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 The Democracy and Workers Rights Center in Palestine

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The Democracy and
Workers' Rights Center
in Palestine (DWRC)



Annual Report 2018

The Situation of Labor and Trade Union Rights, Equality and Non-Discrimination in Palestine



Issued by the Democracy and Workers' Rights
Center in Palestine

Prepared by Rafe' Salahat



The Democracy and Workers' Rights Center in Palestine
(DWRC)

Annual Report 2018

The situation of labor and trade union
rights, equality and non-discrimination in
Palestine



مركز الديمقراطية وحقوق العاملين (فلسطين)
The Democracy and Workers' Rights Center in Palestine (DWRC)

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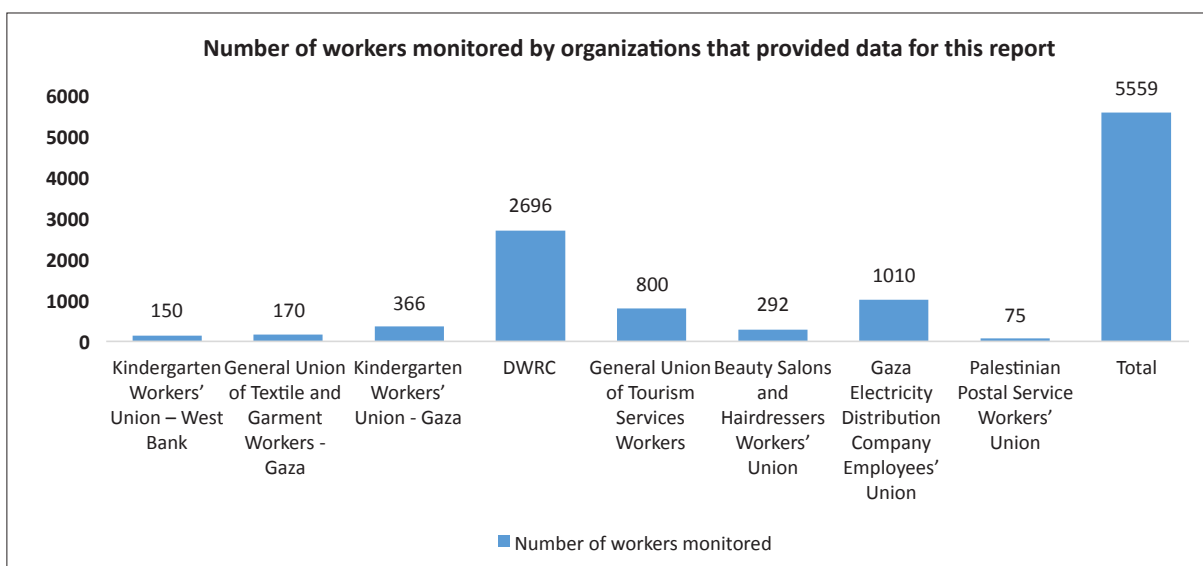
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Executive summary

Many indicators show that a majority of wage workers in the private sector in Palestine experience difficult and unfair work conditions. These include lack of provision of appropriate jobs, low wage levels, lack of job security, in addition to widespread violations of other labor rights guaranteed by domestic and international legislation.

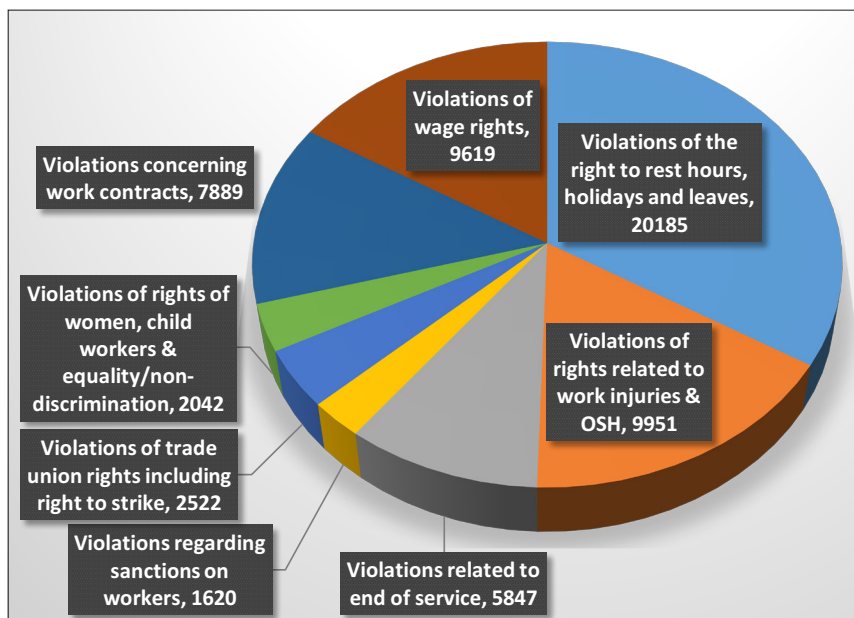
Combining a quantitative and qualitative approach, this report provides an analysis of official data and statistics, as well as data collected through a questionnaire on labor rights violations during the year 2018 in the West Bank and Gaza Strip that covers 5,559 workers, who are members of unions, or submitted complaints and requested consultations from DWRC. It also highlights main reasons for rights' violations.



The political division between the West Bank and the Gaza Strip prevented us from obtaining data on labor cases in courts in the Gaza Strip, as well as official data from the Ministry of Labor in Gaza. Thus, information provided by the Labor Ministry only covered the West Bank, which was one of the most important difficulties that we faced in preparing the report.

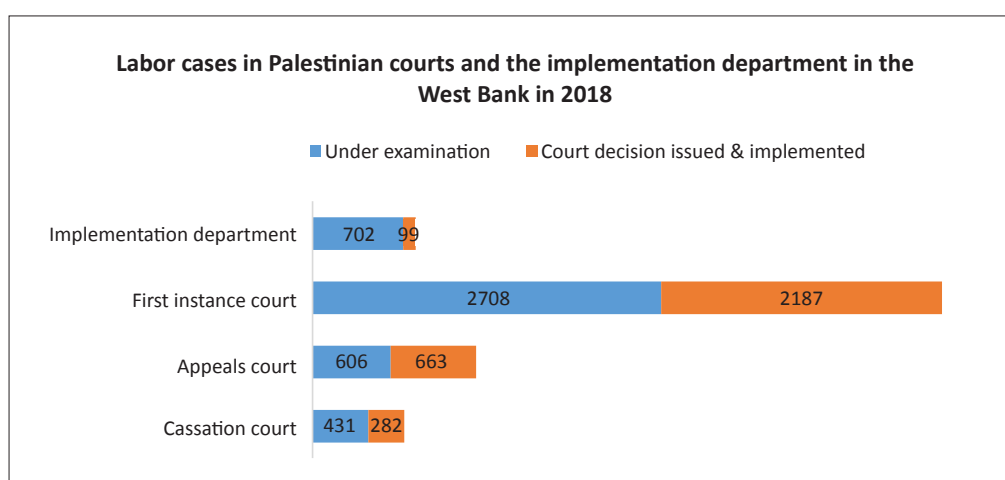
The report indicates that workers faced violations of their fundamental rights at work in various sectors. The most prevalent violations of labor rights concerned annual vacations, holidays and rest hours, followed by violations of rights related to work injuries and occupational safety and health, as follows:

The findings of the report based on the sample of workers monitored are reinforced by



the results of the inspection work undertaken by the Labor Ministry’s inspection teams during the year 2018. Labor inspectors visited 10,687 out of 58,369 establishments in the West Bank, covering all sectors. Visited establishments employed 62,143 male and female workers. The Ministry took 12,150 legal measures against establishments and employers found in violation of the Palestinian Labor Law. It issued 8,754 notifications and 3,057 warnings, referred 256 cases to competent courts in the West Bank, closed 73 establishments, stopped the operation of machines in two establishments and ordered 8 partial closures. It monitored 776 work injuries in the West Bank, 7 of which were fatal injuries. The inspection department also dealt with 523 complaints on various issues, and provided 10,345 legal consultations.

In 2018, courts issued several decisions to stop strikes organized in relation to labor rights demands. We also noted an imbalance between the number of labor cases processed by competent courts based on the levels of litigation, and the number of cases requiring implementation of judgments in the enforcement department.



Source: Data from the Palestinian Supreme Judicial Council

The report concludes that violations of rights are caused by several factors:

- There are shortcomings in the legal framework, particularly in the absence of a law on union organizing that would provide legal protection for union activities. The legitimacy of unions and their activities are subject to the judiciary, judgment calls or jurisprudence in Palestine, which had a negative effect on the first line of defense in case of workers rights violations, particularly in light of court decisions that stopped strikes issued by the High Court of Justice in 2018.
- Female and male workers do not know their labor rights, or do not seek to claim them. Employers exploit their need for work, while unions are not effective in defending workers' rights and undertaking labor rights awareness and education.
- Labor inspections are unable to put an end to abuses and violations of rights by employers, possibly due to lack of material and logistical capabilities and personnel at the Palestinian Ministry of Labor.
- There is a need for more efficient and expeditious resolution of labor disputes in Palestinian courts. This concerns in particular cases in the implementation department.

The legal framework for workers' rights in Palestine

Labor rights arise from the contractual relationship between workers and employers, which results in a set of rights regarding workers' wages, occupational safety and health, the determination of the number of working hours, holidays and vacations, and the right to equal opportunities and treatment without discrimination based on gender, appearance, religion or origin. These rights also include the right to establish trade unions. Despite great advances in developing and codifying an international legal framework for guaranteeing labor rights, this framework does not effectively protect workers from violations of their rights in the domestic context.

Human rights conventions and domestic legislation provide protection for workers' rights, as a fundamental right of every person. Labor rights are essential human rights, as the Universal Declaration of Human Rights states in Article 23 that: "(1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment [...]"

The International Covenant on Economic, Social and Cultural Rights of 1966 (ICESCR) states in article 6 that States Parties to the covenant must recognize "the right to work, which includes the right of everyone to the opportunity to gain his living by work

which he freely chooses or accepts", and take appropriate steps to safeguard this right, including through technical and vocational guidance and training programmes. The ICESCR stipulates in articles 7 that States Parties have the duty to recognize the right of everyone to the enjoyment of just and favourable conditions of work, which ensure safe and healthy work conditions, and guarantee a decent living for workers and their families, in particular fair remuneration, equal pay for work of equal value without distinction of any kind, the right to rest, reasonable limitation of working hours and remuneration for paid holidays. In its article 8, the Covenant recognizes the right of workers to join and form trade unions, and their right to strike.

The constitution of the International Labor Organization (ILO) affirmed the right to human conditions of labour by deciding that one of its primary goals is to create an area of cooperation between nations in order to improve working and living conditions for workers and determine working hours, organize the work of women and children, combat unemployment, spread justice in different social systems, affirm the principle of equal opportunities and equal remuneration for work of equal value, and affirm the principle of freedom of association. The ILO is the organization that has most regulated

the relations between workers and employers. It adopted 189 international labor conventions for this purpose. These conventions are essential references for the countries that signed them or are a member of the ILO, and have committed to respect the terms of these conventions and take necessary measures in line with best practices of international labor standards. They are thus an essential source for developing the domestic legal framework, especially for countries that are not members of the ILO, such as the Palestinian National Authority.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) of 1979 was signed by Palestine, confirming the State of Palestine's approach to equality and non-discrimination between men and women. Article 11 of CEDAW stipulates that States Parties must take "all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular: (a) The right to work as an inalienable right of all human beings; (b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment; [...]" and equality in all standards related to work. Statistics and figures concerning the situation of Palestinian women workers during the year 2018 indicate that they are far from enjoying the rights guaranteed to them by legislation. More preoccupyingly, the year 2018 witnessed a governmental effort seeking to emit reservations to some of the provisions of CEDAW, which the State of Palestine signed without any reservations.

States have an obligation to implement the standards set forth in international human rights conventions as a minimum. International human rights committees and organizations urge all countries to constantly develop their domestic legislation and upgrade it, and adopt broader rights and benefits than those stipulated by international conventions on the right to work, in a manner that does not contradict what is stipulated by these conventions. From this standpoint, the Palestinian Basic Law, in its article 25, affirmed the right to work and the role of the Palestinian Authority in providing it, as well as the right to organize and the right to strike. Legislators rely on the constitutional text as the basis for drafting rules, rights and duties when enacting relevant legislation, such as the Palestinian Labor Law, whose provisions are consistent with the Palestinian Basic Law. Likewise, the Journal of Justice Judgements was considered as the Palestinian civil law and the general framework that regulates labor relations in Palestine until the year 2012. Due to the political division, the Journal of Justice Judgements continues to be applied in the West Bank, while the Civil Code No. 4 of 2012 issued in Gaza, which regulates the employment contract in Articles 771 to 796, is applied in the Gaza Strip. This legislation is referred to in the event that the Palestinian Labor Law does not regulate a specific issue. The Journal of Justice Judgements is referred to in the event that the Palestinian Labor Law does not regulate a case, such as the provisions related to the employment contract in articles 562 to 580.

The Palestinian Labor Law No. 7 of 2000 is main legislation protecting workers' rights at all stages of the contractual

process between workers and employers. The dispositions of the law appear to be in accordance with the basic principles set forth by the Palestinian Basic Law, and in conformity with main international standards stipulated by related international conventions and organizations. The law guarantees a minimum level of workers' rights, which cannot be waived or relinquished in any way. Through their internal regulations, employers and establishments can grant better rights than those stipulated in the Labor Law in workers' interest, or commit to abide with acquired rights not originally guaranteed by the Labor Law. These rights thus become binding on the employer.

Finally, the Palestinian Labor Law, as other legislation, is complemented by many by-laws (regulations issued by the Palestinian Cabinet and the Palestinian Ministry of Labor) that further detail some of its dispositions and are necessary to specify technical matters and address the situation of specific categories of workers or occupations. These by-laws are of no less importance than the Palestinian Labor Law itself. They include regulations related to child workers aged 15 to 17 years, to women's work, to occupational safety and health, hazardous occupations, holidays and vacations.

1

Section I: Violations of trade union rights and freedoms, including violations of the right to strike

Best practices at the international level emphasize the need for strong and effective labor and professional unions to safeguard labor rights, and provide frontline defense against violations of these rights. The right to form or join workers' organizations is a fundamental right guaranteed by international and domestic law. This right is stipulated by the Universal Declaration of Human Rights of 1948 in its articles 20 and 23, as well as by the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights of 1966 in articles 22 and 8 respectively. ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organise of 1948, and ILO Convention No. 98 on the Right to Organise and Collective Bargaining of 1949, provide more detailed protection of the right to organize and union activities.

At the domestic level, the Palestinian Basic Law guarantees the right to form trade unions in its article 25¹. The Palestinian Labor Law No. 7 of the Year 2000, which applies to private sector workers, confirmed this right in its articles 3, 5 and 39², while article 66 guarantees the right to strike to defend workers' rights and interests, and other articles guarantee the right to collective bargaining. However, protection of the right to organize remains inadequate and incomplete in current legislation, while the right to strike is restricted, particularly in the public sector. By the end of the year 2018, the campaign for the adoption of a Palestinian law on union organizing was still ongoing. The lack of intent in issuing such a law raises many questions. Some practices towards trade unions curtail trade union rights, including through decisions of the Palestinian High Court of Justice. The most important among them were:

- Court decision to stop the strike of Al-Bireh municipality workers
- Court order to stop the physician's strike
- Court order to stop the Bar Association strike regarding their boycott of the High Criminal Court in November 2018
- Court order to stop the strike of Jericho municipality workers' union in October 2018

The absence of a law that provides adequate protection for trade union rights and freedoms has led to widespread violations of the right to organize in workplaces,

1 Article 25 of the Palestinian Basic Law stipulates that "3. Organization of unions is a right that shall be regulated by the law."

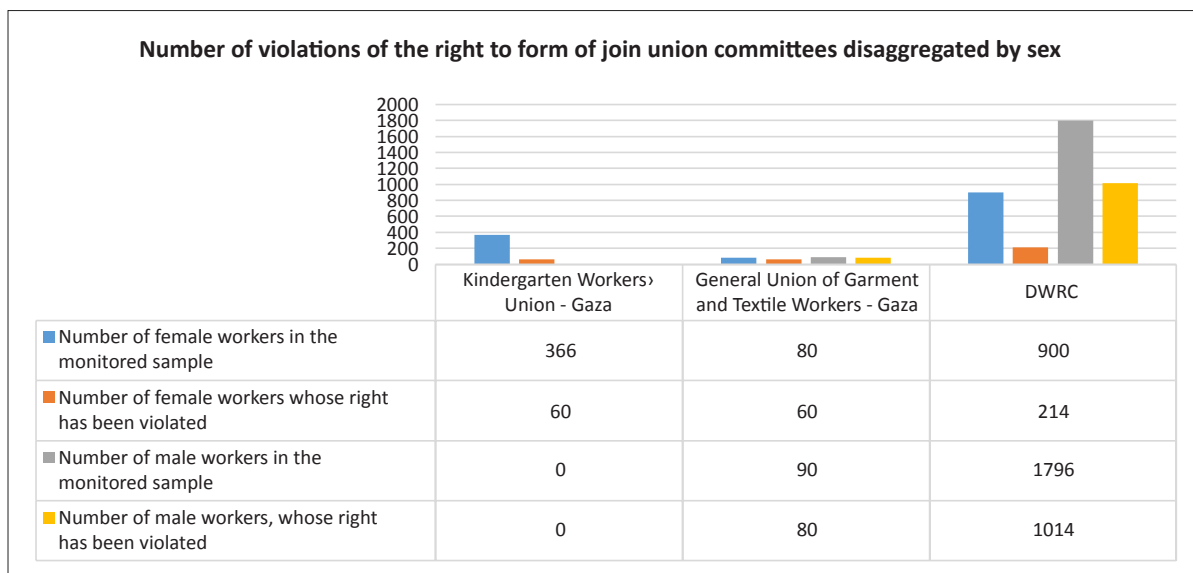
2 The Palestinian Labor Law stipulates in article 5 that "In accordance with the provisions of the Law, both workers and employers shall have the right to establish union organisations on professional basis with the aim of supporting their interests and defending their rights." Article 39 stipulates "The following instances in particular shall not be considered to be from among the real causes which justify the termination of work by the employer: 1. Affiliation with a union or participating in a union activities after working hours, or during working hours in case the employer gives his/her consent. 2. The worker's request that he/she represents workers, or his/her current or past representation of such workers."

especially since some trade union activities and strike activities organized in defense of labor rights have been stopped by decisions of the Palestinian High Court of Justice. Many studies indicate that more than 90% of judicial decisions in this regard are in favor of the executive authority. It is imperative to conduct a genuine review of the importance of the existence of a law on union organizing, as well as the legal dispositions regulating the right to strike, whether in the Basic Law or the Labor Law or the Law by Decree regulating the Exercise of the Right to Strike in the Public Service. Domestic legal dispositions should be in line with international conventions signed and ratified by the State of Palestine, especially the International Covenant on Economic, Social and Cultural Rights, in addition to ILO conventions and recommendations, which are a reference for all labor rights.

The general climate in Palestine, and the internal division between West Bank and Gaza Strip, has led to a division in the issuance of legislation. In 2013, the Hamas parliamentary group issued a union law in the Gaza Strip, without ratification by the president of the State of Palestine. However, in the West Bank, nothing prevents the issuance of legislation on union organizing. From 2007 until 2018, a significant number of laws have been issued despite the absence of a functioning Legislative Council, but the law on union organizing was not among them. Such a law appears more important and should have higher priority than the Electronic Crimes Law or the Supreme Criminal Court Law, which were recently adopted. Workers, unions and human rights organization have highlighted the necessity of such law, which would prevent the judicial and executive authorities from restricting trade union work, and weakening and stopping union activities, particularly strikes based on labor rights demands.

In the Gaza Strip, the union law of 2013 does not meet international standards for the right to organize and places many restrictions on exercising this right. Data indicates that there are many violations of trade union rights, as reported by the General Union of Textile and Garment Workers and Kindergarten Workers' Union.

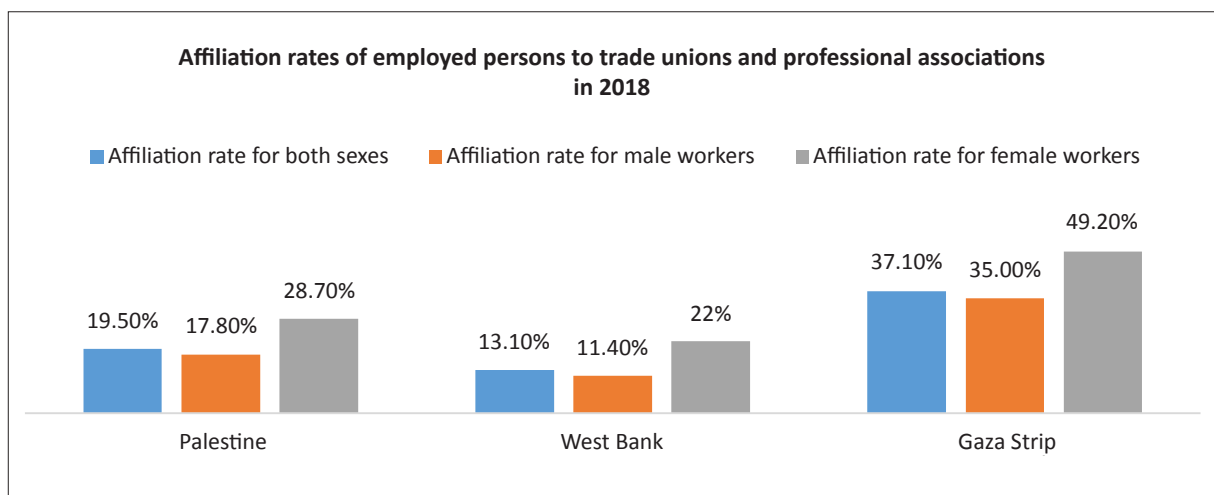
Out of 2696 cases monitored by DWRC, 1228 concerned denial of workers' right to undertake trade union work or form union committees in the West Bank and Gaza Strip.



Although the right to organize is a fundamental right to workers, workers face pressure from employers to refrain from affiliating to trade unions. The General Union of Tourism Services Workers in Gaza reported by trade union work is forbidden in tourism sector establishments. This is also the case for sanitary workers in public hospitals in the Gaza Strip, who have been unable to form a union due to pressure from their employers, and have been deprived from joining any union.

The findings of the General Directorate for Labor Inspection and Protection for the year 2018 report issued by the Ministry of Labor, monitored 45 complaints submitted concerning violations of the right to form trade unions or forbidding strikes in reference to article 45-67 of the Palestinian Labor Law. The report also indicated that the Ministry issued 17 notifications and 32 warnings to perpetrators of infractions, and referred two cases to competent courts.

In 2018, affiliation levels to trade unions or professional unions remained low.



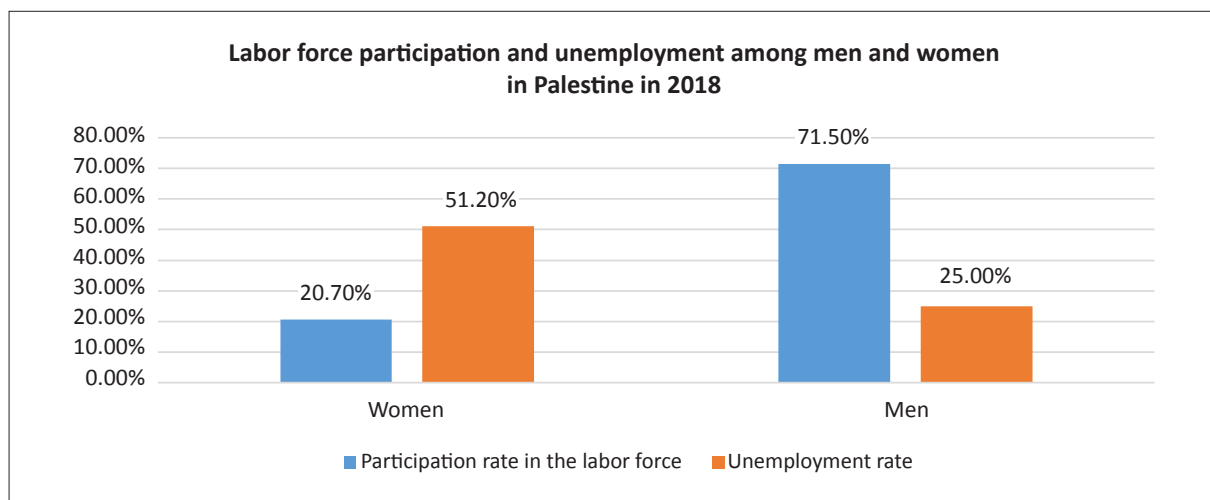
Source: *Palestinian Central Bureau of Statistics, 2019. Palestinian Labour Force Survey: Annual Report: 2018. Ramallah – Palestine, table 55, p. 119*

Despite obstacles to trade union work, the current situation is not the sole responsibility of the official authorities. There are also issues related to levels of education and awareness about the importance of union work and union affiliation, and the role that trade union work could play in safeguarding labor rights and defending them. The percentage of affiliation to trade unions and professional associations in 2018 indicates weak workers’ participation or affiliation to trade unions. It confirms that the labor force in Palestine requires more work and efforts by official and non-governmental organizations, particularly human rights organizations, to raise workers’ awareness of trade union work and encourage them to form or join unions. On the other hand, these percentages show stronger union affiliation among women compared to men, in both the West Bank and Gaza Strip.

