no real attempt by the authorities to encourage employers to report work accidents even if the workers do not hold work permits.

## **Delay in Coverage of Medical Costs**

According to law, the employer of a worker injured on the job must provide the injured worker with Form 250. This certificate serves as the employer's confirmation that the accident was work related, and is required by the NII for the provision of immediate medical services for a work injury. Further, in order to receive continuing treatments (treatments after the original hospitalization – scans, physical therapy, etc.), non-Israeli workers must either pay out-of-pocket or show a receipt that Form 250 has been processed.

As stated above, potential fines or taxes dissuade employers from reporting the work accidents of their non-Israeli employees. However,

even if the employer does fill out Form 250 on the injured worker's behalf, its processing is a long and bureaucratic procedure which can consume between three to nine months. Israeli citizens who have been injured in the workplace are covered unconditionally through their health maintenance organization (HMO) even if Form 250 has not yet been processed. However, non-Israeli workers are only covered by the basic private health insurance provided by their employers, as stipulated in "Regulations for Foreign Workers."<sup>4</sup> Though such insurance frequently covers the initial hospitalization, it generally does not cover follow-up medical services that workers often require after a work accident. In the interim before Form 250 has been processed, an injured non-Israeli worker must cover secondary and continuing medical costs out-of-pocket.

Injury at work is often severe enough that it leads to cessation of work and thus total loss of income. **Due to NII procedures, injured workers are thus forced to pay for ongoing medical services at their own expense at the very moment that they are most financially vulnerable.** As a result, injured workers often forego the secondary, continuing treatments that are not covered by the private health insurance provided by their employer.

Kav LaOved staff have repeatedly shown representatives of the NII who manage the rights of injured workers how injured non-Israeli workers suffer from their bureaucratic delay to no avail. Moreover, Kav LaOved questioned NII representatives as to why non-Israeli workers must submit a second NII required document (Form 211) in order for them to receive a fixed sum of accident compensation<sup>5</sup>, if the accident has already been confirmed as work-related via Form 250. The response provided by the NII was that employers might on occasion change their minds regarding the confirmation that they provided. Kav LaOved's understanding is that this convoluted implementation does not comply with the intention of the law. Furthermore, the drawn out

bureaucratic process and confusing system of multiple forms are most likely intended to save the NII from having to provide reimbursement for the continued medical care and rehabilitation of work injuries for non-residents.

*“M”, an asylum seeker from Sudan, was injured on May 10, 2012 while working for the A.D. Adrenalin Ltd. While burying support columns in a sports field, one of the columns fell on his leg and broke it. “M” was taken to the hospital and submitted the NII form 250 signed by his employer. “M” was hospitalized for three weeks and upon discharge, was scheduled for a follow up an appointment. “M” did not keep that appointment because he could not afford it. About a month later, “M” was taken to the emergency services at Ichilov Hospital because his wound had become infected. The employer did not send the NII Form 211(the second form required for reimbursement), and therefore the work injury was not confirmed. In March 2013, nearly a year after the injury and after lengthy contact with the employer, Kav LaOved submitted a claim for confirmation of the incident as a work accident. On May 13, 2013, a year after the injury, Kav LaOved received notice of the recognition of the event as a work injury. During that year, “M” did not receive any rehabilitation at all. His physical condition has not changed. “M” is unable to work and has submitted a claim to verify the level of his disability and the amount of disability pension he will be entitled to receive.*

## **Work Accidents among Palestinians who work in Israel**

Of those injured on the job, Palestinians workers often have the most difficult time gaining confirmation from their employers of a work injury. Staff and volunteers at Kav LaOved frequently encounter employers who refuse to confirm that a Palestinian worker was injured on the job, and must vigorously pursue them in order to obtain their signatures on the required forms. In addition, Kav LaOved submits reports regarding work injuries to the Ministry of Economy, though it is in fact the responsibility of the employers to do such reporting.

