

Migrant caregivers in Israel: problems and recommendations

General background

All elderly and disabled Israeli citizens who meet disability criteria set by the Israeli National Insurance Institute are allowed to employ a domestic migrant caregiver with National Insurance subsidy. The number of permits available to employ migrant caregivers in Israel today stands at about 55,000. It is illegal to employ domestic migrant workers other than as caregivers. Most migrant caregivers in Israel come from south east Asia (Philippines, India, Sri Lanka, Nepal), and some from eastern Europe (former soviet union, Romania). The vast majority of migrant caregivers in Israel are women.

The legal status of migrant workers in Israel depends on their active employment by a person with a migrant caregiver employment permit. Workers who lose their work due to dismissal, quitting or employer death must find new legal employment within at most 90 days or leave the country. As will be explained below, most employers prefer to bring new migrant workers from abroad, rather than employ a worker who is already in Israel. The result is that the number of migrant workers who entered Israel with a legal migrant caregiver visa, and whose maximum period of legal work in Israel (63 months) has not expired, is 10,000-40,000 higher than the number of available permits (55,000). Migrant caregivers who have lost their legal status are usually employed illegally in domestic work.

Since the beginning of 2009 the employment of migrant caregivers must be arranged through a certified Israeli migrant caregiver placement agency, which shares with the employer the responsibility for the rights of the migrant caregiver. These agencies cooperate with overseas agents to recruit workers.

Problems

1. Brokerage fees

Migrant caregivers in Israel are charged a [brokerage fee](#) typically ranging between \$6,000 and \$13,000 in order to get a legal migrant caregiver visa. This

charge is illegal according to Israeli law, but no effective enforcement is conducted to prevent it. This money is shared between recruiters in countries of origin and Israeli job brokers.

Brokerage fees encourage brokers to bring new paying workers from abroad, rather than assign to work migrants already in Israel. This creates a surplus of migrant caregivers in Israel, which enables reduction of wages and exploitation.

Brokerage fees force workers to go into debt. The interest rates are high gray market rates, and many workers mortgage their property to raise the money. Failure to repay the debt puts the life and livelihood of the worker and her family in danger. This debt, therefore, prevents workers from returning to their countries of origin before earning enough money to repay the debt, even if it means working illegally.

2. The binding arrangement

Migrant caregivers in Israel must be actually employed by a permit carrying employer to retain their legal status. Migrant workers are thus bound to their employer, and work termination means a threat of deportation. [This arrangement was declared a “modern form of slavery” by Israel’s High Court of Justice](#) already in 2006, but the State has not essentially changed this arrangement. Last year [the State was found guilty of contempt of the court](#).

For further information on the legal status of migrant workers in Israel see:

http://www.kavlaoved.org.il/media-view_eng.asp?id=2275,

http://www.kavlaoved.org.il/media-view_eng.asp?id=2263

3. Fraud and labor rights violations

The high brokerage fees are an incentive to bring migrant caregivers into Israel even if there is no work awaiting them. This results in the type of fraud called “flying visa”: a worker is brought into Israel legally, but the broker who brought her does not provide her with work. Given the surplus of migrant caregivers in Israel, the worker is unlikely to find alternative employment, and risks losing her legal status and being deported before repaying her debt.

Another kind of fraud is “open visa”: an employer who has a migrant worker employment permit, but who does not actually require the service, registers a migrant caregiver as legally employed for a fee and/or services, while the worker actually makes a living by other means (usually illegal cleaning or au-pair work for other employers). If authorities expose this fraud, the worker will lose her legal status and be deported. This fact allows employers to extort ever increasing sums of money for the “open visa” they provide, and

sometimes leads to debt bondage situations, where migrant workers keep getting into debt to hold on to their visa.

The reality of a surplus of migrant caregivers in situations of debt and threatened loss of legal status forces workers to accept illegally low salaries, withheld pay, non payment of social benefits and forced overtime. Workers are sometimes forced to do work that's not related to their job description, such as cleaning for family members. In some cases workers must accept poor lodging and food, confinement, threats and violence, and some workers are even [forced to provide sexual services](#). Such circumstances may amount to trafficking and forced labor.

State enforcement mechanisms are usually highly inefficient. Investigations are poorly conducted due to low prioritization and lack of adequate, reliable and objective translation services (this extends to courts as well). Sanctions are rarely set on employers; if sanctions are set, they are usually restricted to fines too small to deter offenders. Confiscation of migrant worker employment permits of abusive and delinquent employers is extremely rare. This means that repeated offenders can continue employing migrant caregivers.

While crimes against migrant workers are not properly tried and sanctioned, Israel invests in a 200 inspector task force to hunt down and deport migrant workers who lost their legal status, including those who lost it due to fraud, exploitation and abuse. This encourages further abuse of migrant workers, as employers can count on the victims being deported, rather than confronting them in court.

For further information concerning crimes against migrant workers and inadequate enforcement see: http://www.kavlaoved.org.il/media-view_eng.asp?id=2337,
http://www.kavlaoved.org.il/media-view_eng.asp?id=2094

4. Suitability for work

Some workers come to work in Israel as caregivers, but speak no English or Hebrew, and are therefore unable to communicate with most prospective employers. These workers are likely to lose their jobs and legal status, and find themselves deported and in debt. Some workers are not physically strong enough to lift and move heavy patients. These workers are also less likely than others to find legal employment, and therefore risk deportation.

5. Work load and overtime

Migrant workers in Israel are usually paid for 8 hours of work per day. In fact, most of them are either employed or on call for 24 hours a day, 6 days a week. The legal status of overtime and on-call hours is not resolved, and [the issue is deliberated at the High Court of Justice](#).

