

# Employment of Palestinians in Israel and the Settlements

## Restrictive Policies and Abuse of Rights

August 2012



קו לעובד  
Kav LaOved  
عنوان العامل



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## **Employment of Palestinians in Israel and the Settlements**

### **Restrictive Policies and Abuse of Rights**

Kav LaOved \* August 2012  
<http://www.kavlaoved.org.il/>

This report is the work of the field activists and legal experts who took part in the project, and summarizes the features characterizing the exploitation conditions of Palestinian workers in Israel and in the Israeli settlements in the West Bank.

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## INTRODUCTION

The high rate of unemployment in the Occupied Palestinian Territories (OPT) and the gap in wages and quality of life between the Israeli and Palestinian economies have led to a constant large supply of Palestinian workers seeking employment with Israeli employers ever since the occupation of the West Bank and Gaza Strip began in 1967. The number of workers has changed over the years in correlation with the restrictions Israel has placed on entry into its territories. When restrictions were few, in the early 1990s, some 115,000 Palestinians worked in Israel. They accounted for a third of all employed individuals in the OPT at the time.<sup>1</sup>

In March of 1993, the closure on the OPT was tightened and the number of Palestinian workers who were permitted to work inside Israel dropped by tens of thousands. As employers urgently needed workers, the government decided to replace Palestinian workers with migrant workers and began massive importation of workers in 1994. In the late 1990s, the government decided to reduce the number of migrant workers. This decision was met with opposition from a strong lobby of various trade associations and employment agencies that demanded an increase in numbers, as they turned profits from bringing in the workers and employing them. The number of migrant workers gradually increased and has stood at about 200,000 since the first decade of the new millennium.

In 2006, Palestinian workers from Gaza were barred from entry into Israel altogether and ever since, only residents of the West Bank have been permitted to work in the country. The number of Palestinian workers in Israel and their workdays has been slowly rising since 2006.<sup>2</sup> At the end of 2011, some 28,000 Palestinians from the West Bank were working in Israel with permits and more than 20,000 without them. In addition, some 25,000 Palestinians were working in Israeli settlements in the West Bank.<sup>3</sup>

Official documents indicate that Israel looks favorably on Palestinian employment inside its territory. These documents include, among others, a report by an inter-ministerial committee headed by Prof. Zvi Eckstein, who is a former deputy governor of the Bank of

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- 1 This information refers to 1992. See B'Tselem, *Builders of Zion, Human Rights Violations of Palestinians from the Occupied Territories Working in Israel and in the Settlements* (1999) (hereinafter: B'Tselem, *Builders of Zion*), p. 9, at [http://www.btselem.org/sites/default/files2/builders\\_of\\_zion.pdf](http://www.btselem.org/sites/default/files2/builders_of_zion.pdf). A similar number of Palestinians worked in Israel in 1999. See also the report of the Committee for the Regularization, Monitoring and Enforcement of Palestinian Employment in Israel (hereinafter: Eckstein Report), p. 19, available in Hebrew on Gisha's website ([www.gisha.org](http://www.gisha.org)).
  - 2 Report of the Government of Israel to the Ad Hoc Liaison Committee (AHLC), "Supporting Palestinian Capacity Building," September 22, 2009, p. 9, at <http://www.mfa.gov.il/NR/rdonlyres/7424667F-0B63-42EA-BFFE-D22EC2392B4F/0/AHLCSept2009.pdf>; see also the report to the AHLC dated September 18, 2011, p. 13, at [www.mfa.gov.il/NR/rdonlyres/AF58A766-FAAC-4F84-A014-9B826F5A17E8/0/Israel\\_Report\\_AHLC18092011.pdf](http://www.mfa.gov.il/NR/rdonlyres/AF58A766-FAAC-4F84-A014-9B826F5A17E8/0/Israel_Report_AHLC18092011.pdf).
  - 3 Letter of Merav Abrahams, Director of Planning and Research at the Population Immigration and Border Authority (PIBA) dated December 6, 2011 (hereinafter: Abrahams, December 6, 2011), published in Knesset Research and Information Center, *Non-Israelis in Israel (foreign nationals, foreign workers, refugees, infiltrators and asylum seekers), Situation Report, 2010-2011*, December 13, 2011 (hereinafter: *Non-Israelis in Israel*), p. 11, at <http://www.knesset.gov.il/mmm/data/pdf/m02986.pdf> (in Hebrew).

Israel. The report was presented to the government in May 2011. The committee concluded that employing Palestinians in Israel is beneficial for the workers themselves, the Palestinian economy, Israeli employers and the state of Israel both from a security and a diplomatic aspect.<sup>4</sup> However, Israel puts many obstacles in the path of West Bank residents who wish to earn a living by working in the country, using bureaucratic foot-dragging and citing both security and economic reasons for its actions.

This report describes the many obstacles faced by Palestinians on their road to earning a living in Israel and while employed in the country: first and foremost, their dependency on specific employers. The Supreme Court of Israel called a similar “restrictive employment” arrangement, which was in practice with respect to migrant workers, “a type of modern slavery.” This report joins the efforts of other NGOs, including MACHSOM WATCH and GISHA,<sup>5</sup> to shed light on the process by which workers enter Israel and to have this process streamlined. These efforts are directed toward labor authorities inside Israel (the Payment Division at the Population Immigration and Border Authority, which operates under the Ministry of Interior) and in the West Bank (Employment Staff Officer at the Civil Administration). The report also exposes the exploitation of many Palestinians by Israelis, mostly in the settlements. This exploitation is also described in the most recent report issued by the State Comptroller who relied, *inter alia*, on information supplied by Kav LaOved.

The information in the report is based mostly on the work Kav LaOved does as part of its battle against the exploitation of Palestinian workers in Israel and the West Bank. This work motivated by the desire to have Israeli labor laws apply to these workers and their labor rights respected. The approach taken by Kav LaOved was supported in a 2007 Supreme Court judgment, in which the court held that the principle of equality in the enforcement of labor laws applies to all Palestinians employed by Israelis, both in Israel and in the West Bank. Kav LaOved provides legal assistance to Palestinians both in labor courts and in communications with the authorities and works on issues of principle both in the form of legal action and advocacy in Knesset committees. The organization also educates workers through workshops conducted in cooperation with Palestinian trade unions in Qalqiliya, Tulkarem, Jenin and Jericho.

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4 Eckstein Report, (for details see note 1).

5 See MACHSOM WATCH, *Invisible Prisoners—Palestinian Blacklisted by the General Security Services*, April 2007, at <http://archive.machsomwatch.org/docs/InvisiblePrisoners-English.pdf>; *Invisible Prisoners, Don't Know Why and There is Nowhere to Turn*, June 2007—September 2011, September 2011, at <http://www.machsomwatch.org/sites/default/files/Invisible%20Prisoners%20-%20English%20-%20%20March%202012.pdf>; GISHA and Kav LaOved, petition under the freedom of information act requesting information on granting Palestinian workers permits to enter Israel, AP 27605-01-11 (hereinafter: *Freedom of Information Petition*), at <http://www.gisha.org/UserFiles/File/LegalDocuments/27605-01-11/%D7%A2%D7%AA%D7%99%D7%A8%D7%94-01-%D7%A2%D7%AA%D7%99%D7%A8%D7%94-16.1.2011.pdf> (Hebrew), background information in English at [http://www.gisha.org/item.asp?lang\\_id=en&p\\_id=1514](http://www.gisha.org/item.asp?lang_id=en&p_id=1514).

## PALESTINIAN EMPLOYMENT IN ISRAEL

### *Preliminary Restrictions*

#### **Sector restrictions**

Palestinian employment in Israel is restricted to a few sectors: construction, agriculture, industry and services. Some 58% of the permits are designated for construction work, some 35% for agriculture and some 7% for industry and services.<sup>6</sup> Palestinians are permitted to work only in these labor intensive sectors as employers have difficulty finding Israelis who are willing to perform this work for the low wages they offer. These restrictions limit Palestinians' job opportunities in Israel and their ability to professionally advance in other areas.

Tamar (not her real name) resides in a town in southern Israel. She opened a woodshop and attempted to find experienced Israeli carpenters whom she could employ. In the first two years, she was unable to find such carpenters at all, and later, she was only able to find young, unskilled ones. For some two years, Tamar attempted to get a permit to hire a skilled Palestinian carpenter. She filed applications following all the procedural rules, but the authorities denied her application because carpentry is not included among the sectors in which Palestinian labor is permitted. Tamar tried to get help from the more affluent members of her town, which is in need of thriving local businesses, and from local orthodox residents who have connections with Interior Minister Eli Yishay. She even sought the help of members of Knesset, Ministry of Industry, Trade and Labor Executive Director Sharon Kedmi and the Ministry for Development of the Negev and the Galilee, but to no avail. The Ministry of Industry, Trade and Labor told her to get a skilled worker from Romania, at a much higher cost.

Like many others whose needs do not conform to the strict official criteria, Tamar had no recourse but to take the 'unofficial' road. She hired Ayman (not his real name), a Palestinian carpenter from the West Bank who has years of experience and has worked in Israel in the past. Ayman got a work permit by making monthly payments to a Palestinian labor contractor.<sup>7</sup>

#### **Quotas**

The number of Palestinian workers who are permitted to enter Israel at any given time is subject to quotas which are determined by the government for each sector separately. According to the state, the quotas are determined according to economic, security and foreign policy

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6 See table below on p. 10.

7 For details see below, pp. 41ff.

considerations, including Israel's image.<sup>8</sup> Israel is entitled to impose quotas on the entry of Palestinian workers into its territory under, *inter alia*, the Paris Protocol, the economic annex to the Oslo Accords. The Paris Protocol states that the parties would attempt to maintain regular movement of workers between them, subject to the right of each party to determine the scope of and conditions for movement in its territory.<sup>9</sup>

The quota is not published on the websites of the authorities responsible for Palestinian labor in Israel or in their publications. In order to find what the quotas are, one has to contact the authorities directly. At the end of 2011, the total quota for Palestinians permitted to work in Israel was some 33,000, mostly in construction and agriculture.<sup>10</sup>

This number is much lower than the number of Palestinian workers in need of work. The unemployment rate in the West Bank in the last quarter of 2011 was 16.6%, or some 125,000 people.<sup>11</sup> In past years, when the entry of Palestinian workers into Israel was not as restricted, the number of Palestinians working in Israel was, as mentioned, more than 115,000. The quota is also far from representing Israeli employers' need for Palestinian workers, as in addition to the 27,000 Palestinians who were working in Israel with a permit, at the end of 2011,<sup>12</sup> there were between 20,000 and 30,000 Palestinians working in Israel without one.<sup>13</sup> According to a publication issued by the Association of Builders in Israel in 2011, the sector needs 20,000 more workers.<sup>14</sup> Israeli contractors have told MachsomWatch that contractors are short dozens of construction workers each and that they face great difficulties in having their worker quotas increased, although even these quotas fail to meet their demand.<sup>15</sup> According to the Ministry of Agriculture, the full quota for that sector is used and there is a surplus

8 Letter of Coordinator of Government Activities in the Territories (COGAT) and Civil Administration in response to Freedom of Information Petition (hereinafter: *Response to Freedom of Information Petition*, July 4, 2011), available in Hebrew on Gisha's website ([www.gisha.org](http://www.gisha.org)); Palestinian employment in the settlements in the West Bank is not subject to quotas for specific sectors. See, on this, below, p. 37.

9 *Protocol on Economic Relations between the Government of the State of Israel and the PLO, representing the Palestinian People*, Paris, April 29, 2004, Article VII.1, at <http://www.mfa.gov.il/MFA/Peace+Process/Guide+to+the+Peace+Process/Gaza-Jericho+Agreement+Annex+IV+-+Economic+Protoco.htm>.

10 See table below on the next page.

11 Palestinian Central Bureau of Statistics, "Labour Force Survey (October-December 2011)," February 22, 2012, p. 18, at [http://www.pcbs.gov.ps/Portals/\\_pcbs/PressRelease/LabForQ42011E.pdf](http://www.pcbs.gov.ps/Portals/_pcbs/PressRelease/LabForQ42011E.pdf).

12 See table below on the next page.

13 According to estimates by "professionals," more than 20,000 are Palestinian workers are employed in Israel without a permit (State Budget, Proposal for the 2011-2012 Fiscal Year), October 2010, p. 66, at [http://www.mof.gov.il/BudgetSite/StateBudget/Budget2011\\_2012/Lists/20112012/Attachments/1/Budget2011\\_2012.pdf](http://www.mof.gov.il/BudgetSite/StateBudget/Budget2011_2012/Lists/20112012/Attachments/1/Budget2011_2012.pdf) (Hebrew). The Israeli bureau of statistics estimates the total number of Palestinian workers (with and without a permit) in 2010 at about 60,000, i.e. some 30,000 workers without a permit (Eckstein Report, p. 10, for details see note 1).

14 The Association of Builders, "Following Pressure from the Association of Builders and Contractors 2000 of 4000 Palestinian Workers Supplied to Construction Companies," (no publication date indicated) (hereinafter:ACB), at [www.acb.org.il/Site/ContentSystem/ArticlePage.aspx?ArticleID=1968&CatID=111](http://www.acb.org.il/Site/ContentSystem/ArticlePage.aspx?ArticleID=1968&CatID=111) (Hebrew).

15 Stated by Sylvia Piterman of MachsomWatch in meeting with Noga Kadman on March 16, 2012.

demand for Palestinian workers in view of the decrease in the number of migrant workers.<sup>16</sup>

Thus, the need to increase the number of Palestinian workers in Israel is shared by both the employees and the employers, yet the state had not done so and has designated limited worker permit quotas.

*Table: Quotas for Palestinian Workers in Israel in 2011 and their Usage*

SECTOR	QUOTA IN 2011 <sup>a</sup>	EFFECTIVE QUOTA USAGE AT THE END OF 2011. <sup>b</sup>
Construction	19,500	17,757
Agriculture—permanent permit	3,000 <sup>c</sup>	2,483
Seasonal agriculture (strawberry, citrus, olive etc.)	8,800	5,034
Industry and services	2,250	2,101
Miscellaneous (shift supervisors, health inside Israel)	–	190
Total	33,550	27,565

a Ministry of Interior figures at p. 129 of Eckstein Report (for details, see note 1). These figures originally included a quota of 2,000 workers in the “Atarot” industrial zone and 300 health workers in East Jerusalem. We did not include these here as these locations are part of the West Bank.

b Abrahams, December 6, 2011 (for details see note 3). These figures originally included a quota of 1,659 workers in the Atarot industrial zone and 1,673 health and tourism workers in East Jerusalem. We did not include these here (see Ibid).

c The Ministry of Interior figures originally included a quota of 1,750 agricultural workers. We added to these the extra quota of 1,250 in the beginning of 2011.

A review of the figures on quotas and their usage reveals an obvious contradiction: Despite the great demand for workers on the part of employers and the great demand for jobs in Israel on the part of Palestinian workers, the quotas are not fully exhausted. This is the result of the bureaucratic complications that are characteristic of Palestinian labor in Israel.

At the beginning of 2011, the Palestinian worker quota was increased by 5,250 permanent permits (4,000 in construction and 1,250 in agriculture), compared to 2010.<sup>17</sup> There was also an increase of 3,000 temporary work permits for the olive harvest.<sup>18</sup> The new quotas had yet to be used up by the beginning of 2012, despite the great need. In the construction sector, the bureaucratic process contractors must undergo to increase their quotas is complicated and

16 Eckstein Report, p. 74 (for details, see note 1).

17 *Government Resolution No. 2839*, February 10, 2011, at <http://www.pm.gov.il/PMO/Archive/Decisions/2011/02/des2839.htm> (Hebrew).

18 Report of the Government of Israel to AHLC, September 18, 2011, p. 13 (for details see note 2).

involves the submission of many documents, unlike in the past.<sup>19</sup> The builders' association has stated that it had to put pressure on the authorities to "reduce the bureaucracy involved in supplying workers."<sup>20</sup> By October 2011, only about half the new permits for the construction sector were in use<sup>21</sup> and at the beginning of 2012, the Population Immigration and Border Authority (PIBA, or the population authority) reissued unclaimed permits for contractors.<sup>22</sup>

The fate of the new quota for agricultural workers is unclear. The website of the population authority shows only the conditions for obtaining the new quotas in the construction sector and the developments that have occurred on this issue. It contains no information regarding usage of the new quota for agriculture. A Knesset report indicates that this quota was not used at all as of October 2011.<sup>23</sup> The reason for this may be that the number of migrant workers in the agricultural sector has risen by almost 2,000 between the end of 2010 and the end of 2011.<sup>24</sup>

In any event, the rigid distribution of quotas for specific sectors does not always conform to the reality on the ground: while working with Palestinian workers, Kav LaOved has learned that there are many employers who receive permits to employ Palestinians in agriculture, but in fact, employ them in construction, or act as employment agencies that place them with various other employers in the construction sector. These workers work on construction sites, but remain registered as agricultural workers and are therefore disadvantaged. They receive lower wages since the minimum wage in the agricultural sector is lower than the construction minimum wage.