According to the arrangement between the NII and Clalit Health Services, Palestinian workers (like migrant and asylum seeker workers) are reimbursed only upon presentation of receipts and only after the NII has confirmed that the accident was work-related. The Clalit Health Services then check the receipts and send them to the NII for approval. Once approved, a check is sent to the worker. The entire reimbursement procedure takes between 3–14 months on average.

Some workers are not aware that they must save the receipts, the medical records, and the prescriptions, and only very few workers know that they must then send the receipts to the NII. The extensive trouble in navigating the bureaucratic labyrinth of NII (including language barriers, and even physical barriers in receiving permits to enter Israel for meetings) often leaves them without any compensation, despite the fact that they are entitled to it under the National Insurance Law.

*“S” is a Palestinian worker who was employed at The Door Factory Jerusalem, Ltd. His right hand was injured on April 25, 2010 while working on a metal cutting machine. The employer provided “S” with a signed Form 250 that very day, and “S” was treated by the Israeli medical services. Confirmation that the accident was work-related was received on January 26, 2011, nine months after the injury. On June 24, 2011, “S” submitted a request for the reimbursement of medical fees amounting to 2,000 NIS. On November 10, 2011, five months later, “S” received only NIS 298. A month later, on December 22, 2011, he received another NIS 737 and on May 10, 2012, he received NIS 391. All together, a year and four months after the injury was confirmed as work-related, and two years after the injury itself, he received NIS 1426, 71% of the amount he actually paid out.*

Palestinians injured while working in Israeli settlements face additional difficulties. Coverage of work injuries for Palestinians working in Israeli settlements began in 2005 with the update of the NII law. Yet because of an agreement between Magen David Adom, Israel’s national emergency service, and the Palestinian Red Crescent Society,

injured Palestinian workers are sent to hospitals in the Occupied Palestinian Territories (OPT).

When a work accident occurs in a settlement, the injured Palestinian worker is evacuated by a Magen David Adom ambulance and taken to a border crossing where a Red Crescent ambulance transfers the worker to a nearby Palestinian hospital. Workers prefer initial treatment in an Israeli hospital as it ensures higher quality of care and a degree of documentation that will result in faster compensation from the NII (the NII may refute or question evidence provided by hospitals in the OPT). Furthermore, injured Palestinian workers receive more compensation if first treated in an Israeli hospital due to the differential scale of NII compensation for treatment in Israeli hospitals versus those in the OPT.

## **Maternity Insurance**

According to the NII website, maternity insurance for non-Israeli workers occurs as follows:

“Under the National Insurance Institute Law, Part 3, Maternity Insurance, a female foreign worker employed in Israel, or the wife/partner of a foreign worker employed in Israel have the following rights:

1. Hospitalization Benefits – Provided in order to cover the cost of hospitalization during or after birth
2. Birth Stipend – Provided to the birth mother at the hospital and funded by the NII (paid only to women holding a valid visa)
3. Child Welfare – Provided to women, for two months, who have given birth to two or more children at the same time (paid only to women holding a valid visa)
4. Maternity Pension – Provided to women employed in Israel for the minimum period required for eligibility which is identical to the

requirements for workers in Israel (paid only to women holding a valid visa)

The first three benefits are provided to female foreign workers or to a woman who is married to a foreign worker whether or not she is employed – she is not required to hold a valid work permit. The requirements are identical to those of Israeli residents, with two exceptions: The female foreign worker must give birth in Israel and the birth mother or her partner must have been working in Israel for at least three consecutive months.”<sup>6</sup>

## **Insufficient Registration of Employment for Female Non-Israeli Workers**

Each year, Kav LaOved helps dozens of female workers who do not know they are entitled to such benefits, as well as workers whose employers do not register the employment of these workers with the NII, a prerequisite for receiving maternity benefits to recover the sums to which they are entitled.