2

Equality and non-discrimination is a fundamental human right in a democratic society, if not the most important. Its achievement guarantees the realization of other rights. In 2018, we continued to note significant gender equality gaps in Palestine. Despite the struggles and achievements of women workers, there is still a long way to go to achieve equality and non-discrimination for women workers. Statistics and data gathered concerning violations of labor rights in 2018 indicate that women workers are subject to greater violations of their rights than men, in terms of leaves, wages, higher unemployment rates among women due to discrimination in employment, in addition to other forms of violations.

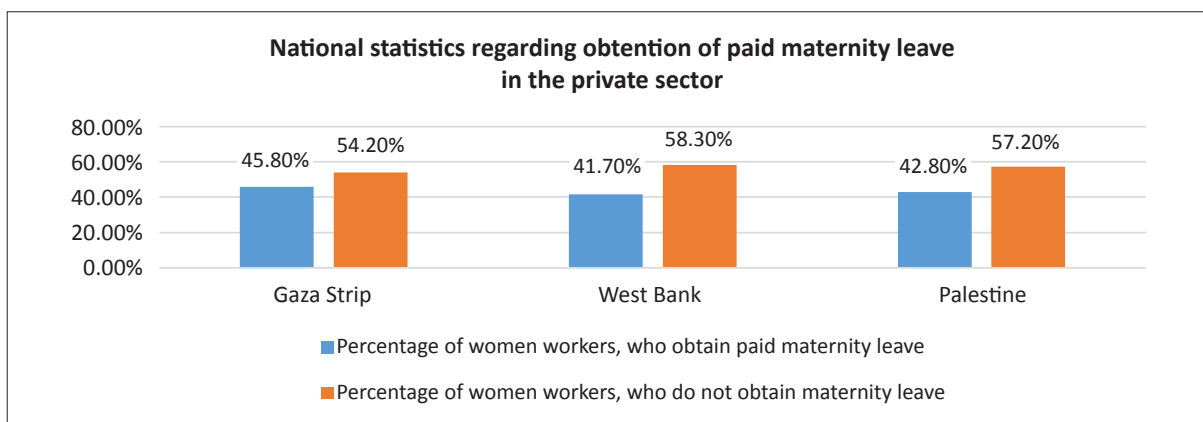
Section VII of the Palestinian Labor Law gathers dispositions of the law specific to women workers (articles 100-106). However, national statistics continue to indicate a significant gap between men and women in matters related to employment and labor rights. Most Palestinian women remain outside the labor force. In 2018, 20.7% of women and girls aged 15 years and above were inside the labor force, compared to 71.5% of men and boys. At the same time, more than half the women in the labor force were unemployed, compared to 25% of men. These gender gaps clearly indicate that women continue to face serious issues in integrating the labor market and obtaining equal employment opportunities.



Source: Palestinian Central Bureau of Statistics, 2019. Palestinian Labour Force Survey: Annual Report: 2018. Ramallah – Palestine.

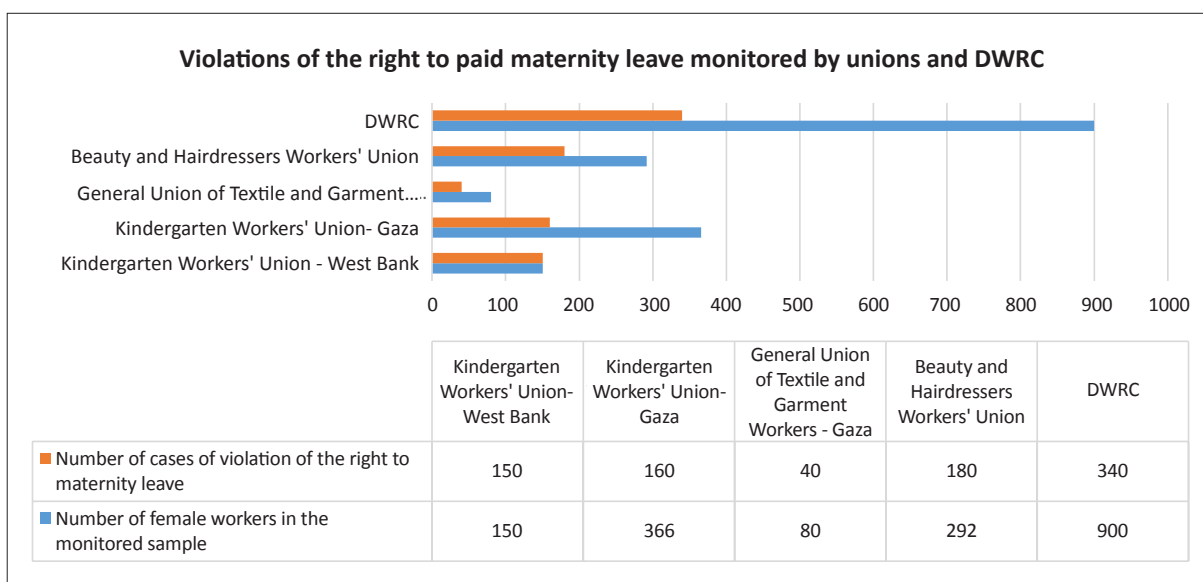
2.1. Violations of the right to maternity leave

Statistics indicate that 57.2% of female wage employees in the Palestinian private sector did not obtain a paid maternity leave in 2018. This concerns 58.3% of female wage employees in the West Bank and 54.2% in the Gaza Strip³. Employers, who do not provide paid maternity leave, violate article 103 of the Palestinian Labor Law. Although the percentage of women concerned has decreased compared to previous years, violations of working women’s rights remain widespread.



Source: Palestinian Central Bureau of Statistics, 2019. Palestinian Labour Force Survey: Annual Report: 2018. Ramallah – Palestine

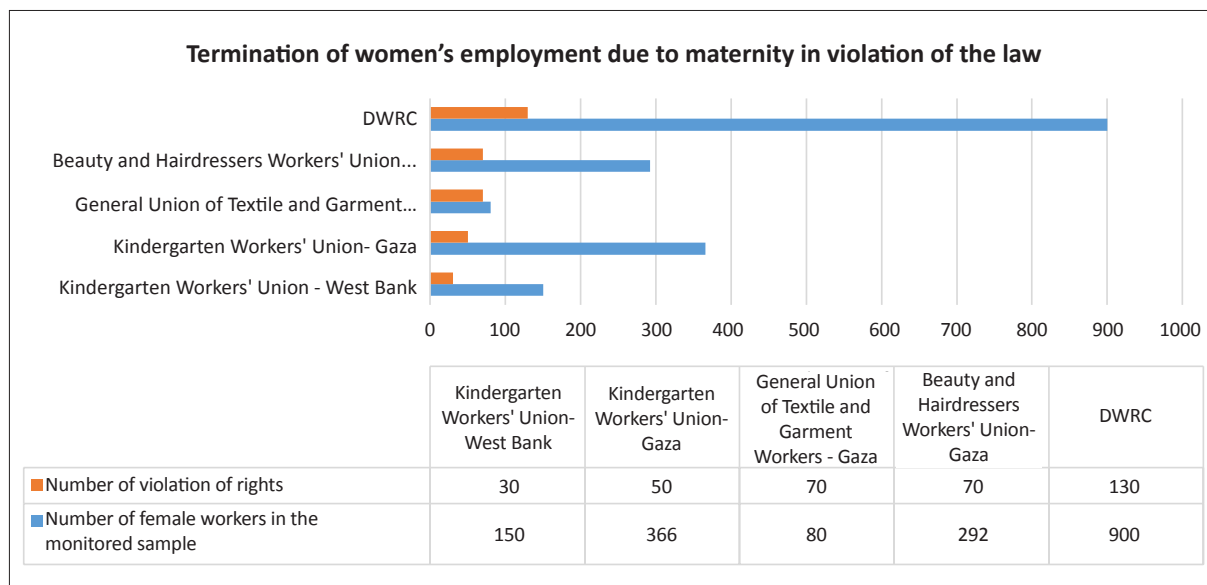
Data gathered from unions and DWRC regarding violations of the right to paid maternity leave also indicates high levels of non-compliance by employers with their legal obligations.



3 Palestinian Central Bureau of Statistics, 2019. Palestinian Labour Force Survey: Annual Report: 2018. Ramallah – Palestine

There appears to be considerable violations of the right to maternity leave of kindergarten workers in the West Bank. There is also high prevalence of violations of this right among female members of the kindergarten, beauty salons and textile unions in the Gaza Strip.

Palestinian labor law protects women during maternity and the breastfeeding period, by compelling employers to provide rest and paid maternity leave in its articles 102 and 103, and prohibiting the dismissal of women workers, because of maternity. However, the termination of women’s employment due to maternity was also among the violations of rights monitored during the year 2018. Some employers dismiss female employees upon learning that they are pregnant. Employers justified these practices by saying that work interests and the maintenance of workers’ productivity and their income requires a continuity of work, and that they are unable to pay the wages of those who do not work, under the pretext of difficult living and economic conditions. Denial of maternity leave and termination of employment due to maternity contribute to women’s unemployment and lack of equal employment opportunities.



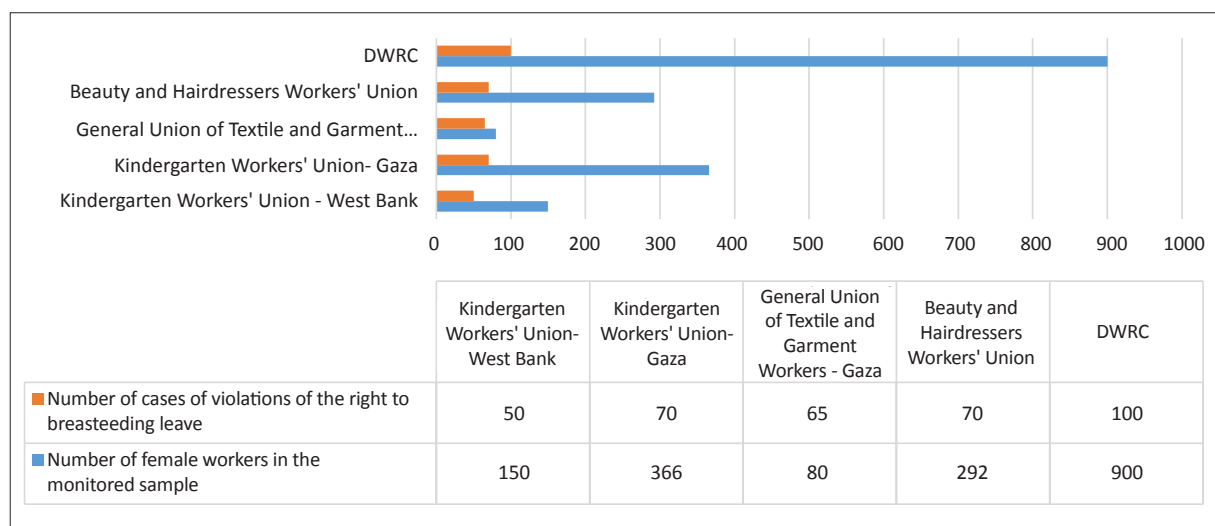
Many cases of dismissal of women workers due to maternity have been monitored in kindergartens and day-care centers, as well as in the textile and garment sector in Gaza. There are also cases of oral agreements between the employer and the worker based on which women workers forgo their wages during their maternity leave. In such cases, women often return to work two weeks after giving birth due to economic conditions. If they work in a day-care center, then it is easier for them to take care of a newborn baby at work. One of the cases monitored is as follows:

A.W. was employed at a training center in the West Bank from 2012. Her employer terminated her services a month before she was to begin her maternity leave. The employer dismissed her without grounds, and deprived her of end of service indemnities, wages during maternity leave, and compensation for arbitrary dismissal. The employer

also owed her unpaid wages, and she used to work during official holidays, for which she is also entitled to compensations. None of the financial indemnities to which she is legally entitled have been paid to her.

2.2. Violations of the right to breastfeeding leave

Article 104 of the Palestinian Labor Law stipulates that women workers are entitled to a breastfeeding leave of one hour (intermittent or continuous) during their working time for a period of one year after giving birth. Many cases of violations of this right have been monitored. In some cases, employers have deducted the breastfeeding leave from women’s annual leave days, and when annual leave days are used up, breastfeeding leave hours have been deducted from wages. In other cases, women have been pressured to forgo their breastfeeding leave. Cases of women, who do not obtain breastfeeding leave, are always observed in marginalized sectors, where women workers are particularly vulnerable, such as the kindergarten sector and the beauty salons sector. Once again, we monitored highest prevalence of violations of these rights in the textile and garment sector in 2018.

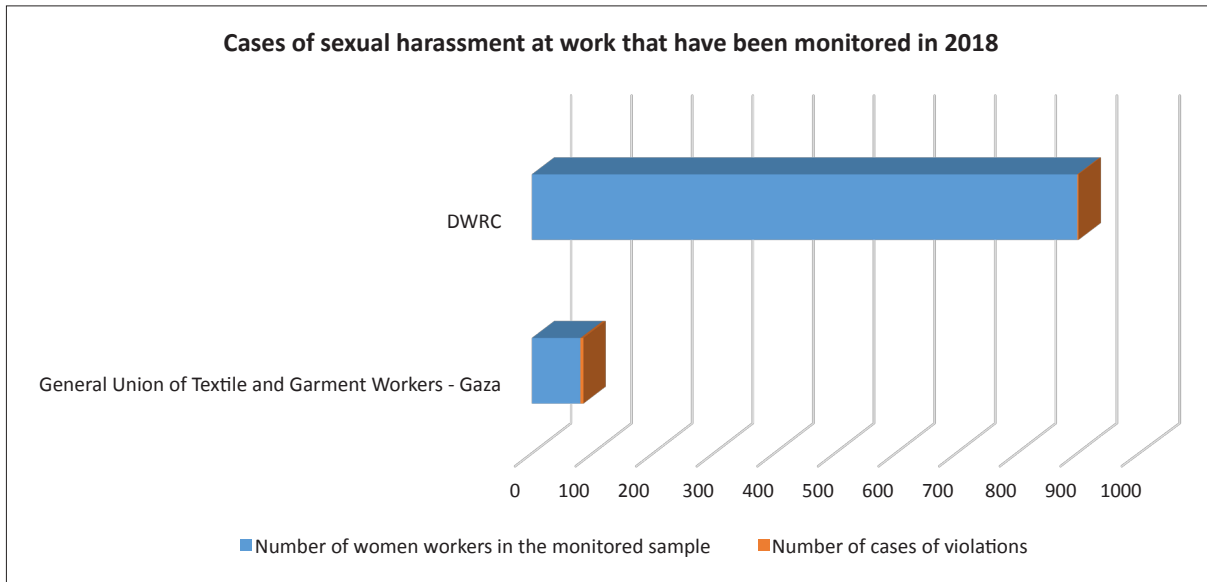


2.3. Sexual harassment in workplaces

The number of cases of sexual harassment against women workers monitored by unions and DWRC in 2018 was much lower than in 2016 and 2017. Only five cases were registered in the textile and garment sector in Gaza, and two by DWRC. However, due to the sensitive nature of such cases and the lack of a legal framework to protect women from violence and harassment at work, these figures do not necessarily adequately reflect the reality. Fear for their reputation (if not their life) and the need to keep their jobs too often lead women to keep silent about facing harassment.

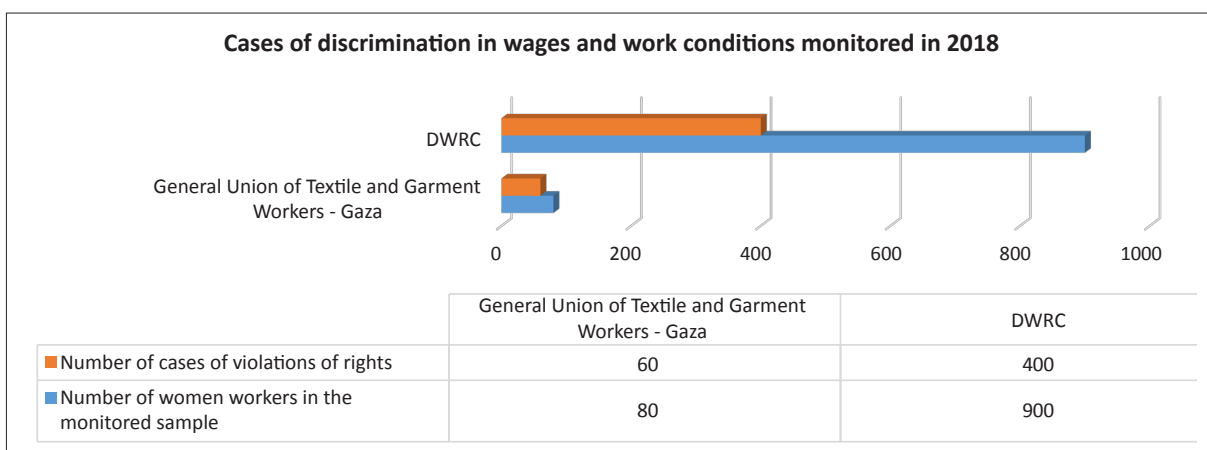
One of the cases monitored concerns female workers, who were subjected to verbal

sexual harassment by a male colleague at work. The organization did not know what sanction or procedure it can take against its employee without violating the law. On one hand, the organization does not have a sanctions' by-law. On the other hand, there is no provision in the Palestinian Labor Law that addresses sexual harassment.



2.4. Discrimination in wages

Gender-based discrimination in wages has been observed in several establishments. According to PCBS, women workers earned 71.9% of men's wages in 2018 (based on daily wages). There is also a clear gap between men and women, when it comes to the implementation of the minimum wage (set at 1450 shekels per month). Overall, in the Palestinian territories, 41.8% of women wage workers in the private sector earned less than the minimum wage compared to 31.15% of male wage workers. In the West Bank, where the minimum wage is in principle enforced, 37.28% of women wage workers in the private sector were paid less than the minimum wage, compared to 7.76% of male wage workers. Among textile and garment workers in Gaza for example, 60 out of 80 women workers were paid wages lower than male workers. In some cases, men are paid twice what women earn.



It should be noted that successive governments, represented by the Ministry of Labor and its role in monitoring of law enforcement, bear some responsibility in the lack of abidance with the law that results in working women's rights violations. In addition, the penalties imposed on employers, who violate provisions of the law, are low. Fines of 200 to 500 JD stipulated by article 134 of the Palestinian Labor Law for contraventions of articles 100 to 106 of the law do not constitute deterrent sanctions that would lead employers to consider matters carefully before committing an infraction.

In 2018, 10 complaints concerning violations of specific rights of women workers were submitted to the Labor Ministry. The Ministry took some preventive measures and sanctions towards establishments based on infractions affecting women workers' rights. The annual report for 2018 issued by the General Directorate for Inspection and Labor Protection at the Labor Ministry indicated that the Ministry issued 13 notifications, 15 warnings, and filed three cases with competent courts.

2.5. Child work and child labor

According to official statistics, prevalence of child work is not very high in Palestine. There is however a persistence of child labor, i.e. employment of children under the minimum working age, or employment of children in prohibited occupations or under conditions that may cause harm to their health, safety, physical and mental development. PCBS indicated that in 2018, 2.9% of children aged 10 to 17 years were employed,

1.3% of children in the Gaza Strip and 4% of children in the West Bank. 0.9% of children aged 10 to 14 years, i.e. under the minimum working age, were employed, 0.5% in the Gaza Strip and 1.2% in the West Bank. Among the age category 15 to 17 years, the percentage of child workers is higher, reaching 6.6% in Palestine, 3.1% in the Gaza Strip and 8.9% in the West Bank. 75.1% of male child workers are also descolarized⁴.

The annual report of the Labor Ministry's inspection department in the West Bank indicated that inspectors reported that they found that 713 children aged 15-17 years and 169 children under the minimum working age were employed in contravention of the Labor Law dispositions. These infractions were noted by labor inspectors during regular inspection visits, based on complaints submitted to the Ministry and through cooperation with other parties. These cases were recorded during only 878 visits by labor inspectors during a period of 10 days in 2018. This is a little surprising considering that the labor inspection department has greater capacities in the West Bank than in the Gaza Strip. The Ministry reported that it received 2 complaints concerning children employed in contravention with the law, and took measures regarding 308 contraventions. It issued 156 notifications, 96 warnings, and filed 16 cases with competent courts⁵. In addition, many cases were addressed through awareness and guidance, particularly concerning work conditions

4 Palestinian Central Bureau of Statistics, 2019. Palestinian Labour Force Survey: Annual Report: 2018. Ramallah – Palestine tables 79 and 80, p. 136

5 Palestinian Ministry of Labor, Annual report of the General Directorate of Inspection and Work Protection, 2018, inspection of workplaces in the West Bank

and circumstances of young workers (aged 15-17 years), who are permanently employed.

The nature of violations of rights concerning child workers included non-abidance with the minimum working age (set at 15 years by the Palestinian Labor Law), non-abidance with providing an annual vacation, weekly leaves, daily working hours, and prohibition of employing young workers aged 15-17 years in hazardous and harmful occupations.

Labor inspectors faced many issues in dealing with these contraventions, as many children work in family-owned businesses, or directly for first-degree relatives. The Palestinian Labor Law

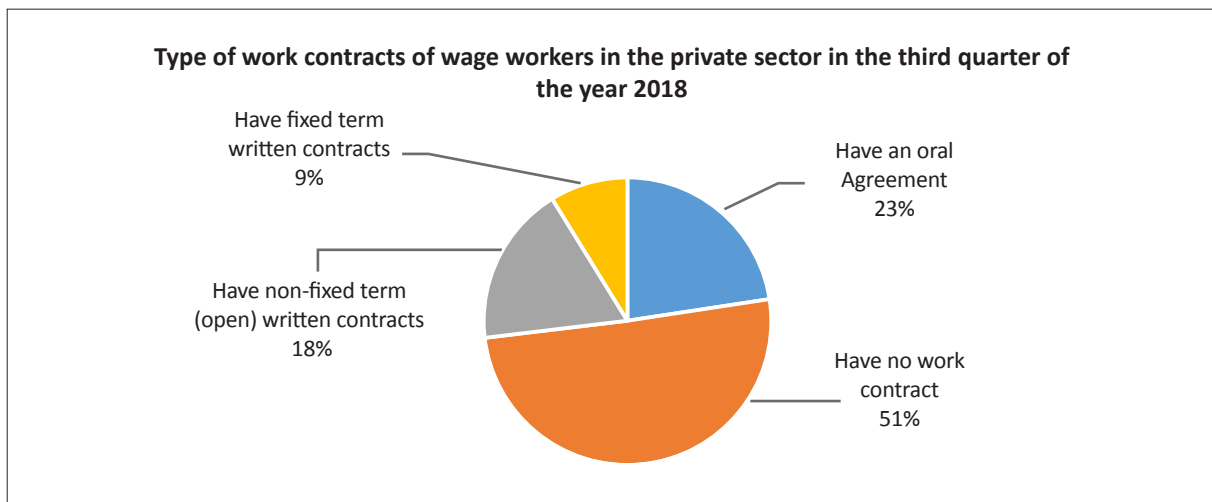
does not protect first-degree relatives of the employer, as they are not included in the categories of workers to whom the law applies. In addition, some children work as “self-employed” workers in markets and at traffic lights at crossroads inside and outside cities. The applicable legislation in these cases is the Palestinian Child Law. Some of these cases have been referred to the Child Protection Network. In attempting to enforce the law and fulfill their duties, labor inspectors also face the problem of children running away from workplaces, when inspectors show up, and the issue of the seasonal character of child work, which increases significantly during the mid-year and summer holidays.