### Age and family status restrictions

In addition to the quota restrictions, there are age and family status restrictions on who may use the work permits. The origin of these restrictions is the prevailing presumption held by security agencies that young men who have no family represent a higher risk potential for

19 Contractors must submit an application form certified by a lawyer, a project information form certified by the company engineer and a declaration of fiscal cycle signed by an accountant. In addition, they must keep in their records for inspection a building permit, writ of construction commencement, schedules, contracts between main and sub-contractors and contracts between the client who ordered the work and the main contractor. See, Employer and Foreign Worker Service Administration, "Administration Head Circular No. 11/15—Procedure for Filing Applications for Permits to Employ Palestinian Workers in the Construction Sector," March 10, 2011, at <http://piba.gov.il/formsandregulations/notice/pages/0942011.aspx> (Hebrew).

20 ACB (for details, see note 14).

21 Stated by Lieutenant Colonel Uri Maman, Head of Economic Division, Civil Administration, Ministry of Defense in telephone conversation dated March 10, 2011 (hereinafter: Maman, March 10, 2011), published in *Non-Israelis in Israel* (for details, see note 3).

22 PIBA, "List of Allocations of Permits for Employment of Palestinian Workers in the Construction Sector," February 2, 2012, available in Hebrew on the PIBA website ([www.piba.gov.il](http://www.piba.gov.il)).

23 Maman, March 10, 2011 (for details, see note 24).

24 From 22,887 at the end of 2010 to 24,612 at the end of 2011. See, Figures on Foreign Nationals in Israel, January 2012, p. 5, at <http://piba.gov.il/PublicationAndTender/ForeignWorkersStat/Documents/%D7%A1%D7%99%D7%9B%D7%95%D7%9D%20%D7%A9%D7%A0%D7%AA%D7%99%202011.pdf> (Hebrew).

Israel. In recent years, the minimum age limit has shifted between 28 and 35. Workers must also be married fathers.

The age restriction often changes for reasons that have nothing to do with a reduction in the alleged risk posed by a certain age bracket. In March 2011, the minimum age for eligibility for a work permit was 35 for most workers.<sup>25</sup> In the first six months of 2011 it was 30,<sup>26</sup> and later that year, it was 28.<sup>27</sup> In November 2011, Israel lowered the age of workers permitted to enter from 28 to 26 as a gesture for the Id al-Adha holiday.<sup>28</sup> The minimum age requirement returned to 28 in December of that year.<sup>29</sup>

There are different age requirements for different sectors. In 2011, Palestinians 28 or older were permitted to work in citrus and strawberry picking, whereas tending to citrus groves was permitted only for people who were 35 or older.<sup>30</sup> It is not clear how the agricultural task performed by the workers affects the level of danger they allegedly pose.

Young Palestinians have the highest rate of unemployment in the West Bank. Twenty-eight percent of the 20-24 age bracket in the West Bank were unemployed at the end of 2011, compared with 16.6% among the overall workforce in the West Bank.<sup>31</sup> The age restriction undermines the ability of individuals within this age bracket to find work.

## ***Restrictive Employment***

Palestinians from the West Bank who are interested in working in Israel may not contact the authorities directly and apply for a permit to do so. They must first find Israeli employers who are prepared to apply to hire them specifically and obtain a work permit for them. The authorities refer to these permits, which are given to the employees, as “permits for employment registered to an employer”<sup>32</sup>. The employers’ ID tags, issued by the Civil Administration, are printed on the permits, making them exclusive to the specific employers.<sup>33</sup>

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25 Response to Freedom of Information Petition, July 4, 2011 (for details, see note 8).

26 Eckstein Report, p. 129 (for details see note 1).

27 PIBA, “Head of Authority Circular No. 37/11—Procedures for Implementation of Allocations of Permits for the Employment of Palestinian Workers in the Construction Sector,” June 26, 2011, at <http://piba.gov.il/FormsAndRegulations/Notice/Pages/26062011.aspx> (Hebrew).

28 COGAT website, “Job Fare at Efrayim DCO,” November 6, 2011, at <http://www.cogat.idf.il/901-9412-he/Cogat.aspx> (Hebrew).

29 PIBA, “Protocol 55/11—Notice regarding Cancellation of Permits for the Employment of Palestinian Workers,” December 18, 2011, at [piba.gov.il/FormsAndRegulations/Notice/Pages/00547.aspx](http://piba.gov.il/FormsAndRegulations/Notice/Pages/00547.aspx) (Hebrew).

30 Response to Freedom of Information Petition, July 4, 2011 (for details, see note 8).

31 Palestinian Central Bureau of Statistics, “Labour Force Survey (October-December 2011),” February 22, 2012, p. 18, at [http://www.pcbs.gov.ps/Portals/\\_pcbs/PressRelease/LabForQ42011E.pdf](http://www.pcbs.gov.ps/Portals/_pcbs/PressRelease/LabForQ42011E.pdf).

32 Employer and Foreign Worker Service Administration, “Administration Head Circular No. 33/11—Protocol for Employing Palestinian Workers in the Construction Sector,” June 21, 2011, at [piba.gov.il/FormsAndRegulations/Notice/Pages/21062011.aspx](http://piba.gov.il/FormsAndRegulations/Notice/Pages/21062011.aspx) (Hebrew).

33 Response to Freedom of Information Petition, July 4, 2011 (for details, see note 8).

Like the restrictive employment arrangement that was in effect with respect to migrant workers and unanimously revoked by the High Court of Justice (HCJ),<sup>34</sup> restrictive employment of Palestinians also limits their freedom and creates a number of difficulties, which are discussed below, both in the process of searching for work and during employment. In addition, it reflects the disregard of the authorities for the needs, wishes, and often also the rights of Palestinian workers as individuals.

### Difficulty finding employers

Because of the closure, West Bank residents who wish to work in Israel do not have easy access to potential work places and employers in Israel. There is no permanent mechanism that enables direct contact between workers and employers. Israeli human rights NGO Gisha has asked the Ministry of Interior whether it facilitates meetings between potential employers and potential workers in order to enable a screening process by the employers. The answer was: “No.”<sup>35</sup> Workers who meet the criteria for working in Israel can receive a permit to enter Israel for three days in order to look for an employer, but the most common way of finding employers is by word of mouth, through family members, friends and neighbors.

Another common way is for job seekers to contact Palestinian go-betweens who recruit workers for Israeli employers for a one-time or monthly fee they collect from each worker.<sup>36</sup> Job seekers without permits use “labor markets,” where workers gather and employers arrive and pick some of them for a few days’ work.

In 2011, the population authority published on its website lists of employers who are permitted to employ Palestinians from the West Bank as part of the quota increase. The purpose of these lists is to provide information to employers rather than workers. They appear in Hebrew only and contain no contact information for the employers.<sup>37</sup> They are of no assistance to job seekers, who are not even aware of their existence and are mostly poor, hard-working individuals who have no access to the internet and cannot read Hebrew.

Finding an Israeli employer is still more difficult for workers who have been blacklisted as “precluded for security reasons.” This label acts as a deterrent on employers. In order to obtain a work permit for workers who have been blacklisted as security precluded, employers are required to go through a protracted bureaucratic process to have the preclusion removed.<sup>38</sup>

The authorities are aware of problems posed by the inability of Palestinian workers and Israeli employers to connect and in November 2011, launched a “job fare” with the hope that

34 HCJ 4542/02 *Kav LaOved Worker’s Hotline v. Government of Israel*, IsrLR [2006] (1), judgment dated March 30, 2006, at [http://elyon1.court.gov.il/files\\_eng/02/420/045/o28/02045420.o28.pdf](http://elyon1.court.gov.il/files_eng/02/420/045/o28/02045420.o28.pdf).

35 Letter from Aharon Barazani, Head of Payment Division to Dr. Nomi Heger of Gisha, dated March 24, 2010, available in Hebrew on Gisha’s website ([www.gisha.org](http://www.gisha.org)).

36 For more on this issue see below, pp. 41ff.

37 For instance: “List of Employers who have Permits for the Employment of Palestinian Workers in the Construction Sector (addition of 4,000 permits to the quota),” at [piba.gov.il/Subject/PalestinianWorkers/Documents/permission.xls](http://piba.gov.il/Subject/PalestinianWorkers/Documents/permission.xls) (Hebrew).

38 On security preclusions and their removal, see below, pp. 21ff.

it would lead to full use of the quota for the construction sector.<sup>39</sup> However, a job fare of this kind fails to provide a solution for the need to have direct access to potential employers. The fare was held on the Israeli side of the crossing and contractors met only with employee representatives. They looked at lists of names of job seekers, rather than meeting with them directly. In addition, as this fare was held only once, it does not constitute an on-going platform for contact between workers and employers. Whether it was successful in bringing together workers and employers and leading to full usage of the quotas remains unknown as the results have never been publicized and a letter sent regarding this issue by Kav LaOved to the office of the Coordinator of Government Activities in the Territories (COGAT) has received no response.<sup>40</sup>

### **Dependency on employers**

A worker who is restricted to an employer depends on him for continued employment. The employer can have a work permit given to any worker revoked, or refrain from having it renewed, whether because he no longer needs the person in question or he wishes to replace him with another. The worker becomes unemployed instantly. Sometimes, employers do not bother telling workers that their permits have been revoked and the workers find out on their way to work, when they are barred from entering Israel at the checkpoint.

This dependency on employers results in threats and extortion and is used as a mechanism to “reign in” employees. An employer who wishes to harm a worker for whatever reason, can complain about him and that worker’s permit will be revoked. Kav LaOved has encountered cases of employers who threaten workers that if they do not act in a certain way they will have them “blacklisted,” and they would then be prohibited from working in Israel.<sup>41</sup> Even if employers are unable, in actual fact, to deliver on such a threat, the very fact that they are in a position of power over the workers along with their ability to cut their wages and undermine their terms of employment gives weight to the threat.

Khader Hasin from the village of Yasuf received a permit to work in Israel for an employer named Yitzhak (not his real name). After he did construction work for the man for about a month, Yitzhak told Khader that he had no more work for him, but that he could continue to ask for a permit for him if he paid 1,500 shekels a month. Khader agreed. He made monthly payments to Yitzhak and found temporary employers in “labor markets.” After some time, Khader wanted to break free of Yitzhak’s exploitation but was met with threats and violence:

“When I tried to speak up and said I wanted to leave and find an employer who would ask for me directly, he threatened to have my permit revoked, to talk

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39 COGAT website, “Job Fare at Efrayim DCO,” November 6, 2011, at <http://www.cogat.idf.il/901-9412-he/Cogat.aspx> (Hebrew).

40 Letter from Hanna Zohar of Kav LaOved to Major Guy Inbar, COGAT Spokesperson and Second Lieutenant Bar Akoka, Public Liaison Officer, Civil Administration, dated March 18, 2012.

41 For more on this issue see below p. 21ff.

to the person in charge of permits at the Civil Administration and make sure that I would be blacklisted. I was really scared. [...]

I didn't pay Yitzhak for April and May 2008, because there was a closure and they canceled all the permits and didn't allow us to come in to work. Yitzhak said he didn't care and that I had to pay anyway. I couldn't, because I had no work and no money to pay. I begged him to forgo the payment for these two months, but it was no use. [...]

In August 2008, I started a regular job with a new employer. He wanted me, because he saw that I was a good worker, and he got me a permit to work for him. I thought I had finally gotten away from Yitzhak. That month, when I was on a construction site in Ramat HaSharon, Yitzhak suddenly showed up with two other people and said I owed him for two months. I refused to pay [...]. He lunged at me and grabbed my neck, choking me. I broke free and threw a garbage can at him, trying to defend myself. I started to shout. The people in the building started to gather around us. The workers ran off [...]. The men who attacked me must have gotten scared. They let go of me and took off and I continued to work.

Later that day, I saw Yitzhak coming back with his brother. After they left, my employer said that Yitzhak wouldn't stop harassing me if I didn't pay. In the meantime, Yitzhak said he would leave me alone if I worked for him for two weeks, instead of the money. I agreed to the arrangement—for my kids' sake, to have some peace and quiet, to end it. I had no choice. I accepted the arrangement so I wouldn't have to be scared any more. From that day, the threats stopped.”

Threats by employers to leave workers without work deter workers from lodging official complaints in cases of extortion, as in Khader's case, or when they are forced to work under unlawful conditions and denied their social rights. In many cases, employers illegally deduct from the workers' wages the money they are required to pay the Payment Division every month to cover workers' taxes and social rights (pension, compensation, sick and vacation pay).<sup>42</sup>

Palestinian workers depend on their employers not just in order to receive what is rightfully theirs, but also in order to work for other employers. This is a result of the fact that an employer can dismiss a worker yet remain in control of his work permit by continuing to make the monthly payments to the Payment Division. This prevents the worker from getting a work permit to work for a different employer.

### **Difficulty switching employers**

A Palestinian worker who is dissatisfied with his Israeli workplace for whatever reason is unable to simply look for other work, get hired and start a new job. In this context, the authorities do

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42 See PIBA, “Division Tasks on the Issue of Employment of Palestinians in Israel,” at [www.piba.gov.il/Subject/PalestinianWorkers/Pages/matlot.aspx](http://www.piba.gov.il/Subject/PalestinianWorkers/Pages/matlot.aspx) (Hebrew) and “Payment and Fulfillment of Social Rights” (available in Hebrew on the PIBA website ([www.piba.gov.il](http://www.piba.gov.il))). The Payment Division has been part of the Ministry of Interior since 2009. Prior to that, it belonged to the Industry and Trade and Labor Ministry.

not treat the workers as individuals who have wishes of their own, but subordinate their wishes to those of the employers. The Ministry of Interior has recently issued a protocol entitled “Protocol for Transfer of Palestinian Workers between Employers in the Construction Sector by Consent.”<sup>43</sup> This protocol emphasizes that workers can transfer from one employer to another “subject, exclusively, to the consent of the transferring employer” and with the consent of the worker and the new employer.

Gisha asked the Ministry of Interior for a copy of the protocol in August 2009. No response has been given to date, and the issue is pending before the court in a petition Gisha filed under the Freedom of Information Act.<sup>44</sup>

This protocol is alleged to have been introduced for security reasons, as a way for the authorities to control the location of workers. In reality, many employers allow workers who are registered with them to work in other places for a fee, without notifying the authorities, while the latter turn a blind eye. By using this unofficial and illegal practice, workers and employers manage to overcome the restrictive employment arrangement which is forced on them and meet the natural need for a free flow of workers between employers. Considering the fact that employees switch employers despite the official policy, the alleged security reason becomes moot and all that remains is the workers’ dependency on the employers which sets the stage for exploitation and violation of rights.

### **Revocation of work permits due to violations by employers**

Palestinians’ work in Israel may be cut short because of actions over which they have no control and which may have already caused them harm. Employers who break labor laws with respect to their Palestinian employees or fail to meet the standards stipulated for their employment, such as filing payment reports and making the monthly payments for these reports to the Payment Division, are penalized by the division with: “pro-active, immediate and automatic suspension of employment permits to workers whose employers have breached their terms of employment.”<sup>45</sup>

Penalizing employers in this manner automatically and immediately penalizes the workers, who become instantly unemployed, despite the fact that they did nothing wrong, and in some cases in addition to the fact that their labor rights may have already been violated.

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43 “Division Manager Circular No. 21/10, Protocol for Transfer of Palestinian Workers between Employers in the Construction Sector by Consent,” October 27, 2011, at [piba.gov.il/formsandregulations/notice/pages/00189.aspx](http://piba.gov.il/formsandregulations/notice/pages/00189.aspx).

44 Gisha and Kav LaOved, Freedom of Information Petition (for details see note 5).

45 Employer and Foreign Worker Service Administration, “Administration Head Circular No. 26/11, Automatic Suspension of Employment Permits of Palestinian Workers,” May 3, 2011, at [www.piba.gov.il/FormsAndRegulations/Notice/Pages/2011-00238.aspx](http://www.piba.gov.il/FormsAndRegulations/Notice/Pages/2011-00238.aspx) (Hebrew); see also, “Administration Circular No. 21/11, Proactive Permit Cancellation,” April 10, 2011.

## *Process of Employing Palestinian Workers in Israel—Difficulties*

### **Long and complicated process**

Israeli employers who want to hire Palestinian workers have to go through a long and exhausting bureaucratic process. Employers in the industry and service sectors have to report to the Employment Office in the area where they conduct their business in order to locate Israeli employees for the job. If such workers are not found within 30 days, the Employment Office informs the Ministry of Interior and recommends the number of Palestinian workers the ministry should allow the employers to hire.<sup>46</sup> Employers in the agricultural sector have to contact the Ministry of Agriculture and apply for a permit to employ Palestinian workers. If the application is approved, the Ministry of Agriculture determines the number of employees the employers would be permitted to have and provides this information to the Payment Division.<sup>47</sup> Construction contractors contact the Payment Division in the area where they conduct their business directly. The Payment Division determines how many Palestinian workers a contractor may employ.

