

Violations of Contract Workers' Labor Rights

A Summary of Complaints to Kav LaOved

2013-2014



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Introduction

Tatiana is a cleaner in a medical facility in central Israel. She immigrated to Israel from the former USSR and has been employed at the same place, doing the same work, since the end of the 1990s. Tatiana and eight colleagues, all immigrants from the USSR and Ethiopia, have been employed from day one through a cleaning contractor; the medical facility is not their direct employer. Nevertheless, a room and a kitchen have been allocated for them within the clinic and they come in direct contact with the clinic's employees.

During many years, Tatiana's employer changed – contract companies came and went, on average every two years. Despite the fact that Tatiana has been working there for 16 years, she has never made more than the minimum wage and has not received any compensation due to seniority. This practice, which is referred to as “Lost Seniority,” violates labor law and the collective agreements relevant to her sector. As a result, Tatiana will not obtain any benefits since she will always be considered as a new employee

In recent years there has been a significant turning point in employment conditions of contract workers and awareness of their rights. If this report would have been written ten years ago, it would have reflected a much worse situation. A variety of changes in the labor market have resulted in an improvement in the status of contract workers in Israel. At the same time, the number of contract workers is increasing and potentially harmful employment still threatens most of them.

In this interim report we provide a summary review and a breakdown of complaints by contract workers to Kav LaOved during 2013-2014. The main purpose of this document is not to just show the diversity of these violations but mainly to try to characterize this harmful behavior with the hope that a clearer understanding of these violations will enable law enforcement authorities to deal with them more successfully.

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Background – Complaints by contract workers to Kav LaOved

Every year, hundreds of contract workers submit complaints to Kav LaOved via reception hours, meetings with Kav LaOved staff, the hotline, and e-mail.

During 2013-2014 Kav LaOved provided support and services to 1,000 contract workers, most of them employed in the cleaning and security sectors. One can observe that over the years, complaints have become more diverse. This form of indirect employment now includes teachers, computer programmers, high-tech workers and more. In recent years, workers from these sectors have been coming to Kav LaOved, and it is evident that as indirect employment has gained popularity, workers of various sectors are trying to protect their rights. Yet, most of the complaints are still made by workers in the cleaning and security sectors.

This report intends to introduce the most common violations that affect these workers. It is important to note that in recent years, there have been major changes in the types of common violations inflicted upon contract workers. The situation that characterized the labor market in Israel in the early 2000s included dismissing contract workers prior to the termination of their first job and also completely avoiding making the proper contributions to their pension fund; today these violations are relatively rare. The illegal policy of imposing fines on workers is still quite common in certain forms although it too seems to be in decline. These two types of violations are distinct from one another: there is a vast difference between a worker who is paying a one-time fine, versus a worker reaching retirement age discovering that their pension fund is empty.

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What are the most common violations?

Here we present the five most common violations facing contract workers, as identified by analysis of the data accumulated by Kav LaOved during 2013-2014. The data analysis shows a change in trends compared to previous years, which will be described below.

1. Lost Seniority: 660 complaints submitted

Lost seniority is a common phenomenon in the contract employment sector and thus the subject came up in most of the complaints submitted to Kav LaOved. This refers to a situation in which whenever the contractor gets replaced, all workers lose seniority benefits which they accumulated in prior years and hence they are conceived as “new workers.” It is common for contractors to be replaced as the contract between the client and the contractor is usually limited in time. At times, the client may decide to switch contractors before the end of the contract. In such cases, the workers remain in their jobs with the client, but when the new contractor arrives, they lose all accrued seniority.

2. Partial Pension Contributions: 610 complaints submitted

There are two major ways for an exploitive employer to avoid paying full pension contributions. One is to ignore the sectorial collective agreement and pay a significantly lower percentage than the one to which the worker is entitled to. Another way, the more common one, is by miscalculating the total salary, which is used as the base for calculating the pension. In this way, many employers cut costs in a way that won't arouse the workers' suspicion; workers see the pension contributions in their payslip and due to their unfamiliarity with the law, they assume that it shows a proper calculation.

3. Worsening employment conditions: 582 complaints submitted

Worsening employment conditions can include reductions in workers' responsibilities and/or working hours or decreases in their hourly salaries – all of which lead to a drop in income. Most of the complaints about worsening employment conditions are filed by security guards in educational institutions who are not employed or under-employed during the summer when these institutions

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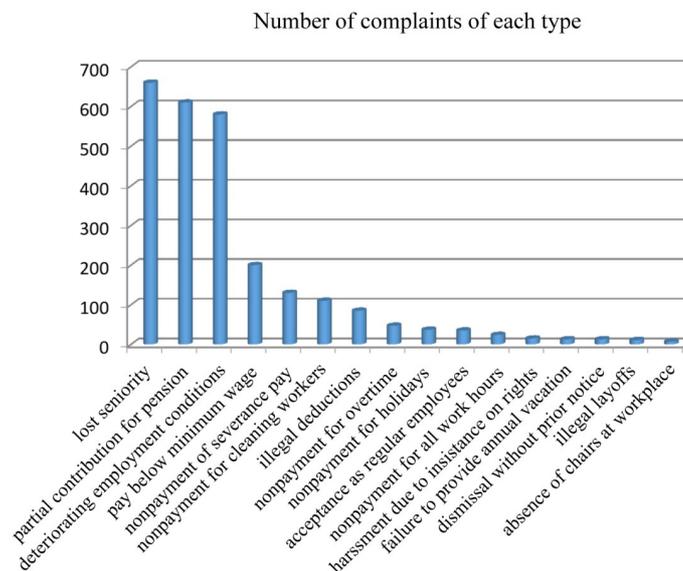
are closed. Apart from this widespread phenomenon, many workers report that their employer unilaterally reduced the scope of their position or lowered their hourly wages, causing a significant damage to their financial situation.