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Section III: Violations of rights related to work contracts

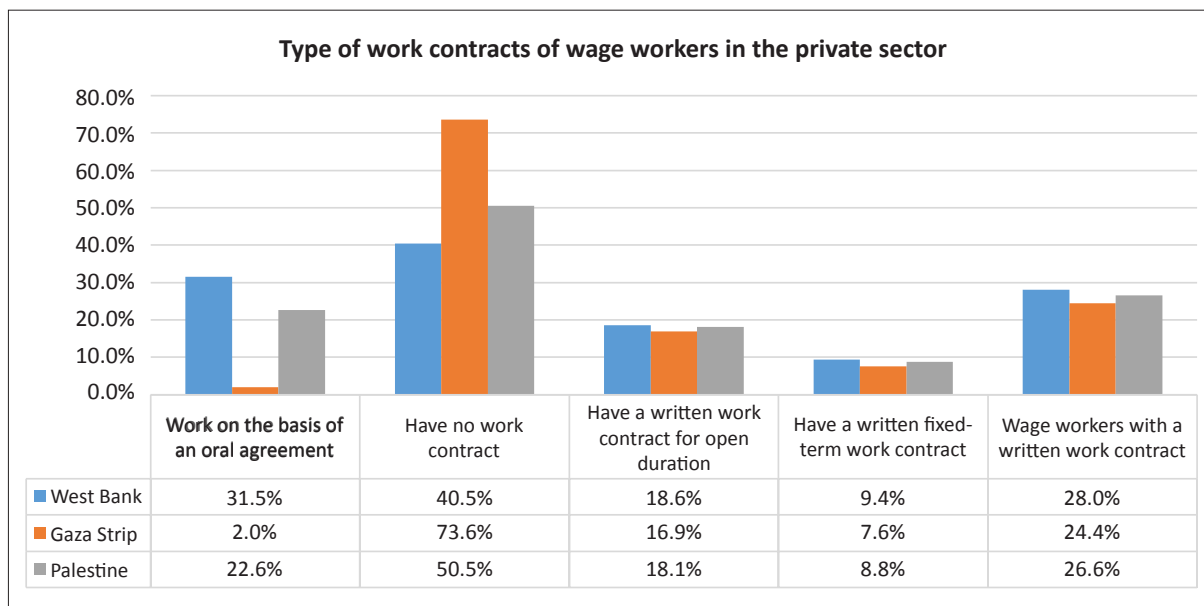
The nature of work contracts appears to be one of the main causes of violations of workers' rights. A vast majority of these contracts do not abide with the most basic rules regarding labor rights stipulated in the Palestinian Labor Law. The law governs the nature of contractual relationships between workers and employers, and stipulates that a fixed-term work contract with the same employer may not exceed two consecutive years. Any continuous employment relationship that exceeds this period shall become an open-ended contract. The law does not impose a specific form of work contract, thus a work contract may be written or oral, explicit or implicit.

3.1. Issues related to the absence of written work contracts



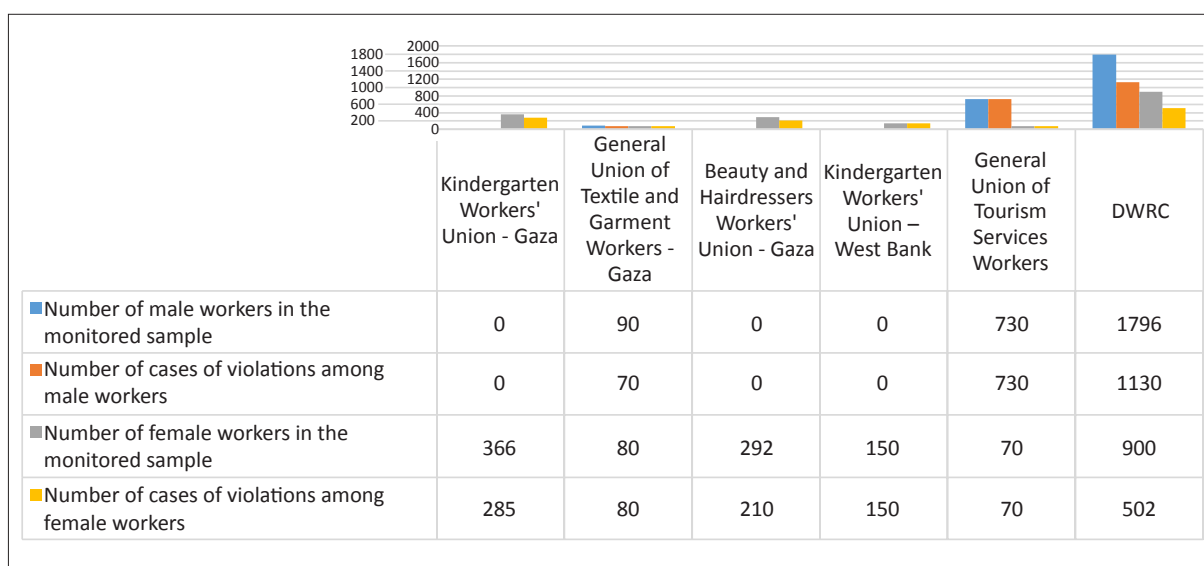
Source: Palestinian Central Bureau of Statistics, 2018. Labour Force Survey: (July-September, 2018) Round, (Q3/2018). Press Report on the Labour Force Survey Results. Ramallah – Palestine.

PCBS labor force survey statistics for the third quarter of 2018 indicate that half of the wage workers in the private sector do not have written or oral work contracts. 8% of the workers have written fixed-term work contracts and 18% have open-ended written contracts. The remaining 23% have oral agreements with their employers.



Source: Palestinian Central Bureau of Statistics, 2018. Labour Force Survey: (July-September, 2018) Round, (Q3/2018). Press Report on the Labour Force Survey Results. Ramallah – Palestine.

In the West Bank, 40% of wage workers have no work contract, whereas this percentage reaches 73% in the Gaza Strip. These national statistics are confirmed by the findings of the questionnaires filled by DWRC and unions, showing that in certain sectors work contracts are absent.

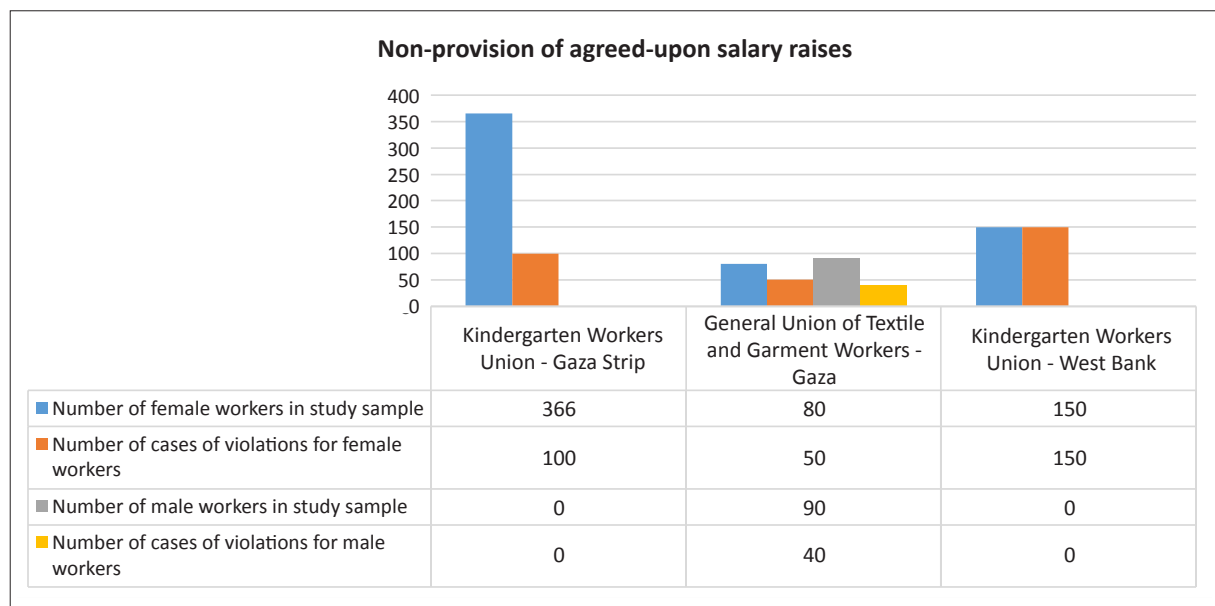


Findings indicate that out of the 800 tourism services workers in the Gaza Strip, who were monitored, none obtained most basic rights guaranteed by the Labor Law, including a work contract. Prevalence of the lack of work contract is also present in other sectors, such as the textile and garment sector and the kindergarten sector. Out of

the 1796 workers to whom DWRC provided consultations or who submitted complaints to DWRC in 2018, 1130 had no written work contract with their employer (i.e. 63% of the cases). Out of the 900 female workers, whose situation was monitored through legal consultations and assistance, 502 had been working without a work contract that would safeguard their rights towards their employers (i.e. 55.7% of the cases). It should be noted that data collected by DWRC concerns individual and collective cases. One of the collective cases concerned female and male sanitary workers in public hospitals in the Gaza Strip, who have been deprived from having written work contracts since 2005, when this service started being subcontracted by the Ministry of Health to private companies through yearly bids. In 2018, this concerned 832 male and female workers. In case of a labor dispute with the employer, the absence of written work contracts makes it harder for workers to prove their claims.

3.2. Denial of salary raise agreed upon in the work contract

The Palestinian Labor Law clearly stipulates that the rights guaranteed to workers by the law constitute a minimal level of rights, which workers cannot relinquish⁶. All additional rights granted by the employer are acquired benefits. These benefits, such as an annual raise, are legally binding for employers and will be upheld by a court of law. The findings of the questionnaires for monitoring violations of workers’ rights in 2018 indicate that 150 female kindergarten workers in the West Bank have not obtained the annual raise agreed upon, and the same is true for 100 out of 366 kindergarten workers in the Gaza Strip. Violations of this right also concerned 50 out of 80 female textile and garment workers, and 40 out of 90 male workers in that sector in the Gaza Strip. Employers invoke the economic situation, weak marketing, and low profits in this sector as reasons for not providing any raise.



⁶ Article 6 of the Palestinian Labor Law

3.3. Failure to consider the probation period as part of the work contract

Article 29 of the Palestinian Labor Law does not stipulate which form the probation period should take, whether it is part of a fixed-term work contract or an open-ended work contract. However, any probation period must be agreed upon previously between workers and employers. Thus, a probation period is not compulsory for workers, except upon agreement with the employer. If the employer imposes a probation period as part of the work contract, the worker has the choice of accepting this contract, refusing it or negotiating its terms. Once an agreement is reached, it is binding for both parties⁷. It should be noted that there are two interpretations of the duration of the probation period. The Labor Law specified that the probation period should be of a duration of three months and may not be repeated more than once with the same employer⁸. However, many law scholars have interpreted the law's disposition as meaning that the probation period can be extended for another three months, and that the total probation period can be up to six months. However, the law intended to limit the probation period to three months only. This has been confirmed by the Palestinian Court of Cassation, which interpreted this article by stating: "The employer has no right to repeat the probation period for an additional three months, or stipulate a probation period of six months from the beginning." Thus, the other interpretation does not correspond to the philosophy and goal of the legislator, in addition to departing from the clarity of the text⁹.

Legal dispositions and judicial principles have upheld workers' interests, without prejudice to employers' interests. They stipulate that employers can introduce a probation period, whose duration should be determined through an agreement between employers and workers. The purpose of the probation period is to allow employers to ascertain the efficiency and commitment of workers in fulfilling the tasks assigned to them, as well as other matters related to workers' morality and honesty. In counterpart, this allows workers to make sure that they are suited for the work. Each party can terminate the work contract without any liability or obligations during the probation period. However, we have monitored many cases of violations of the law by employers, such as probation periods being extended for more than a year, or workers' wages being paid only after three months.

In one of the cases that occurred in the secretarial sector at an attorney's office, the employer exploited workers' need for a job by paying their wages only after three months of probation. He then extended the probation period for another three months, and terminated their work before the six months has been completed. The attorney replaced more than four employees in two years.

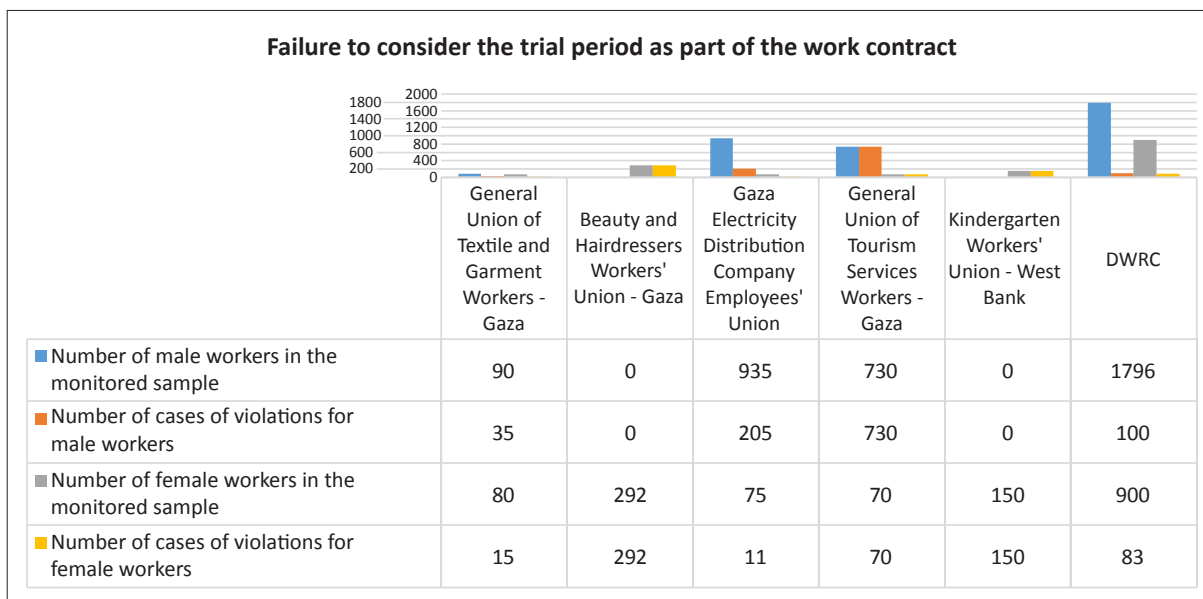
In 2018, we monitored more than 1691 cases of violations regarding the probation period, i.e. not considering the probation period as part of the period of employment

7 Decision of the Jordanian discrimination court No. 4482/2005 of the year 2006

8 Article 29 of the Palestinian Labor Law

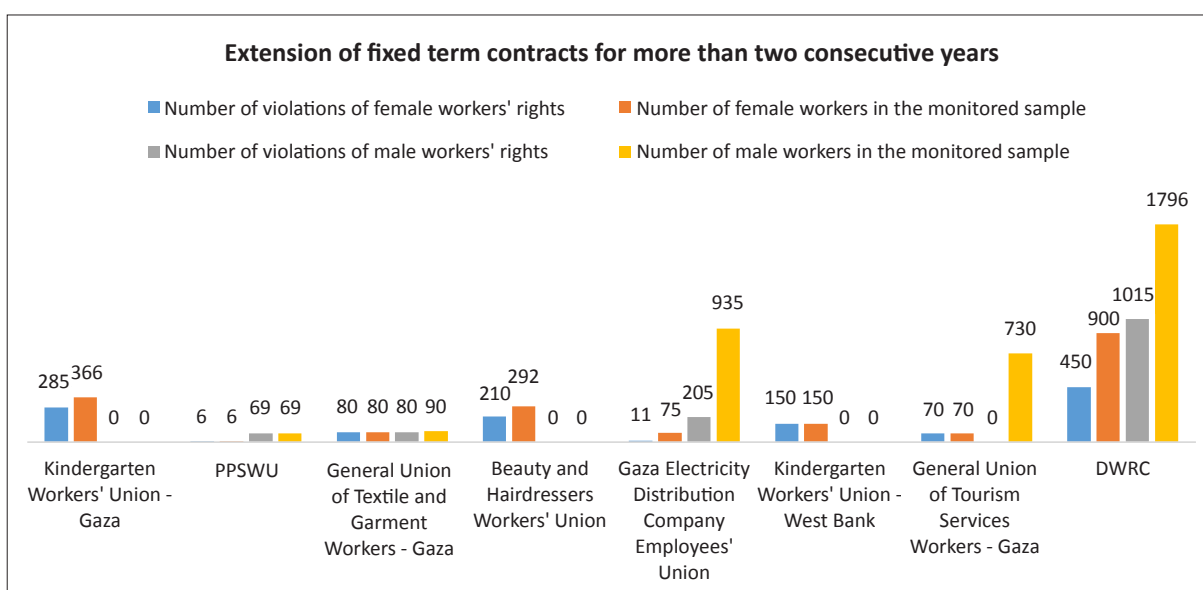
9 Palestinian Court of Cassation decision No. 586/2010 issued on 28/06/2012

or the work contract. This is the case for some marginalized categories of workers and sectors, where many violations of labor rights were observed. Noticeably, 216 violations of rights regarding the probation period were monitored in the electricity sector in Gaza, although this is a formal sector that should follow legal and administrative regulations.



3.4. Extending fixed-term work contracts for more than 2 years

The Labor Law and decisions of the Palestinian Cassation Court¹⁰ affirmed that it is not permissible to extend a fixed-term contract for more than two consecutive years of employment with the same employer or the same establishment. After two years of employment, a work contract is automatically considered as open-ended. However, we monitored many violations of the law in this regard during the year 2018, which have negative consequences on workers' rights related to termination of services, wages and other rights.



¹⁰ Articles 25 and 26 of the Palestinian Labor Law No. 7 of the Year 2000, confirmed by decision 477/2011 of the Palestinian Cassation Court

Undeniably, kindergarten workers in the West Bank and Gaza Strip face worst forms of labor rights violations. Other marginalized groups, such as female beauty salon workers also face similar issues. Employers keep renewing fixed-term contracts to be able to terminate workers' services at any time and without grounds. This leads to job insecurity and deprives workers of the benefits of open-ended work contracts. The Palestinian Court of Cassation has emphasized that a work contract's fixed-term or open-ended nature is a matter of law that is subject to the control of the Court of Cassation¹¹. Due to the economic situation, the need for employment and employers' arbitrariness in ending any work contract, workers abstain from going to court or from submitting a complaint to the competent authorities, such as the Ministry of Labor, in order to preserve their livelihood. In many cases that have been monitored, especially in kindergartens and in the textile and garment sector, employers tell workers to resign if they do not like the conditions they offer.

One of the cases monitored and documented through a complaint submitted to DWRC was as follows:

Several female workers employed by a private school in Ramallah refused to sign their work contract for the new school year 2018/2019, because some of its clauses contravened the Palestinian Labor Law. Some workers had already signed open-ended work contracts with the former administration of school. At the beginning of 2018, the school administration changed. The new school administration demanded that workers sign new fixed-term work contracts, without taking into account that their years of service exceeded two years. In the new contracts, there was a special clause restricting workers' right to resign, whereas this right is guaranteed by the Palestinian Labor Law. Furthermore, this clause stipulated that should the worker resign, she would have to pay the annual value of her work contract. The new contract also deprived female workers from their right to annual paid vacation, as the vacation was set after the second school semester, i.e. during the summer break, which is not paid.

¹¹ Palestinian Court of Cassation, decision No. 94/2010 issued on 14/07/2010

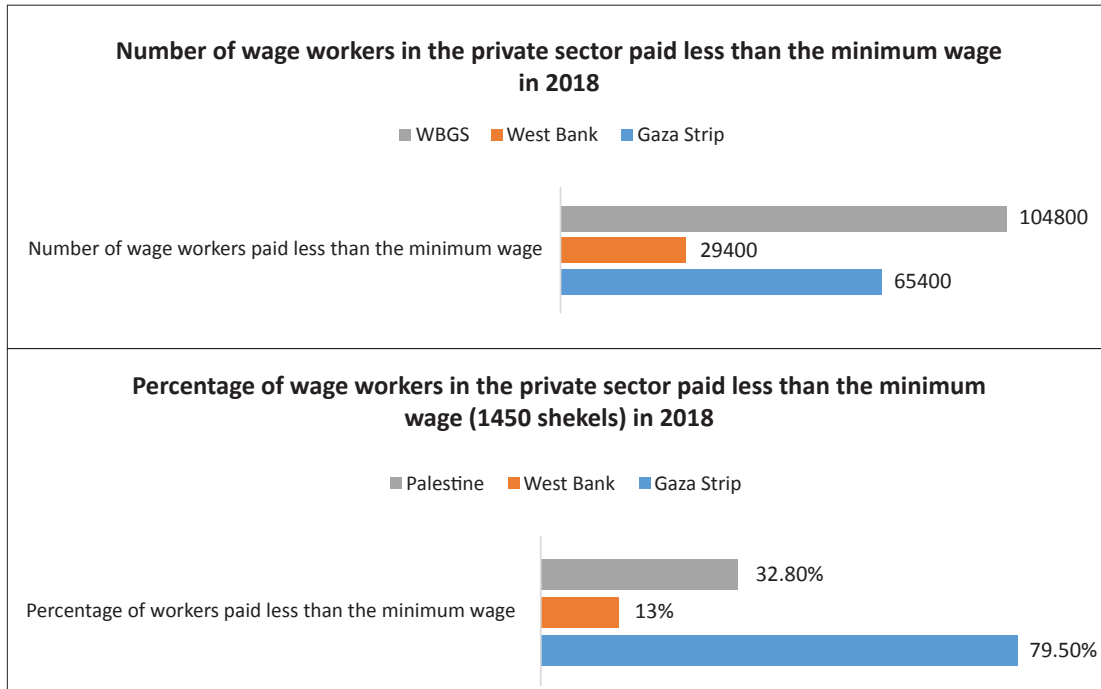
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Section IV: Violations of rights related to wages

Regulating wages and setting a minimum wage is one of the main issues addressed by legislators, because female and male workers may agree to any wage in order to provide for their basic needs, whether they are satisfied with such a wage or compelled to accept it. The economic conditions in Palestine increase workers' vulnerability to accepting unfair wages, particularly in the Gaza Strip, where the economic situation is far worse than in the West Bank. The Palestinian Labor Law regulates wages in articles 81 to 89. It addresses the legality of the employee's entitlement to wages and working conditions, the minimum wage, the establishment of a wages' committee and its functions.

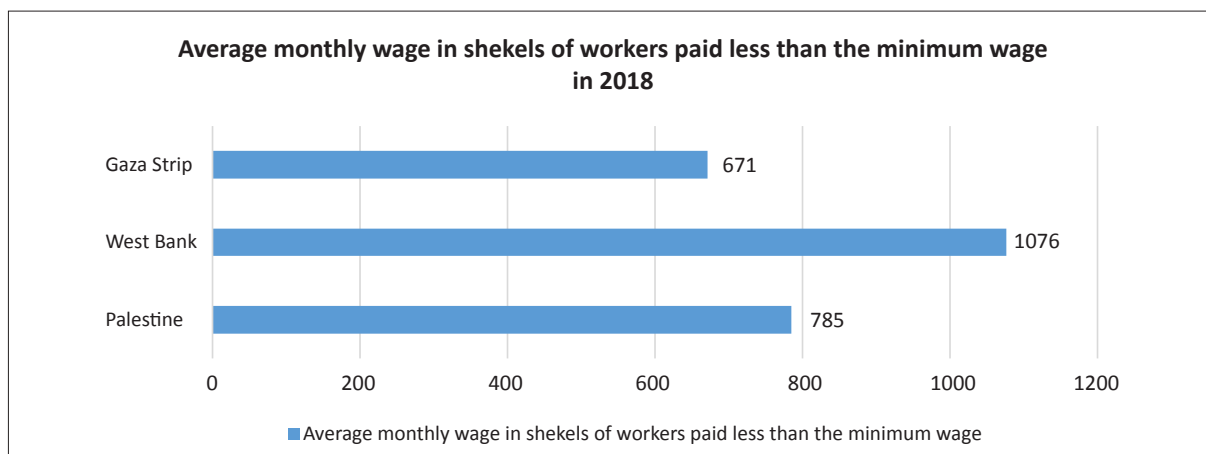
4.1. Violations of the right to minimum wage

On 9/10/2012, the Palestinian Cabinet issued decision No. 11 regarding the adoption of a minimum wage. The decision set the monthly minimum wage at 1450 shekels, the daily minimum wage at 65 shekels and the hourly minimum wage at 8.5 shekels. The minimum wage decision entered in force in 2013 in the West Bank, but was not applied in the Gaza Strip. While the decision stipulated that the minimum wage should be indexed to the increase of living costs, the minimum wage has remained the same for the past five years. PCBS statistics indicate that during the year 2018, more than 32.8% of wage employees in the private sector were paid less than the minimum wage, i.e. 104,800 female and male workers.



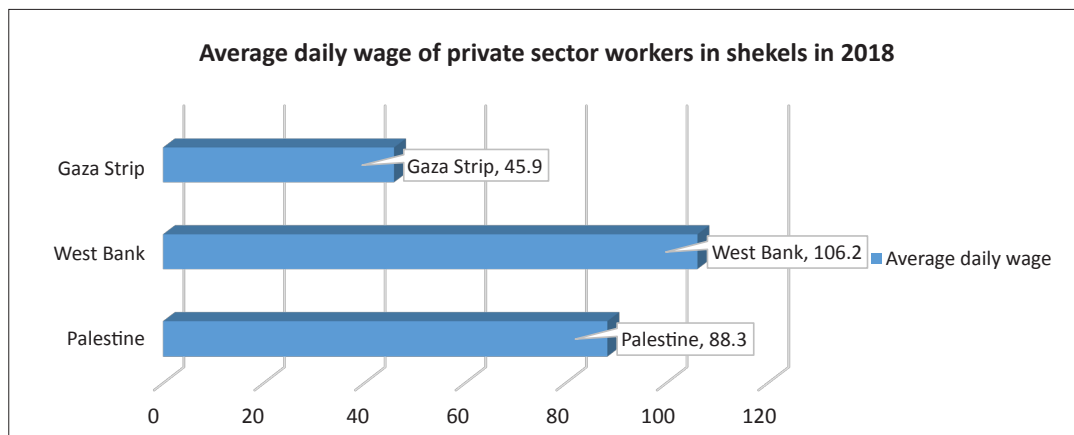
Source: *Palestinian Central Bureau of Statistics, 2019. Palestinian Labour Force Survey: Annual Report: 2018. Ramallah – Palestine, table 48, p. 113*

The number of workers, who do not obtain the minimum wage, is significantly higher in the Gaza Strip. The average wage of these workers is also much lower in the Gaza Strip. Thus, in 2018, 75,400 workers, representing 79.5% of wage workers in the private sector, were paid less than the minimum wage in the Gaza Strip, compared to 29,400 workers representing 13% of wage workers in the West Bank. The average wage of workers paid less than the minimum wage in Palestine was 785 shekels per month, but it was only 671 shekels per month in the Gaza Strip compared to 1076 shekels in the West Bank.