Following this preliminary approval, employers must register with the Payment Division. They are required to arrive at the Payment Division personally in order to sign papers, fill out forms and submit various documents. The process involves many internal inquiries that are listed across three pages of the division's protocol.<sup>48</sup> If registration with the Payment Division is approved, which may take weeks and even months, the employers are required to submit an application with information regarding the specific Palestinian workers they wish to employ.<sup>49</sup> The Payment Division makes sure that the employer's worker quota is not full, that the workers meet the age and family-status criteria and that the employer follows protocol. If the deal is approved, the employer's application is transferred to the Employment Staff Officer at the Civil Administration, who reviews applications for work permits for Palestinian workers. The criteria considered are the absence of a security or military preclusion, the existence of a valid magnetic card and the worker's age and family status. If the application is approved, the Employment Staff Officer grants the worker a permit to enter Israel for purposes of employment. Permits for permanent work are valid for six months and permits for seasonal agricultural work are valid for three months.<sup>50</sup>

46 Division Manager Circular 33/09, Sec. 4.1, and the website of the Israeli Employment Service, at <http://www.taasuka.gov.il/Taasuka/About/Frequently+asked+questions/faq-employers150211.htm> (Hebrew).

47 See "Declaration of Land Rights Owner and Farmer Tending to Land for the purpose of applying for a permit to employ workers from the Territories in the agricultural sector," at [piba.gov.il/Subject/ForeignWorkers/Forms/Documents/Hazthara.doc](http://piba.gov.il/Subject/ForeignWorkers/Forms/Documents/Hazthara.doc) (Hebrew).

48 "Division Manager Circular 33/09, Registration with Payment Division for the Purpose of Employing Workers from the Territories," November 19, 2009, at <http://www.piba.gov.il/FormsAndRegulations/Notice/Pages/33.09.aspx> (Hebrew).

49 PIBA, "Requisition Form—Permits for Palestinian Workers," June 29, 2011, at [piba.gov.il/Subject/PalestinianWorkers/Documents/%D7%98%D7%95%D7%A4%D7%A1%20%D7%94%D7%96%D7%9E%D7%A0%D7%AA%20%D7%A2%D7%95%D7%91%D7%93%D7%99%D7%9D.pdf](http://piba.gov.il/Subject/PalestinianWorkers/Documents/%D7%98%D7%95%D7%A4%D7%A1%20%D7%94%D7%96%D7%9E%D7%A0%D7%AA%20%D7%A2%D7%95%D7%91%D7%93%D7%99%D7%9D.pdf) (Hebrew).

50 Response to Freedom of Information Petition, July 4, 2011 (for details, see note 8); Eckstein Report, p. 34.

Over the years of working with the Israeli authorities in charge of Palestinian labor in Israel, NGOs KavLaOved, Machsom Watch and Gisha have come across extreme foot-dragging and negligent handling of communications regarding Palestinian workers.<sup>51</sup> The organizations have also witnessed lack of coordination between the various authorities; which was also noted in the Eckstein report.<sup>52</sup> The authorities are also ineffective in the services they provide employers. Employers who wish to register with the Payment Division and hire Palestinian workers have to wait for many months, as described above, before workers can begin their actual employment with them.

### **Lack of transparency and freedom of information**

Over the course of their work, NGOs Kav LaOved and Gisha have discovered that basic information about Israel's policy on the employment of Palestinians in Israel is neither open nor publicized. In order to shed light on this subject, Gisha filed applications under the Freedom of Information Act both with the Ministry of Interior and the Coordinator of Government Activities in the Territories, in which it asked for information about the quotas and criteria that apply to Palestinians who are permitted to work in Israel, the actual number of workers and the process of applying for and renewing work permits. In their application to the Ministry of Interior, the NGOs also asked for the names of employers, information about enforcement on employers with respect to payment of wages and terms of employment and protocols relating to switching employers and discontinuing work.<sup>53</sup>

Gisha did not receive the information it requested for more than six months, despite the fact that the law requires it to be provided within 30 days. When a response finally came, it included only partial, vague and contradictory answers, indicating lack of coordination between the authorities.<sup>54</sup> Since the information requested was not provided in full, the NGOs filed an HCJ petition under the Freedom of Information Act.<sup>55</sup> In the petition, the NGOs argued that publication of information pertaining to the employment of Palestinians in Israel would help prevent corruption and abuse of power, as had already occurred, and that it was required in order to safeguard the labor rights of Palestinians working in Israel.

In response to the petition, the authorities provided Gisha with a number of documents in the summer of 2011. Yet these too, failed to provide answers to all the requests for information

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51 On the removal of security preclusions see below, pp. 24f.

52 Eckstein Report, p. 12, (for details see note 1).

53 Letters dated August 10, 2009 from Adv. Yadin Eilam of Gisha to Major Guy Inbar of COGAT (available in Hebrew on Gisha's website ([www.gisha.org](http://www.gisha.org))) and to Mali Davidian, PIBA, Ministry of Interior (available in Hebrew on Gisha's website ([www.gisha.org](http://www.gisha.org))).

54 Letter from Aharon Barazani, Head of Payment Division to Dr. Nomi Heger of Gisha, dated March 24, 2010, available in Hebrew on Gisha's website ([www.gisha.org](http://www.gisha.org)); letter of Major Guy Inbar, COGAT to Adv. Tamar Feldman and Adv. Yadin Eilam of Gisha dated April 11, 2010, at <http://www.gisha.org/UserFiles/File/LegalDocuments/27605-01-11/%D7%AA%D7%A9%D7%95%D7%91%D7%AA-%D7%94%D7%9E%D7%AA%D7%A4%D7%A9-11.4.2010.pdf> (Hebrew).

55 Freedom of Information petition (for details see note 5).

made in the petition, and also included vague information and contradictions. The state has yet to provide any further information and the petition is still pending before the court.

Following the work of the NGOs, there has been some improvement in terms of making protocols relating to the employment of Palestinians in Israel more transparent and accessible, and many now appear on the websites of the authorities.<sup>56</sup> However, many parts of the puzzle that is this policy, including basic figures, are still undisclosed to the public, contrary to the principles of good governance.

### **Corruption and charlatanism**

The process relating to the employment of Palestinians in Israel, with its lack of transparency and its bureaucracy, along with the deficient public scrutiny, provides fertile ground for corruption and charlatanism on the part of both private individuals and officials who make illegal profits at the expense of workers and employers alike.

Dependency on employers invites corruption as employers may charge the workers for their work permits. Kav LaOved is aware of Palestinian workers who pay employers between 1,500 and 2,000 shekels monthly for an Israeli work permit. This fee is meant to “cover” the monthly payment the employers make to the Payment Division for taxes and social benefits and provide them with some extra profit. Employers can also “trade” quotas they have no use for. They charge a worker for the work permit, and the worker then works in other places against regulations.

Palestinians who do not manage to obtain a work permit in Israel and Israeli employers who do not receive approval for hiring Palestinian workers for various reasons, sometimes use middlemen who arrange permits for a fee.

Tamar (not her real name), the owner of a woodshop in a southern town, failed in her many efforts to receive an employment permit for a Palestinian carpenter as this profession is not defined as belonging to one of the sectors for which Israel approves hiring Palestinians.<sup>57</sup> She had no choice but to hire Ayman, a skilled Palestinian carpenter unofficially. Ayman gets his work permit for a monthly fee of 1,800 shekels which he pays a Palestinian middleman. This middleman connects Palestinian workers to an Israeli contractor who is in effect a straw man. The contractor employs Ayman “on paper,” whereas in reality, it is Tamar who pays his salary and makes sure he gets his social benefits. One thousand of the 1,800 shekels Ayman pays are transferred to the Payment Division, which allows for issuance and renewal of his work permit. The rest of the sum is most likely split between the Palestinian middleman and the Israeli contractor, and perhaps other individuals as well.

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56 PIBA website at <http://piba.gov.il/formsandregulations/notice/pages/default.aspx> (Hebrew); COGAT website at <http://www.cogat.idf.il/1038-he/IDFG.aspx> (Hebrew).

57 For details see above, p. 8.

Corruption occurs even within the establishment, inside the very authorities that deal with Palestinian employment in Israel. Some of these affairs have reached the courts:

1. In 2009, a police officer was convicted of brokering bribery, after he gave an Israeli contractor 138 Israeli entry permits for Palestinians for a sum of 15,000 shekels. The permits were issued without the required screening and one of the individuals who received them had been under a security preclusion.<sup>58</sup>
2. According to the IDF spokesperson, in 2009, a Civil Administration employee received bribes from Palestinians in exchange for issuing Israeli work permits.<sup>59</sup>
3. In 2009, the media reported the arrest of a Civil Administration employee and a senior Ministry of Interior employee on suspicion that they issued hundreds of forged Israeli stay permits for Palestinians to a “network that smuggled Palestinian workers into Israel” and which “made transactions worth millions of shekels over the years.”<sup>60</sup>
4. In 2011, a clerk at the Payment Division at the Ministry of Industry Trade and Labor was convicted of aggravated fraudulent receiving and breach of confidence after she used threats to receive money from the owner of an employment agency which she had registered, in exchange for furnishing permits to employ workers from the West Bank.<sup>61</sup>
5. The most senior official in this system has also been convicted. Amram Kavilo, who served as the head of the Employment Division in the Civil Administration in the West Bank from 1995, was convicted in 2011 of taking bribes and breach of confidence. Kavilo issued work permits in exchange for bribes he received from contractors and workers between 2007 and 2009.<sup>62</sup>

The assimilation and enforcement of norms of transparency and good governance among the authorities that deal with Palestinians labor in Israel is essential for preventing cases such as these from recurring.

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58 CrimC 1568/04, *State of Israel v. Sofer* (unreported, rendered May 26, 2005), and the appeal the state filed against the lenient sentence the defendant received, in which he was given a stricter sentence, CrimAS 6622-09, *State of Israel v. Sofer* (unreported, rendered February 24, 2010).

59 Israel Defense Forces website, “Civil Administration Employee Admits Taking Bribes,” August 23, 2009, at [http://dover.idf.il/IDF/News\\_Channels/today/09/08/2302.htm](http://dover.idf.il/IDF/News_Channels/today/09/08/2302.htm) (Hebrew).

60 Ayala Hananel, “Palestinian Laborers Smuggled for Bribes,” Walla news website, February 14, 2010, at <http://news.walla.co.il/?w=/10/1642984/@/@/item/printer> (Hebrew).

61 CrimC 8140-07, *State of Israel, South District Attorney—Criminal v. Khadir et al.*

62 CrimC 6202/11 *State of Israel v. Amarm Kavilo*, Judgment and Amended Sentencing Decision dated December 14, 2011, at [elyon2.court.gov.il/files/11/020/062/E08/11062020.E08.htm](http://elyon2.court.gov.il/files/11/020/062/E08/11062020.E08.htm) (Hebrew).

## *Additional Obstacles*

### **Security preclusions and the difficulty in having them removed**

#### *What is a security preclusion?*

Tens of thousands of residents of the OPT are believed to be blacklisted by the Israel Security Agency (ISA, formerly also known as the General Security Service or GSS) as “precluded for security reasons.”<sup>63</sup> As such, their rights are subject to restrictions, including denial of the right to work and earn a living in Israel.<sup>64</sup>

An individual is blacklisted as security precluded without prior notice or a chance to make a case against the decision before it is finalized. The preclusion is imposed without citing the grounds for the decision other than a brief statement about “security considerations.” The criteria remain classified and the allegations against individuals who have been blacklisted are not revealed to them. No notice is given to these individuals after the fact either. They find out about the preclusion out of the blue, when they try to cross a checkpoint on the way to work and are told that they cannot cross. They find out that the reason for this is that they had been blacklisted as security precluded, only after a long and exhausting series of inquiries with their local District Coordination Office (DCO). Neither the soldiers at the DCO nor any other official tell them whether they can challenge the decision or how. As such, the process by which a security preclusion is imposed is administratively deficient in addition to being a violation of rights.<sup>65</sup>

#### *Who gets precluded? Are they dangerous?*

Allegedly, a person who is blacklisted, and as such prohibited from entering Israel in order to work, is “a resident of the Area who may pose a security risk to the State of Israel, or any member of his or her family.”<sup>66</sup> Certainly some Palestinians have been blacklisted because they pose such a risk, but the experience gained by MachsomWatch, working with thousands of blacklisted Palestinian workers, shows that the vast majority of them are far from posing any risk: they are ordinary people who are simply trying to make a living. They have never been in jail. They do not know why they were put on the blacklist and the authorities do not even attempt to arrest or interrogate them.<sup>67</sup>

63 According to figures provided to Kav LaOved from the Palestinian Authority Employment Service in April 2012, in the Tulkarem district alone, the number of “security precluded” was 17,000.

64 PIBA, “Inasmuch as there is a change in the security classification [...] the permit will be revoked or suspended and it will no longer be possible to employ the worker.” Administration Head Circular No. 33/11 (for details see note 35).

65 For more on this issue see, HCJ 8155/06 *The Association for Civil Rights in Israel v. IDF Commander in Judea and Samaria et al.* (hereinafter: Security Preclusion Petition). Petition available in Hebrew on ACRI’s website ([www.acri.org.il](http://www.acri.org.il)), related documents available in English on HaMoked’s website ([www.hamoked.org.il](http://www.hamoked.org.il)).

66 Response to Freedom of Information Petition, July 4, 2011 (for details see note 8).

67 MachsomWatch, *Invisible Prisoners*, April 2007, p. 16 (for details see note 5).

Some were imprisoned during the first Intifada because they threw stones when they were teenagers. They received permits to enter Israel in the 1990s but were blacklisted some time after the beginning of the second intifada. Some had worked in Israel to the satisfaction of their employers for many years, in some cases 20 to 30 years. Neither they nor their employers have any idea why they were blacklisted.<sup>68</sup> MachsomWatch has encountered some cases of workers who were blacklisted following a dispute with their employers or after they were fired. It may be that in these cases, employers who wanted to make sure the workers would not be able to re-enter Israel, contacted the authorities and gave them information that led the workers being blacklisted.<sup>69</sup>

Residents whose family members were killed by Israeli security forces are automatically precluded for security reasons. The authorities view them as “potential avengers.” Many Palestinians who are married to residents of East Jerusalem or Israeli citizens also become blacklisted and the Ministry of Interior forbids them from residing in Israel with their families.<sup>70</sup> Sometimes, individuals are blacklisted as security precluded simply because they refuse to cooperate with Israeli security agencies or as a means of putting pressure on them to do so, taking advantage of their distress and desperate need to find work.<sup>71</sup>

Many workers provide for their own, sometimes very large, nuclear families and often also support siblings and parents. They are unable to save money during their years of employment and being put on the blacklist robs them of their livelihood and sentences them and their families to economic hardship.<sup>72</sup>

“One minute you have [work] and the next you don’t. One minute you have a life, a job, a future, food on the table, education for the kids, gas for the car, a new coat in the rainy winter, and the next you don’t—no life, no job, no future, no food on the table, no education for the kids, no gas for the car, no new coat for the rainy winter, and then yes—for no reason really. And it’s not that you’ve suddenly become sick, god forbid. It’s not that the place where you worked shut down. It’s not a tsunami, or a war. It’s a clerk at the Civil Administration, and an ISA man, and a soldier at the checkpoint who say yes one minute, and something else the next. What does this do to a man who has to go through this?”<sup>73</sup>

The large number of security preclusions that are lifted as a result of an appeal to the authorities or a petition to the court implies that there is often no real risk, as seen below.

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68 MachsomWatch, *Invisible Prisoners*, September 2011, pp. 31-36 (for details see note 5).

69 Stated by Sylvia Piterman of MachsomWatch in meeting with Noga Kadman on March 16, 2012.

70 MachsomWatch, *Invisible Prisoners*, April 2007, pp. 30-31.

71 Security Preclusion Petition, paragraphs 65-66; MachsomWatch, *Invisible Prisoners*, April 2007, pp. 20-23; B’Tselem, *Builders of Zion* (for details see notes 1, 5, 68).

72 MachsomWatch, *Invisible Prisoners*, September 2011, p. 35.

73 Hagay Marar, “The People behind the 35%,” Mysay website, November 30, 2012, at [www.mysay.co.il/articles/ShowArticle.aspx?articlePI=aaaxea](http://www.mysay.co.il/articles/ShowArticle.aspx?articlePI=aaaxea) (Hebrew).