In general, there are three groups of non-Israeli women who face difficulty in attempting to secure NII benefits due to insufficient registration by the employer:

1. The most common case encountered by Kav LaOved involves domestic household workers without a valid visa who work in a private home for a few of hours a week, although sometimes for the same employer for many years. In conversations with these employers, Kav LaOved has learned that they do not register their worker’s employment with the NII because they fear being fined for employing a worker without a valid visa. By not registering them, employers also do not pay for their National Insurance coverage,

which is against the law (employers must insure their employees with the NII even if the worker does not have a valid visa).

2. The second group of workers affected by registration issues related to maternity insurance includes asylum seekers whose employers are also afraid of being fined for employing them. Even though female asylum seekers hold 2A5 permits<sup>7</sup> and their employers would not be fined (according to a previous High Court of Justice decision), employers nonetheless hesitate to register such employees with the NII.

3. The final group of workers affected by registration issues is migrant caregivers, who are often not registered with the NII because the disabled seniors who employ them are not aware of their responsibility to insure their caretakers.

In cases where an employer has not registered the employment of a non-Israeli worker, the NII refuses to process any claims for maternity insurance. Kav LaOved has aided many female workers both with and without valid visas in filing lawsuits against employers for infringement of their rights under law. However, there are many cases in which the employer denies employment, and Kav LaOved has found that even when detailed “proofs” are provided, the NII nonetheless refuses to process claims until confirmation is provided by the employer her/himself.

A female worker without a visa who is employed, but not registered with the NII and therefore uninsured thus finds herself confronted by a hopeless situation when entering a hospital to give birth. The hospital can make it difficult for the worker to check in, even if she is in labor. Most hospitals do not provide children’s birth certificates until receipt of payment in full in direct opposition to orders of the Ministry of Health. Female workers whose employers neglected to pay their National Insurance are thus required to pay large sums of money for

birth and hospitalization out-of-pocket, sometimes amounting to tens and even hundreds of thousands of shekels when interest and payment delays are included.

These costs often force female workers to borrow money from friends or money lenders in order to support themselves and their babies during the first months after birth until they return to work. All of this occurs in spite of the fact that the workers fulfilled all the conditions required by the NII to receive these benefits.

*“P”, a migrant worker from the Philippines, was employed as a housekeeper and childcare provider by a lawyer in Ra’anana, and resided in her house for three years. “P” worked 24 hours a day for a salary of \$1,200 a month. She gave birth on May 31, 2013 after resigning from her position the day before. Upon arriving at the hospital she was told that the National Insurance payments for her had not been made by her employer. The hospital required payment of NIS 11,000 for the birth and hospitalization. Having no choice, she made an advance payment of NIS 4,500 and was given a bill for the remainder. “P” turned to Kav LaOved for help and learned for the first time that she was entitled to full coverage by the NII for the birth and hospitalization. A Kav LaOved volunteer called the employer who denied having employed anyone by that name. “P” had a collection of photos and films from the home of her employer with images of the employer and her children from the three years that she worked there. As a result, Kav LaOved approached the hospital requesting a delay for payment, and requested that the employer retroactively cover the payments to NII. Kav LaOved asked the NII to register “P’s” employment, collect payment owed by the employer, and settle the birth and hospitalization bills for “P”.*

## **Insufficient Application of the Law in Branches of the NII**

Another pressing problem is the sweeping and serious lack of coordination among the branches of the NII in various parts of the country. As a result, though the law is explicit regarding maternity

rights and benefits for non-Israeli workers, there are significant differences in processing rightful claims depending on the geographical area. Female migrant workers, with or without visas, are treated differently and with varying amounts of prejudice from branch to branch. Kav LaOved staff has noted only two branches (out of 24) that have the correct information regarding female non-Israeli workers and follow the written guidelines of maternity insurance (although at times only partially). Both of these branches are in Tel Aviv-Jaffa.