The lack of clear definitions of work, overtime and on-call hours leads to situations where some workers are forced to actively work to exhaustion, caring for several family members and cleaning large households. The situation is aggravated where migrant caregivers have to care for more than one patient who requires constant care (such as a married couple of disabled people in a poor health situation).

6. Health, safety and social security

Most migrant caregivers in Israel are employed or on call 24 hours a day, 6 days a week. The intimate circumstances of domestic work make the boundaries between employer and employee vague. This may result in positive family-like relations, but can also deteriorate to sexual harassment and exploitation.

Migrant caregivers are often left alone with a single care patient, and have no access to friends and community life. Sometimes they are strictly prohibited from leaving the home where they work except to accompany their employer to receive medical care. This puts great mental stress on migrant caregivers. The result is a higher than usual rate of mental problems and nervous breakdowns, which in rare occasions result in violent treatment of helpless patients.

Many migrant workers have to lift heavy patients several times a day, and carry them between the bed, chair, toilet, bath and car or taxi. This puts great strain on the worker's muscles and back, and leads to [severe injuries](#) that may result in permanent damage.

The mandatory [health insurance for migrant workers in Israel is far inferior to the insurance provided to Israeli citizens](#) and residents by law, and expires if a worker becomes incapable of working for three months or longer. In such cases insurance companies can send the worker off to her country of origin, where adequate care may not be accessible. Many insurance companies prefer this solution over actually covering costly medical care.

Workers' right to social security is very limited, and is covered only partially by the National insurance law, even if workers reside in Israel for many years. Pension rights, social security and health insurance are not coordinated in bilateral agreements between Israel and countries of origin. This results in lack of continuity of insurance coverage.

7. Family

Migrant workers in Israel may work in Israel legally for up to 63 months. If they continue working for the same employer, they can continue working

indefinitely. Nevertheless, migrant workers do not gain the right for family reunification regardless of their duration of stay.

In fact, if the Interior Ministry finds that a migrant worker has a close relative working in Israel, or has coupled with another migrant worker (whether actually married or not), one of the related workers will lose their legal status and be deported. Relatives of migrant workers can't even travel to visit the workers in Israel. Migrant workers who have children lose their work permits and must leave Israel within 3 months of giving birth. For further information see:

<http://www.kavlaoved.org.il/tal/No%20state%20for%20love.doc>

[Migrant workers require permission from employers to visit their country of origin.](#) Without such permission, the worker might not be allowed to return to Israel, even if she has not completed the maximum period of 63 months of work. Employers sometime refuse, as they would require replacement care. As a result some patients must choose between continuing their work in Israel and visiting a dying relative or attending a family occasion.

8. Residency and citizenship

Migrant workers, even if they reside lawfully in Israel for many years, do not have the right to acquire permanent legal status in the country. As a result, workers may face deportation after two decades or more of lawfully residing in Israel, if their employer passes away or the employment relationship is otherwise terminated.

Israel does not see itself in any way bound to recognize migrant workers' children right to gain lawful status in the country. As a result, a group of migrant workers' children reside in Israel without documented status, which severely restricts their access to basic rights.

Recommendations:

1. As long as a worker's legal status is linked to her active employment, employers can extort migrant workers to accept exploitation and abuse. The legal status of migrant workers must be completely independent from their work situation, and they must be free to choose their employer from among those allowed to employ migrant workers.
2. Exuberant brokerage fees lead to debt bondage and force workers to accept exploitation. The recruitment of migrant workers must therefore be taken away from private brokers and handled by State agents or international agents such as the IOM. Close scrutiny must be taken to prevent corruption and illegal collection of brokerage fees.

3. The State must share in the responsibility to provide workers with employment opportunities. If the number of workers allowed legal entry for work in a specific sector exceeds the number of prospective legal posts, migrant workers must be allowed to work in other sectors, or provided with unemployment benefits.
4. Mass deportation of migrant workers encourages their exploiters to force workers into illegal situations and have them deported, rather than confront the workers' legitimate claims. Enforcement must therefore prioritize protection of the human and labor rights of migrant workers, severely sanction abusive employers, and revoke the migrant worker employment permits of repeated offenders. Enforcement agents must have access to adequate and reliable interpreters.
5. Work load, overtime and on call time must be well defined for domestic work, so that general work time laws can be applied.
6. Migrant workers' health and safety must be protected by adequate insurance, which covers extended disability, and subject to social worker scrutiny.
7. Migrant workers must be allowed enough free time and mobility to associate with their friends and conduct healthy community life.
8. Migrant workers' right to family life must be acknowledged, especially when a worker remains in the country of destination for an extended period of time. Long term migrant workers and their families must have access to permanent residency and citizenship.
9. There must be active and efficient bilateral cooperation between countries of origin and Israel aimed at protecting workers from exploitation and abuse through all stages of their migration, from recruitment to repatriation. In particular, social security and health insurance must be rendered continuous, and the recruitment process must verify that workers can communicate with prospective employers and are physically able to do the required job.
10. Israel must sign and ratify and obey the International Convention for the Protection of the Rights of All Migrant Workers and the members of their Families.

Kav LaOved (Workers' Hotline)
17 Y.L. Peretz Street, Tel-Aviv,
66853, Israel
Tel: +972-3-6883766, Fax: +972-3-6883537
Website: www.kavlaoved.org.il,
E-mail: email@kavlaoved.org.il

Migrant Forum in Asia
85 C Masikap Ext., Central District
Diliman, Quezon City 1100 Philippines
Telefax: + 63 2 433 3508
Email: mfa@pacific.net.hk
Website: www.mfasia.org