### *The disappearance of the security risk posed by precluded individuals*

Palestinian workers who have been blacklisted can appeal to the authorities via their employers. If the appeal is rejected, they can petition the court. Appeals filed by MachsomWatch against security preclusions imposed on 5,000 Palestinians between 2005 and 2011 have resulted in the preclusion being lifted in 35% of the cases.<sup>74</sup> Up to September 2011, MachsomWatch had filed 283 court petitions with respect to preclusions imposed on Palestinian workers and businessmen in cases that were rejected or not answered by the administrative authorities. In 75% of these cases, the authorities lifted the preclusion following submission of the petition.<sup>75</sup>

In all the cases in which petitions were filed, the preclusion was lifted before the court held a hearing; perhaps because the ISA had no solid evidence to present to the judges or because it preferred not to expose the considerations for imposing the preclusion in cases in which it was done as a means to pressure the petitioner to cooperate with security forces or as a punishment for refusing to do so.

HaMoked: Center for the Defence of the Individual has had a similar experience. Written communications to the administrative authorities in hundreds of cases of security preclusions that prevented Palestinians from traveling abroad, resulted in the removal of the preclusion in 41% of the cases. When the authorities refused to lift the preclusion, HaMoked petitioned the court, which resulted in the removal of the preclusion in 78% of the cases. All in all, in close to 75% of the cases processed by HaMoked, the security preclusion was lifted (following correspondence with the administrative authorities or legal action).

These figures demonstrate that a large proportion of the decisions to impose security preclusions are arbitrary, reached without a thorough inquiry into the matter and revoked following intervention by organizations and lawyers and through legal action—without any change in the circumstances that had allegedly caused the preclusion. This leads to the conclusion that in all these cases the decisions to impose preclusions and, as a result, send many people into prolonged unemployment were entirely unnecessary.

Kifah and Ahmad (not their real names) are a brother and sister who had worked at the Royal Life factory in the Barkan industrial zone for many years, receiving less than the minimum wage prescribed by law. They and dozens of other workers sued the factory. They were fired and won 10,000 shekels in the suit.<sup>76</sup> In 2009, they returned to work at the same factory for a higher wage, but still lower than the 13-shekels-an-hour minimum wage. A few months later, the manager told them that they were blacklisted and that he could not get them work permits. Kifah and Ahmad were again fired from the factory without knowing why they had suddenly become blacklisted. One of their brothers was arrested in 2008 and

74 Stated by Sylvia Piterman of MachsomWatch in meeting with Noga Kadman on March 16, 2012.

75 In 68% of the cases, the preclusion was removed prior to the hearing. In the remaining 7%, the preclusion was removed after an application was submitted based on information received during trial which had not been previously disclosed to the petitioners. See MachsomWatch, *Invisible Prisoners*, September 2011, p. 102.

76 For more details about the suit, see below, pp. 42f.

sentenced to 18 months but it is not clear that this had anything to do with Kifah's and Ahmad's security preclusions, as this occurred after the brother was released and after they had received permits while he was in jail. Their father works in Israel with a permit to this day.

The siblings tried to have the security preclusion removed with the help of a lawyer, but their application was denied. In 2011, they petitioned the court through Kav LaOved. Following the petition, they were permitted to work for another employer in the settlements, though their security preclusion was not lifted.

### ***Removing a preclusion—dependency on employer***

Since May 2011, residents of the OPT who have been blacklisted as security precluded and wish to work for Israeli employers, cannot appeal the preclusion to the authorities independently. The only way to do so is through their employers.<sup>77</sup> An employer can file an appeal only after he asks for a specific worker from the authorities and receives a negative response due to a security preclusion.<sup>78</sup> If the employer is still interested in hiring that same worker, he has to submit a written security-preclusion-removal form to the Employment Staff Officer. Workers have no status in these appeals. They cannot attach a statement to the form or follow up on the appeal. This constitutes denial of their right to counsel. The authorities do not bother telling blacklisted individuals when their preclusions are removed. Notification is given only to the employers.<sup>79</sup> The preclusion removal forms provide no space for employers to write anything about the employee in support of the application, such as details relating to their personal knowledge of the worker over many years.

Israeli employers may file applications to have preclusions removed for up to 10% of the workers they are allowed to have. Employers in the settlements may do so for up to 5% of the employees actually working for them. Employers who have filed applications to have a security preclusion removed cannot wait for their blacklisted employees as the process takes an average of ten weeks officially,<sup>80</sup> though much longer in reality as this period does not include weekends and holidays. In order to meet their pressing deadlines, employers usually

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77 Until then, appeal proceedings had undergone several transformations. Up to June 2007, a precluded person could file an appeal against the preclusion to the legal advisor for the West Bank directly, usually without having to attach a letter from his employer. From June 2009, it was not possible to appeal for ten months. From April 2010, residents could appeal at their local DCO with a letter from their employer. This procedure was ended in March 2011 and no clear procedure was in place for two months. For more details see *Invisible Prisoners*, September 2011.

78 "Procedure for Removal of Security Preclusion," including application form, on the COGAT website, at [www.cogat.idf.il/Sip\\_Storage/FILES/6/2626.pdf](http://www.cogat.idf.il/Sip_Storage/FILES/6/2626.pdf) (Hebrew).

79 MachsomWatch, *Invisible Prisoners*, September 2011, p. 37 and information provided by Sylvia Piterman of MachsomWatch in meeting with Noga Kadman on March 16, 2012.

80 Yizhak Levi, Employment Staff Officer, "Useful information for employers seeking to file applications for removal of a security preclusion of a Palestinian worker for the purpose of employing him in Israel," April 27, 2011, received by Adv. Tamir Blank on May 30, 2011.

hire other employees. In such cases, if the preclusion is ultimately removed, the blacklisted employees cannot receive permits for the employers who filed to have the preclusion removed as the job openings would have already been filled and they must look for another employer. The rejection of an application to have a security preclusion removed can be challenged in court, or a new application may be filed after a 12-month waiting period.

Many employers find it difficult to handle the process of having a security preclusion removed on their own and need the assistance of a lawyer, or an organization such as MachsomWatch. Not all employers go to the bureaucratic trouble of having a preclusion removed when they can hire someone else who is not blacklisted. Having a preclusion removed is particularly difficult for job seekers who do not have an employer who wants them specifically. They find it very difficult to find an employer who would not be discouraged by their being labeled dangerous and agree to ask to have their preclusion removed.

Kav LaOved has had contact with hundreds of blacklisted Palestinians living in the northern West Bank who are looking for work. Most are men over the age of 30, married and fathers, namely, they meet the criteria for employment in Israel. They are the sole providers for themselves and their families. More than half of them have previously worked in Israel with a permit. The NGO's employees and volunteers spoke to each of these men and explained how they might be able to have the preclusion removed. A few months later, almost none of them had been able to find an employer who would ask to hire them and apply to have the preclusion removed.

The vast majority of these men, like tens of thousands of others, have no possibility of ridding themselves of the security preclusion or proving that it was unjustly imposed. As a result, they sometimes remain unemployed for years.

**Othman Sharabaji from Tulkarem told Kav LaOved:** I worked as a painter at a famous auto body shop in Jaffa for four years. I worked from morning till midnight, or a little after, every day. I ate, drank and slept in that shop. I went home, at my own expense, once a month, or once every month and-a-half. I am the father of two quadruplets. When I worked there, the first quadruplets (three boys and a girl) were students, and I needed every penny. I had to go on working even when it was really difficult—the long hours, the lack of air, the pollution and the living conditions in that place.

In 2009, after four years, I had had enough. I'm not a kid. I'm over 50 and the crazy hours and being far away from my family were hard for me. I got paid 1,200 shekels a week, which I didn't complain about, although it wasn't fair. I told my employer that I was willing to work 8 to 10 hours a day, no more, because I couldn't do it anymore. He got mad and told me that that was what he had and that he had nothing else to offer. I said I wasn't willing to go on like that and asked for my pay slips, which he never gave me, so I could know how much I had coming to me.

He said in an angry tone that he would give them to me and added: "I swear to you, you won't enter Israel again. I'll make sure you get blacklisted." I didn't take

the threat seriously, though every once in a while some friends of his, who looked like they were important and powerful, would come to the shop.

When I got the slips, I saw that he had written that I worked eight hours a day, 15 to 16 days a month, which was a lie. I worked 12—13 hours a day, sometimes on weekends too. I sued him. He used a Palestinian acquaintance to try to put pressure on me and my lawyer, to prevent us from going to court. We reached a deal whereby he would pay 12,000 shekels. I got 10,000 and the lawyer got 2,000.

A few months after I left the auto shop, I asked for a permit to enter Israel as a merchant. I got it. I got in and worked for about a week. I was detained at the checkpoint every day. About a week later, they took my permit and told me I was precluded. I had worked in Israel since I was 14. I am now 54 years old. I've never been blacklisted and I've never gotten into any trouble.

I've been blacklisted since 2009 now and it's been difficult. I'm sure it's that employer who did this. I have no desire to harm him, but I don't understand what I did wrong to deserve to be blacklisted. I now work one day and have no work for many. When I do find work, the maximum pay I get is 100 shekels a day.

The fact that you have to find an employer to try to have a preclusion removed is very frustrating because I don't know anyone. I didn't get a chance to get to know Jaffa or other employers in the area because I was enslaved at my old job. I couldn't even take a peak outside. I don't know anyone who could ask for me and try and remove this preclusion that came up all of a sudden.

My children, who are students, have finished their studies. This year, my second quadruplets are taking their matriculation exams. Between you and me, I'm hoping two of them do well and two don't. That way, I'd have an excuse not to send them to get higher education. Two of them could work and help me.

In mid-May 2012, as this report was being written, Adv. Tamir Blank, who works with MachsomWatch, received a letter from the Employment Staff Officer regarding the removal of security preclusions. According to the letter, the procedure has been changed and as of May 2012 **a worker** or **an employer** may file an application to have a security preclusion removed at the worker's local DCO, either in person or by fax. However, the Israeli employer is still required to file an application to hire the specific worker as a condition for processing the removal of the preclusion (employers in the settlements are only required to send a letter explaining the need for the worker). This means that workers still depend on employers to have their preclusions removed. Still, workers can now file the applications on their own, which they could not do last year.

As of mid-June 2012, the new procedure has yet to be published and the old one still appears on the COGAT website. However, aided by the persistence of MachsomWatch, the DCOs are gradually beginning to receive applications for removal of security preclusions submitted by Palestinian workers.

### ***Inconsistency and lack of transparency***

The process by which security preclusions are removed has changed a number of times over the years, always suddenly and without notice. The body that receives such applications has been changed a number of times. Each change was followed by a long adjustment period on the part of the relevant authorities until it was assimilated and began to function smoothly. The various procedures pertaining to removing preclusions that were in existence over the years were not made public and workers and employers had to stumble their way through trying to have preclusions removed, often having to pay large sums of money to lawyers and requiring the assistance of NGOs. All this took place while the workers remained at home without an income.<sup>81</sup> The lack of transparency and the absence of information turned a simple process into an ordeal.

When Gisha began working on this issue, it had to make many telephone calls to various offices in the Civil Administration, MACHSOMWATCH volunteers and private lawyers to collect bits and pieces of information about the process. The procedures that are currently in place were published only after NGOs Gisha and Kav LaOved petitioned the court under the Freedom of Information Act, and then too, only in Hebrew.<sup>82</sup>

### ***Impropriety, negligence and disrespect***

Over the course of the years, NGOs working on this issue have encountered severe violations of the principles of good governance in the process of removing security preclusions. These include chronic lack of response to telephone calls, refusal to confirm receipt of faxes, denial of receipt of mail, refusal to provide forms, difficulties receiving written protocols, applications that were not found in the system despite having been submitted, lack of response for many months, inaccurate information about processing status, attempts to evade processing and sending employers back and forth between different offices.<sup>83</sup>

This disrespectful, negligent and slow conduct leaves Palestinian workers unemployed for prolonged periods of time. They miss precious work days while the Israeli employers are deprived of the work of skilled laborers.

The appeals process is also improper. Residents who have been put under a security preclusion are not given the opportunity to plead their case and even if they were given the chance, they would be unable to do so as they are not informed of the allegations against them. The appeals process does not include a thorough examination of whether or not there are facts that substantiate the alleged security threat posed by a certain individual or whether there are

81 MACHSOMWATCH, *Invisible Prisoners*, September 2011 (for details see note 5); letter to Micha Lindenstrauss, State Comptroller from Adv. Nomi Heger of Gisha, July 21, 2011 (hereinafter: Gisha letter to State Comptroller, July 21, 2011), at [www.gisha.org/UserFiles/File/HiddenMessages/tlunamevakerhamedina.pdf](http://www.gisha.org/UserFiles/File/HiddenMessages/tlunamevakerhamedina.pdf) (Hebrew).

82 COGAT website, "Protocol for Removal of Security Preclusion," at [http://www.cogat.idf.il/Sip\\_Storage/FILES/6/2626.pdf](http://www.cogat.idf.il/Sip_Storage/FILES/6/2626.pdf) (Hebrew).

83 MACHSOMWATCH, *Invisible Prisoners*, September 2011, Gisha letter to State Comptroller, July 21, 2011 (for details see note 84).

well founded reasons justifying the injury caused to that person. Decisions on appeals do not specify grounds other than general “security considerations.”<sup>84</sup>

### ***Petitions against security preclusions***

In cases of refusal of an application to have a security preclusion removed for the purpose of entering Israel in order to work, or in cases where such applications receives no response, workers may file a petition to the Court for Administrative Affairs (or to the High Court of Justice, in cases of an application to work in the settlements). One major obstacle that stands in the way of using this avenue is the costly court application fee, close to 2,000 shekels, a sum which is often beyond the reach of unemployed Palestinians.

As stated, in most cases, petitions are deleted before a hearing is held, when the ISA decides to remove the preclusion. The state files responses to the petitions that are not deleted. These usually include a few words relating to the reason for the preclusion. In this manner, individuals who have been blacklisted glean some information about the allegations against them and their lawyers can file their response to them. At the hearing, the ISA presents the judges with the classified material on which the preclusion is based. The workers and their lawyers have no access to this material and are therefore unable to disprove it or argue against it. The final decision as to whether or not to lift a preclusion ultimately lies with the ISA. The judges never intervene in this decision, even when petitioners are punished for the actions of others (relatives). If the ISA refuses to change its position on the need for the security preclusion after the court hearing—the petitioning worker remains precluded.<sup>85</sup>

### **Police preclusion**

In addition to Palestinians who are under an ISA imposed security preclusion, tens of thousands more are under a police preclusion which also prevents them from receiving work permits for Israel. The vast majority of the individuals who are under a police preclusion were blacklisted for illegal presence in Israel after having entered the country without a permit in order to work.<sup>86</sup>

The Israel Police Commissioner has produced a list of criteria which determine the length of time Palestinians would be barred from entering Israel due to a police preclusion. These criteria were originally classified. They were publicized only in 2007, following a petition submitted by the Association for Civil Rights in Israel.<sup>87</sup> The criteria stipulate a hierarchy of

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84 Security Preclusion Petition (for details see note 68).

85 MacshomWatch, *Invisible Prisoners*, September 2011, pp. 101-114 (for details see note 5).

86 MachsomWatch, *Obstacle Course—Conduct of the Israel Police in the Occupied West Bank*, December 2010 (hereinafter: MachsomWatch, *Obstacle Course*), p. 9, at <http://www.machsomwatch.org/sites/default/files/Obstacle%20Course1.pdf>.

87 Criteria for restricting the entry of residents of the Palestinian Authority into the territory of the State of Israel, on grounds of crime prevention, September 17, 2010 (hereafter: Criteria Document). Appears in MachsomWatch, *Obstacle Course*, pp. 127-134. The criteria were published following HCJ 2685/06 *The Association for Civil Rights in Israel v. Israel Police et al.* The petition was deleted following publication of the criteria.

preclusions based on the severity of the resident's criminal record and prior convictions. The most common are:<sup>88</sup>

1. A Palestinian who has been arrested and booked for illegal presence in Israel will be barred from entering Israel for 18 months, even if the arrest did not result in charges being pressed or a conviction and even if the case was closed a week after being opened.
2. A Palestinian who has been convicted of illegal presence in Israel by a court of law and sentenced to up to a year in prison (the prison sentence for this offense is usually three months) is barred from entering Israel for three years. Thus, in addition to their prison sentence, these individuals are given an equally harsh sentence—the denial of their ability to earn a living in Israel.
3. A person who was tried but not convicted, or received a sentence other than a jail term is barred from entering Israel for two years.

In addition to the criteria, the document also includes a vague provision which allows the police to preclude residents of the OPT who have no criminal record or prior convictions if the “police officer believes that allowing this individual to enter Israel raises concern for public order and safety.”<sup>89</sup> According to this provision, any police officer has the power to prevent Palestinians from entering Israel for the purpose of working for any length of time.