4. Pay below Minimum Wage: 200 complaints submitted

All complaints in which the employer paid an hourly wage lower than the legal minimum refer to a particular employer in the industrial zone of Jerusalem where all workers earn about 5 NIS (\$1.42) below the hourly minimum wage according to Israeli law. Complaints of this sort are relatively rare among Israeli workers and most of the cleaning and security guard contractors that have been inspected by Kav LaOved comply and pay minimum wage.

5. Nonpayment of Severance Pay: 131 complaints submitted

Although cleaning sector contractors are obliged by their collective agreement to pay workers severance pay when their contract has been canceled, the contractor breaches this obligation by using a variety of excuses. In such situations, most employers make their workers leave on their own initiative or promise to place them at an alternative site and - in this way - avoid paying proper compensation.



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Full Details about the Complaints:

- A. Lost Seniority - 660 complaints: Most of the workers who contacted Kav LaOved reported that each time the contractor was replaced, they lost seniority benefits which they accumulated in prior years and hence they are conceived as “new workers.”
- B. Partial Contributions for Pension – 610 complaints: This includes pension contributions which are lower than those agreed to in the sectorial collective agreement, or are lower due to a miscalculation of the base salary.
- C. Worsening employment conditions – 582 complaints: This concerns workers whose salary has been cut, either as a result of reduced responsibilities or as a result of lowering the hourly wages. Most of the complaints come from security guards in educational institutions who are not employed during the summer break and on holidays.
- D. Pay below minimum wage – 200 complaints: This includes cases in which the employer pays an hourly wage lower than the legal minimum wage.
- E. Nonpayment of Severance pay – 131 complaints: In these cases, the company avoids paying workers severance pay according to labor law when the contract is cancelled or terminated. In these cases, most employers force their employees to leave the job on their own accord or force them to a new site in order to avoid paying severance.
- F. Nonpayment for seniority to cleaning workers – 110 complaints: Most of the cleaning workers who contacted Kav LaOved reported that their employer never paid them for seniority as required by the sectorial collective agreement.
- G. Illegal Deductions – 85 complaints: These cases concern fines or salary deductions. Common illegal deductions include, among others, fixed reductions for gift fees, fictitious welfare funds and payments for a union that does not exist in reality.
- H. Nonpayment for overtime – 47 complaints: This includes cases in which the employer avoids paying its employees overtime pay by calculating their salary based on the regular hourly wages, ignoring the requirement of paying extra for overtime work.
- I. Nonpayment for holidays – 37 complaints: This category concerns workers who have been told that they – under no circumstances – are entitled to obtain the special holiday pay and workers who only received partial compensation.

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- J. Acceptance as regular employees – 35 complaints: These workers appealed to Kav LaOved for help in getting hired as regular employees by the company that ordered the service (as opposed to being hired through the contractor).
- K. Nonpayment for all work hours – 24 complaints: These workers faced employers who avoided paying them for the full number of hours they worked.
- L. Harassment due to union organization or insistence on rights – 15 complaints: In these cases, workers were dismissed or their employment conditions were worsened because they actively insisted on protecting their rights, either through union organization or by engaging in some other organizational activity.
- M. Dismissal without prior notice – 13 complaints: These workers were fired abruptly, without prior notice and without being paid for the notice period.
- N. Failure to provide annual vacation – 13 complaints: In these cases the employer either claimed that workers did have a right to annual vacation or de-facto prevented the workers from taking vacation by forcing paid employment instead.
- O. Illegal Dismissal – 13 complaints: This includes dismissals without prior notice or dismissal on no grounds, such as attempting to intimidate or harm the worker.
- P. Lack of pension contributions – 9 complaints: Employees who never had pension contributions made on their behalf; it should be emphasized that this does not concern workers for whom a partial pension contribution was made, which is more commonly the case (see item B).
- Q. Nonpayment of salary or delayed payment – 8 complaints: Employers refrained from paying the workers' their salaries or significantly delayed the payment of their wages.
- R. Chair not provided at the workplace – 7 complaints: Cashiers and security guards complained to Kav LaOved that the employer did not provide them with a chair as required by law.

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Conclusion

As reflected by the type of complaints received by Kav LaOved in 2013-2014, there have been far-reaching changes in the labor market in Israel. At the same time, it is apparent that contract workers still suffer from various violations of the law, notably the practice of losing seniority which causes workers to receive only minimum wage for their entire career. This problem is common among most of the workers and it is one of the most significant problems of contract employment.

Kav LaOved calls law enforcement institutions and labor organizations to commit to fighting against this phenomenon and to act together in order to reduce it as much as possible. In order to advance solutions for this specific problem, it is recommended that mechanisms should be established to forbid the contractor from treating senior workers as new workers. This can either be by legislation and strengthening the sectorial collective agreements and/or by guidance from the state.

In regard to the systemic damage to contract workers in educational institutions whose salaries are reduced due to the fact that they are not employed during the summer break, Kav LaOved calls the state to extend the budget for guarding and cleaning contracts at educational institutions to 12 months instead of the current 10 months. This is the only way to ensure that workers will get paid during a period, as of now, they are unable to support themselves and their families.

In addition, Kav LaOved calls the law enforcement institutions to enhance enforcement of labor laws among populations which suffer the biggest harm among the workers, namely Haredi (ultra-orthodox) workers and Palestinian workers who work in Israel. As for other phenomena reviewed in this report, Kav LaOved calls the Ministry of Economy to expand the scope of its activities to enforce labor laws in order to completely eliminate these problems for the benefit of the entire labor force in Israel.

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