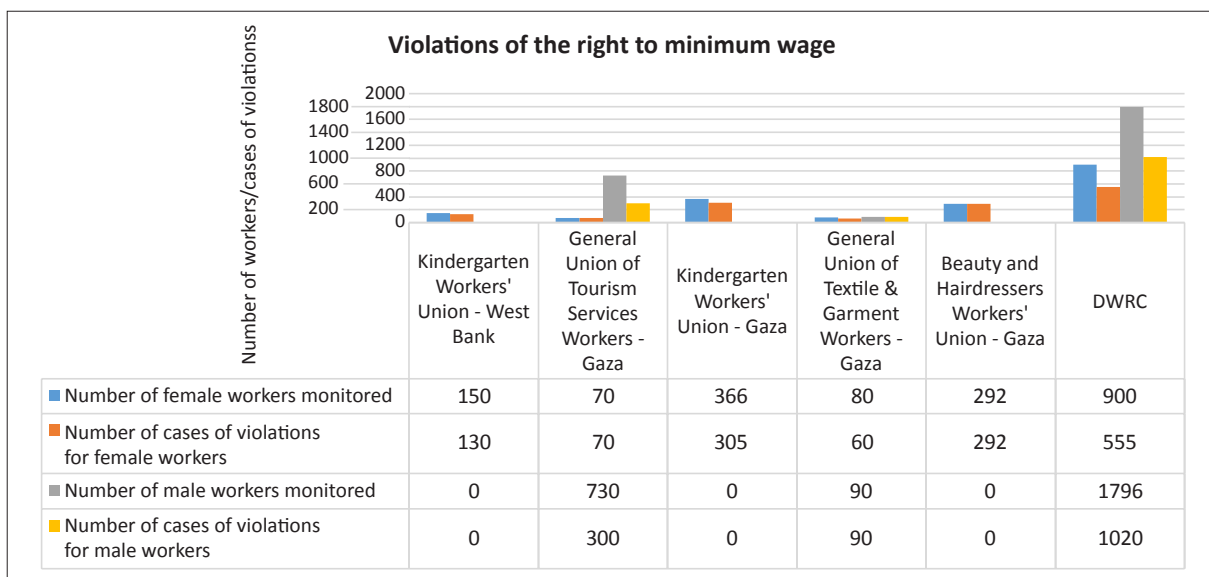


Source: *Palestinian Central Bureau of Statistics, 2019. Palestinian Labour Force Survey: Annual Report: 2018. Ramallah – Palestine, table 48, p. 113*

According to official statistics for the year 2018, the average daily wage of Palestinian workers in the private sector was 45.9 shekels in the Gaza Strip, compared to 106.2 shekels in the West Bank¹².



Based on data gathered through the questionnaire for monitoring labor rights violations in 2018, the level of violations of the right to minimum wage monitored by unions continues to be extremely high. When comparing the situation of female and male workers, or when looking at feminized sectors such as beauty salons and kindergartens, the picture that emerges is even worse.



Of the 900 cases and consultations concerning women workers's rights handled by DWRC in 2018, the Center monitored 555 violations that concerned the non-implementation of the minimum wage. Out of 1796 cases concerning male workers, workers complained of non-implementation of the minimum wage in 1020 cases. Data about workers' situation provided by unions clearly shows that there is a great problem in the implementation of the minimum wage.

¹² Palestinian Central Bureau of Statistics, 2019. Palestinian Labour Force Survey: Annual Report: 2018 . Ramallah – Palestine, table 41, p. 104



Statistics released by PCBS allow us to monitor the evolution of the situation from the issuance of the minimum wage decision and its application in 2013 until the end of 2018. This raises several questions: is there a flaw in the mechanisms for implementing the minimum wage? Is the Palestinian Ministry of Labor unable to enforce the decision in the West Bank and Gaza? Is there a problem inherent to the law? Do workers not declare their real wages for fear of losing their livelihood and due to their need to work? Is this part of the problem in the law's implementation?

On the other hand, the Palestinian minimum wage has not increased since its adoption in 2012, despite changes in the economic situation and the increase of living costs. Criticism has abounded about the discrepancy between the minimum wage and the poverty line, as the minimum wage remains lower than the deep poverty line for a standard family. This is particularly problematic in view of the prices of goods, and the connection of the Palestinian and Israeli economies governed by the Paris Protocol, considered unfair to the Palestinian side, considering that the minimum wage in Israel (the occupying power) amounted to 5300 NIS in 2018.

In the Gaza Strip, the non-implementation of the minimum wage is due to two factors. In the context of the political division between West Bank and Gaza, laws and regulations issued through governmental decisions in the West Bank are not applied in the Gaza Strip. The extremely difficult economic conditions in Gaza and high unemployment rates have also impacted wages.

Violations of the minimum wage monitored by DWRC and unions in 2018 are strongly present in sectors, where informal work is prevalent, especially among marginalized groups such as women working in kindergartens, private schools, beauty salons, secretarial work, tailoring and weaving. During an awareness meeting conducted by DWRC, some woman workers employed by a private school that has 50 employees, stated that they do not obtain the minimum wage although they have worked for the school for over 10 years and hold university degrees. In fact, some female workers

employed by private kindergartens in Ramallah earn 700-850 shekels per month. In some cities located in the north and south of the West Bank, cases of workers paid 250-600 shekels per month were monitored. When such cases are brought before the judiciary, the courts award workers an end of service indemnity based on the minimum wage (1450 shekels) and not the actual monthly wage, multiplied by the number of years of service according to the calculation of the end of service allowance stipulated by the Labor Law.

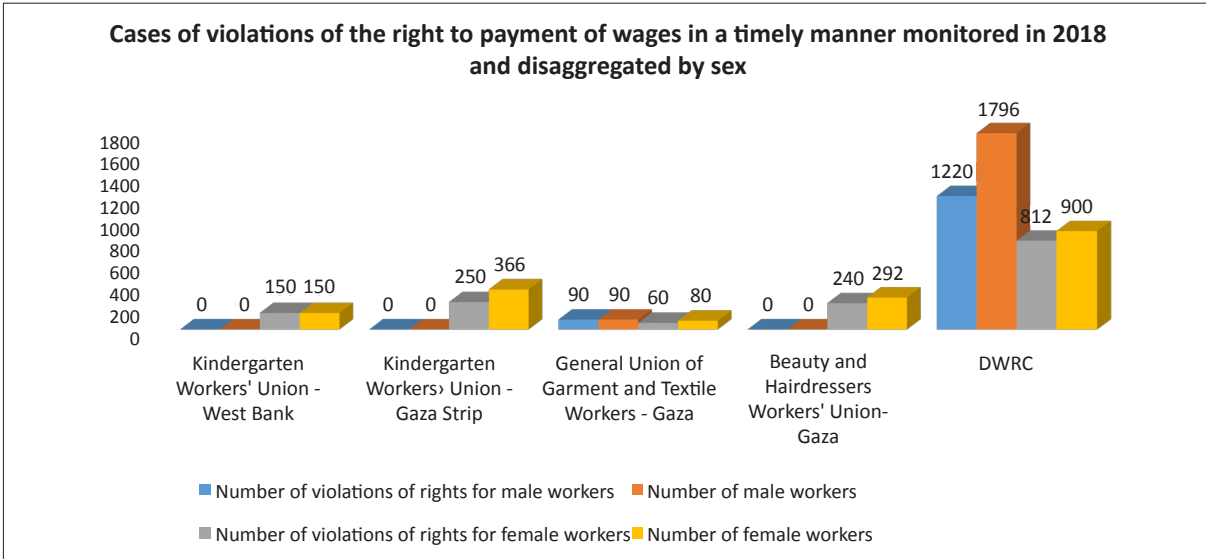
- A kindergarten teacher used to be paid 500 shekels per month. When she asked her employer to pay her the minimum wage, they had a disagreement and he dismissed her arbitrarily. The worker filed a complaint with the magistrates' court in Jenin. After a year of litigation, she was awarded 35,000 shekels as compensations for arbitrary dismissal and severance pay, as the judge considered that her salary should have been equivalent to 1450 shekels based on the minimum wage.
- A worker employed by a municipality used to be paid a monthly wage of 900 shekels. When he submitted his resignation and requested his indemnities, which include severance pay, as well as the difference between his actual wages and the minimum wage since 2013, unpaid annual vacations and a certificate of experience, the municipality refused to acknowledge his rights and pay any compensations. The worker was advised to file a complaint in court to obtain his rights.

4.2. Delays in payment of wages

The Palestinian Labor Law conferred a privileged status to workers' right to the payment of their wages¹³. Due to the importance of wages, and based on general rules derived from the Journal of Judicial Provisions, workers have been granted the right to seize their employers' property against wages, such as creditor has the right to seize property against debts due¹⁴. In contrast, 2333 cases of violations monitored by unions and DWRC in 2018 concerned non-payment of wages and delays in their payment.

¹³ Article 85 of the Palestinian Labor Law

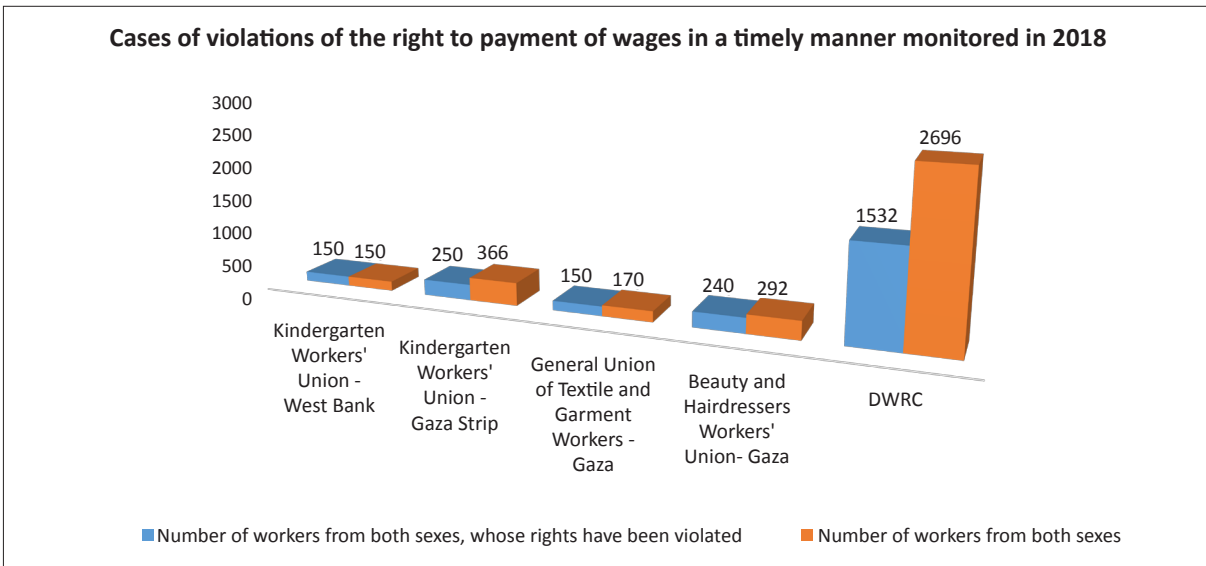
¹⁴ Article 482 of the Journal of Judicial Provisions



Clearly, delays in payment of wages or non-payment is generally observed for marginalized categories of workers or sectors, such as kindergartens and the textile sector, which means that these sectors require real and accurate supervision of wages by the competent authorities.

One of the cases monitored in 2018 is as follows:

A kindergarten worker indicated that the kindergarten owner delayed paying workers' wages until all parents of children enrolled in the school had paid their monthly fees. This means that their remuneration depended on the employer's good will, and could be delayed until after mid-month.



Violations of the right to remuneration do not solely concern delays in wages' payment. In some cases, employers do not pay wages at all. Some of the cases monitored in 2018 are as follows:

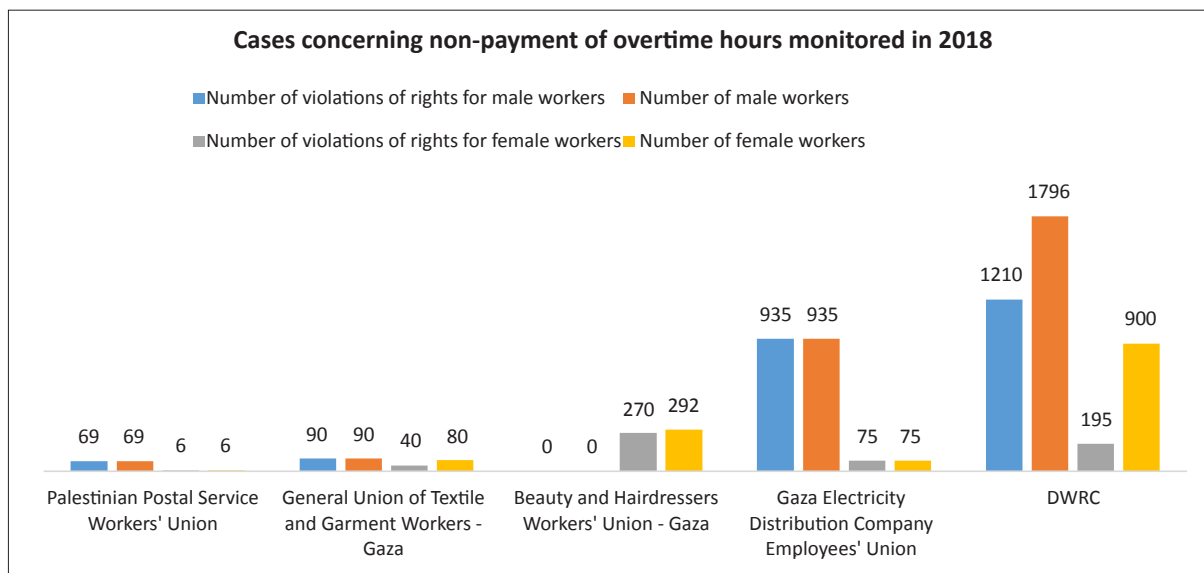
- A female worker had been employed by a company from 2013 until 2018. The company's administration delayed payment of her wages for 4 months, representing an accumulated amount of about 6000 USD. When she asked for her unpaid wages, the company terminated her services without legal grounds and without giving her a month of notice or severance pay, nor compensation for arbitrary dismissal.
- A group of female workers had been working for 10 to 17 years on training projects at a non-profit association. For over a year, the association failed to pay their wages, alleging absence of funding. Some of these workers then decided to submit a complaint to DWRC, which provided them with legal advice. The case had to be filed with a court to reclaim workers' unpaid wages.

Under the Palestinian Labor Law, as long as workers are present in the workplace, employers are required to pay workers' wages, even if they do not perform any work for reasons related to the establishment. They are also required to continue paying their wages for a period of no more than two months if the establishment has been closed by administrative or judicial decision. However, despite the importance given to remuneration even in emergency cases, penalties of 50 to a 100 JD stipulated by the law¹⁵ are not deterrent.

4.3. Non-payment of overtime hours

Overtime is a non-permanent wage supplement. It depends on the number of overtime hours worked outside normal working hours and commissioned by the employer for an additional wage allowance. The Labor Law stipulates that normal working hours may not exceed 45 hours. Workers may agree to work an additional 12 hours per week, provided every overtime hour is paid one and a half times the normal hourly rate. In reality, we observed many cases of working hours that reach 9 hours per day and more, which means a working week of over 50 hours for workers, who are employed 6 days a week and have only one day off.

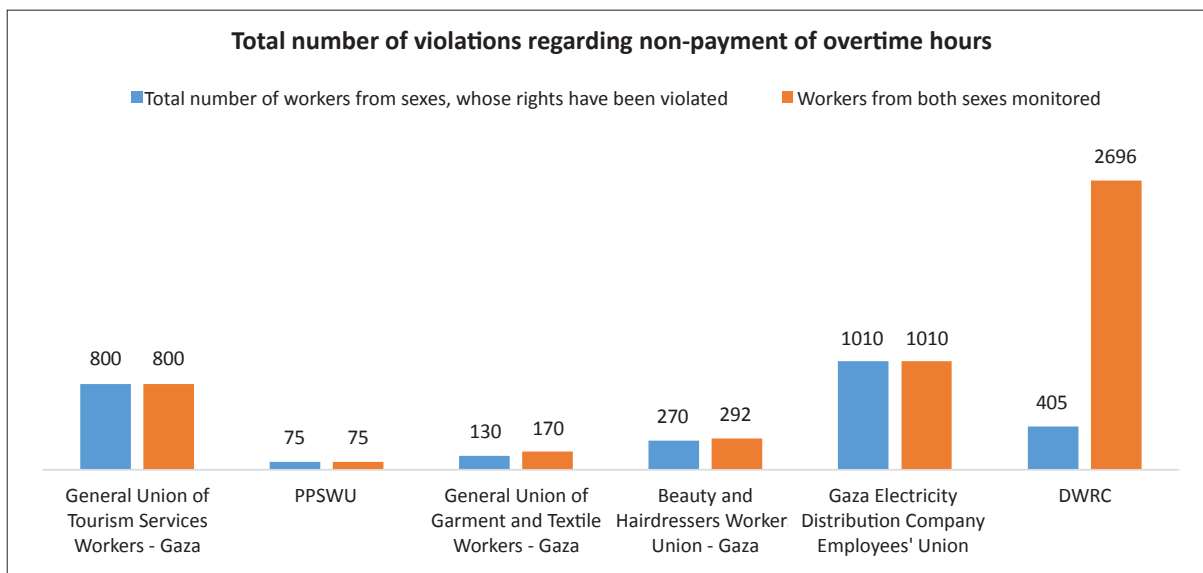
¹⁵ Article 132 of the Palestinian Labor Law



For 270 members of the Beauty and Hairdressers Workers' Union in the Gaza Strip, working hours exceed the legal weekly limit, but they get no overtime pay. This issue is also prevalent for the electricity distribution company employees in Gaza. This group of workers and others do not obtain overtime pay, although they work more than 45 hours per week. In some cases that were monitored, contracts stipulate that workers have to complete a certain workload. The goal set in the contract is not the completion of a certain number of working hours, but the completion of a certain workload or production units. Both employer and worker know that the workload requires working more than eight continuous hours per day, but workers agree nonetheless. Thus, some establishments operate from 8:00 a.m. until 6 p.m., without granting overtime pay to their employees.

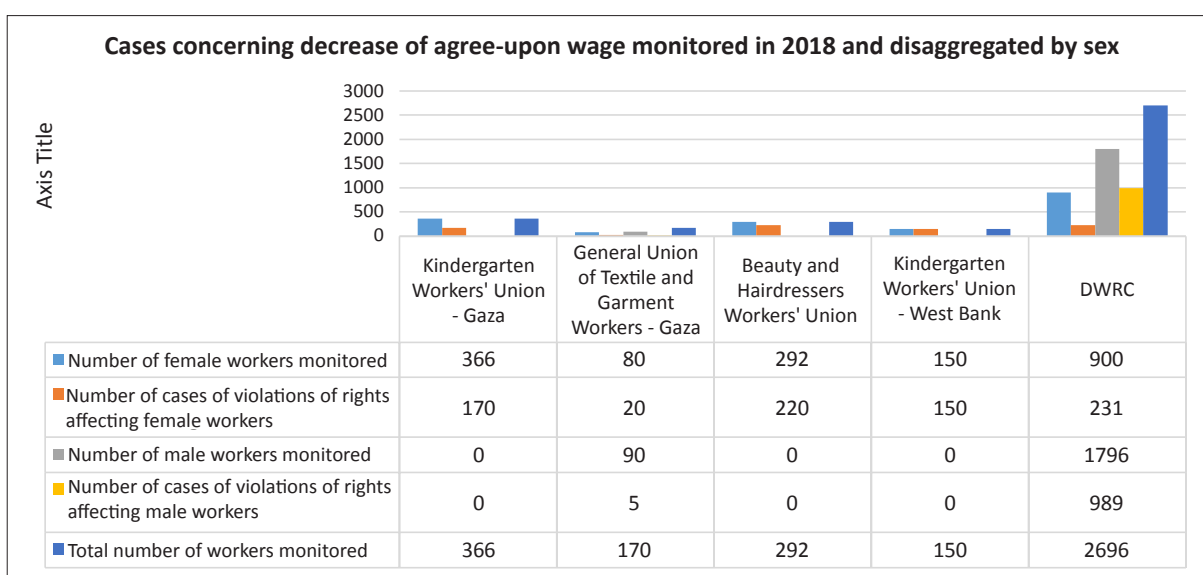
Cases below documented by DWRC illustrate some of the practices concerning overtime hours:

- S. is employed at a garden in the West Bank, and usually works more than 10 overtime hours per week. He gets paid a fixed amount, without taking into account overtime hours. After submitting a complaint to DWRC, and obtaining legal advice, he asked his employer for overtime pay as guaranteed by the law, but the employer refused.
- M.S. worked for a restaurant in the West Bank from 2015 until 2018. He used to work more than 12 overtime hours per week, for a daily wage of no more than 150 shekels. When the worker resigned from his job, his employer refused to grant him any of the rights and indemnities stipulated by the Palestinian Labor Law. He ended up having to file a complaint with a court.



4.4. Decrease or deduction from the agree-upon wage

Palestinian labor law protects female and male workers' wages in various ways, including from deductions by the employer due to advance payment(s) granted to the worker, or due to sanctions imposed on a worker through wage deduction on grounds of negligence. A deduction from wages due to advance payment must not exceed 10% of the salary¹⁶, while any fine imposed on a worker must not exceed wages of three days and must be legally foreseen and correspond to procedures of the sanctions regulation adopted by the establishment¹⁷. If deductions from wages due to advance payment and fines are gathered, their joint amount should not exceed 15% of the salary¹⁸ or 25% in case of judgment foreclosure¹⁹. Although the law allowed employers to make deductions from workers' pay, it specified situations in which pay deductions are allowed and deduction rates to prevent abusive practices.



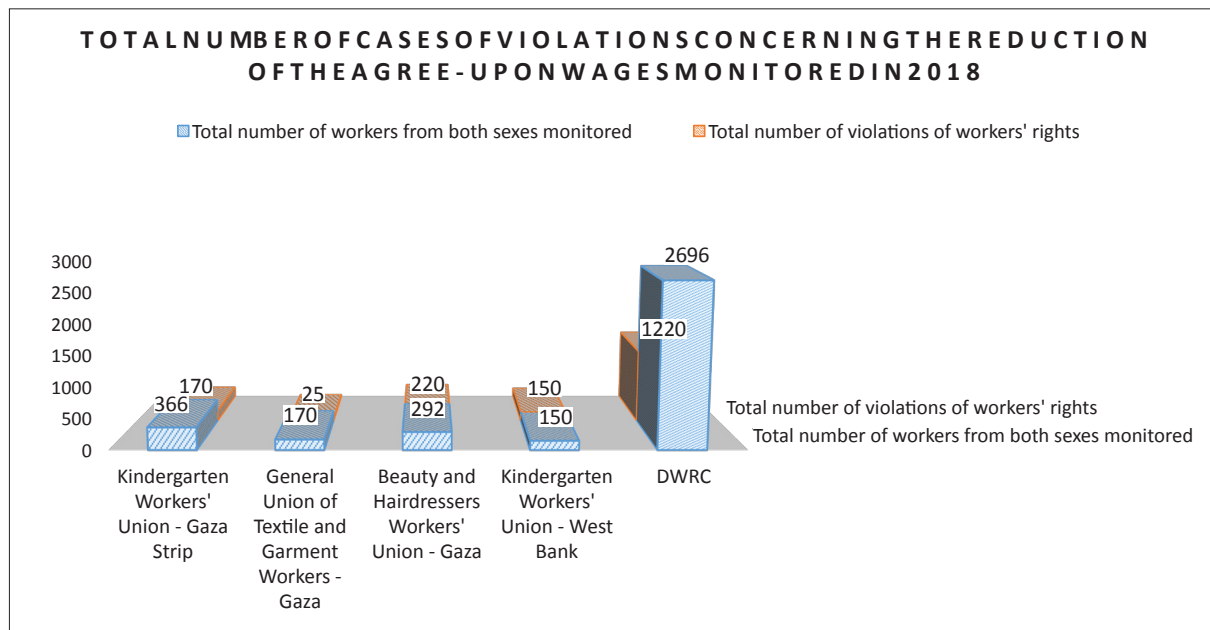
16 Article 83.1 of the Palestinian Labor Law

17 Article 84.1 of the Palestinian Labor Law

18 Article 83.2 of the Palestinian Labor Law

19 Article 51 of the Palestinian Execution Law No. 23 of the Year 2005

DWRC monitored many cases of employers not abiding with the agreed-upon wage. Most common justifications of employers for decrease of wages are workers' contravention of regulations. In second place, employer allege that there is an agreement with workers to decrease wages due to the current economic situation, or a conditional promise to return the salary to its agreed-upon level if production or general income of the establishment improves.



