

July 28, 2014

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Greetings,

Subject: **The wave of dismissals of Arab workers due to expressing an opinion**

I turn to you as a representative of four organizations, Kav LaOved, The Association for Civil Rights, Women Lawyers for Social Justice, and Sikkuy-The Association for the Advancement of Civil Equality in Israel, regarding the subject above, and to ask for your immediate intervention to protect the rights of Arab workers in the labor market in Israel, and to defend their right to equality, employment, and freedom of expression with respect to the reasons listed here below:

1. Our organizations are greatly concerned about the recent events we are following in the labor market in Israel. We have received dozens of reports by Arab workers who have been dismissed from their jobs due to the discriminatory behavior of their employers regarding their political point of view. A majority of the reports describe arbitrary and immediate dismissals due to the opinions that the Arab workers expressed regarding the war in Gaza, and in particular, the expression of their opinion on the Facebook social network.
2. The main reason for the wave of dismissals is the Facebook pages dedicated to provoking Arab workers by calling for their dismissal due to comments on their Facebook pages. They expose the workers' personal information including their names and places of work and directly threaten the workers themselves by making comments on the workers' Facebook pages and by making telephone threats. We have counted over 82 websites inciting the public to demand that employers fire their Arab workers.
3. We can see the extent of the effect of this pressure by following employers' reactions. In many cases they hurry to publish in the media or on the company's Facebook page that they are laying off or firing Arab workers, sometimes even before the workers know about the decision and before any attempt has been made to discuss the matter with them.

## Kav LaOved **Protecting Workers' Rights**

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4. It must be noted that the wave of dismissals is beginning to pick up speed and dimensions. As reported by Arab workers, the dismissals are based on a great range of expressions that do not fall within the definition of the "consensus" including lack of support for the war in Gaza. These opinions are more and more often taken as a legitimate reason to fire an Arab worker.
5. This wave of dismissals relates only to Arab workers. We have not received any information about dismissals of Jewish workers due to expressing their opinions on social media, even though the networks are full of severe expressions of racism, and some call for violent acts.
6. Equally serious, according to information published in the media, employers, among them large reputable enterprises, have begun to adopt workplace practices forbidding their workers from expressing themselves on social networks regarding the political situation and threatening those who violate the guidelines with disciplinary action.
7. Guidelines such as these are prohibited not only because they violate the legal rights of all workers and all citizens to freedom of expression, but also because it is fair to surmise that these guidelines will be used selectively against the minority whose opinions differ from the majority.
8. It is a violation to dismiss a worker for expressing a political opinion or because of his or her political perspective. Paragraph 8 of the Law for Equal Opportunity Employment of 1988 states that employers are not allowed to discriminate against workers and not allowed to dismiss them because of their origin, viewpoint, or political affiliation.
9. The principle forbidding discrimination against a worker because of his or her opinion or point of view was established well before the Law for Equal Opportunity Employment; it was established by the Supreme Court in 1951 in a case involving a teacher whose application to work in the Ministry of Education was rejected due to the intervention of the Minister of Defense:

"We have been told: Regarding security matters, the applicant is dangerous, preaching against the Israeli army and undermining the security of the country. Our response to this is that such a man, not only when in the classroom with young minds, but also in the market place, the office, the store, the workshop, the street, and among grown men, will not find his place. Not only is it right to deny him the right to work, but also to deny him his personal freedom. Today, all who preach to raise weapons up against the Israel Defense Forces, our most precious achievement since the establishment of the state, or against the government of Israel, the soul of the nation, can be sure that they will be held responsible in judgment of

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these actions. However, our state is based on the rule of law and not on the rule of individuals. And if the censor ignored the applicant's publications without comment and did not protest against him, as odd as it is to preach rebellion, Israeli law has not yet, thank God, ruled. The authorities will seek to accuse him according to the law. Then he will use his right as all citizens, the basic right to defend himself according to the law. Even if a citizen's opinions are invalid, his life is not meaningless and making him bleed is not permitted. One does not shut the door to his livelihood and does not make his life miserable wholly through administrative actions."

Supreme Court, 144/50 Dr. Israel Scheib Vice Minister of Defense, and Investigations Division, Judgment 5, 399 pages, 406-407

10. Freedom of expression is the right of Arab workers and is reserved for them just as it is reserved for all other workers and all citizens of the nation. This right is reserved at all times, including days as difficult as these. This right is thousand times more relevant to Arab workers who belong to the Palestinian minority, who have family in Gaza, and who are exposed to information provided by the Arabic language media reporting on destruction and the loss of life among the residents of Gaza, particularly among women and children.
11. Needless to say, what we are witnessing - employers who are carried away with ardor to fire Arab workers in view of their opinions on Facebook - is a slippery slope that prepares the way, ultimately, to similar behavior of employers relating to all workers in almost any context. In this way, the directive of the Law for Equal Opportunity Employment will become to an empty symbol.

For this reason we turn to you, as institutions that practice enforcement of labor law, and the law for equal opportunity in employment, to take all the necessary steps to protect the Arab workers from dismissal and reprisals by employers due to their expression of political opinions, including the following actions:

- a) Publish guidelines for employers that emphasize the prohibitions that exist in the Equal Employment Opportunity law regarding protection against dismissal for expressing an opinion or a point of view.
- b) Clarify the guidelines that have been provided to the employers that it is illegal to prohibit their workers from expressing political opinions on the social network.
- c) Bring to public attention that workers, particularly Arab workers, have the option to turn to you as the authority for enforcing the law of equality and prohibition of discrimination.

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d) The department enforcing labor law will investigate the dismissal of Arab workers in view of their opinion as expressed in Facebook; with attention to cases have been exposed in the media and on Facebook pages that call for firing Arab workers.

f) The Commission for Equal Employment Opportunity will consider participating as a partner in future cases that will be judged in the labor courts against dismissal of Arab workers who expressed political opinions.

We look forward to your quick response.

Best wishes,

Gadeer Nicola, Attorney at Law

**Copy:** Michael Atlan, Attorney as Law, Legal Council, Ministry of the Economy

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