There are a number of pending maternity benefit claims in various branches of the NII in central Israel (Kfar Saba) and in the north (Haifa and Hadera). In each case, despite fulfilling all requirements according to the law and often including active support by employers, claims have either been ignored or rejected as a result of mistaken interpretation of the law on the part of NII representatives. In these branches, NII representatives contend that migrant workers and asylum seekers have no right to benefits because they are foreigners. Moreover, Kav LaOved continues to receive requests from employers who have gone to the NII to register their workers' employment, but NII representatives have refused to accept their registration because they maintain (mistakenly) that foreign workers are not covered under the NII law.

*"N", an asylum seeker from Eritrea, holds a valid 2A5 visa, and was employed as a housekeeper for a year prior to giving birth. The father of the child had also been employed continuously as well, both before and after the birth. Both their employers paid National Insurance according to the law. "N" submitted a request for the hospitalization and birth stipend at the NII branch in Hadera. The NII representative twice returned the forms to "N" and her spouse saying that she could not process them without a passport number. The third time they appeared at the NII office the representative agreed to accept the forms. Within a few weeks "N" received a letter stating that she was not entitled to benefits because she lives in Israel illegally. The couple had friends in Tel Aviv with the same status who had received the benefits. "N" and her spouse turned to Kav LaOved for help. Even after Kav LaOved contacted the NII representative dealing with maternity benefits in*

*Hadera, the request continued to be refused. Kav LaOved then referred the couple to the Legal Aid Bureau of the Ministry of Justice. Three months later “N” received her rightful benefits under law.*

## **Lack of Transparency in Administrative Practices**

Many female workers have submitted claims for benefits, but have not received any update and do not know whether their claims are being processed at all. Because they are unable to make telephone inquiries (as described earlier in the report) they often go to the NII branches in person and are subsequently rebuffed by NII representatives who refuse to provide information. When workers turn to Kav LaOved for help, the staff and volunteers contacted the branches where the workers submitted their claims in order to receive status updates. With the exception of the NII branch in Jaffa, Kav LaOved staff have never received written answers in response to these inquiries. Without an answer in writing, the workers do not know if their claims are being handled, or if any forms are missing. Moreover, if the claim has been denied they cannot seek legal help as there is no written evidence of a refusal.

Kav LaOved has also made attempts to push for transparency in cases where employers register and confirm employment of their workers as required by law. In particular, Kav LaOved has attempted to obtain a copy of all NII internal procedures (called “circulars”) meant to train NII representatives to deal with situations where employers do not register their workers. However, no matter the tactic employed, Kav LaOved has been unable to obtain a copy of the “circulars”, and assumes it is likely that most NII representatives are either unaware of these procedures or have willfully ignored them.

After many such attempts, Kav LaOved requested a statement from the NII on this issue. The NII replied that they are committed to processing the claims submitted and inspecting the rights of the birth

mothers according to the law, and that unusual claims are thoroughly researched according to NII procedures. However, the NII never divulged precisely what these procedures are, or whether their representatives act according to them.

## Conclusions

Ideally, all non-Israeli workers, be they asylum seekers, Palestinians, or migrant workers should be covered under the National Health Insurance Law to the same extent that all Israeli citizens are. Among other benefits, this would a) allow non-Israeli workers the assurance of receiving complete medical treatment in the case of a work accident and b) encourage branches of the NII not to discriminate against or delay claims submitted by non-Israeli workers. Given the unlikely nature of this change, however, below are specific recommendations within the current system:

- » **Automatic coverage of costs of medical treatment for non-Israeli workers under one private insurance company** under the condition that such coverage be provided to non-Israeli workers without delay. This would, at the very least, ensure that non-Israeli workers are covered for the most basic medical costs and treatments. In cases where the worker is not insured, the private insurance company should nonetheless be charged for coverage and costs, and the onus should be on this insurance company to sue employers for lack of adherence to the law.
- » **Validation of Form 250 without processing or confirmation.** In cases where the employer has already submitted Form 250, the NII should consider submission sufficient evidence that the accident was work-related. As described above, the confirmation process is too lengthy and hinders non-Israeli workers' involved in work-related accidents from obtaining access to the ongoing treatment which is crucial to their health. In cases where the NII discovers that the work accident report is not correct, the onus should be upon the NII to bring a charge against the employer.
- » **Cessation of the requirement for working mothers to provide a letter of confirmation from their employer,** and the

establishment of an institutionalized investigation procedure to prove employment, initiated and completed by the NII. An independent investigation would in most cases be quite efficient, and the existence of such a process would further encourage employers to register the employment of female non-Israeli workers.