Reduction of agreed-upon wages concerned 170 kindergarten workers in the Gaza Strip and 150 workers in the West Bank. Despite the income of employers in beauty salons and seasonal events, more than 220 out of 292 women in the beauty salon and hairdressers' sector faced reductions of wages. At the same time, they often work until late at night due to the nature of their occupation that is connected to celebrations, such as weddings and holidays. However, according to one case documented, workers' wages did not exceed 1500 shekels per month.

In 2018, the Palestinian Ministry of Labor took a series of measures against employers, who committed violations of wage rights, based on visits of establishments by labor inspectors or the 235 complaints submitted to the Ministry in 2018. The Ministry issued 453 notifications and 316 warnings, and referred 42 cases related to wages rights' violations to the competent court²⁰.

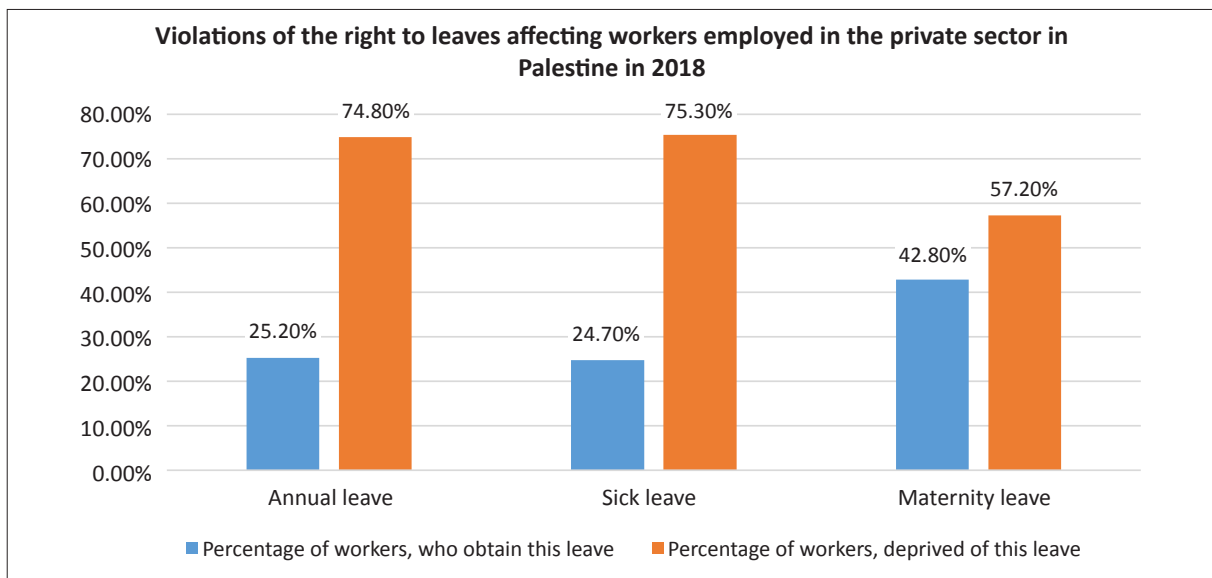
20 Palestinian Ministry of Labor, Annual report of the General Directorate of Inspection and Work Protection for 2018, Survey of establishments in the West Bank

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Section V: Violations of the right to rest periods, leaves and vacations

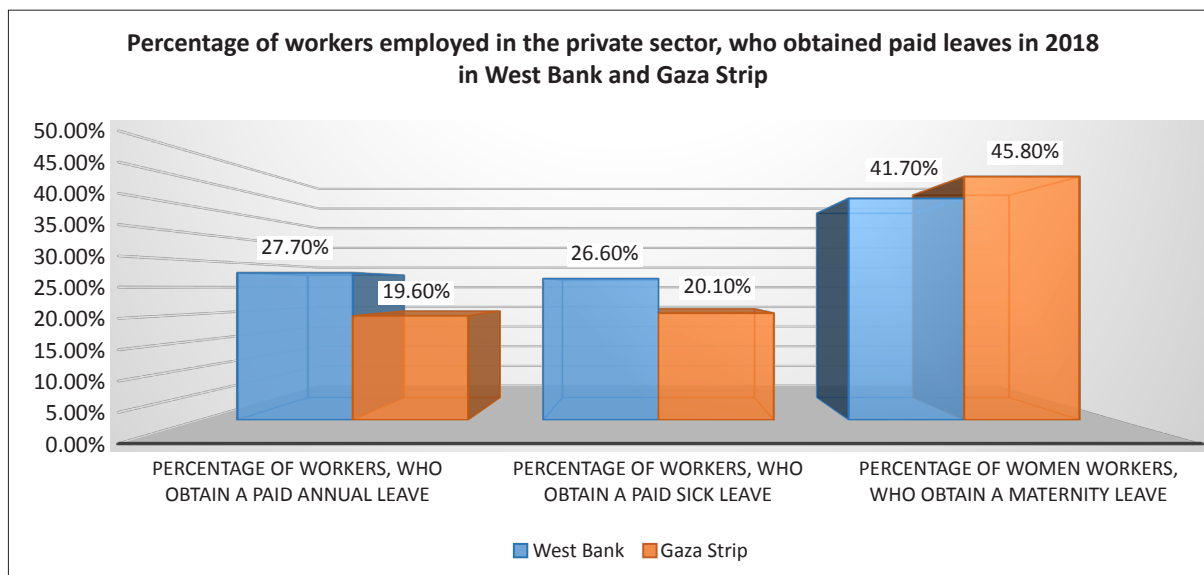
The right to vacations and leaves, including a weekly holiday, are addressed by chapters one and two of section V of the Palestinian Labor Law. The law stipulates a minimum number of days of leaves and vacations, as well as a weekly holiday that workers are entitled to and cannot forgo. It also limits the number of overtime hours that may be performed by workers to 12 hours per week. Legislators clearly affirmed the obligatory character of enabling workers to rest. The Palestinian Labor Law covers several types of leaves and holidays: annual vacation, educational leave, pilgrimage leave, bereavement leave, maternity leave, official and religious holidays (as listed in by-laws), which are all paid leaves. In addition, the law stipulated that women workers have the right to request a childcare and spouse accompaniment leave, which is unpaid.

However, violations of workers' rights to paid leaves and vacations remained widespread in 2018. Out of 319,500 workers employed in the private sector in 2018, only 25.2% obtained a paid annual leave and only 24.7% a paid sick leave. Only 42.8% of women workers obtained a maternity leave.



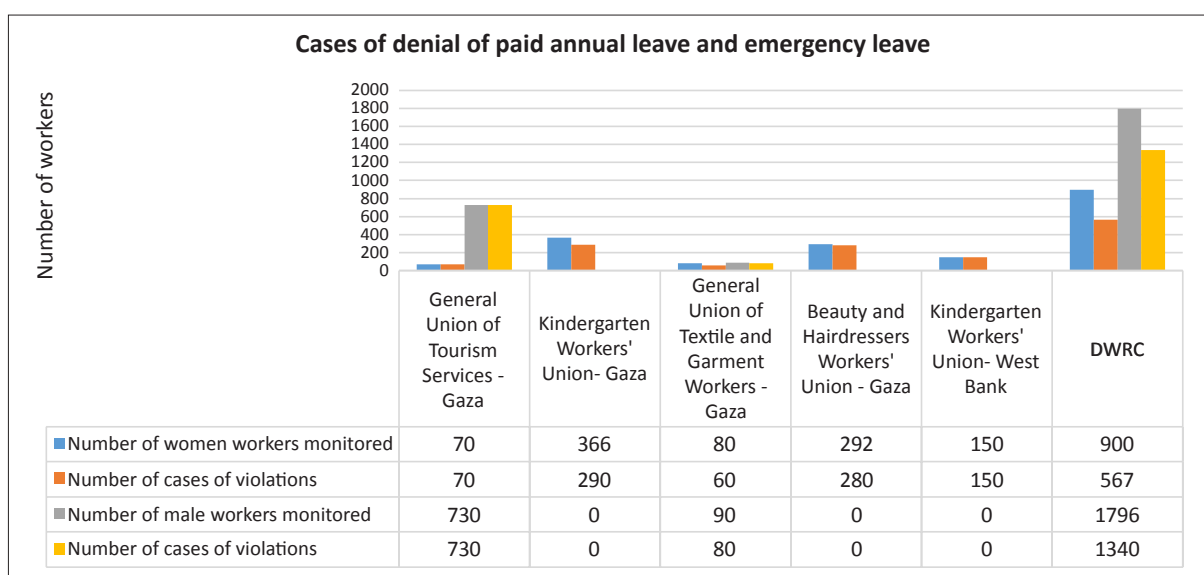
Source: *Palestinian Central Bureau of Statistics, 2019. Palestinian Labour Force Survey: Annual Report: 2018. Ramallah – Palestine*

There is still a divergence in the implementation of the law between the West Bank and the Gaza Strip, as the percentage of workers obtaining annual and sick leaves is lower in the Gaza Strip. The situation is reversed when it comes to maternity, as a greater percentage of women workers obtain this right in Gaza.

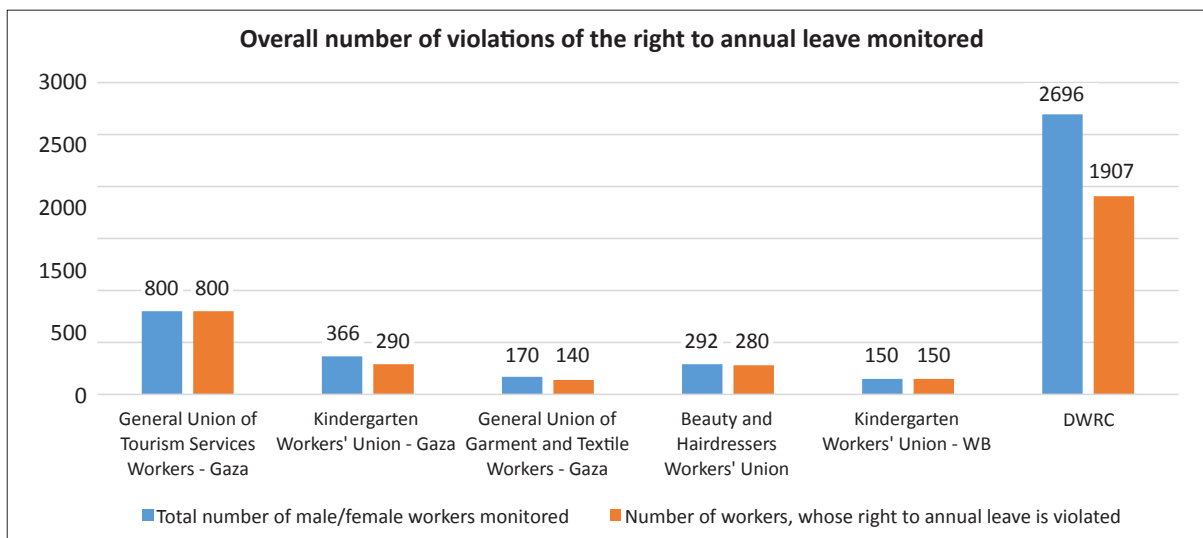


5.1. Violations of the right to annual leave

The Palestinian Labor Law stipulates that workers are entitled to an annual leave of at least 14 days (which can also be taken as an emergency leave). The annual leave increases to 3 weeks after the worker has spent 5 years of service with the same employer, or if the worker is employed in a hazardous occupation or is a young worker (aged 15-17 years). Workers are also entitled to take emergency leave days, which are deducted from their annual leave. Out of an estimated 4,474 workers monitored by unions and DWRC, there were 3767 cases of violations of the right to paid annual leave and emergency leave.



These figures show that violations of the right to paid annual leave and emergency leave are widespread. Unions that monitored these violations of rights are unanimous about the fact that their members, and workers in their sector, are subject to pressures and threats, and in some cases to unjust salary deductions for days of absence, whereas the law entitles them to paid days off.

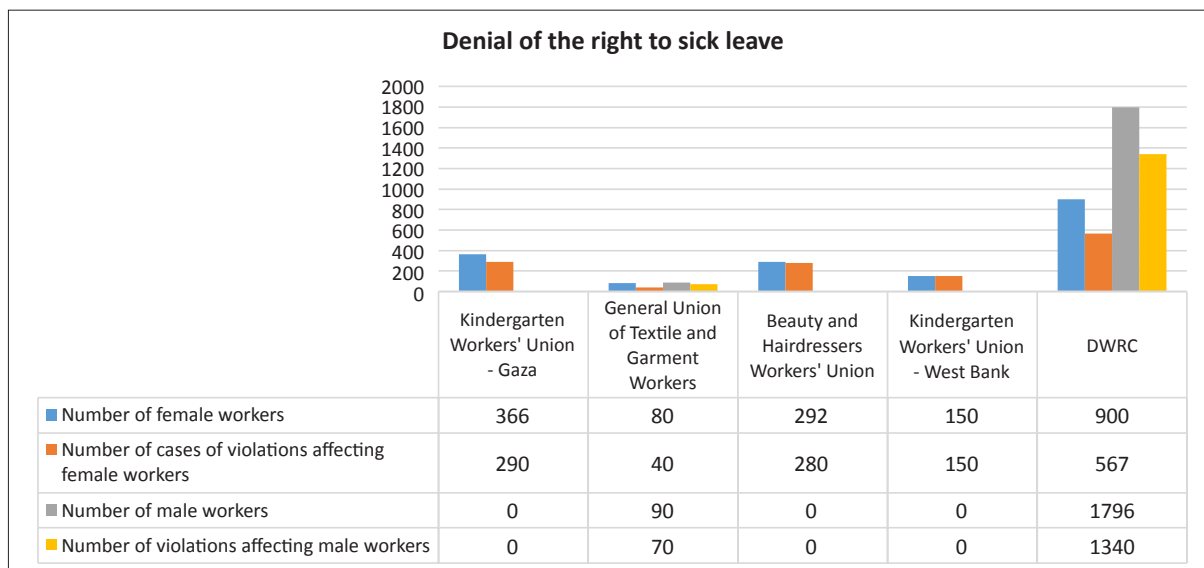


In 2018, DWRC monitored more than 1907 violations of the right to annual leave out of 2696 workers monitored. This indicates that it is very difficult for female and male workers to obtain this leave. In the tourism sector in Gaza, it appears that workers face a great issue as data indicates that employers do not grant this leave at all. If workers request annual leave, employers refuse under the pretext that their presence is needed at work. Kindergarten workers in the West Bank and Gaza Strip also suffer from the lack of annual leave.

One of the case documented concerns a female worker employed by a private company. She worked six days a week, and her employer did not pay her wages on the seventh day, which is the mandatory paid weekly leave. When she took an annual leave, her employer deducted her vacation days from her wages under the pretext that this was her wedding leave, instead of considering it part of the annual paid leave.

5.2. Violations of the right to sick leave

We monitored many violations of workers' right to sick leave, which article 79 of the Palestinian Labor Law guarantees, although they were slightly less prevalent than violations of the right to annual leave. Out of 3674 workers monitored, 2737 were unable to benefit from sick leave.



In many cases, sick workers indicated that they were obliged to work although it endangered their health due to the type of work they perform.

One worker employed in a day-care center said that the employer obliged her to come to work although she suffered from a transmittable illness due to a virus. This means that her disease could be transmitted to the children in her care. The employer did not take this matter into account. The worker commented that “Many employers do not have experience or knowledge about the labor law, they only manage the day-care center and collect money”.



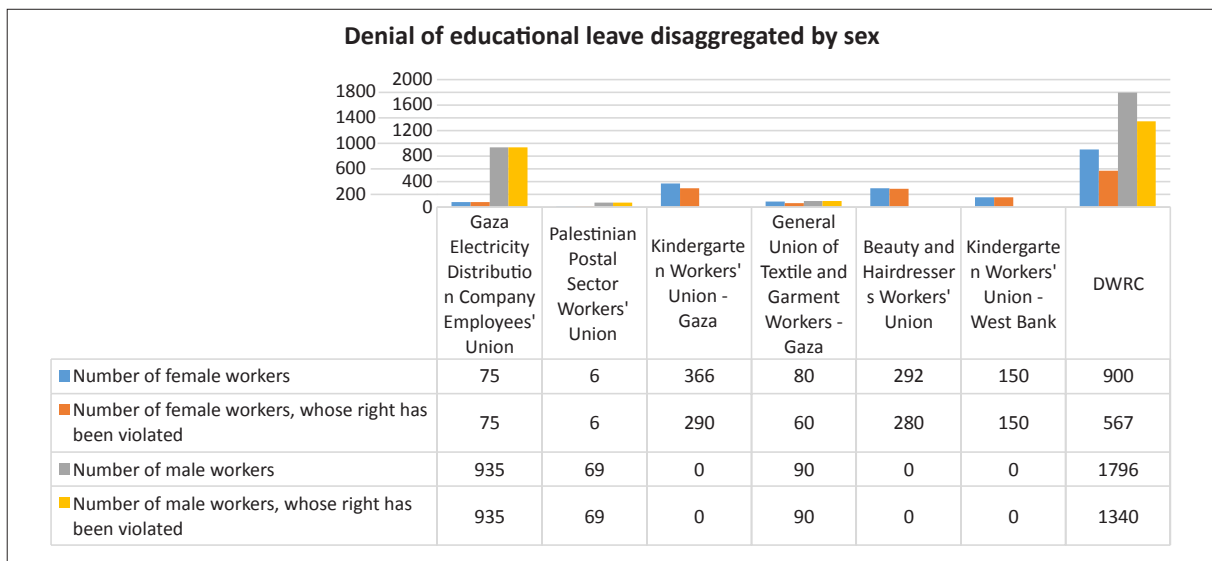
5.3. Violations of the right to an educational leave

Article 76 of the Palestinian Labor Law stipulates that “workers are entitled to a paid labor educational leave, of a duration of one week per year [...]”. This leave can be taken on separate days or in a consecutive manner. In fact, the educational leave is meant

to enable workers to educate themselves about affairs related to their occupation or field of work through participating in conferences, workshops and related courses. It also aims to allow workers to exercise their right to participate in trade union activities and legal awareness activities, which may be organized by trade unions or federations. The location where the worker may take this leave is not specified, it may be inside or outside Palestine. Workers' educational leave is organized in agreement with the employer²¹.

The Minister of Labor's decision concerning the educational leave stipulated several conditions for granting the educational leave to workers, and included guarantees that work interests shall not be affected. It also guarantees that if an employer refuses the worker's participation in a specific activity, he may not do so for further participations during the year. It also specifies the timeframe for submitting a request for participation. In reality, few workers are aware of this legal disposition. It is quite likely that this right has not been exercised for decades by workers due to their lack of knowledge of its existence, and what this right legally entails.

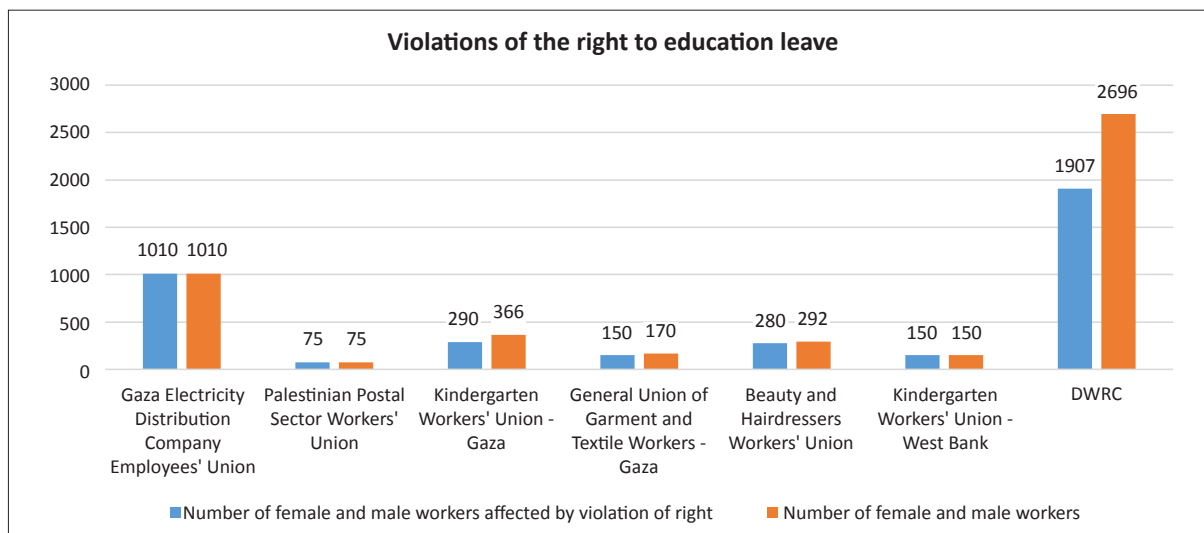
In 2018, we monitored a record number of violations of this right, with 3863 cases of violations out of 4759 workers in the monitoring sample.



We monitored cases of female and male workers, who were not granted the authorization to participate in trade union activities concerning awareness and education on workers' rights.

One of the workers said that although his employer had agreed to his participation in a training course, the employer then deducted three days from his monthly wages.

²¹ Decision of the Minister of Labor No. 1 of the year 2013 regarding the education leave



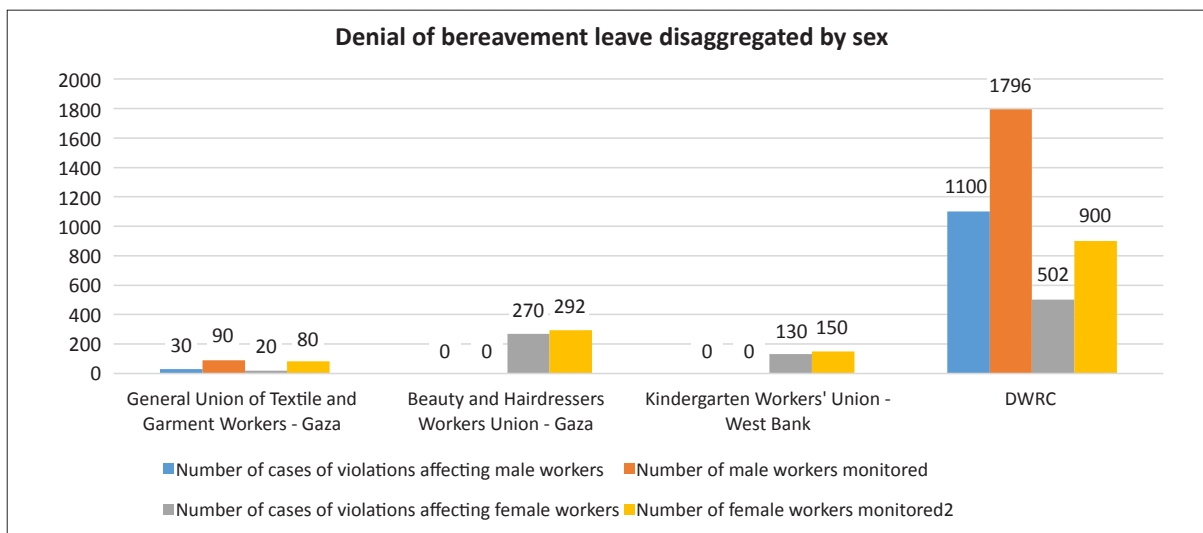
It appears that this right is not implemented in entire sectors, including for union members in the postal sector and electricity company Electricity Company. Marginalized groups that work in some sectors are also prevented by employers from taking this leave, although workers have a right to object to the employer's refusal to grant this leave within a week from being notified, or object to their deprivation from wages during the leave's period, or any other rights that are related to the educational leave as guaranteed by the Labor Law and related by-law²². However, due to their lack of legal awareness, workers do not pursue avenues to address violations of this right.

In view of workers' lack of awareness of this right and its continued violation by employers, trade unions and some organizations bear the burden of educating workers. The Palestinian Ministry of Labor, especially labor inspectors, also bear a responsibility for the failure to address this issue and widespread violations of this right.