According to the criteria document, a person who wishes to challenge a police preclusion can make a written submission to army officials.<sup>90</sup> Adv. Tamir Blank, who works with MachsomWatch, has tried to follow this instruction in 2008 and 2009 but encountered uncertainty as to the exact body that processes such requests.<sup>91</sup> In 2010, following directions from the court, the state presented the “Submission of Appeals Protocol—Police Preclusions” which COGAT issued back in August 2009.<sup>92</sup> According to the protocol, a Palestinian can appeal a police preclusion after his employer has filed an application for a work permit for him and the application has been refused due to the police preclusion. In order to request the removal of the preclusion, the resident is required to contact the DCO to file an appeal and the appeal is then transferred to the police for a recommendation. The police decision on this issue requires the approval of the head of the DCO.

After receipt of the protocol, Adv. Blank attempted the appeals process once again, but discovered that no one had informed the soldiers and police officers at the DCOs about the protocol and the process was complicated and time consuming. In this case too, if an appeal is rejected or remains unanswered, petitions can be filed to the Court for Administrative Affairs. In cases that reach the courts, if a preclusion is ultimately lifted, it is done before the hearing

88 Criteria Document, Sections E(1), G(1) and G(2) respectively.

89 Ibid., Section L.

90 Ibid., Section M.

91 MachsomWatch, *Obstacle Course*, pp. 23-25 (for details see note 89).

92 Ibid., Appendix C, Hebrew version only, at [http://www.machsomwatch.org/sites/default/files/MoreNevukhim\\_0.pdf](http://www.machsomwatch.org/sites/default/files/MoreNevukhim_0.pdf).

stage. Once the matter goes before a judge, as is the case with security preclusions, the courts normally refrain from intervening in the decision of the police.<sup>93</sup>

### **Administrative preclusion**

Another type of preclusion which bars Palestinians from working in Israel is an “administrative preclusion.” It is imposed by the DCOs on Palestinians who committed administrative offences, such as working for an employer who is not listed on their work permit, or owing money to Israelis, including traffic fines that were given in Israel or in the OPT by the Israel Police. Administrative preclusions are normally imposed for one year. In cases of money owing, the preclusion is removed only after it has been paid. These sums often reach thousands and tens of thousands of shekels over the years.<sup>94</sup>

### ***Crossing Difficulties***<sup>95</sup>

Palestinians lucky enough to receive a permit to work in Israel have to return home at the end of every working day. Though the distance between their homes in the West Bank and their workplaces inside Israel is not too great, they spend hours commuting each day. Much of this time is spent waiting at the checkpoints, each of which serves thousands of workers daily.

In order to get to work on time, the workers must leave their homes and head to the checkpoint in the middle of the night. They start gathering there as early as at 2:00 a.m. By the time the checkpoints open, at 4:00 a.m., the lines of workers are already hundreds of meters long with hundreds, sometimes more than a thousand workers, waiting. Because of the overcrowding and the stress about being late for work, workers often push and shout, and fights break out. The situation is worse when one of the crossings is not in operation, which is a common occurrence. The crowding creates congestion and pressure near the turnstiles through which the workers have to pass. This has often resulted in people being crushed and injured.

Mahmoud Amer, Chairman of the Palestinian General Federation of Trade Unions in the Qalqiliya district says the private security company that runs the checkpoint does not allow the workers to bring tools, drinks and packaged food into Israel, despite the fact that the crossing is equipped with imaging devices. When they reach the front of the line, the workers are brought into a small room in groups of eight, where they undergo a long and invasive manual search. They are then transferred to another small room where they are searched for a lengthy period of time with metal detectors.

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93 Mahsom Watch *Obstacle Course.*, pp. 23-27.

94 Ibid., p. 29, see *ibid.*, pp. 30-35 on the discriminatory manner in which traffic fines are given in the West Bank and Palestinians’ difficulties in paying them.

95 See Kav LaOved, “Workers fight over their spot in the queue while under a strict security search,” April 2, 2010, at <http://www.kavlaoved.org.il/media-view1263.html?id=2712> (Hebrew); “The Daily Journey of Palestinian Workers,” August 30, 2009, at [http://www.kavlaoved.org.il/media-view\\_eng6102.html?id=2483](http://www.kavlaoved.org.il/media-view_eng6102.html?id=2483); “A visit to the Qalqilia checkpoint,” November 07, 2009, at [http://www.kavlaoved.org.il/media-view\\_engd1f9.html?id=2390](http://www.kavlaoved.org.il/media-view_engd1f9.html?id=2390).

The waiting area on the Israeli side of the crossing is uncovered. In the winter, the workers wait in the rain, wind and cold and in the summer, under the hot sun. There are no bathrooms for the workers to use. On the Palestinian side, where Palestinian officials run the crossings, there are benches and a large awning, a public toilet and an office that processes worker complaints. Order in the lineup is maintained by distributing numbers.

When the Palestinian workers exit the crossings, after having waited for many hours, they often have to pay exorbitant prices to have private taxis take them to their workplaces, as public transportation does not service people crossing the checkpoints. At the end of the working day, when they return home, Palestinian workers who try to get on Israeli buses that service the settlements are often rejected by the drivers.

Munir (not his real name) told Kav LaOved that in June 2012, he tried to take the Egged bus that goes to Ariel, but the driver refused to drive until he got off the bus. Munir showed him his permit for entering and working in Israel, but the driver did not budge. Munir refused to get off the bus and the driver called the police. After they checked Munir's documents, the police officers ordered the driver to allow Munir to take the bus.

As of May 2009, the workers' entry and exit times are registered at the crossings through their magnetic cards. Every time a worker is late returning for whatever reason, he receives demerit points. If he accumulates enough of these, his permit will be revoked. In the past, many workers returned home once or twice a week because of the difficult conditions at the crossing points. However, the new procedure compels them to return home every day.

### **Harm to workers due to closure**

Israel tightens the closure on the OPT from time to time. When this happens, it forbids Palestinian permit holders, including those holding work permits, from entering Israel.<sup>96</sup> There are dozens of closure days each year.<sup>97</sup> A closure is usually announced during the Jewish holidays, but it often lasts much longer than the holiday itself. During a closure, the workers are forced not to work and are not paid. Sometimes there is no official closure, but the checkpoints are closed for many hours for various reasons, and the workers miss precious work days. This occurred, for instance, during the Jewish holiday of Purim this year at the Bethlehem checkpoint, when it was closed for hours due to a "shift change."<sup>98</sup> Workers are sometimes fired because they are unable to reach their workplaces due to a closure.

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96 "Inasmuch [...] as a full or partial closure is imposed, the permit will be revoked or suspended and it will no longer be possible to employ the worker." Employer and Foreign Worker Service Administration, Administration Head Circular No. 33/11 (for details see note 35).

97 39 closure days were announced between July 2010 and June 2011. 50 were announced in the preceding year. United Nations Office for the Coordination of Humanitarian Affairs (OCHA), oPt, "West Bank Movement and Access Update," August 2011, p. 13, at [http://www.ochaopt.org/documents/ocha\\_opt\\_movement\\_and\\_access\\_report\\_august\\_2011\\_english.pdf](http://www.ochaopt.org/documents/ocha_opt_movement_and_access_report_august_2011_english.pdf).

98 Stated by Sylvia Piterman of MachsomWatch in meeting with Noga Kadman on March 16, 2012.

Employers and their businesses are also harmed by this. In its report, the Eckstein committee ignored the harm done to the workers, but did state that “the aim should be for as many Palestinian workers as possible in each sector to be defined as “closure proof” by security officials, after undergoing screening and meeting preset criteria. This would prevent critical damage in the sectors in which they work in case of a closure on the Territories.”<sup>99</sup>

The closure also impedes the workers’ ability to take advantage of their social rights in case of violation against them due to the difficulty in obtaining permits to enter Israel for the purpose of meeting with lawyers, reporting at the offices of the National Insurance Institute or attending labor court hearings.

## ***Violation of Social Rights***

According to a 1970 government resolution,<sup>100</sup> Palestinian workers in Israel must be paid “gross and net wages equal to the wages of any other worker in Israel with the same professional and personal particulars.” Palestinian workers are also “entitled to the same social benefits to which any worker in Israel who has the same particulars is entitled.”<sup>101</sup> The Payment Division is responsible for upholding the resolution through receipt of monthly payments from employers for each employee. The payment covers the various taxes and social benefit deductions.<sup>102</sup>

Despite the fact that the Payment Division diligently collects the payments designed to fund social benefits for Palestinian workers, it does not meet its responsibility to make sure that these funds actually go toward guaranteeing the workers’ rights and fails to properly enforce the law on employers who violate them.<sup>103</sup>

## **False reporting by employers**

One of the prevalent methods Israeli employers use to save money, at their workers’ expense, is to falsely report the number of days worked by their Palestinian employees to the Payment Division. The employers pay the difference between the reported days and the days actually worked directly to the workers in cash. By doing so, they reduce the payments that are designed to cover the employees’ social rights, as these are calculated by days worked. As a result, the workers do not get their full rights: severance pay, annual vacation, convalescence pay, pension, workers’ compensation, disability etc. The lack of accurate records of work days

99 Eckstein Report, p. 13 (for details see note 1).

100 Ministerial Committee for Security Affairs *Resolution No. B/1* of October 8, 1970.

101 See PIBA website, <http://www.piba.gov.il/SUBJECT/PALESTINIANWORKERS/Pages/empol.aspx> (Hebrew).

102 See PIBA website, “Division tasks with respect to Employment of Palestinians in Israel,” at <http://www.piba.gov.il/Subject/PalestinianWorkers/Pages/matlot.aspx> (Hebrew) and Payment and Fulfillment of Social Rights, available in Hebrew on PIBA’s website ([www.piba.gov.il](http://www.piba.gov.il)).

103 On the issue of embezzling workers’ money, see Kav LaOved, “Israel Owes Billions of Shekels to Palestinian Workers,” January 2010, at [http://www.alternativenews.org/images/stories/downloads/Economy\\_of\\_the\\_occupation\\_25.pdf](http://www.alternativenews.org/images/stories/downloads/Economy_of_the_occupation_25.pdf).

also undermines their chances of obtaining their full rights through legal action due to the difficulty to prove how many days they worked and how much they got paid.

### **Non-enforcement on employers who violate labor rights**

Government enforcement of terms of employment, including wages, is essential especially when it comes to a systemically disempowered group such as Palestinian workers in Israel. The Payment Division is charged with making sure employers report honestly, penalizing those who make false reports and making sure that workers enjoy the rights to which they are entitled by law. Insufficient supervision of employer reports by the Payment Division paves the way for the high prevalence of false reporting by employers.

The Ministry of Industry Trade and Labor is charged with enforcing labor laws with respect to anyone working in Israel, including Palestinians. Yet enforcement is slow and, according to the Eckstein report, insufficient.<sup>104</sup> The report criticized the manner in which the Payment Division monitors payment of workers' wages and employers' payments for social benefits.<sup>105</sup> The report found that "without true enforcement of payments of wages to Palestinian workers, it is quite doubtful they would earn wages comparable to those of Israeli workers. Despite various attempts, the cost of their wages is still relatively low."<sup>106</sup>

Gisha tried to inquire with the Ministry of Interior about the monitoring that is carried out in order to ensure that employers meet the terms of payment to the workers and do not undermine their terms of employment. The NGO asked the ministry to specify the measures taken against employers who violate rights. The director of the Payment Division said only that the labor law enforcement division was in charge of this matter and provided no information about routine monitoring, enforcement measures or penalties.<sup>107</sup> Gisha is waiting to receive this information also as part of the petition it filed with Kav LaOved under the Freedom of Information Act.<sup>108</sup> With respect to false reporting, Gisha asked the Ministry of Interior whether the number of work days reported by an employer for a worker is cross referenced against the number of days the same worker entered Israel as recorded in the computers at the crossings. The answer was that the Ministry of Defense had not provided the Payment Division with such information despite requests to that effect.<sup>109</sup>

Since proactive enforcement on the part of the authorities, to the extent that it exists, is lax, the workers may complain about their employers to the authorities or sue them in the courts. Many workers choose not to take that route for fear of losing their jobs. Kav LaOved assists workers to demand their rights. The NGO has asked the Ministry of Industry Trade

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104 Eckstein Report, p. 32 (for details see note 1).

105 Ibid., p. 57.

106 Ibid., p. 28.

107 Letter from Aharon Barazani, Head of Payment Division to Dr. Nomi Heger of Gisha, dated March 24, 2010 (see note 38).

108 Freedom of Information Petition, see note 5.

109 Letter from Aharon Barazani, Head of Payment Division to Dr. Nomi Heger of Gisha, dated March 24, 2010 (see note 38).

and Labor to investigate dozens of cases of abuse of rights, but ministry enforcers met with workers and took their statements only in rare cases. None of these cases resulted in any action taken against the employers.<sup>110</sup>

### **Difficulty proving violation of rights in court**

Palestinian workers whose rights have been violated may file a claim against their employers in the Israeli labor courts. Many refrain from doing so for fear of retaliation by their employers or due to lack of confidence in the Israeli authorities.

Workers who do take legal action have a hard time establishing that their rights were violated because they have no way of proving they worked more days and received lower wages than indicated in the computer files of the Payment Division. Other workers are employed through subcontractors and receive their pay in cash, without any record of work hours being kept. It is ostensibly possible to cross check the entries and exits recorded at the crossings with employer reports regarding number of days worked. Kav LaOved has sought to use these records to help workers with their labor cases, but the Civil Administration refuses to provide them. Additionally, there is a statute of limitations on some violations. For example, unpaid convalescence pay must be claimed within two years and payment in lieu of annual vacation days within four.

The best results are achieved through compromises on sums that are lower than what the workers are entitled to under the law, with the legal fees deducted from this amount. In other cases, the claims are dismissed and the workers are charged with trial costs. Legal proceedings at the labor court often take anywhere between one and three years, and sometimes more.

In 2011, 126 labor court claims against Israeli employers who employed Palestinians from the OPT were filed through Kav LaOved. Employers were sued for minimum wage differentials, overtime pay, convalescence pay, payment in lieu of unused annual vacation days, holiday pay, pension deductions and severance pay. In the same year, 168 claims that were filed in previous years were finalized. The workers were awarded at least some of the pay they claimed in 76% of the claims, mostly following settlements reached out of court which were entered on the record as judgments. A few single claims were rejected by the courts and the rest were deleted for various reasons. As a result of these claims, a total sum of 2.5 million shekel was paid out to Palestinian workers whose rights had been violated. However, because in most cases payment was made following a compromise, the workers usually got less than they deserved by law.

### ***Working in Israel Without a Permit***

The pressing need for income among residents of the West Bank, Israeli employers' demand for workers and the restrictions Israel imposes on work permits result in 20,000 to 30,000

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<sup>110</sup> For examples regarding Israeli employers in the settlements see below, page 37ff.

Palestinians working in Israel without permits.<sup>111</sup> The vast majority of these workers are ordinary, law abiding people who, because of their dire financial circumstances and need to provide for their families, find themselves in a situation of being considered criminals under Israeli law. Many are on the security blacklist and cannot find an employer willing to file an application to have the preclusion removed. They are therefore unable to enter Israel lawfully. Others do not meet the age and family status criteria Israel has stipulated for work permits. The average age of workers who lack permits is lower than that of workers who have them (20 versus 37) and there are more single men among them (43% versus 15%).<sup>112</sup>

Workers who do not have permits enter Israel clandestinely and remain in the country in terrible conditions in order to avoid the travails of entering Israel on a daily basis.

'Abdallah (not his real name), 41, married and the father of six, lives near Tubas in the northern West Bank.<sup>113</sup> After working for an Israeli construction company in Jaffa for 20 years, he was suddenly put under a security preclusion and barred from receiving a permit to work in Israel. To provide for his family, 'Abdallah tries to enter Israel using any possible means and works without a permit.

On May 11, 2009, 61 Palestinian workers gathered around the Israeli checkpoint near Jericho. 'Abdallah was among them. He told Kav LaOved that a black truck arrived at the checkpoint and each worker paid the owner 210 shekels. There was a 15-square-meter container on the truck. It was six meters long and two and-a-half meters wide and had a few small ventilation holes. The workers were brought into the container and the truck drove off to Israel. The truck got through the checkpoints, but after about half an hour of driving inside Israeli territory, police cars began chasing it until they stopped it. The police officers opened the container door, saw all the people cramped inside and closed the door with the workers still inside. The officers questioned the driver for three hours, while the workers inside the container cried out for help. When the questioning was over, the truck drove back to the checkpoint with the workers inside the container. When it stopped at the checkpoint, the workers began knocking on the walls of the container, until the door was opened. They were interrogated separately and then put back into the container. They were released inside the territory of the Palestinian Authority and returned home. The workers remained in the container from 9:00 p.m. to 1:30 a.m. Some fainted during this time and others suffered shortness of breath.

Palestinian workers who have no permits are even more vulnerable to exploitation than those who do and are even more fearful of complaining about rights abuse. According to Israeli

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111 See figures above, pp. 6, 9f.

112 Bank of Israel, *Annual Report 2009*, p. 232, at [http://www.bankisrael.gov.il/deptdata/mehkar/doch09/eng/pe\\_5.pdf](http://www.bankisrael.gov.il/deptdata/mehkar/doch09/eng/pe_5.pdf).

