

Policy Brief: Ten years after the adoption of the Israeli “Enhanced Enforcement of the Labor Law”, KLO monitoring finds serious gaps in enforcement and protection.

Introduction

Recently, Israel’s “Enhanced Enforcement of the Labor Law 2011” marked its tenth anniversary¹. The law’s intent was to increase deterrence against violations by imposing administrative sanctions on all employers violating labor rights’, and also to provide protections to workers, including groups that are considered the most vulnerable and disadvantaged workers in Israel by including a chapter on subcontract workers in the cleaning, security guards, and catering sectors. However, ten years after its entering into force, the law has not produced its intended effect as labor laws infringements are still widespread in Israel. For example, in 2022, Kav LaOved alone opened more than 3,900 labor rights violations cases across sectors, recovering to workers over NIS 24 million for their withheld wages and social benefits. Moreover, many violations still occur in subcontract work. An Accountant General’s survey of 2020 found that approximately 44% of 2500 surveyed subcontract workers suffered from violations of their rights.

To mark the law’s anniversary, Kav LaOved has monitored its implementation and issued a [report in Hebrew](#), highlighting loopholes and gaps in the law and its implementation. This brief summarizes the reports’ findings and our recommendations.

The law’s background.

The neo-liberalization of the global labour market in the 1990s, along with the trend of privatization of social services, did not by pass Israel, which resulted in intensified socio-economic gaps in Israel and in other countries. The phenomenon of working poor became a widespread concern, with many working poor among recently immigrated Israeli citizens from Ethiopia and the former USSR. In the early 2000s several governmental committees searched for solutions to this crisis. Noticing that labor rights’ violations were common in low-income jobs, they decided that governmental enforcement could be used to mitigate risks for workers who don’t have the bargaining power to prevent them on their own.

At the same time, employers started increasingly using potentially abusive forms of employment such as outsourcing and subcontracting. Outsourcing cuts off the relationship between worker and employer. Employers become customers, while the responsibility for managing workers and paying their wages is transferred to subcontractors who are the direct employers. Often workers’ rights were violated by a direct employer to the indifference of the company for which the worker actually worked. It seemed therefore imperative to make “user companies” accountable, since they had the power to prevent violations by supervising service providers.

¹ Enhanced Enforcement of the Labor Law 2011, see here:
https://natlex.ilo.org/dyn/natlex2/r/natlex/fe/details?p3_isn=94394

One of the tools suggested to do so (both by the OECD and Israeli civil society) was to impose Administrative sanctions, as an efficient tool to deter employers and prevent violations².

The main points of the law

To mitigate the phenomenon of working poor and widespread labor rights' violations in outsourcing work, Israel adopted a law introducing several innovations:

- For the first time, allowing inspectors to impose administrative sanctions, on all employers in all sectors for rights' violations. The law specified financial sanctions' amounts, which increased in case of repeated labor laws' violations.
- Sanctions on "user companies" for labor rights violation by the direct employer in three sectors in which this form of employment was prevalent: cleaning, catering and guarding services.
- Creation of the new role of "wage inspector", responsible for periodic inspections of direct employers' accounts.

Moreover, adopting the new law required the government to increase in the governmental resources allocated for enforcement and prevention of violations.

Issues of concern

A decade after it came into force, KLO's monitoring mechanism found several gaps in the text of the law that question its effectiveness:

- One of the main gaps is in the list of violations that are included in the scope of the law. The law doesn't, for example, allow imposing administrative sanctions for not paying workers sick leave, or imposing sanctions on the "user company" in cases where the contractor dismisses its workers during pregnancy.
- The law is also silent on phenomena now common in the labor market such as chains of contractors (when a tender winner uses subcontractors, passing to them responsibility for the workers' labor rights) and "loss bids" (that transfer losses from the sub-contractors to workers).
- The law also omits from its scope entire sectors which have become prone to contract work and outsourcing such as construction and gardening.
- Despite having established the new role of "wage inspector", the implementation of the obligation to conduct periodic internal inspections depends on regulations that haven't been passed until today.

Failures by the Labor Ministry's enforcement services in the implementation of the law have also contributed to the non-realization of the law's potential: in 2022 the enforcement services' activity helped recover NIS 20.3 million NIS to 4,550 workers³. These numbers could have been much higher as Kav LaOved's monitoring mechanism indicates:

- The Ministry of Labor's enforcement activity has focused on imposing administrative warnings rather than financial sanctions. For example, in 2022, 2,297 administrative warnings were issued but only 522 financial sanctions were imposed. By not imposing a high enough price for violating workers' rights the administration has sabotaged its own power of deterrence.

² OECD (2010), "OECD Reviews of Labour Market and Social Policies: Israel"
<https://doi.org/10.1787/9789264079267-en>.

³ Ministry of Labour, [annual enforcement report](#), 2022.

- The Ministry of Labor's enforcement services hardly carry out repeated inspections (only 34 in 2021 and in 2022 each, compared to 1,080 in 2018), and as a result, violators do not hesitate to repeat their violations.
- Between the years 2017-2022, only 639 warnings were sent to user companies for the violations of labor rights by direct employers, but no financial sanctions were ever imposed on user companies.
- The budget of the Ministry of Labor's enforcement services has decreased in recent years, and the number of inspectors' positions at its disposal is only 95 (many not even staffed) - less than a quarter of the OECD recommendations.
- Workers whose rights have been violated can submit complaints online only in Hebrew.
- As recommended in previous KLO reports, but also by the OECD, the Ministry of Labor should take the initiative to prevent rights' violation. However, information from other agencies is not automatically available to the Ministry of Labor, preventing the possibility to create algorithms to identify violations and improve enforcement processes. Enforcement activity is mostly based on complaints and informant tips, not institutional data from National Insurance, Income tax, insurance companies and more, that can uncover systemic rights' violations. In fact, some authorities refuse to share their data with the Ministry of Labor, therefore denying enforcement authorities critical data available from other sources to detect violations.

KLO's recommendations

1. The Law to Increase Enforcement should to be updated so that financial sanctions can be imposed on violations of additional laws not currently included in the scope of the law, such as the law on sick pay or the law on women's work.
2. The list of industries covered by the law should to be regularly reviewed and updated. It should include, for example, also subcontract workers in the construction, sanitation, and gardening sectors. Workers in these industries are often Palestinians, migrant workers, asylum seekers or Israelis belonging to marginalized groups, all extremely vulnerable workers.
3. The lawmaker must address the lack of implementation regulations which allows user companies to avoid performing periodic salary checks on their outsourcing companies.
4. The phenomenon of chains of contractors must also be addressed and a solution found for it.
5. Necessary changes must be made in the work of the Ministry of Labor's enforcement services. More enforcement actions must be carried out on contractors, even when their subcontractors have corrected previous violations; enforcement must be increasingly based on institutional data to detect horizontal violations; the online complaints system should be available in additional languages, such as Arabic; the prioritization of administrative warnings over financial sanctions should be reconsidered; inspectors' employment conditions must be reviewed and their number increased; the number of repeated inspection visits for workplaces must be increased; data on administrative warnings must be made public, and more.

Kav LaOved – The Worker's Hotline (KLO), is an Israeli civil society organization defending the rights of all workers in Israel irrespective of nationality, religion, gender, and legal status. For more information about Kav LaOved see www.kavlaoved.org.il.

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