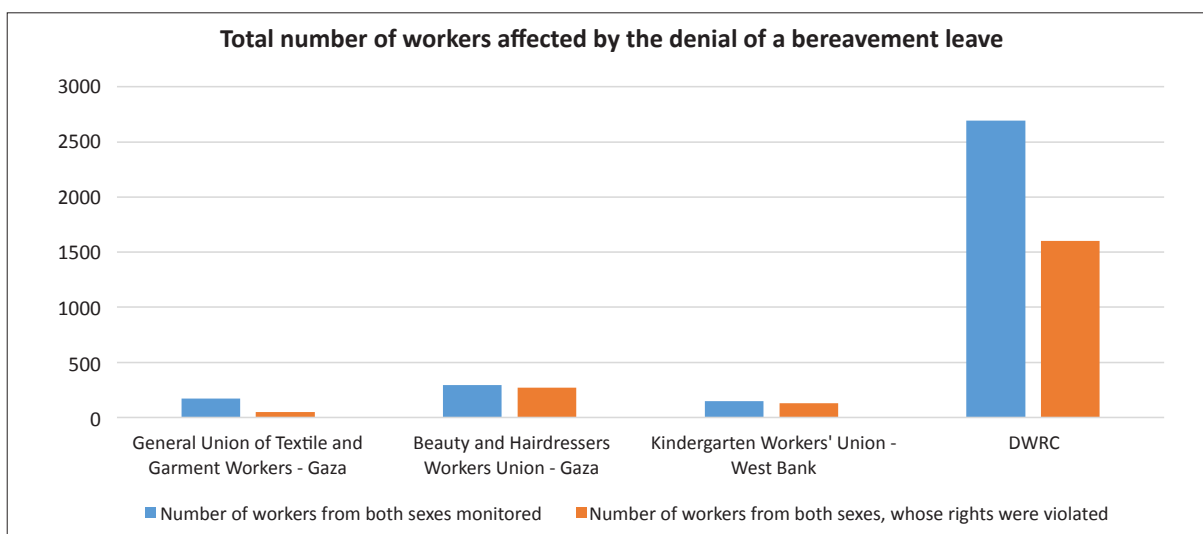
5.4. Violations of the right to bereavement leave

Article 78.1. of the Palestinian Labor Law guarantees a paid bereavement leave of three days for workers upon the death of first and second degree relatives (parents, grandparents, spouse, children, grandchildren, siblings, and in-laws (parents, siblings and grandparents of the spouse)). This leave must not be deducted from any other leaves, and does not require the employers' approval. Some unions, such as kindergarten workers' union, reported violations of the right to this leave. DWRC also reported monitoring 1600 cases of violations of this leave.

²² Article 10 of the Decision of the Minister of Labor concerning the educational leave



Findings showed that women workers are particularly affected by violations of the right to a paid bereavement leave, especially in kindergartens in the West Bank and Gaza Strip, and beauty salons in the Gaza Strip.



5.5. Religious and official holidays

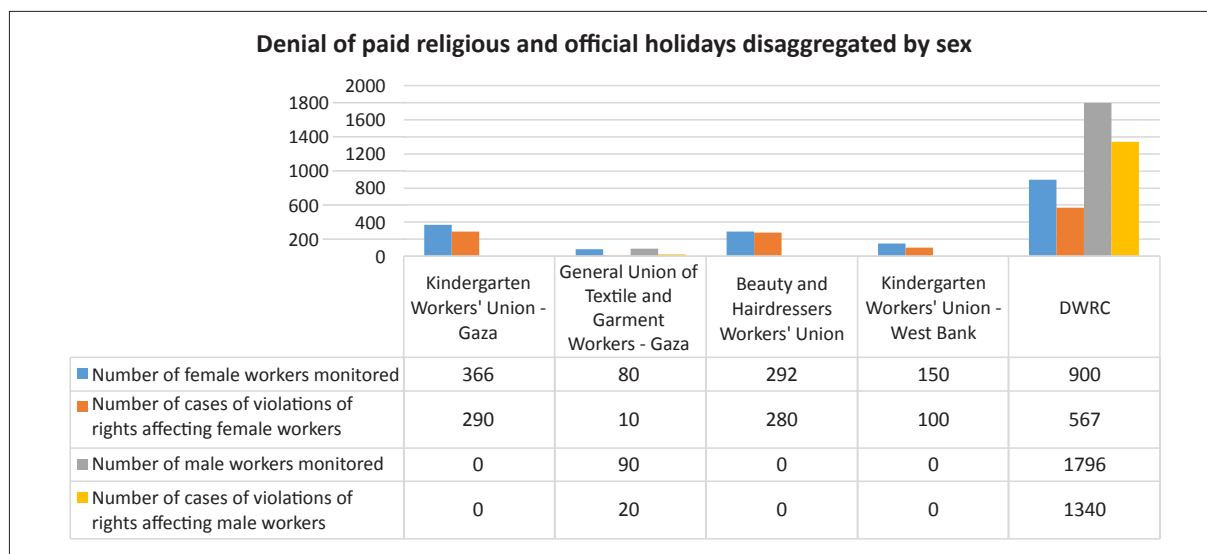
Article 75 of the Palestinian Labor Law stipulates that workers are entitled to paid religious and official holidays, which are not to be deducted from the annual leave. These holidays are listed in a by-law issued by the Cabinet²³. Religious holidays include 3 days for Eid Al-Fitr and 4 days for Eid Al-Adha for Muslims, and 3 days for Christmas and 3 days for Easter for Christians. Official holidays are the National Day on January 1st, May Day on May 1st, and the Independence Day on November 15th.

Although work is prohibited on religious and official holidays, Cabinet decision No. 23 of the Year 2003 listed a number of occupations, where it is allowed to employ workers on these days. However, they should be paid their normal wages in addition to

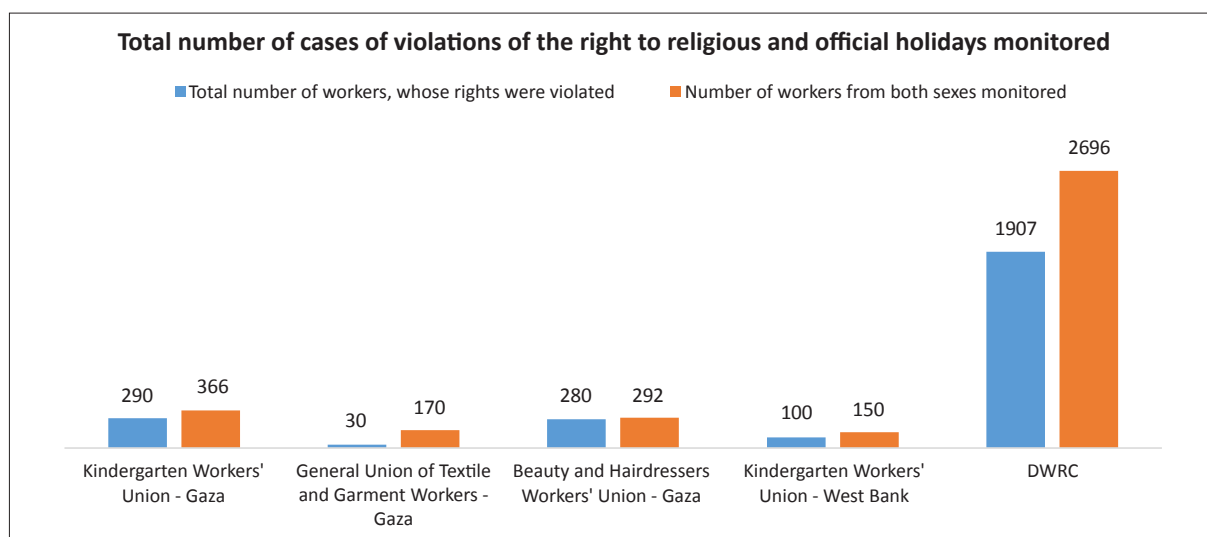
²³ Cabinet decision No. 16 of the Year 2003 regulating paid religious and official leaves

150% of their wages on these days. These occupations include hospitals occupations, food stores (vegetables stores, supermarkets, bakeries), gas stations, clothes stores, emergency departments at the water, electricity and telecom companies, hotels and restaurants, cafes, theaters, cinemas, barbershops and hairdressers salons.

We monitored 2607 cases of workers, who do not obtain religious or official holidays as stipulated by the law. Some workers only obtain the first day of leave during religious holidays such as Eid Al-Fitr or Al-Adha, and are obliged by their employer to work on the other days. Others do not obtain any day off, and are paid the same wages for working during their holiday as on a normal workday. This affects most beauty salon workers.



We also monitored 100 cases of violations of this right in the West Bank and 290 cases in the Gaza Strip among kindergarten workers. These workers do not get paid holidays for one or all religious or official holidays, or are forced to divide workdays in kindergartens on official or religious holidays, without obtaining any additional pay. It should be noted that this profession is not among the occupations for which employment of workers is allowed on official and religious holidays as per Cabinet decision No. 23 of the Year 2003.



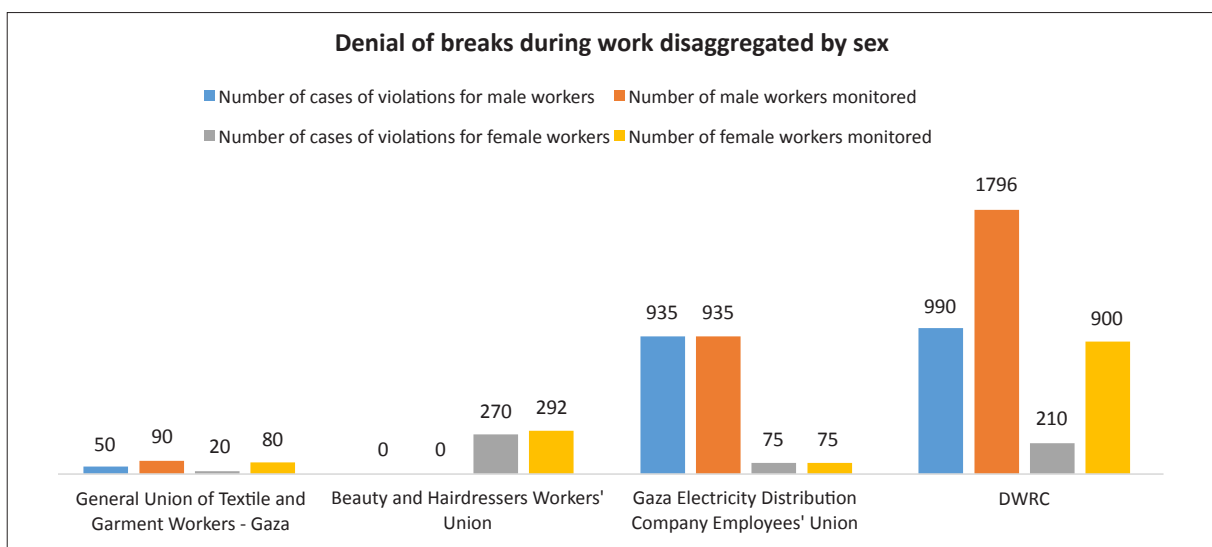
The high number of measures taken by the Ministry of Labor against employers for violations of rights related to leaves and vacations shows the extent of such violations of rights. In 2018, the Ministry addressed 1207 cases. They gave 824 notifications and 360 warnings to employers, and referred 23 cases to the competent court.

5.6. Violations of the right to weekly leave and break time during work

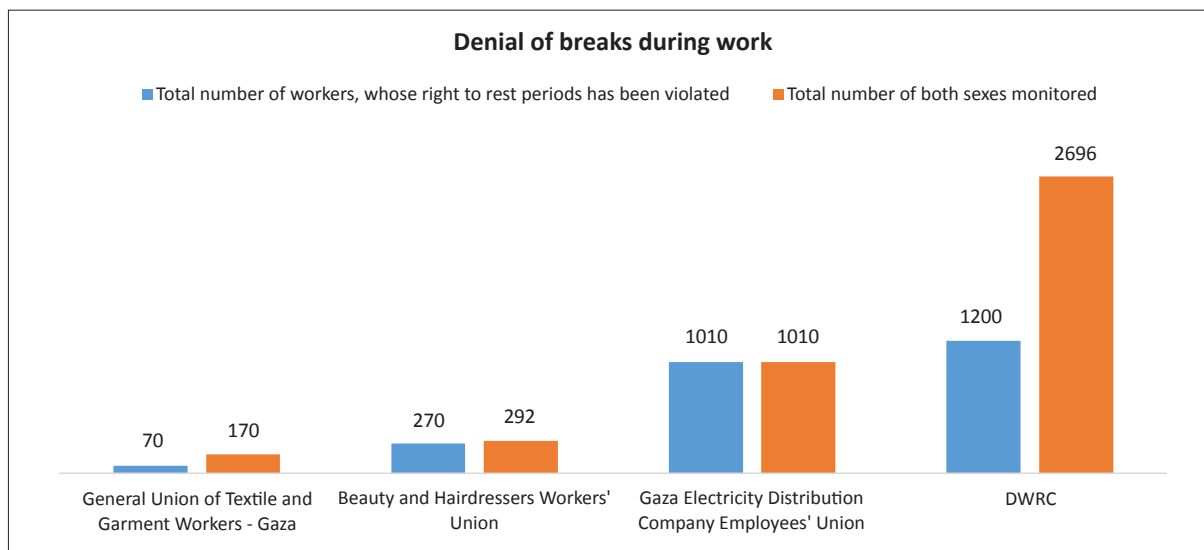
The Labor Law requires employers to give workers a weekly leave and a rest period during work. The law stipulates that a worker should take a break time after working five hours at most. If workers are required to work overtime, they should not work more than 12 hours per day including overtime hours. In such cases, workers may be entitled to more than one break time based on the number of hours worked.

Break time during work

Many cases of denial of break time to workers or restrictions on their break time were monitored for working hours that exceed 9 hours. Over 2550 cases of violations were monitored in 2018 by the organizations that participated in the report.

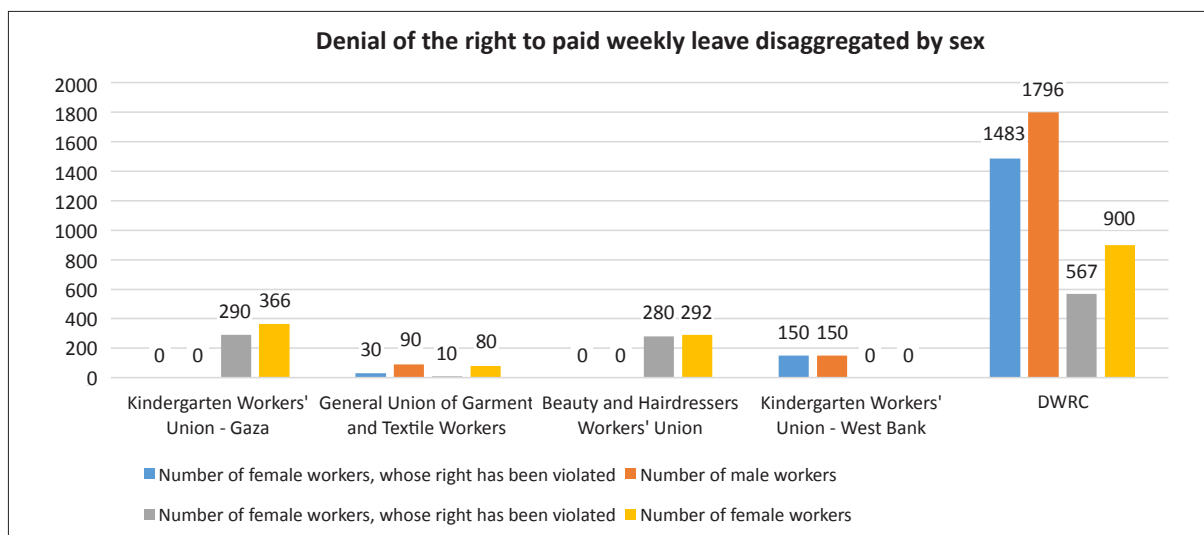


It should be noted that according to the data provided by the union, all electricity company employees in Gaza are denied rest period(s) during work, or these periods are shorter than the legally prescribed duration.

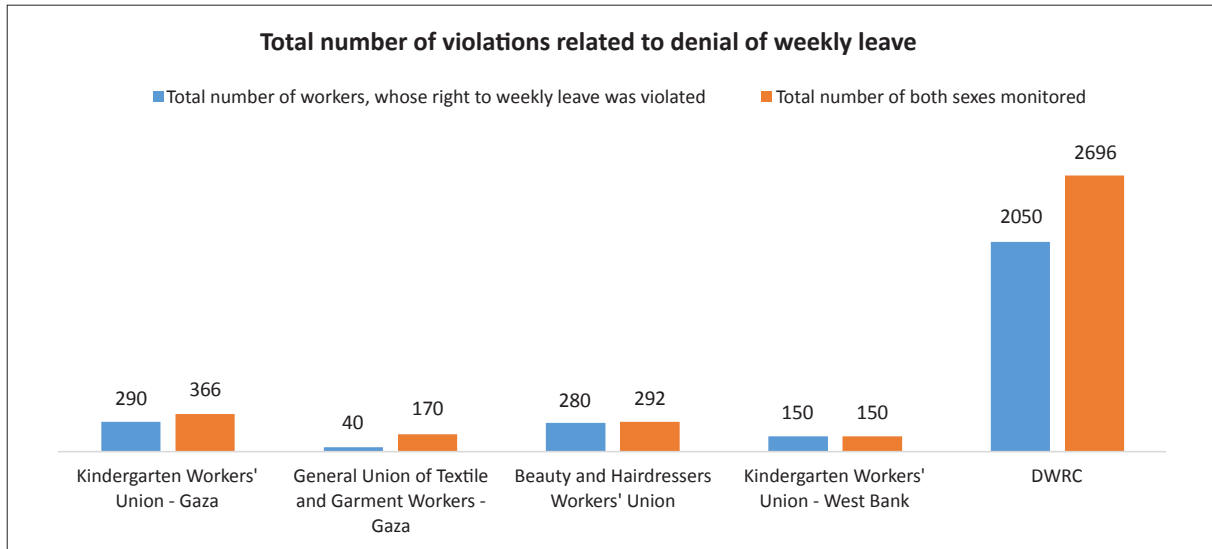


Weekly holiday

The Palestinian Labor stipulates in article 72.1 that workers are entitled to a weekly leave of 24 hours, which workers can take on a weekly basis or once a month upon agreement between the worker and the employer. Article 73 stipulates that Friday is the designated day for the weekly leave, except if workers and employers have agreed upon a different day. In 2018, 2810 violations of this right were monitored.



Judicial precedents have confirmed workers' right to paid weekly leave. Court decisions have granted workers the right to demand payment for all days of weekly leave for which he/she was not compensated from the start of his/her employment period if his/her services have been terminated and the worker filed a complaint with a court.



Furthermore, the Ministry of Labor received 41 complaints concerning the weekly leave and rest periods during work, as well as 66 complaints concerning other leaves. The Ministry took 566 measures against employers, who violated rights related to the weekly leave and working hours. These measures included 360 notifications, 191 warnings, and 15 cases referred to the competent court²⁴.

²⁴ Annual Report of the General Directorate for Inspection and Work Protection 2018, Palestinian Ministry of Labor, Establishments Survey in the West Bank

6

Section VI: Violation of Rights pertaining to Work Injuries and Occupational Safety and Health

Occupational safety and health is one of the most important standards for just and favourable work conditions set forth by human rights conventions (ICESCR, article 7 (b)), as it affects the right to life and a highest attainable level of health. This right has received special attention in Palestinian legislation. Many decisions, regulations and directives have been issued concerning occupational safety and health²⁵.

6.1. Non-provision of occupational safety and health procedures

The Palestinian labor law compels establishments to have regulations on occupational safety and health and set penalties applicable to workers if they violate their provisions. The cost of providing safety conditions have to be born by the employer. The Labor Law stipulated a series of penalties applicable to any employer, who violates the requirements for occupational safety and health in workplaces. The Ministry of Labor can shut down a facility partially or completely, or stop work on any machine that poses a danger to workers, until the danger is removed. In 2018, the Palestinian Ministry of Labor took 12,150 legal actions against 6,773 establishments that were contravening the law. Measures taken by the ministry included 8,754 notifications and 3,057 warnings, 256 cases that were referred to courts, 73 full closures of work sites/establishments, 2 stop work orders on machines, and 8 partial shutdown of establishments²⁶.

Despite Labor Ministry's efforts, the year 2018 registered many violations of rights

²⁵ By-laws to the Palestinian Labor Law (decisions and directives) that regulate workers' right to health care and occupational safety and health are:

Cabinet Decision No. 15 of the Year 2003 on the Regulation of Mandatory Health Conditions for Workplaces

Cabinet Decision No. 24 of the Year 2003 on the Regulation of Periodical Medical Examination

Cabinet Decision No. 22 of the Year 2003 on the Regulation of Preliminary Medical Examination

Cabinet Decision No. 17 of the Year 2003 on the Regulation of First Aid in Establishments

Cabinet Decision No. 21 of the Year 2003 on Regulation of Safety Requirements for Buildings in Establishments

Cabinet Decision No. 1 of the Year 2004 on Occupations and Industries that are Hazardous or Harmful to Health, in which Juvenile Workers' Employment is Prohibited

Cabinet Decision No. 47 of the Year 2004 regarding the Regulation for Notification of Work Injuries, Occupational Diseases, and Physical Accidents, and the Statistical Form specific to them

Cabinet Decision No. 49 of the Year 2004 on Regulation about the Protection of Workers against Work Hazards and Occupational Diseases

Directive of the Minister of Labor No. 1 of 2005 determining the mandatory precautions for the protection of workers in construction and engineering works

Directive of the Minister of Labor No. 2 of 2005 on the safety standards for chemicals and dusts that are hazardous and harmful to health and which are allowed in the workplace

Directive of the Minister of Labor No. 3 of 2005 on the maximum annual dose that workers may be exposed to in the field of ionizing radiation

Directive of the Minister of Labor No. 4 of 2005 on safe levels of noise intensity in the workplace

Directive of the Minister of Labor No. 5 of 2005 on safe levels of lighting intensity in the workplace

Directive of the Minister of Labor No. 6 of 2005 on safe levels of heat intensity in the workplace

Directive the Minister of Labor No. 7 of 2005 on the protection of workers in occupations related to handling gas and petroleum

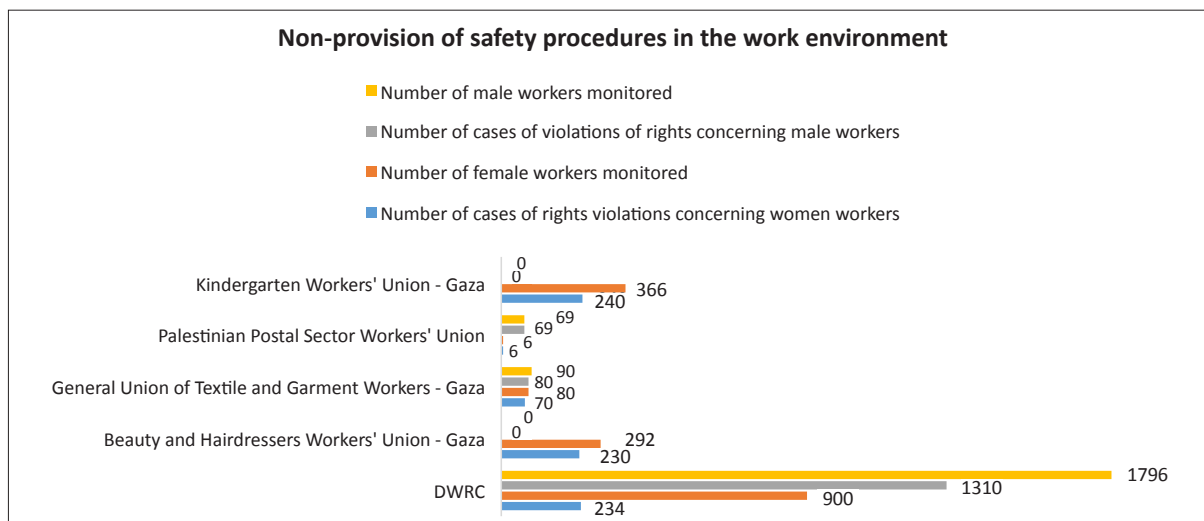
²⁶ Annual Report of the General Directorate for Inspection and Work Protection 2018, Palestinian Ministry of Labor, Inspection of Establishments in the West Bank

related to occupational safety and health, which in turn had an effect on the registration of many cases regarding work injuries. Among 3599 cases monitored in 2018, 2239 were cases of non-implementation of safety procedures in many establishments. The employer has the primary responsibility for applying occupational safety procedures in the work environment as mandated by the law. He shall bear the responsibility for any work injuries, malfunctions in the establishment's machines, the lack of the necessary equipment, buildings and work systems that relate to safety. His responsibility extends to encompassing any person present on work sites or in the establishment's buildings, even if that person is not an employee of this establishment. An employer or institution that employs workers has the duty to elaborate appropriate preventive plans and allocate a budget dedicated to achieving occupational safety and health in the workplace in order to protect workers' health and reduce occupational hazards, work injuries and occupational diseases. Employers must provide the means and tools of occupational safety and health in industrial establishments, and workers and related parties must adhere to them.

- During a training course on monitoring and documenting human rights and labor rights violations, a worker talked about the fact that the employer did not take required measures and buy occupational safety and health tools under the pretext that they are costly.

In reality, employers cannot always be held entirely responsible for work injuries. Some cases of work injuries that were monitored indicate that workers did not comply with requirements to use occupational safety and health tools and did not respect the directives issued by employers in this respect. In addition, we noted that workers awareness about the importance of using such protective tools remains low.