113 See Kav LaOved, "Konckin' on the container's wall," September 30, 2009, at <http://www.kavlaoved.org.il/media-view840b.html?id=2570> (Hebrew).

labor laws, every worker working in Israel deserves the full range of social rights regardless of whether or not he has a permit. Despite this, Israeli employers brutally violate the rights of workers who have no permits. Their pay is low. They do not receive vacation, sick or holiday pay, etc. The average daily wages of a worker without a permit in Israel was 124 shekels in 2008. A worker with a permit made an average of 141 shekels per day.<sup>114</sup>

From the employers' point of view the gap is even wider, as the cost of employing a Palestinian worker with a permit is about 70% higher than employing one without a permit (210 versus 124 shekels respectively). This is due to the required payments to the Payment Division for the "legal" worker's social rights. This discrepancy is a significant incentive to hire Palestinians who do not have work permits.<sup>115</sup>

Employers tend not take the safety and security measures they provide their unofficial workers seriously. If a worker who has no permit gets injured as a result of a work accident, the employer tends to deny any connection to the employee and the latter has difficulty proving his eligibility for state assistance to the National Insurance Institute.

Suheib Zayud, 19, from the village of Sila in the Jenin area, worked on construction in Daburiya for a contractor named Mohi Qasem. He had no work permit or permit to enter Israel. In August 2011, Suheib fell from a six-meter-tall scaffolding and lost consciousness. The employer was afraid to call an ambulance. He drove Suheib, in critical condition, to the entrance of the medical center in the village and took off.

Medical center staff had to call a helicopter to evacuate Suheib to Rambam Hospital in Haifa. After he was in hospital for a month, and still unconscious, hospital management decided to transfer him to a hospital in the Palestinian Authority as the National Insurance Institute did not cover the cost of his hospitalization. Suheib was transferred to Rafidia Hospital in Nablus. Two months later, he was transferred to a hospital in Jenin, where he remains, unconscious, to this day. Suheib's employer still refuses to fill out the National Insurance Institute form to confirm that Suheib was injured while working for him, and therefore, the family is paying the hospital out of its own pocket.

Palestinians who work in Israel without permits are under the threat of arrest and deportation and live in constant fear of the authorities. Those who are caught are usually taken to a police station where a criminal record is entered. Usually, they are not indicted, but when they are indicted and brought to trial, they are commonly sentenced to three months in jail. This sentence is then followed by another, equally heavy penalty—a police preclusion for three years, which prevents them from entering and working in Israel lawfully.<sup>116</sup>

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114 Bank of Israel, *Annual Report 2009*, p. 232.

115 *Ibid.*, pp. 233-234.

116 MachsomWatch, *Obstacle Course*, pp. 19-20, see above pp. 28ff.

## VIOLATION OF PALESTINIAN WORKERS' RIGHTS IN WEST BANK SETTLEMENTS

In addition to the Palestinians working in Israel with permits, a similar number is employed with permits by Israeli employers in the West Bank. At the end of 2011, there were 26,831 such workers.<sup>117</sup> Encouraged by the authorities, their numbers have been growing in recent years. In 2006, there were 15,000 Palestinians working with permits in West Bank settlements.<sup>118</sup> More than one-quarter of them—some 5,800—worked in 2011 in about 20 Israeli industrial zones in the West Bank.<sup>119</sup> Another 10,000 Palestinians work in the settlements without permits. Most of them are employed in the Jordan Valley during the harvest and date picking season, including children aged 12 years old and upwards.<sup>120</sup>

It is easier to obtain work permits in the settlements than in Israel because there is no quota on the number of workers or constraints involving age or family status. In certain circumstances, even workers who are under a security preclusion which prevents them from entering Israel may work in the settlement with the authorization of the local security officer.<sup>121</sup>

Following a petition by Kav LaOved, an extended panel of nine HCJ justices unanimously ruled in October 2007 that Israeli employers in the West Bank must comply with Israeli labor laws with respect to their workers—both Israeli and Palestinian.<sup>122</sup> The judicial hearing in the case lasted about 12 years. The state argued that Jordanian labor laws, which do not protect workers' rights such as minimum wage, severance pay and various social rights, apply in the West Bank.

Even though five years have passed since the HCJ ruling, Israeli employers in the settlements and industrial zones in the West Bank continue to routinely deny the rights of their Palestinian workers on a much larger scale than they do their Palestinian brethren working in Israel. The

117 Abrahams, December 6, 2011 (for details see note 3). This number includes Palestinian workers in East Jerusalem and the 'Atarot industrial zone. These locations appear under "Israel" in the letter in reference, but are in fact part of the West Bank and have therefore been entered under the settlements in this report.

118 Report of the Government of Israel to AHLC, September 22, 2009, p. 9 (for details see note 2).

119 State Comptroller, *Annual Report No. 62, 2011*, Chapter 7, p. 1678, at <http://www.mevaker.gov.il/serve/contentTree.asp?bookid=611&id=57&contentid=&parentcid=undefined&sw=1024&hw=698> (Hebrew) (hereafter: State Comptroller Report). We added the figures on the 'Atarot industrial zone that appears in Abrahams, December 6, 2011 (for details see note 3) to the figure that appears in the State Comptroller's report.

120 A video produced by MAAN Development Center documents Palestinian child labor on farms in settlement in the Jordan Valley, in hazardous conditions, for very low wages and long work hours, at <http://www.youtube.com/watch?v=DqUjWpV6NYg&feature=g-upl&context=G28fce34AUAAAAAAAAAAAA>.

121 See for example the story of Kifah and Ahmad above, pp. 23f.

122 HCJ 5666/03, *Kav LaOved et al. v. National Labor Court in Jerusalem et al.*, judgment rendered October 10, 2007, at [http://law.haifa.ac.il/lawatch/lawatch\\_files/2007labor566603.htm](http://law.haifa.ac.il/lawatch/lawatch_files/2007labor566603.htm) (Hebrew). In judgments rendered by the national and district labor courts on August 2011 and April 2012 (Labor Case Jerusalem 1729-10, *Ibrahim Mas'ad v. Kibbutz Gilgal*, available in Hebrew at [www.ruling.co.il](http://www.ruling.co.il)), the courts held that the aforementioned HCJ ruling applies retroactively. Labor court judges have been divided on the issue of retroactive application of the HCJ judgment. Some believe that it applies Israel law only from the time the judgment was rendered.

vast majority of workers earn less than the minimum wage, their wages are withheld from time to time, their social rights are denied and they are exposed to dangers in their workplaces, as the State Comptroller has also pointed out.<sup>123</sup>

This gross violation of Palestinians' labor rights by Israeli employers in the West Bank is made possible because there is almost no law enforcement against violators. The bodies that are supposed to enforce the law are the Employment Staff Officer in the Civil Administration (the same body which issues the permits to the Israeli employers and their Palestinian workers) and the Ministry of Industry, Trade and Labor. These bodies almost never deal with complaints submitted to them about violations against workers and do not conduct procedures of routine monitoring and supervision of employers in the West Bank to make sure they uphold workers' rights and deter violators. As a result, employers continue to employ Palestinians in conditions of harsh exploitation and rake in profits at their expense, as described below.

In his annual report for 2011, the State Comptroller pointed out that the Civil Administration and the Ministry of Industry, Trade and Labor were not punctilious about conducting regular monitoring of the factories run by Israelis in the West Bank to enforce the obligation of Israeli employers to pay the minimum wage.<sup>124</sup> The head of the economic branch in the Civil Administration confirmed in October 2010 that for a number of years there has been no monitoring of Palestinian employment in the West Bank and that "today there is no listed monitoring of minimum wage payments and social benefits regarding the employment of Palestinians in the settlements," and that the lack of monitoring and enforcement in the field causes "an increase in the unacceptable instances in which the basic rights of the Palestinian workers are violated, thereby attracting international criticism."<sup>125</sup>

Kav LaOved conducts workshops for employees in various locations in the West Bank with the cooperation of branches of Palestinian unions in order to raise awareness of Israeli labor laws, the rights that these laws grant and the ways whereby the workers can claim these rights.<sup>126</sup> Many of the workers who attended these workshops did not know, for example, that there was such a thing as a minimum wage which the employer is obliged to pay, and that the National Insurance Institute is obliged to help them in case of a work accident. The reason is

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123 State Comptroller Report for 2011, p. 1674 (for details see note 122). See also reports by Kav LaOved, "Palestinian workers in Israeli West Bank Settlements—2008," at [http://www.kavlaoved.org.il/media-view\\_eng7c21.html?id=2356](http://www.kavlaoved.org.il/media-view_eng7c21.html?id=2356); "Palestinian Workers in Israeli West Bank Settlements—2009," at [http://www.kavlaoved.org.il/media-view\\_engc115.html?id=2764](http://www.kavlaoved.org.il/media-view_engc115.html?id=2764); "Working For Survival: Labor conditions of Palestinians working in settlements," at [http://www.kavlaoved.org.il/media-view\\_eng2f0a.html?id=3048](http://www.kavlaoved.org.il/media-view_eng2f0a.html?id=3048) (hereinafter: Kav LaOved reports, *Workers in the Settlements*).

124 Between April 2006 and June 2010, the Ministry of Industry Trade and Labor inspected only four out of about 20 industrial zones. In the following year it held no routine inspections and only responded to complaints. State Comptroller Report, p. 1666 (for details see note 122).

125 Letter from head of the Civil Administration Economic Division to Head of the Civil Administration dated October 2010, mentioned in State Comptroller Report, p. 1677.

126 See for example, Kav LaOved "Report on a workshop in Jawarish, Nablus district," February 13, 2012, at [http://www.kavlaoved.org.il/section\\_eng181.html?pid=195&page=1&id=](http://www.kavlaoved.org.il/section_eng181.html?pid=195&page=1&id=); Kav LaOved, "Akraba workers want to know," June 15, 2009, at [http://www.kavlaoved.org.il/media-view\\_eng1338.html?id=2375](http://www.kavlaoved.org.il/media-view_eng1338.html?id=2375).

that the authorities did not bother to provide them with this information. As a result of the activities of the organizations, workers who thought their employers were doing them a favor just because they hired them, came to understand that they are entitled to work in suitable conditions in accordance with the law. There is now a trend towards the empowerment of workers in the settlements and workers have begun organizing and protesting in various factories. The number of workers filing complaints and lawsuits against their employers, with legal support from Kav LaOved, is growing.

### **Low wages and no rights**

Even before the HCJ ruling, Israeli employers in the settlements were obliged to pay their Palestinian workers the minimum wage paid in Israel according to a military order from 1982.<sup>127</sup> Since the beginning of 2008, the order has also applied to Israeli employers in the West Bank outside the boundaries of the settlements, for example, in the industrial zones. Despite that, to this day, the overwhelming majority of Palestinian workers in the settlements, including experienced, skilled workers, earn less than the minimum wage, which has been set at 22 shekels per hour and 164 shekels per day.<sup>128</sup> Usually, they earn less than half of that. The wages of agricultural workers in the Jordan Valley average 60 to 80 shekels per work day, and those of industrial workers from 80 to 120 shekels. In many cases, these wages are withheld and in most cases, the workers do not receive holiday, convalescence, sick, overtime and vacation pay.

The Maya Food company, located in Mishor Adumim, employs 180 Palestinian workers from the Jericho, Hebron and Ramallah areas. Suleiman Ramadan, who was in charge of operating the machinery in the factory, worked five days a week from 7 a.m. until 7 p.m., and sometimes even later. He was paid 2,500-4,000 shekels a month according to his employer's calculations, which were not explained to Suleiman.

Suleiman's wages, like those of his co-workers in the factory, were less than the minimum wage fixed by law, and like them, he also did not receive his other rights such as sick days, vacation days, convalescence pay, travel costs and pay slips. The factory workers are paid by check without mention of the number of days they worked.

Suleiman began work at the end of 2009 and was fired in February 2011 without prior notice after a dispute with his employer regarding the operation of one of the machines. After his dismissal, Suleiman filed a complaint via Kav LaOved in order to retroactively obtain the rights he had been denied.

Up until now, 35 complaints have been filed with the Jerusalem District Labor Court against the Maya Food company by employees who left their jobs or were

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127 Order regarding Employment of Workers in Certain Locations (Judea and Samaria) (No. 967) 5742-1982.

128 This is the case as of July 2011, see National Insurance Institute website, <http://www.btl.gov.il/English%20Homepage/Mediniyut/GeneralInformation/Pages/MinimumWage.aspx>.

fired. All of these complaints had to do with non-payment of social benefits and the differentials between wages paid and the minimum wage. Generally, these lawsuits end up in a compromise whereby the worker receives less than the sum he has demanded because he lacks evidence. As a result, the authorities have no deterrence against the company because it does not lose anything by not paying workers regularly in accordance with the law. Even if sued, the company will, at most, be ordered to pay less than it would have if it had paid on time according to the law. The company is represented in all these lawsuits by the general-manager and stock owner Udi Wertheimer, so it does not even have to pay a lawyer's fee.

### **Concealment of documentation and false reporting**

In general, Israeli employers in the Jordan Valley, and most of the Israeli factories in the industrial zones in the West Bank, do not give their workers pay slips and do not keep attendance registers. In some factories, the employers take their employees' work permits on the last day of work and the workers are left without the original documents that could prove they had worked for their employers. Lately, Palestinian workers employed by settlers in the Jordan Valley have told Kav LaOved that the Civil Administration no longer gives them their work permits and the settlement's security officer allows them to enter the settlement grounds each day after checking the computer to see if they have a permit. This way, the workers cannot even resort to a photocopy of the original work permit, which they do not receive.

In some of the few instances in which factories distributed pay slips, they stopped doing so after the 2007 HCJ ruling in order to conceal evidence in case workers sue them in the labor courts. In other cases, Israeli employers in the West Bank make false reports regarding the amount of work performed by the employees, record fewer work days than were actually worked and declare in the pay slips that they are paying their workers the minimum wage.

According to a 2009 amendment to the Wage Protection Law, the burden of proof that workers' attendance has been registered falls on the employer. If he does not provide such documentation, the court must accept the attendance records of the worker.<sup>129</sup> In order to help the workers in the settlements, Kav LaOved provides them with a ledger to record their attendance and guides them on how to keep an orderly and precise record of the number of hours they have worked, in the many cases in which the employer allows himself not to do so.

These records have been recognized by the court in a number of lawsuits filed by Kav LaOved. In one, the worker insisted on getting what was coming to him, after submitting a record of his work days which he kept himself in the attendance ledger given to him by Kav LaOved. Since the employer did not keep an attendance record, the court chose the worker's version over his and proposed a compromise whereby the worker would receive 35,000 shekels. The worker, who had worked for two years and five months for that employer, accepted the sum which was unusually high compared

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129 Wage Protection Law (Amendment No. 24) 5768-2008, Sec 26(b). Officially published in book No. 2162, July 6, 2008, entered into effect January 2009, at <http://www.tamas.gov.il/NR/exeres/FC147A6E-D7A4-4107-BF8C-1C619E45DB8B.htm> (Hebrew).

with the financial settlements the court normally proposes as compromises in cases of relatively short work periods.

### **Evading responsibilities by employment through labor contractors**

Israeli employers in the West Bank frequently hire workers through Palestinian labor contractors. They employ 30 percent of their Palestinian workers using this method. Usually, the labor contractor's job is to find workers and assign them to workplaces, but sometimes he also supervises their work and pays their salaries out of the money he receives from the employer.

Most of the workers in the Jordan Valley are employed through Palestinian labor contractors. Most are seasonal agricultural workers who work for a number of employers according to random assignments made by the labor contractors. This system does not allow them to accumulate benefits over the years. In recent years, a number of factories in the industrial zones have also begun to employ their workers through labor contractors.

Employment through labor contractors dulls the relationship between the Israeli employer and the Palestinian workers, who sometimes barely know the name of their boss. In some cases, the name of the labor contractor appears on the work permit under the employer heading. In this way, the employer tries to avoid granting benefits to the workers in accordance with Israeli law. There is no clear contract between the employer and the labor contractor, making the workers even more vulnerable to the denial of their rights.

In June 2010, the Jerusalem District Labor Court ruled that in the case of Israelis employing Palestinians through labor contractors, responsibility for the violation of the employment terms lies with both the contractor and the employer. This verdict persuaded more workers to sue for their rights in court.

Iman (not her real name), 34, from the village of An Nuwei'ima in the Jericho area, has been working at a settlement in the Jordan Valley since the end of her high school studies and helps provide for the family.<sup>130</sup> She worked for five years in herb hothouses in Moshav Na'ama in harsh conditions. "I had pain all over my body, especially in the legs. The hothouse was blazing hot and I worked long hours. The workday began at 6 a.m. and ended 11 hours later, sometimes 13 hours. During that time, we had only one break." Iman's employers at Eitan Vinon Agriculture Ltd. paid her 50 shekels for an eight-hour workday and 10 shekels for every extra hour and denied her legal rights.