» **Standardization and training for all branches of the NII across the country** regarding the treatment of migrant workers and asylum seekers to prevent variation in treatment at different branches. The extent to which this is currently done is unclear, and the lack of coordination and clarity in upholding procedures has severe consequences for non-Israeli workers and their ability to pursue claims.

» **Formulation, publication, and explanation of proper procedures in cases of employers who refuse to sign the necessary forms for their employee** allowing workers and the organizations who advocate for them to have a clear sense of the requirements for proof of employment in the case of a work accident, pregnancy etc.

» **Establishment of an efficient process for collection of confirmation from employers as well as the establishment of fines** when employers fail to register employees for a) the private insurance guaranteed to them by law and b) the NII insurance.

## **Footnotes**

- 1 National Insurance Institute Website. Information for the Foreign Worker.  
[http://www.btl.gov.il/INSURANCE/NATIONAL\\_INSURANCE/TYPE\\_LIST/זר/מידע לעובד זר/ענפי/Pages/הביטוח לעובד זר.aspx](http://www.btl.gov.il/INSURANCE/NATIONAL_INSURANCE/TYPE_LIST/זר/מידע לעובד זר/ענפי/Pages/הביטוח לעובד זר.aspx)
- 2 This data was collected at a Knesset committee meeting on December 24, 2013.
- 3 Knesset Center for Research and Information. Work Accidents in the Building Sector. (February 27, 2012)  
<http://www.knesset.gov.il/mmm/data/pdf/m03014.pdf>
- 4 Ministry of the Economy. Foreign Workers Injunction, 2001. <http://www.tamas.gov.il/NR/exeres/59E0BD28-7869-48E7-A351-F43F5145D230.htm>
- 5 The accident compensation from Form 211 is different than (and ultimately distinct from) the recompense for medical costs given by NII after confirmation of Form 250. In Israeli law, the distinction is between גמלאות בעין (Form 250) and גמלאות בבסף (Form 211)
- 6 National Insurance Institute Website. Information for the Foreign Worker.  
[http://www.btl.gov.il/INSURANCE/NATIONAL%20INSURANCE/TYPE\\_LIST/זר/מידע לעובד זר/ענפי הביטוח לעובד זר.aspx](http://www.btl.gov.il/INSURANCE/NATIONAL%20INSURANCE/TYPE_LIST/זר/מידע לעובד זר/ענפי הביטוח לעובד זר.aspx)
- 7 According to a Hotline for Migrant Workers May 2011 Report, 2A5 permits signifies that, “Employers can hire asylum seekers with this permit to hold any job, and no legal action will be taken against the employers. This is the most common permit, given to anyone residing in Israel who holds no other permit and is not in detention, including those recognized as Sudanese or Eritrean. Most asylum seekers in Israel hold this permit.”  
Hotline for Migrant Workers. Report: Employing of Asylum Seekers in Israel – Regulations and Problems. [http://www.hotline.org.il/english/pdf/Employment\\_and\\_CR\\_Visas\\_Eng.pdf](http://www.hotline.org.il/english/pdf/Employment_and_CR_Visas_Eng.pdf)



**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,

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✓ 17 לעובד  
Worker's Hotline  
✓ عنوان العامل

[www.kavlaoved.org.il/en](http://www.kavlaoved.org.il/en)



Friends of Kav LaOved –  
Worker's Hotline

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