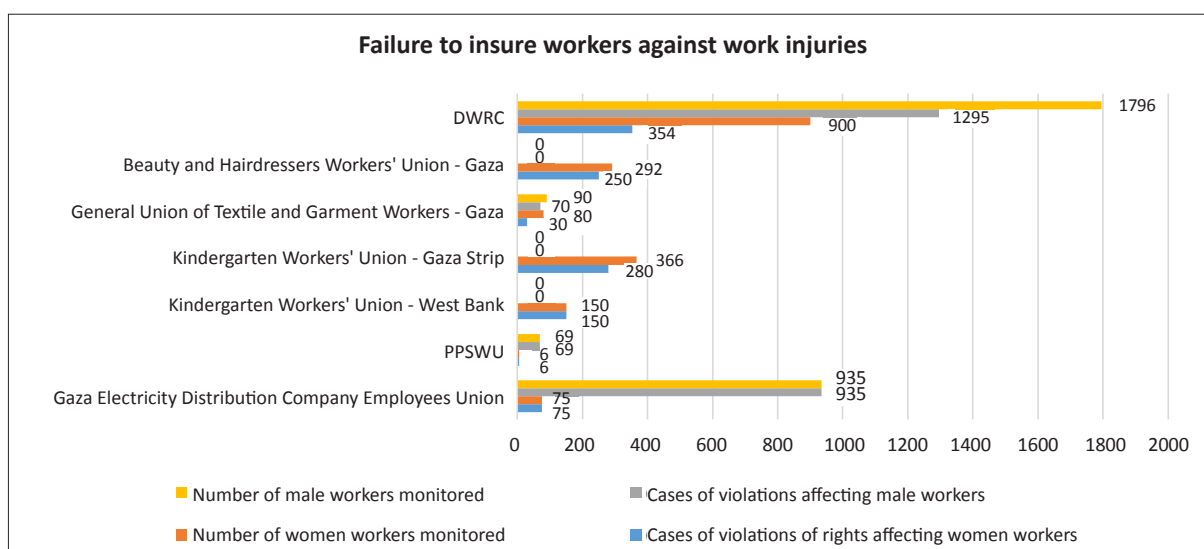
Last but not least, many ministries share responsibilities in ensuring the provision of a safe and healthy work environment, and have a role in monitoring establishments based on the law. However, the Labor Ministry is the competent authority that should ensure the implementation of labor legislation, including all by-laws and decisions, through its labor inspection department that monitors work conditions and circumstances. Due to the importance of the issue of occupational safety and health, there are other governmental bodies that have competences related to the provision of occupational safety and health, including during the establishment phases of an enterprise, such as the Ministry of Health, local authorities, the Ministry of Education, the Civil Defense, etc. Despite all the efforts made, there are shortcomings related to the low number of inspectors, lack of personnel with the required expertise and qualifications, in addition to the weakness of means in terms of work tools, equipments and techniques. Furthermore, low awareness of workers about occupational safety and health procedures and the fact that they do not contact the Ministry and submit complaints against employers, when there are infractions, also affect the ability of the Ministry to intervene.



With 4,866 legal actions taken against employers, who violated occupational safety and health standards in the West Bank, occupational safety and health measures rank first in terms of the number of legal measures taken by the Palestinian Ministry of Labor in 2018. The Ministry issued 3,915 notifications and 909 warnings. It also referred 42 cases to the judiciary. However, more than 776 work injuries occurred in 2018, including 7 fatal injuries, 3 injuries in family businesses and 5 injuries among employers, while 367 work injuries were investigated by labor inspectors, upon which corrective measures were taken in workplaces²⁷.

6.2. Failure to insure workers against work injuries

The Labor Law requires employers to insure their employees against work injuries with insurance companies licensed in Palestine, in order to ensure that workers receive compensation in the event of a work injury. However, out of 4,759 workers in the monitoring sample, 3,513 cases of non-compliance with the obligation to insure workers were reported in 2018.



27 Annual Report 2018 of the General Directorate for Inspection and Labor Protection, Palestinian Ministry of Labor – Inspection of Establishments in the West Bank

Violations of the right to insurance against work injuries take many forms. In many establishments, employers do not insure workers against work injuries. In addition, they may only insure some of their employees with the insurance company, or provide inaccurate information about insured workers' wages.

Statistics gathered by the Ministry of Labor in the West Bank for the year 2018 indicate that the Ministry issued more than 2,783 notifications to establishments enjoining them to provide insurance against work injuries to their employees. It also issued 1,096 warnings and filed 66 cases with competent courts. Out of 10,687 establishments visited by labor inspectors in 2018, 5,773 had contracted insurances against work injuries, i.e. 54% of these establishments²⁸.

6.3. Violations of the right to a paid leave to recover from a work injury

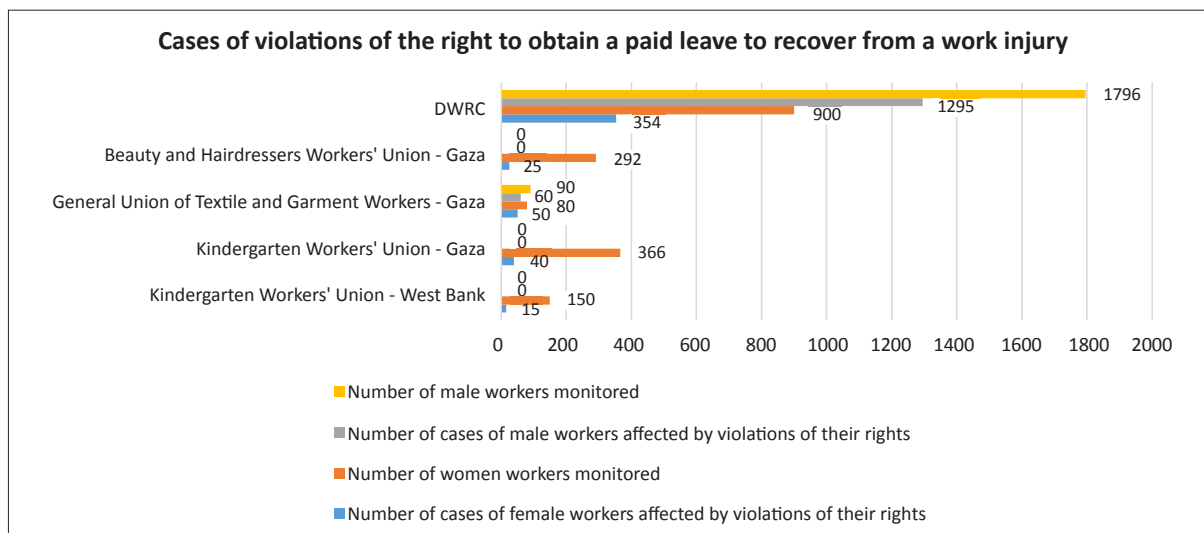
The Palestinian Labor Law stipulates that a worker, who has been injured or temporarily incapacitated, shall be entitled to 75% of his daily wage at the time of the injury, if the work injury prevents the worker from performing his or her work, for a period not exceeding 180 days²⁹, provided that the disability is temporary. If a worker has been unable to resume his/her work for more than 180 days, the employer shall pay the worker for only 180 days as indicated above, but remains liable for his/her treatment and related expenses until his/her full recovery³⁰. The combined cost of wages during the period of recovery from a work injury and cost of medical treatment has to be covered by the insurance company if the worker has been insured. It is thus important that employers contract insurance policies against work injuries for all their employees. However, if the insurance company discovers any irregularity by the employer related to the contracted policy, the company will refuse to compensate the injured worker and the employer will have to cover all costs arising from the work injury, whether it concerns a temporary disability or permanent disability. Permanent disability can be partial or full, and the Labor Law stipulates the manner of calculation of indemnities in both cases. Workers face violations of their right to a paid leave after a work injury, as well as denial of indemnities that may arise from work injuries and occupational diseases.

Many workers are unaware of their right to a paid leave if they suffered a work injury that prevents them from resuming work, i.e. when they suffer a temporary disability. Findings showed that 1,839 workers did not obtain a leave after a work injury, although some were unable to work due to their injury.

²⁸ Palestinian Ministry of Labor, Annual Report of the General Directorate of Inspection and Work Protection 2018, Inspection of Establishments in the West Bank

²⁹ Article 119 of the Palestinian Labor Law

³⁰ Article 118 of the Palestinian Labor Law



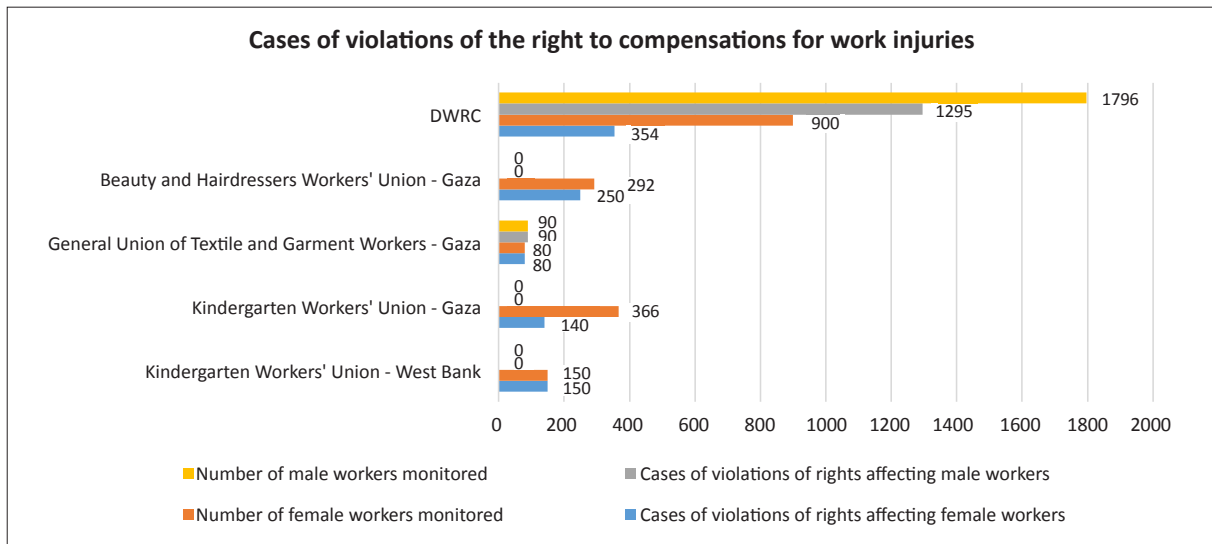
6.4. Violations of the right to compensations for work injuries

We monitored 1,794 cases of violations of the right to compensations for work injuries and occupational diseases. Violations of this right also include payment of compensations of less than half the amount of compensations that the worker should have been entitled to, or payment of compensations by the insurance company based on the worker's wage registered by the employer in the insurance policy, which may be less than the actual wage of the worker.

One of the cases documented concerns a worker, who was surprised to find out that his wages registered with the insurance company were about 40 shekels less than his actual wages. This means he obtained compensations for his temporary disability that are much lower than the compensations he was entitled to. Due to his need to keep his job, the worker accepted these compensations and signed a clearance to preserve his livelihood.

Some workers do not obtain any compensations or wages while they are unable to work due to their work injury, particularly when employers have not insured their employees against work injuries.

R.K. is employed by a workshop in the West Bank, and suffered a work injury. His employer had not insured him against work injuries. The consequence is that the employer did not recognize his rights related to his injury and did not cover his medical expenses, nor paid him any wages or compensations during the six months he was unable to work.



Based on some opinion surveys conducted during workshops and training sessions, by listening to the opinions of female and male employees and their interventions, and the overall context in 2018, we can conclude that there are wide variations in the levels of application of occupational health and safety standards stipulated by relevant Palestinian legislation. Implementation levels are good in most factories or establishments that are classified as big or public shareholding companies, while they are average in medium-sized establishments, and low in small establishments, especially marginalized sectors such as textile and garment factories and workshops, barber shops and hairdressers salons, as well as kindergartens. This is due to ineffective official monitoring operations in these sectors. The most important sectors that undisputedly lack occupational safety and health conditions are workers in the construction, stone and marble sectors.

There is also a lack of awareness among workers of the importance of adhering to the implementation of occupational health and safety standards, and the importance of the availability of material requirements to maintain occupational health and safety of workers. Large numbers of workers do not receive adequate and ongoing training about the importance of occupational health and safety tools, and how to use them.

There is a need to strengthen the implementation of occupational health and safety standards stipulated in the relevant legislation, through intensifying coordination between the official bodies entrusted with ensuring a high level of occupational health and safety, represented primarily by the Ministry of Labor, the Ministry of Health and the Civil Defense.

7

Section VII: Violations of Rights related to the Termination of Services

Several articles of the Palestinian Labor Law determined conditions for terminating employment relationships. Articles 35 and 42 determine in which cases workers can end a work contract, articles 35, 40, 41 and 103 concern the termination of an employment relationship by the employer, and article 46 concerns the termination of a work contract of unlimited duration and the obligation of giving prior notice to the other party.

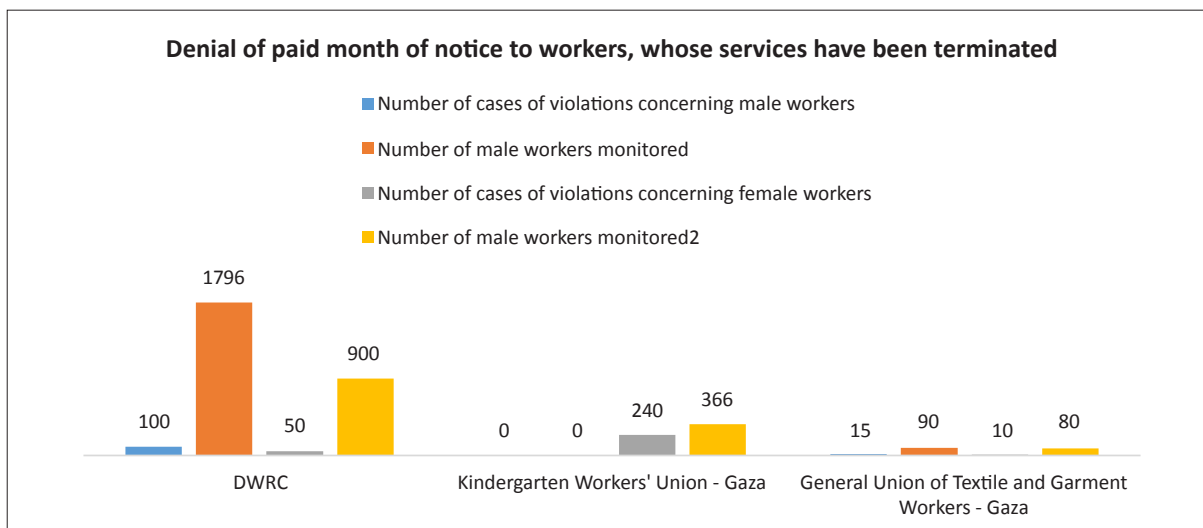
7.1. Depriving workers of a paid period of notice, when terminating their services

The Palestinian Labor Law requires the party that wishes to terminate an employment relationship, whether it is the worker or the employer, to send a notice informing the other party of their desire to do so. The law stipulates a period of notice to enable workers to seek another job, or allow employers to find a replacement for the worker, who seeks to end the employment relationship. The law set the period of notice at one month prior to the end of the working relationship if the wage is paid monthly³¹, and one week if the wage is paid on a daily basis, on a weekly basis or by piece or commission³². More than 150 cases of denial of paid period of notice were monitored among the complaints received by DWRC. In the kindergarten sector, more than 240 violations were monitored in the Gaza Strip. Violations of this right were also monitored in the textile and garment sector in Gaza. Furthermore, the Labor Law grants a worker, who receives notice from the employer about termination of his/her services, the possibility to be absent from work for the second half of the notice period. This period of absence from work shall be counted in the period of service, which means that workers are entitled to receive their full wage, and this period has to be taken into account in the calculation of end of service indemnities.

- A female worker was deprived of her paid period of notice under the pretext that she was absent from work during that period and was looking for another job. Despite legal intervention, the employer refused to abide with this provision of the Labor Law, claiming that there is no pay without work.

³¹ Article 46 of the Palestinian Labor Law

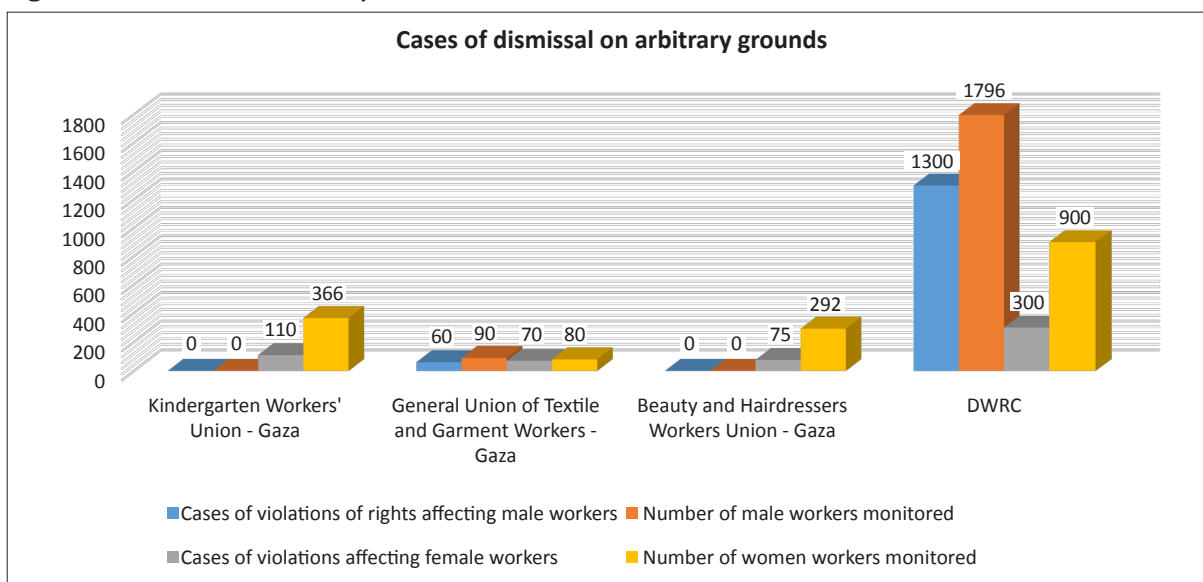
³² Article 35.4 of the Palestinian Labor Law



7.2. Arbitrary dismissal

Upon resignation, a worker is entitled to end of service indemnities based on the period of employment. When the employment relationship is terminated by the employer on arbitrary grounds, which is a matter determined by a court, the employer has to pay compensations for arbitrary dismissal of two months salary for every year worked on the condition that total compensations do not exceed 24 months of salary³³, and this in addition to severance pay for the period of employment. The Palestinian Court of Cassation has ruled that the employer must prove the grounds for dismissal, otherwise the dismissal will be considered arbitrary³⁴.

Out of 900 complaints received by DWRC in 2018 from women workers, 300 were cases of arbitrary dismissal. For male workers, 1,300 out of 1,796 cases of violations of labor rights concerned arbitrary dismissal.



³³ Article 47 of the Palestinian Labor Law

³⁴ Palestinian Court of Cassation decision 234/2015 issued on 30/09/2015

The Labor Law and judicial precedents indicate that the following cases are considered as arbitrary dismissal³⁵:

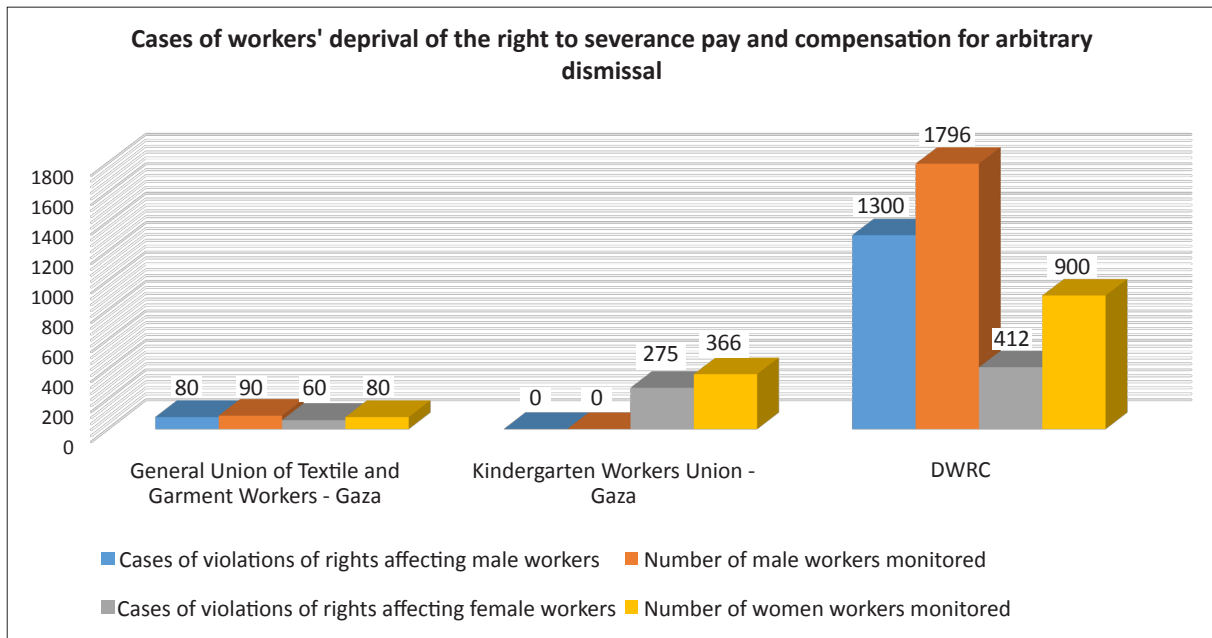
- Dismissal of a worker for reaching the age of 60; the court confirmed that reaching 60 years is not a legitimate reason for ending an employment relationship
- A worker's assault on a co-worker is not a sufficient ground to justify the termination of his employment
- Employer requesting a worker to sign a work contract with a new date that is different from the actual date of employment
- Employer requesting a worker to sign a clearance, although the worker has not obtained his/her rights from the employer
- Substantial modifications to the work contract unilaterally decided by the employer
- Dismissal of a worker due to union affiliation or participating in union activities outside working hours or during work if the employer has given his approval, or if the worker has asked to represent other workers in demanding for their rights
- Dismissal of a worker, who has filed a complaint against his/her employer for labor rights violations

The qualification of a dismissal as arbitrary dismissal is primarily a competence of the judiciary, and is based on a judicial decision that awards related compensations as stipulated by the Labor Law.

7.3. Violations of the right to severance pay and compensations for arbitrary dismissal

As can be noted, in many cases, employment relationships are terminated without any valid grounds. In 2018, we monitored many cases of violations of the right to severance pay and/or compensations for arbitrary dismissal. There are many such cases in the kindergarten sector. Female workers do not obtain the compensations they are entitled to, or an agreement is reached to pay a low amount in exchange for the worker waiving her rights. Female workers are also made to sign documents that state that they only worked one year in the kindergarten or daycare center. Thus, they are paid only to one third of their monthly salary as severance pay. In one such case, the female worker reported that she had been employed for more than four consecutive years. In the kindergarten sector in Gaza, 275 cases were monitored of non-payment of severance pay or compensations for arbitrary dismissal as stipulated by the law. However, this trend is not limited to this sector, as many cases recorded by DWRC indicate that many violations of rights are perpetrated by employers upon termination of the employment relationship through workers' resignation or dismissal.

³⁵ Palestinian Court of Cassation decisions No. 833/2012, 384/2014, 234/2015, and 720/2011, as well as article 39 of the Palestinian Labor Law

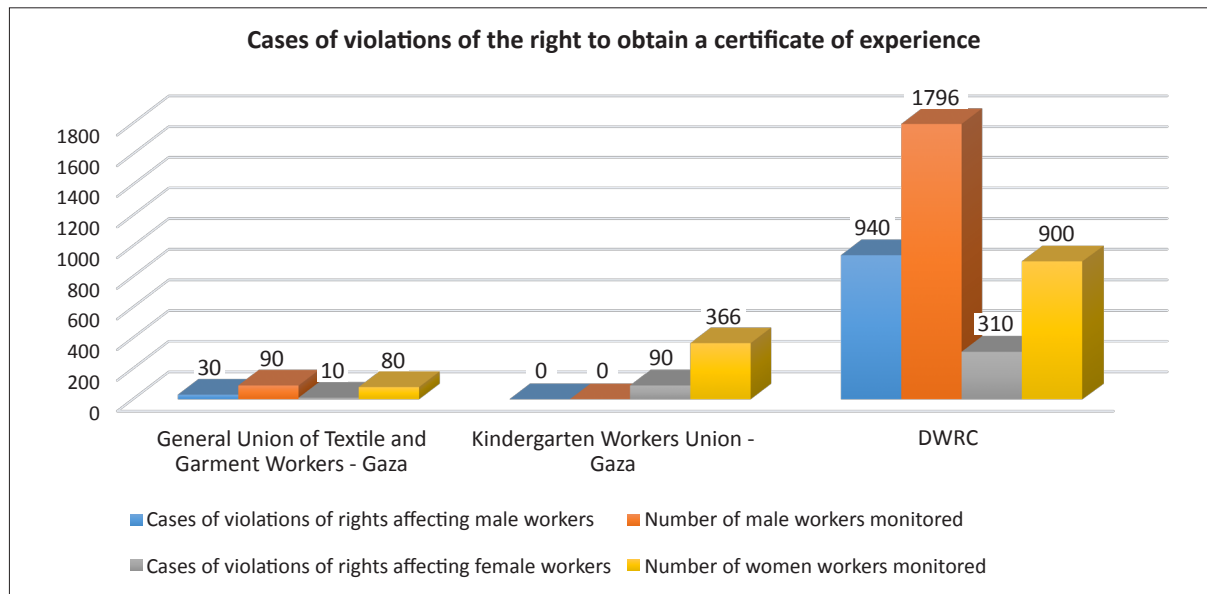


The most common violations related to labor rights may be non-payment of severance pay or compensations for arbitrary dismissal in accordance with the Palestinian Labor Law.