Like many other workers, Iman was not aware of her rights. However, after participating in a number of workshops held by Kav LaOved and the Jericho trade unions, she joined forces with five other workers in 2007 to file a lawsuit against

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130 See Kav LaOved, "Hostages—Palestinian Woman Working in the Settlements," September 25, 2010, at [http://www.kavlaoved.org.il/media-view\\_engcaf4.html?id=2969](http://www.kavlaoved.org.il/media-view_engcaf4.html?id=2969); Kav LaOved, "Labor Court: labor contractor and employer jointly responsible for workers wages," June 19, 2010, at [http://www.kavlaoved.org.il/media-view\\_eng625b.html?id=2843](http://www.kavlaoved.org.il/media-view_eng625b.html?id=2843).

their employers. Represented by Kav LaOved, the workers turned to the Jerusalem District Labor Court to demand the social benefits they had not received while they were working as well as compensation.

In their statement of defense, the defendants argued that although the women had worked for six years in agriculture on the farm, their sole employer was the Palestinian labor contractor who was responsible for recruiting them and transporting them to and from work. The contractor was also responsible for their pay and had the power to fire any of them. In May 2010, the court ruled in a partial verdict that the workers were employed both by Eitan Vinon Agriculture Ltd. and by the Palestinian contractor.<sup>131</sup> This ruling deterred the employer and forced him to offer larger sums, totaling a few hundred shekels more than he had in the past. The parties reached a compromise according to which Eitan Vinon Agriculture would pay the women 128,000 shekels, even though they did not have pay slips or a record of the number of work hours.

Workers reported to Kav LaOved that their employers had ignored their demands to increase their wages and told them to come to an agreement with the labor contractors. The contractors frequently act as the executors of the employer's policy, create difficulties for workers who demand their rights and block direct communication between workers and their employer.

Sixty Palestinians have been working since 2004 in the textile factory "Royal Life" in the Barkan industrial zone. They are employed by way of a Palestinian labor contractor and the name of the employer cited on their work permits is not the same as the one they actually work for.<sup>132</sup> The female workers earn 8-10 shekels per hour while the males earn 10-12 shekels per hour. The contractor pays cash to the workers, who do not receive pay slips, vacation days, sick days, convalescence pay, overtime or holiday pay.

In March 2008, 43 of the workers sued their employer in Tel Aviv District Labor Court for a sum totaling hundreds of thousands of shekels, demanding that they receive minimum wage differentials and payment for social benefits. In its statement of defense, the company denied that there was a worker-employer relationship between it and the workers and argued that they were employed by a Palestinian contractor. Twelve of the employees dropped their lawsuit after being promised they would be given raises if they did so. At the same time, the Palestinian contractor pressured the employees to withdraw their lawsuit and threatened to fire them if they did not. Dozens of male and female workers were dismissed because they refused. Because of the pressure and threats, a number

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131 Labor 3105/07 *Muna Mahmoud al-Samarat et al. v. Eitan Vinon Agriculture LTD.*, partial judgment of May 24, 2009, at <http://www.psika.org.il/29459-1355.html> (Hebrew).

132 See Kav LaOved Reports, *Workers in the Settlements*, 2008, 2010 (for details see note 126); Kav LaOved, "Palestinian Contractor Threatens and Harasses Palestinian Workers in Settlement," June 20, 2009, at [http://www.kavlaoved.org.il/media-view\\_eng5df6.html?id=2358](http://www.kavlaoved.org.il/media-view_eng5df6.html?id=2358).

of women stopped working at the factory and opened a sewing workshop in the village of Bruqin. They claimed the contractor waged a campaign of incitement against them and prevented the distribution of their merchandise in order to shut them down. According to the women, “the contractor threatened to burn down the workshop and go after us in any place we would work.” As a result of the lawsuit, each of 23 plaintiffs won compensation of 10,000—27,000 shekels as part of a compromise agreement. As for the other eight, the employer dug his heels in and would only pay them very low sums of money. The legal procedures in their cases are still pending at the labor court.

### **Fighting unionization**

Many workers in the settlements are afraid to demand improved work conditions for fear of being fired and having their work permits cancelled. Employers do not hesitate to use the threat of dismissal to pressure workers to stop demanding wage increases or to withdraw lawsuits from labor courts, and they fight against workers’ committees that try to improve conditions.

In the Tal El factory in the Nitzanei Shalom industrial zone near Tulkarem, workers held a strike for three weeks in November 2007.<sup>133</sup> After management fired three members of the workers’ committee, the committee disbanded and the workers described feelings of fear and confusion. Kav LaOved filed a lawsuit against the factory for unlawful dismissal. The company argued that it had not known about the workers’ committee and that it fired the three because of poor performance. Following a hearing in labor court, and because of the difficulty in proving the connection between the dismissals and the strike and the fact that the employees were members of a workers’ committee, the three cases were closed at the court’s recommendation with compromises, whereby the workers received sums of 12,000—16,000 shekels.

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The Palestinian workers in the marble-producing factory Even Bar Ltd. earned a miniscule net salary of 70 shekels for an eight-and-a-half-hour work day on the day shift and about 170 shekels net on the night shift for 15 hours of work.<sup>134</sup> Holding back wages for four months was routine management practice and the workers also did not receive their accompanying social benefits during all their years of employment.

In the wake of threats of legal action made by the workers, management began putting pressure on them to have them waive their rights. It offered to give them sums of money much smaller than they had coming to them and threatened that if

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133 See Kav LaOved Reports, *Workers in the Settlements*, 2008 (for details see note 126).

134 *Ibid.*

the workers did not agree to accept them, management would rescind their work permits. As a result, some of the workers left their jobs while others gave in to the pressure. In April 2008, the factory stopped operating and, consequently no longer renewed the employees' work permits.

In July 2008, Kav LaOved filed lawsuits on behalf of dozens of workers at the Jerusalem District Labor Court, demanding that Even Bar and its owner, Eyal Yonah, pay minimum wage differentials for the period of the workers' employment in addition to the social benefits to which they were entitled by law. This amounted to an average of 60,000 shekels per worker.

Taking advantage of their difficult economic circumstances, Even Bar put pressure on the workers and persuaded most of them to cancel their lawsuits in return for very small sums of money compared to the sums demanded in the lawsuits. Ten workers did not give in despite the pressure and they are awaiting the court's verdict.

One of the ways in which law-breaking employers react to the possibility of a lawsuit is to try to prevent the workers from suing in the first place. At the end of 2011, Kav LaOved began to receive reports from Palestinian workers that their Israeli employers were insisting that they sign an undertaking not to sue for their rights in the future and that they agree to waive all benefits that had not been paid them until now. In return, the employers promised to pay the workers in accordance with the law from the date of signing onwards. The employers threatened to fire them if they refused to sign the undertaking.

In February 2010, Yusef al-Sheikh, from the village of 'Azzun, began working in a clothing factory, Matim Li, in the Barkan industrial zone. He worked every day from 8 a.m. to 9 p.m. and sometimes even longer and was paid 12 shekels for each hour of work. He was fired in December 2011, along with other workers, after refusing to sign a document confirming that he had been paid the minimum wage according to the law.

In response to a query by Kav LaOved, the Matim Li company replied that the workers were not employed by it but by a Palestinian contractor. Three of the workers chose to sue Matim Li via Kav LaOved. Hearings regarding some of these lawsuits are scheduled for April 2013.

### **Hazardous conditions in the industry sector**

About 20 industrial zones under Israeli administration are currently operating in the West Bank, including some large ones such as Barkan, Mishor Adumim and Ariel-West. In the past 15 years, some factories dealing with hazardous materials have moved to these areas. Like the other industries located there, they wanted to take advantage of the government economic benefits such as cheap land and tax reductions as well as cheap and unsupervised Palestinian labor. Furthermore, they were attracted by the low safety and environmental standards as well

as the absence of monitoring and enforcement. Many workers employed in these factories in the industrial zones are exposed to chemical materials and work in conditions of poor ventilation. They work standing up for long periods of time without proper attire and are not given safety training or periodic medical checkups.

From an inquiry conducted by Kav LaOved in 2008, it appears that of the 3,000 workers in factories in the industrial zones in the northern West Bank, 59% were exposed to hazardous health conditions and were not equipped with proper safety gear. Twenty percent received safety gear which did not meet international standards while 17% received safety equipment but did not use it and there was no one to monitor their safety in the factory. Only 3% of the workers received proper and accessible safety gear and made sure to use it during work.<sup>135</sup>

In the bedding textile factory “Royal Life” in the Barkan industrial zone, the work environment is noisy and the air, dusty. The workers complain about exposure to dangerous cleaning materials and working standing up at cutting machines without protective gear. According to the workers, the factory has no first aid equipment and workers are frequently injured by weaving and sewing machines. According to the workers, the company does not employ a safety officer, they have not received training or warnings regarding possible hazards in the operation of the machinery, and the company does not provide medical examinations.<sup>136</sup>

Employees in many factories complain of headaches at the end of the day, backaches, burning eyes, breathing difficulties and leg pain as a result of prolonged standing. These pains and aches are not always diagnosed as work related conditions because there are no health clinics in the West Bank that can detect this type of condition. The workers are not sent to Israeli health clinics by their employers and cannot access them without an entry permit to Israel. Kav LaOved has attempted to find out from the National Insurance Institute and the Israeli health funds which body deals with work-related conditions among Palestinians employed in the settlements but has yet to receive a clear answer.

Ashraf (not his real name), a Palestinian from the village of Qusra in the Nablus area, was employed for several years in the settlement of Ma’aleh Efraim in the Jordan Valley, producing bits of colored glass which are exported to toy factories in Europe.<sup>137</sup> Ashraf and his co-workers had direct contact with paint without any protective or safety gear like masks or protective gloves. As a result of the exposure to toxic materials, the workers suffered from various problems such as shortness of breath, loss of appetite and mouth sores. Ashraf has suffered for the past two

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135 Kav Laoved, “Poor work safety for Palestinian workers at Israeli West Bank settlements,” 2008, at [http://www.kavlaoved.org.il/media-view\\_engb4f6.html](http://www.kavlaoved.org.il/media-view_engb4f6.html).

136 See Kav LaOved Report, *Workers in the Settlements*, 2008 (for details see note 126).

137 Kav LaOved, “Working in a toy factory is not a game,” May 15, 2010, at [http://www.kavlaoved.org.il/media-view\\_engac59.html?id=2813](http://www.kavlaoved.org.il/media-view_engac59.html?id=2813).

years from walking problems, amnesia and other neurological phenomena. He was treated by Palestinian doctors, who could not help him, and suffers from severe pain.

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In the Sol-Or factory for the manufacture of gas and oil canisters in the industrial zone of Nitzanei Shalom near Tulkarem, the work day begins at 6 a.m. and ends 15 hours later.<sup>138</sup> The workers are greeted each morning by strong smells of gas and fumes and the enormous racket of compressors. The ear plugs they were given are not enough to filter the noise and they cause repeated ear infections. They were given hearing tests but did not receive the results.

In the process of cleaning the gas canisters, the workers were exposed, without protective masks, to the residue of a dangerous gas called “bromomethane,” which causes dry throat, tearing and nausea. Likewise, they were exposed to fumes released by the materials used to clean the canisters, which cause damage to the respiratory system. They were also exposed to lead found in the paint used for painting the canisters. The workers did not undergo safety training or periodic examinations, and the factory owners did not explain the dangers involved in their work.

Suleiman (not his real name) was employed at Sol-Or for more than seven years. He was injured at work but refrained from turning to the National Insurance Institute for compensation out of fear that he would be fired if he did so. He describes how he cannot sleep at night because of the echoing in his ears and the pain he feels in his trachea and lungs because of the gases he inhales. He tells of how he returns home after a day’s work with his body aching and suffering from dizziness.

The workers’ complaints were sent in 2010 by Kav LaOved to the factory management, the Ministry of Industry, Trade and Labor and the Employment Staff Officer at the Civil Administration. The latter two did not even bother replying. The factory owners wrote that the workers received the required safety equipment, the factory had received approval according to international safety standards and that the Civil Administration Employment Staff Officer had visited the factory. Kav LaOved complained to factory management again in July 2010. It was told that the complaints regarding safety were disingenuous and that after another review conducted that same week by the Civil Administration employment office at the insistence of Kav LaOved, “they said explicitly that the inspection was completed successfully and they were happy to see that the factory was continuing to improve its level of safety.”<sup>139</sup>

The workers who had organized themselves decided to strike to protest the

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138 Kav LaOved, “Sol-Or factory in West Bank industrial zone Nitzaney Shalom lacks basic safety equipment,” August 28, 2010, at [http://www.kavlaoved.org.il/media-view\\_eng38ef.html?id=2928](http://www.kavlaoved.org.il/media-view_eng38ef.html?id=2928).

139 Response of Sol-Or factory to Kav LaOved dated July 29, 2010, at <http://www.kavlaoved.org.il/UserFiles/File/Soloranswer.pdf> (Hebrew).

low salaries and harsh working conditions. The strike went on for many months and the factory shut down operations until it was sold. The new owners asked the workers to return to work and signed a work agreement with them. The workers are now reporting a noticeable improvement in labor conditions and salaries.

The factories that work with hazardous materials cause environmental damage which also harms both the settlers and the environment. The damage primarily comes in the form of industrial sewage, air pollution and bad odors. The Association of Cities for the Environment—Samaria conducts routine inspections in the industrial zones in the West Bank and handles public complaints on this matter.<sup>140</sup> Among other things, the association has handled repeated complaints of severe odors caused by the Biodiesel factory in the Ma'aleh Efraim industrial zone which produces biofuel from animal fat. Kav LaOved also received complaints from factory workers who suffer from the severe stench.

### Poor safety in agriculture

In 2006, Kav LaOved exposed the harsh work conditions of Palestinians employed on date farms in the Jordan Valley in the Israeli newspaper, Haaretz. Workers reported that they were lifted by a crane up to the trees and left there for many hours without any protective gear such as helmets or proper clothing.<sup>141</sup> They were forced to eat, drink and even relieve themselves while still on the tree, and often received no break between one tree and the next. Many of them suffered from dizziness during work because they remained high above ground for long periods of time. Jordan Valley employers denied the workers' reports. In recent years, this improper work procedure has decreased but it still exists.

Many date farm workers suffer from scratches from palm thorns and develop infections because the employers do not provide them with gloves. Several accidents have occurred when cranes collapsed, killing and injuring workers. This difficult and dangerous work is performed in return for a few dozen shekels per day, and is supervised by Palestinian labor contractors.

A date farm worker described his work. "The driver of the crane lifts the workers on to the palm trees. The thinning out process lasts between 20 and 40 minutes and then the worker is moved to another tree. This lasts all day long and we usually work from 6 a.m. to 4 p.m."

Ali (not his real name), a young man of 17 who works in the sector says, "I suffer from infections in my hands because of the scratches of the palm thorns... every time we asked for a helmet and gloves we were answered in the negative by

140 Website of the Association of Cities for the Environment—Samaria, *Industry and Business Licensing, Report 2010*, at [http://www.enviosh.org.il/userfiles/file/tahsaya\\_vrisuy\\_asakim\\_2010\(3\).doc](http://www.enviosh.org.il/userfiles/file/tahsaya_vrisuy_asakim_2010(3).doc) (Hebrew).

141 Gitit Ginat, "Dates of Infamy," originally published in Haaretz newspaper, September 9, 2006, available at: [http://kav.virgin.co.il/media-view\\_eng3c6f.html?id=193](http://kav.virgin.co.il/media-view_eng3c6f.html?id=193); Kav LaOved, "Palestinian Workers Hanging from Treetops in Jorday Valley Settlements," June 20, 2009, at [http://www.kavlaoved.org.il/media-view\\_eng58af.html?id=2357](http://www.kavlaoved.org.il/media-view_eng58af.html?id=2357); Kav LaOved, "Bitter Dates—Dangerous Work Environment," 2009 (video describing deficient safety conditions in date farms in the Jordan Valley), at [www.youtube.com/watch?v=cwTZ2xeSAkM](http://www.youtube.com/watch?v=cwTZ2xeSAkM).

both the contractor and the employer. I continue to be pricked in my hand by thorns all day long and I hang from the tree without a harness and wait for the crane to arrive to transfer me to the next one.”

Omar (not his real name), from the village of Al Jiftlik in the Jordan Valley, told Haaretz weekend magazine about his time on the tree. “The tractor lifts you up and you sit on the green palm branches at the treetop near the trunk...I don’t think about anything except how not to fall from the tree and how to manage to finish my quota. I know that at any moment I can fall and die or fall and become a cripple, or break an arm or leg. So, we work with one hand and hold on to the tree with the other. It is terribly difficult. The body contracts. The people are nervous, frightened. We sit crouched on our legs the whole time.”

Agricultural workers in the fields of the Jordan Valley are vulnerable to health injuries. In addition to back problems as a result of standing on their feet for many hours during the day, they spray the fields with pesticides without protective gear or proper clothing while alongside them, women and children harvest or trim the plants that have been sprayed. Some of the workers receive simple protective masks which do not decrease the inhalation of the toxic substances. The pesticides contain hazardous materials that are absorbed through the respiratory system and the skin. They can cause allergies, dizziness, problems with concentration, weakness, lack of appetite, skin problems and more. These substances accumulate in the body and pose a long-term threat. Children, who are more sensitive to these substances than adults, are in danger of developing infertility and cancer.<sup>142</sup>

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The reason for the poor safety conditions in the factories, orchards and fields is the unscrupulous attempt of Israeli employers to save on expensive safety equipment, the lack of appropriate work safety training on the part of the employers and the criminal neglect of the authorities in enforcing safety conditions for Palestinian workers. The State Comptroller remarked to the Civil Administration employment officer and the Ministry of Industry, Trade and Labor in a report published in May 2012 about the “ongoing failure over many years to carry out meaningful supervision and enforcement in the realm of safety and hygiene in Israeli factories in Judea and Samaria, which indicates an ongoing contempt for human life.” In his words “this conduct is inconsistent with proper governance and may put the well-being, health and life of the workers in the industrial zones at real risk.”<sup>143</sup>

### **Abandonment of injured workers**

The lack of supervision over the safety conditions of the workers results in more work accidents. Palestinian employees injured while working for Israeli employers in the OPT are entitled to be evacuated in Magen David Adom (the Israeli paramedic service, MDA) ambulances

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142 Kav LaOved, “Palestinian farm workers in settlements poisoned by pesticides,” February 19, 2009, at [http://www.kavlaoved.org.il/media-view\\_engda21.html?id=2140](http://www.kavlaoved.org.il/media-view_engda21.html?id=2140).

143 State Comptroller Report for 2011, p. 1681 (for details see note 122).

to a health clinic or hospital in Israel to receive medical care. Despite that, appeals to Kav LaOved from Palestinians injured during work, especially in the agricultural sector in the settlements, indicate that after an injury—even a serious one—these workers are forced to reach a nearby Palestinian hospital on their own, without the help of the employer who shirks his legal responsibility. Sometimes, the employers drive the injured workers to the nearest army roadblock without informing the MDA in order to get them out of the work area. In other cases, MDA ambulances bring the workers to the army roadblock, where they are transferred to Palestinian Red Crescent ambulances, which take them to hospitals inside Palestinian Authority (PA) territory or in East Jerusalem.<sup>144</sup> In many cases, employers fire workers who have been injured or demand that they return to work quickly, even before they recuperate.

Palestinian employees injured while working for Israeli employers in the West Bank run into bureaucratic procedures with the National Insurance Institute (NII) which last about a year until the institute recognizes them as victims of work accidents and allows them to realize the rights granted to them in the National Insurance Institute Law. These rights include coverage of hospitalization costs, medical follow-up for one year in Israel, compensation for absence from work for up to 90 days and payment for the extent of disability caused by the accident as determined by a medical committee of the NII.

There are several reasons for the fact that the procedures take so long. Many employers refuse to give the worker a form confirming that he was injured at work and is entitled to receive initial medical treatment at NII expense, as well as a form to claim injury compensation from the NII. The fact that the workers receive medical treatment in PA territory rather than Israel makes the process for getting the NII to recognize the workers' rights more difficult. Because the PA has imposed a boycott on the settlements, its medical committees do not give Palestinians working in the settlements documents confirming loss of work capability as a result of accidents. As a result, the NII demands that the worker present a medical certificate from Clalit Health Fund, which the workers frequently have trouble obtaining. Furthermore, in many cases, the workers do not receive pay slips which would prove that an employer-employee relationship existed.

Kav LaOved has asked on a number of occasions for a response from the NII regarding this matter, but has received no answer. When it turned to the MDA, it was redirected to the health coordinator in the Civil Administration, who has yet to reply to the query.

Ibrahim Abu Khalaf worked in the Maya Food Ltd. factory in Mishor Adumim. In November 2009, he was injured at work when a rice skid fell on him and he lost consciousness. His employer called an MDA ambulance which drove him to the entrance to Jericho. From there, he was taken to a hospital in the city by a Palestinian Red Crescent ambulance. After four days of treatment, he was released to his home and continued treatment and observation by a hospital doctor in

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144 Kav LaOved, "Palestinian injured on the Job are not Evacuated to Hospitals," October 12, 2009, at <http://www.kavlaoved.org.il/media-viewfc9b.html?id=2590> (Hebrew); Haaretz article on the report in English at [http://www.kavlaoved.org.il/media-view\\_eng8191.html?id=2551](http://www.kavlaoved.org.il/media-view_eng8191.html?id=2551); Kav LaOved, *Workers in the Settlements*, 2009 (for details see note 126).

Jericho. Ibrahim received medical papers confirming that he was incapable of working for a total of three months.

In January 2010, Kav LaOved asked the NII to recognize Ibrahim's work accident. This launched a bureaucratic saga that lasted a full two-and-a-half years, only at the end of which—in May 2012—was Ibrahim's injury recognized as a work injury. The source of the delay was the fact that Ibrahim had been hospitalized in PA territory and therefore the Clalit Health Fund refused to issue a medical certificate noting his inability to work. Without the certificate, the NII refused to handle his application.

Kav LaOved representatives conducted a number of visits to the health fund offices and tried to send the medical documents issued by the Palestinian health ministry to the NII, but to no avail. Only in May 2012 did the organization manage to obtain the proper document from the health fund and send it to the NII. That same month, the NII informed Kav LaOved that the accident had been recognized, but it agreed to approve reimbursement for out-of-pocket medical expenses and payment of workman's compensation for only one month instead of three.

Had Ibrahim been sent for medical treatment to a hospital in Jerusalem, as the law requires, he would not have had to wait two-and-a-half years for money owing to him and he would have been spared the bureaucratic run-around involved in obtaining recognition of the accident.

### ***Individual Complaints to Enforcement Agencies***

Over the years, Kav LaOved has submitted dozens of complaints to the Civil Administration employment officer against Israeli factories and employers in the agriculture sector in the West Bank who have allegedly violated the law and denied their workers' rights. Most of the complaints were not answered. In March 2011, the organization submitted copies of these letters to the State Comptroller's Office. The State Comptroller's staff conducted an investigation and informed Kav LaOved that the employment officer had shown them replies to many of these complaints. These replies had not been received by Kav LaOved. The dozens of communications the organization sent to the enforcement department of the Ministry of Industry, Trade and Labor were not, for the most part, answered except in a few cases, in which the department said it had sent inspectors to the site. None of the visits led to any results. No one was fined and no one was indicted. For example:

- In July 2010, the enforcement department of the Ministry of Industry, Trade and Labor sent inspectors to the Habira Chicken slaughterhouse in Má'aleh Adumim following a complaint by Kav LaOved regarding failure to pay minimum wages to the employees. Since then, the organization has received no information on any finding with respect to the complaint.
- In response to a complaint by Kav LaOved regarding wages that have been held back at the

“Oneg Sweets” factory, the enforcement department of the Ministry of Industry, Trade and Labor stated that holding back wages was a civil rather than a criminal wrong, the department was not authorized to enforce the law and therefore decided to close the file without taking further action. In fact, holding back wages is equivalent to failure to pay the minimum wage, which is both a criminal and a civil offense. Despite that, the inspectors of the enforcement department decided not to address this matter.

- On October 19, 2010, Kav LaOved sent a complaint to Meir David of the Ministry of Industry, Trade and Labor enforcement department regarding Palestinian employees working at “Paturiz Properties and Investments Ltd.” The organization charged that the employers were withholding payment from the employees for some of their work days and overtime. A representative of the enforcement department visited the factory soon after the complaint was sent and questioned the workers. In April 2012, Kav LaOved asked Meir David about the findings of the investigation and was told that they had been sent to the state attorney’s office that same month. The case is still pending.
- The Palestinian workers in the Chayei Adam carpentry shop in the Mishor Adumim industrial zone complained in 2007 to the owners about their wages being held back for two months, failure to pay the minimum wage, failure to provide pay slips, failure to provide payment in lieu of vacation days, convalescence pay, holiday, sick and overtime pay.<sup>145</sup> Furthermore, the employees demanded that the safety conditions in the factory be improved. The owner refused to accept these demands or even talk with them and in November 2007, deprived them of their work permits in order to intimidate them and stop them from demanding their lawful rights. After a few days, the owner returned the work permits to most of the workers and fired seven others. Later in the month, following a communication sent by Kav LaOved, the Ministry of Industry, Trade and Labor visited the site and heard the workers’ complaints. Almost a year later, nothing had changed. In May 2008, the inspector returned and again talked to the workers. Despite the two visits, no punitive measures were taken against the employer, who persisted in his refusal to accept the workers’ demands and even began to demand that some of them pay 50 shekels for their work permits.

In view of the lack of effective enforcement, Israeli courts are almost the only way open to Palestinian workers in the settlements to demand their rights. This option deters many of them. However, since the court verdict of 2007 and through the process of awareness-raising among the workers regarding their rights by Kav LaOved, there has been an increase in the number of lawsuits by Palestinian workers employed in the settlements, including class action suits.

When a lawsuit is filed against them, employers usually argue in court that Jordanian law applies to the workers in the settlements and that the responsibility for their work conditions rests with the Palestinian labor contractors through whom they are employed. Most of the

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145 Kav LaOved, *Workers in the Settlements*, 2008 (for details see note 126).

workers come to court without pay slips or any sort of documentation and most of the individual lawsuits end in compromise.<sup>146</sup>

### ***Entry into Israel by Palestinian Businessmen***

Israel issues entry permits to Palestinian businessmen who conduct business with Israelis. In order to receive the permit, the businessmen must file an application at their local DCO, attaching confirmation that they are registered with the Palestinian chamber of commerce, a letter from the Israeli company with which they do business and an invoice for a minimum amount which is determined by district and ranges between 20,000 and 50,000 shekels.<sup>147</sup> Owners of small or newly opened businesses have difficulties meeting this last requirement.

The entry of businessmen into Israel is limited to a quota of a few thousand<sup>148</sup> and the permit they are given is usually valid for six months. Due to the restrictions on the entry of Palestinian workers to Israel, some workers manage to obtain permits to enter Israel as businessmen, while in practice, they work for Israeli employers, without permits. These workers receive no social rights and get no insurance coverage in case of a work accident.

‘Abed (not his real name) is more than 50 years old and has ten children. He worked for a number of Israeli employers in construction, using a permit he received for business purposes. He slept and worked in Israel during the week, and went home to his family in the West Bank with his weekly wages at the end of every week. On the first weekend in May of 2012, his employer at the time told him he would pay him only on Sunday. ‘Abed’s pleadings that his family needed the money then and there were to no avail. ‘Abed was sorely disappointed, and decided to break with his habit and remain in Israel for the weekend. On Saturday night he suffered a heart attack and passed away. Had he been an ordinary employee, action could be taken vis-à-vis the National Insurance Institute to have his heart attack recognized as a work related injury due to his anger at not being paid and in view of the fact that he had had no heart trouble in the past. This proceeding is not a simple one even when it comes to Israeli workers, but the fact that ‘Abed had a businessman’s permit made it impossible.

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146 For more on the proceedings in the labor courts see above, p. 34.

147 See: COGAT website, FAQ, under the heading “How can a permit to conduct trade in Israel be obtained?,” at <http://www.cogat.idf.il/1035-en/IDFG.aspx>; MachsomWatch, *Invisible Prisoners*, September 2011, p. 90 (for details see note 5); update given by Sylvia Piterman of MachsomWatch in meeting with Noga Kadman on March 16, 2012.

148 Ministry of Foreign Affairs website, “Easing of Restrictions on Palestinian Population for Ramadan,” November 22, 2011, at <http://www.mfa.gov.il/MFA/Government/Communiques/2001/Easing+of+Restrictions+on+Palestinian+Population+f.htm>.

## CONCLUSION AND RECOMMENDATIONS

Israel has had control over the West Bank for decades and has deliberately prevented the development of an independent Palestinian economy.<sup>149</sup> This has contributed to the high rate of unemployment in the West Bank and has led Palestinian workers to be dependent on Israeli employers for their work. Since this is the case, Palestinian workers are not comparable to migrant workers and Israel has an obligation to allow them to enter its territory in order to earn a living. Yet Israel does so with a tight fist and with great reluctance, imposing quotas, arbitrary age and family status criteria and unfounded allegations about a security threat that prevents tens of thousands of honest Palestinians from working in Israel.

The process Israel imposes on employers who are interested in hiring Palestinians is time consuming, bureaucratic, inefficient and non-transparent. This discourages both employers and workers and opens the door to corruption. Palestinians who traverse this obstacle course may work in Israel only for a specific employer, an arrangement which violates their liberty and puts them in a weakened position vis-à-vis their employers, increasing their vulnerability to exploitation and abuse of rights. Their daily commute to work in Israel is very difficult and they are often prevented from working when Israel tightens the closure on the OPT.

Many employers take advantage of their Palestinian employees' weak position, denying the full pay and rights they lawfully deserve and failing to provide them with a safe working environment. This is made possible and exacerbated by the poor performance of the authorities that are responsible for enforcing the law on employers, thereby criminally breaching their duty. This is particularly true for Palestinian workers who work for Israeli employers in the West Bank. Their rights are routinely abused, as noted also by the State Comptroller in his May 2012 report.

Kav LaOved calls on the following authorities and agencies to take the measures specified below:

### ***The Government of Israel:***

- Increase the number of Palestinian workers in Israel so that it reflects the true needs of workers and employers, by adding sectors in which Palestinian workers are permitted to work; abolishing the quotas and collective age and family-status restrictions and by allowing workers to enter Israel subject only to individual security screening that yields substantive findings.
- Abolish the restrictive employment arrangement and allow Palestinians to obtain a work permit directly from the authorities; create a system that allows direct contact between Israeli employers and Palestinian job seekers and give employees the freedom to change employers at will if the need arises.
- Avoid imposing total closures which constitute collective punishment and cripple the ability of OPT residents to provide for themselves with dignity.
- Allow the development of an independent Palestinian economy in order to reduce unemployment in the OPT and give Palestinian job seekers a choice of workplaces.

149 See for example, B'Tselem, *Crossing the Line*, 2007, pp.10-14, at, [http://www.btselem.org/download/200703\\_crossing\\_the\\_line\\_eng.doc](http://www.btselem.org/download/200703_crossing_the_line_eng.doc).

### ***Security forces:***

- Put individuals under a security preclusion subject to the principles of good governance, including the provision of prior notice, relevant information and a hearing.
- Allow Palestinians who are under a security preclusion to take action to have it removed vis-à-vis the authorities directly, regardless of an application to hire them; proactively remove a preclusion that has become irrelevant and immediately notify individuals whose security preclusion has been removed.
- Make arrangements for speedy and convenient passage of Palestinians who travel between Israel and the OPT for work every day and provide them with public transportation from the checkpoints to their workplaces in Israel and homes in the West Bank.

### ***The Population Immigration and Border Authority:***

- Improve and simplify the bureaucratic process of granting permits to Israeli employers and Palestinian workers.
- Publicize information regarding the employment of Palestinians in Israel, including regulatory protocols both in Hebrew and Arabic.
- Inform Palestinian workers and Israeli employers about the rights to which the workers are entitled under the law. Provide workers with information about the courses of action available to them in case these rights are violated.

### ***Law enforcement agencies:***

- Perform routine monitoring of employers to make sure they uphold their Palestinian workers' social rights, including minimum wage and overtime pay, provision of pay slips and accurate reporting of work hours and that they provide for the safety of their employees.
- Perform such monitoring also among employers in the settlements and enforce the HCJ ruling stipulating that they must respect Palestinian workers' rights according to Israeli law.
- Take action against employers who violate workers' rights.
- Insist on direct employment rather than employment through subcontractors as the latter usually involves violation of the Palestinian workers' rights.
- Make sure Palestinian workers are able to use existing public transportation in order to travel between their homes and workplaces and take action against drivers who refuse to provide them with service.

### ***The General Federation of Workers:***

- Support Palestinian workers who attempt to claim their rights and assist workers who are trying to organize in order to demand their rights from their employers.
- Take action against government institutions such as the Payment Division and the Civil Administration to see to it that the rights of Palestinian workers are respected.

### ***Magen David Adom (paramedic services):***

- Refrain from evacuating Palestinian workers injured while working for their Israeli employers to hospitals inside the Palestinian Authority and evacuate them instead to hospitals in Israel.

### ***The National Insurance Institute:***

- Simplify procedures pertaining to claims for work related injuries that involve Palestinian workers.
- Allocate money to health funds for routine medical checks of Palestinian workers who are not members and are employed on sites that contain safety hazards.