- A female worker had been employed by an organization as a cleaning agent for 14 years. She used to be paid a daily wage of 200 shekels. The company terminated her employment, and she was notified that her dismissal was due to the fact that the company was contracting an external company to undertake cleaning tasks. Through her work, she was supporting her 5 children. She filed a complaint with DWRC, and the lawyer requested her severance pay, month of notification, compensation for arbitrary dismissal, compensation for unpaid leaves and certificate of experience.
- A worker had been employed by a West Bank factory for 15 years and was dismissed when the factory closed. He did not obtain his severance pay as guaranteed by the Palestinian Labor Law. During his employment period, he had been working overtime hours and during official holidays, without any compensation or alternative paid leave days. He requested a certificate of experience and did not obtain it either.
- S.M. worked for a trade company in the West Bank for 3 years. His overtime hours exceeded 30 hours, although he was only paid the normal hourly rate instead of 1.5 times the hourly rate as stipulated by the Labor Law. He was dismissed without legal grounds, and when he requested his severance pay, the employer told him that he had already been paid his severance pay as a part of his salary.

7.4. Violations of the right to a certificate of experience

Workers are entitled to obtain a certificate of experience upon termination of their services and upon their request, which must mention their name, type of work and duration of employment³⁶. Any information that is beneficial for the worker may be added to the certificate with the employers' consent.



Violations of this right have been monitored in sectors less subject to monitoring by official bodies. More than 1,390 cases of violations were monitored in 2018. These violations include cases, where employers abstained from providing a certificate of experience to their employees, as well as cases where employers provided certificates of experience that do not meet the minimum legal requirements, such as mentioning the worker's name and duration of employment only, or the worker's name and type of work without indicating the duration of employment.

- R.F. indicated that her employer refused to give her a certificate of experience in order to gain leverage for negotiating her end of service compensations, as they were in disagreement about them.
- A factory worker had requested a certificate of experience. He stated that the administrative department, with the endorsement of the employer, had formulated the certificate to the detriment of his reputation, indicating that he lacked discipline and was late at work. They also used other expressions contrary to the minimum requirements for such a certificate, with the result that he cannot provide it to any establishment.

³⁶ Article 44 of the Palestinian Labor Law

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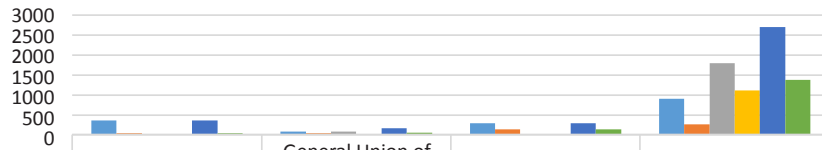
Section VIII: Violations of rights related to sanctions against workers

The Labor Law allows employers to impose penalties on workers, when they make a mistake or commit an infraction stipulated in the law. However, the law put safeguards in place to prevent employers from imposing illegal penalties. Cabinet decision No 121 of the Year 2005 that regulates sanctions stipulated infractions committed by workers, which the employer is entitled to sanction, provided that the establishment has a sanction's list approved by the Palestinian Ministry of Labor and the worker has knowledge of it. The law also requires the employer to impose the penalty specified in the regulation within a period not exceeding two weeks from the date of verifying the infraction or ratifying the results of the investigation committee, if such a committee was formed. The worker must be notified in writing of the disciplinary action against him or her, if the penalty exceeds an oral warning and written warning, in order to preserve the worker's right to present a defense. The law also prohibited imposing more than one penalty for the same infraction. Records of penalties should be kept by the establishment. Finally, the law guaranteed workers' right to object to any penalty or disciplinary action to the labor inspector, within a week of being notified of the sanction in writing. The role of the labor inspector is to confirm if the sanction is legally justified or to force the employer to rescind if it is arbitrary or invalid, or does not match the infraction committed by the worker.

In 2018, we monitored a number of violations in various sectors related to arbitrariness in imposing sanctions, i.e. cases in which employers imposed sanctions on workers without respecting the procedures and requirements defined by the law. These violations included imposing two sanctions for the same infraction, such as imposing a fine and giving a final warning at the same time, and not respecting the gradual character of sanctions. Many workers in sectors characterized by informal work, such as kindergartens and beauty salons, indicated during educational activities that their employers do not have a written sanctions by-law, and thus they have no regulation approved by the Labor Ministry they refer back to. Employers in these sectors impose sanctions arbitrarily on their employees.

- One worker indicated that her employer routinely gives final warnings to any workers that contravene his instructions, such as being late 10 minutes in the morning, or talking among colleagues about issues not related to work during working hours, under the pretext that their work is linked to customer service by phone.

Arbitrary sanctions imposed on workers



	Kindergarten Workers' Union - Gaza	General Union of Garment and Textile Workers - Gaza	Beauty and Hairdressers Workers' Union	DWRC
Number of female workers monitored	366	80	292	900
Number of cases of violations affecting female workers	40	40	140	270
Number of male workers	0	90	0	1796
Number of cases of violations affecting male workers	0	20	0	1110
Number of workers from both sexes monitored	366	170	292	2696
Number of workers from both sexes, whose rights were violated	40	60	140	1380

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Section IX: Reasons for the continuation of workers' rights violations in 2018

Thousands of male and female workers face various forms of violations of their labor rights, whether they concern their wages, working hours, occupational safety and health rights, or other rights related to work conditions and circumstances. The Israeli occupying power's policies and measures, such as restrictions and closures, have an undeniable negative impact on the economic situation and employment, which in turn has negative repercussions on the ability of employers to provide an adequate work environment in some circumstances. However, findings of the report indicate that places the primary responsibility for violations of labor rights with employers, far ahead of legislative shortcomings, the responsibilities of the government and the Palestinian judiciary, although all these parties have contributed to the existence and perpetuation of labor rights violations.

Former reports on labor and trade union rights violations covering the years 2016 and 2017 highlighted the main causes for violations of these rights in Palestine. There has been no positive evolution in 2018. When reviewing causes of these violations, and the issues addressed legal and moral duty-bearers, we would like to emphasize the following causes, obstacles and problems that perpetuate violations of labor rights:

- **Lack of adequate legal protection**

The draft law on union organizing has not been adopted, which means that there is no real organizational legal framework that protects the right to form unions. Nothing prevents continued interference with procedures for the formation and dissolution of unions by the judicial and executive authorities. Likewise, the absence of deterrent sanctions and fines in the Labor Law and its by-laws for violations of labor rights guaranteed by the law constitutes an incentive for continued violations of these rights by employers, since the highest imposable fine does not exceed 500 JD. Furthermore, there are no penalties for infractions to some dispositions of the Labor Law³⁷.

- **Workers are not aware of their labor rights and/or do not take steps to claim them, while employers exploit worker's need for employment.**

Employers' relationship with workers is governed by a profit and loss rationale, rather

³⁷ Chapter X of the Palestinian Labor Law, which sets penalties for violating the law's provisions, only stipulates financial fines for violations of the provisions of Chapter V related to terms and conditions of work such as working hours, vacations, wages, occupational safety and health, Chapter VI that regulates the work of juveniles, and Chapter VII that regulates women's work. On the other hand, the Labor Law does not stipulate any penalty if employers commit violations of rights guaranteed in Chapter I, most importantly if they prevent workers from forming unions. There are no penalties either for violations of the dispositions of Chapter II related to employment, training, and professional guidance, Chapter III regulating work contracts, and Chapter IV that regulates collective work relations.

than being governed by rights and duties under the Labor Law or at least mitigated by them. There is a lack of efficiency and effectiveness of trade unions in representing workers and fulfilling their role in defending their rights, including when it comes to educating them about their rights and their duties towards employers. On the other hand, workers abstain from claiming their rights, because of the lack of legal protection (from dismissal) if they submit a complaint against their employer. This leads workers to think only about preserving their source of livelihood, and fully or partially waive their rights.

As for employers' exploitation of workers and violations of their rights, it can be noted that the majority of child workers, for example, are exploited by employers for reasons related to their need to work, especially during the summer vacation. This leads child workers to agree to any wage paid to them, and tolerate inappropriate working conditions and working hours that are illegal, to provide for their needs in this short period of time, or the needs of dependent family members in case of longer employment periods.

- **Labor Ministry inspections**

Labor inspections conducted by the Ministry are still unable to stop infractions perpetrated by a wide category of employers, particularly in medium and small enterprises, and that affect workers in the informal sector. In its report about governmental oversight of occupational safety and health conditions and its efficiency in achieving safe working conditions for workers, published in July 2018, the State Control and Audit Bureau reached the conclusion that there is a "lack of efficiency of monitoring procedures represented by inspections undertaken by the Ministry of Labor in achieving the objectives related to protection of workers in labor sector establishments, as inspections do not assist in reducing work injuries, which can be fatal, to which workers in the labor sector are exposed."

The State Control and Audit Bureau attributed this situation to the following³⁸:

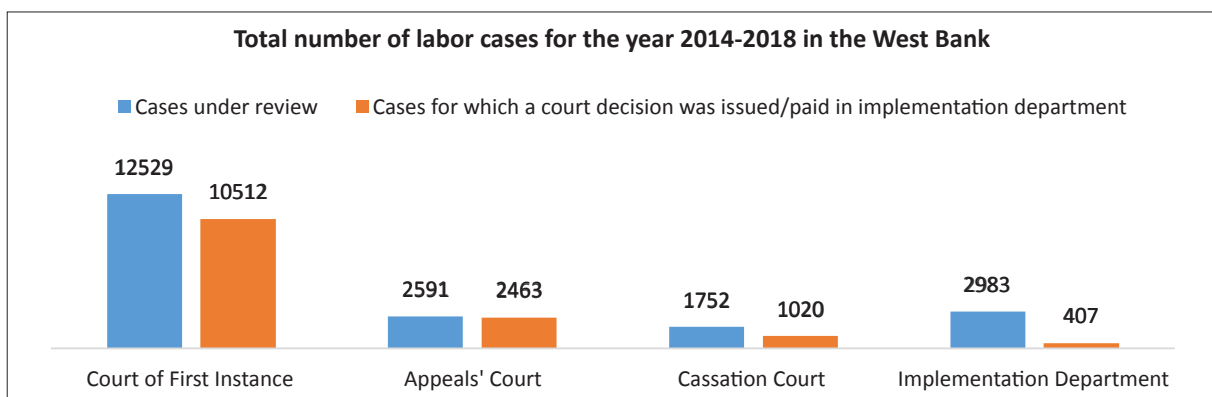
1. Shortcomings in the planning process related to Labor Ministry inspections, which has led to aleatory inspections and the fact that inspections have not adequately targeted the sectors and establishments that present great hazards for workers' lives, due to the absence of accurate figures in the Labor Ministry reports
2. Absence of a notification system or clear mechanism at the Ministry of Labor to obtain information related to work injuries and infractions by establishments, in addition to other points related to shortcomings in the coordination with other governmental organizations regarding the issuance of permits
3. Absence of oversight on Labor Ministry inspectors and their inspection work, which has led to the preparation of erroneous reports by labor inspectors about the actual situation of occupational safety and health in establishments

³⁸ State Control and Audit Bureau report on governmental oversight of occupational safety and health conditions published on 16/07/2018 on the website of the State Audit and Control Bureau <https://www.saacb.ps/rports.aspx>

4. Absence of a unified guidebook of procedures that clarifies required legal procedures, which are commensurate to the infractions to safety and health regulations; this has led to inspectors not taking the necessary legal procedures against those, who committed infractions.
5. Lack of sufficient skills' upgrade and training of Labor Ministry inspectors

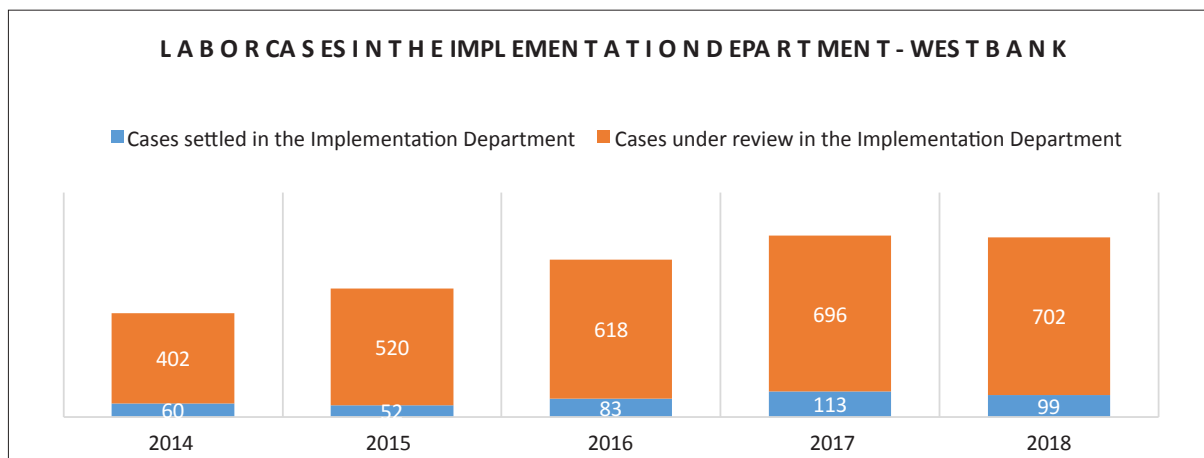
- **The role of the Palestinian judiciary in settling labor disputes, with the necessary capability, effectiveness and speed**

Workers are the weakest party in a work relationship. When their rights are violated by employers, they can ultimately only restore them through the Palestinian judiciary. In turn, the judiciary bears an indirect responsibility for the continuation of workers' rights violations. Workers have become afraid of resorting to Palestinian courts due to the length of litigation procedures, which can take years. Workers cannot bear such long delays until they obtain their rights, especially as these violations are of a financial nature related to worker's efforts, wages and indemnities, or compensations for arbitrary violations of one of the rights stipulated by the Labor Law.

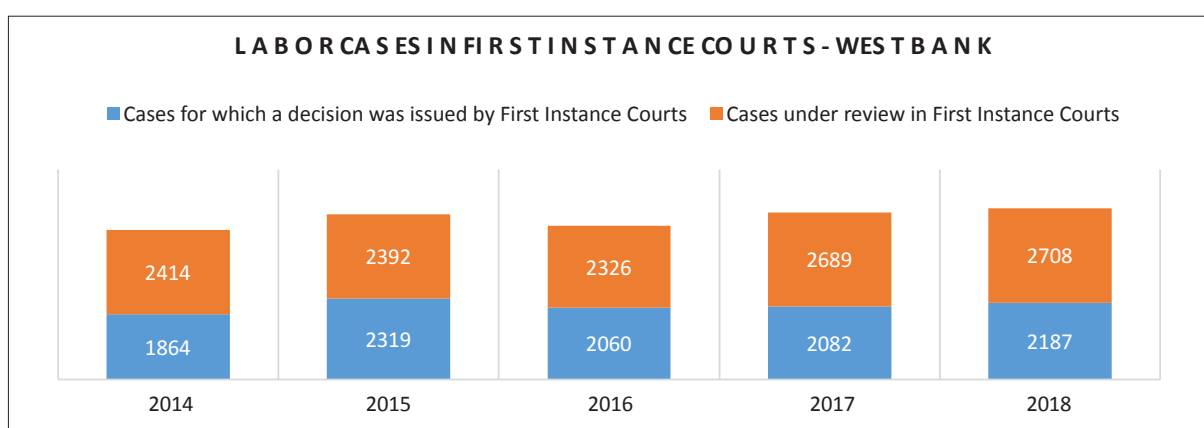


Source: Data from the Palestinian Supreme Judicial Council

In the past four years, from 2014 until 2018, more than 2000 labor cases have not been settled in Courts of First Instance, whereas this concerns more than a 100 cases in the Appeals' Court and over 730 in the Cassation Court. When the implementation procedures start, a second journey begins in the settlement and reconciliation process. The implementation judge plays the role of a mediator between the parties in conflict, rather than forcing the employer to pay the compensations decided by the court. This can take a long time. Out of 2338 cases that were referred to the Implementation Department, compensations were only paid in 407 cases. Although labor cases should be settled in a prompt manner, this is not the case. Thus, the importance of establishing specialized labor courts should be reconsidered, as they would allow for settling labor disputes rapidly and efficiently, which in turn would lead to a decrease of labor rights violations.

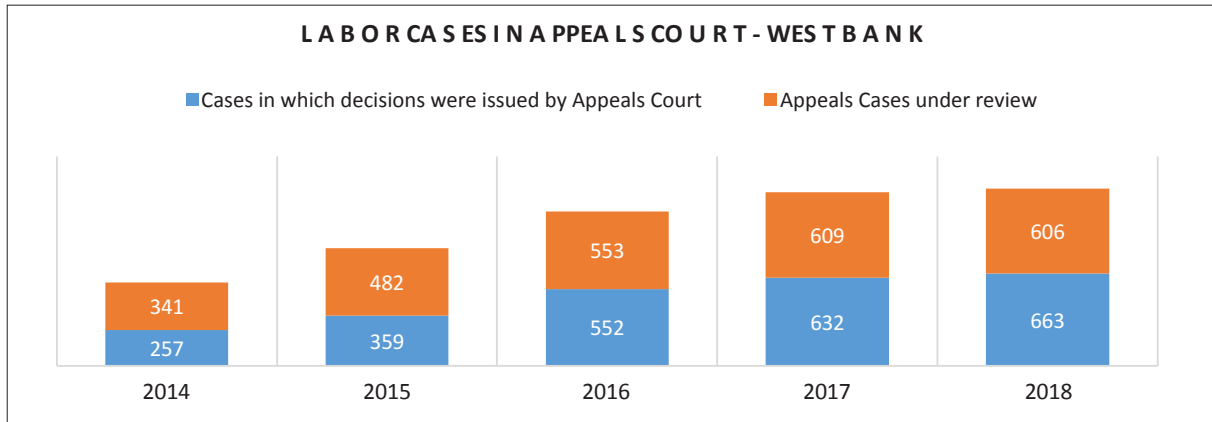


Source: Data from the Palestinian Supreme Judicial Council



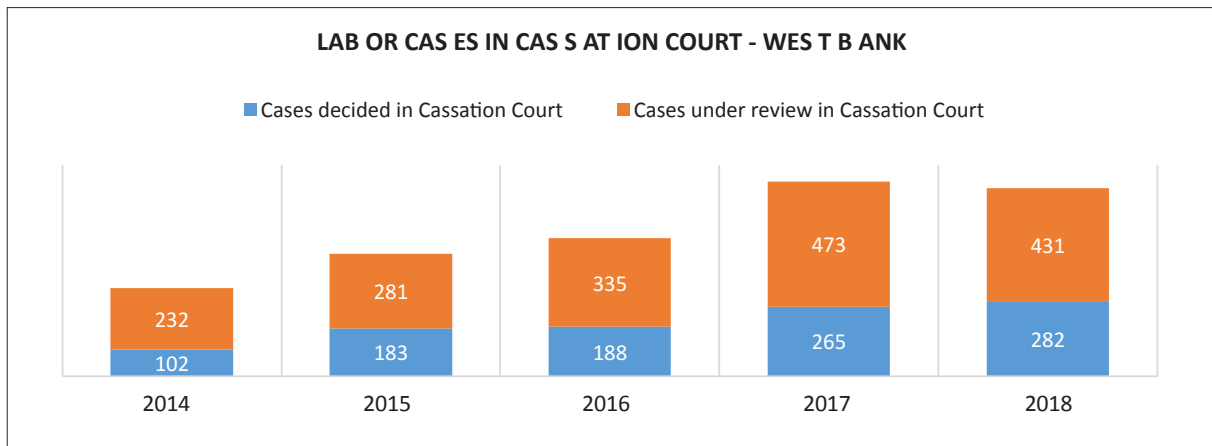
Source: Data from the Palestinian Supreme Judicial Council

There is a balance regarding appeals of labor cases in terms of their registration date and adjudication. There is no doubt that from 2014 until the end of 2018, there has been a tremendous development in the speed of adjudication regarding appeals for labor cases. In 2017, decisions were issued in 632 labor cases (part of them from the previous year), whereas 609 appeals cases were filed. In 2018, 663 labor cases were adjudicated, whereas 609 cases were filed the same year.



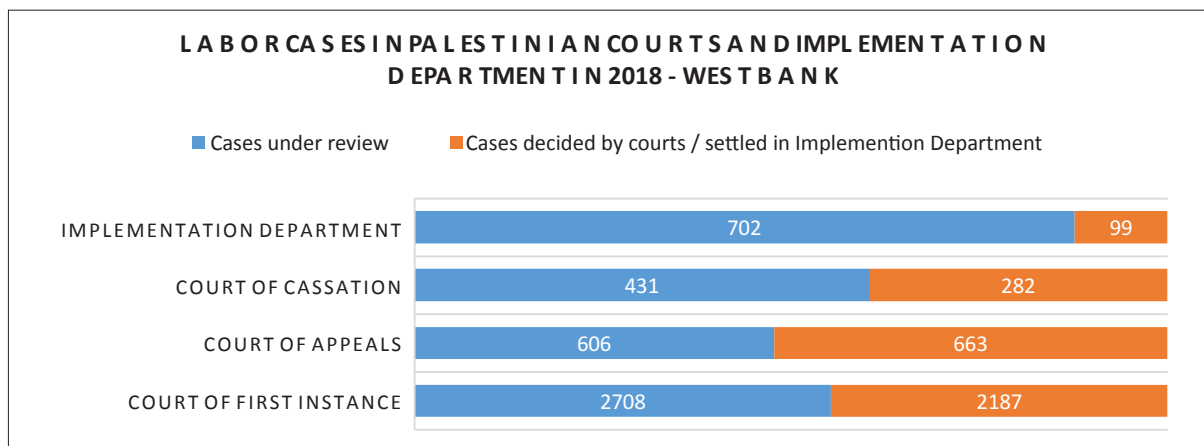
Source: Data from the Palestinian Supreme Judicial Council

Although the Court of Cassation deals with matters regarding the interpretation of the law, and thus should be characterized by the swiftness in which it reviews cases, there is fluctuation in the levels of adjudication from year to year as illustrated by the figures below. There appears to be no justification for delays in reviewing labor cases filed before the Court of Cassation, considering the nature, the rationale and conditions for hearing cases before this court.



Source: Data from the Palestinian Supreme Judicial Council

Since the report focuses on the year 2018, we are also providing an overview of the labor cases in all courts. The performance in handling labor cases was balanced to a certain extent, except for the issues related to the Implementation Department where cases have been accumulating over the years.



Source: Data from the Palestinian Supreme Judicial Council

In conclusion, we can say that economic policies implemented by successive governments have contributed to the absence of genuine accountability and monitoring. Other factors that have contributed in perpetuating violations of labor rights in an uncontrollable manner are: the inability of the Legislative Council to monitor the performance of governments, since it has not been functional for many years and was ultimately dissolved based on the Constitutional Court's decision in 2018, as well as the geographical, administrative, legal, executive and security division between the West Bank and Gaza Strip, and the Israeli occupation. As long as none of these factors are addressed or mitigated, violations of Palestinian workers' rights will inevitably continue. They are also likely to worsen, until positive solutions are introduced by working to end or eliminate causes.

Conclusions and recommendations

Conclusions

This report addresses violations of Palestinian workers' rights based on the dispositions of the Palestinian Labor Law and its by-laws. Findings indicate that the labor market in Palestine still suffers from significant gaps in the application of labor standards and fundamental rights at work in all their dimensions and indicators:

- Based on violations related to trade union work and the organizing of strikes to protest against violations of labor rights that were monitored, there is still an urgent need for a law on union organizing that provides adequate protection for trade union rights and freedoms
- The year 2018 provided a fertile environment for violations of working women's rights in various areas of rights covered by international labor standards. Official statistics and monitoring questionnaires for the year 2018 showed the extent of discrimination in wages and other labor rights between men and women, in addition to violations related to maternity leave and breastfeeding hours.
- In 2018, workers' rights violations due to the lack of written work contracts continued. Workers with contracts also faced violations of their rights, such as the exclusion of the probation period from the contract, or renewal of fixed-term contracts with the same employers for more than two years, which violates the law and the principles adopted by the Palestinian Court of Cassation
- Workers' rights violations also included non-provision of severance pay, delays in payment of wages for days or months without grounds. We also monitored violations of workers' rights that concern the non-payment of overtime hours as stipulated by the law. Violations of rights related to wages had a negative impact on workers' ability to provide for their basic needs, as well as the basic needs of their families.
- The year 2018 registered variances in the granting of leaves by employers or calculation of rest days, and rest periods during work in accordance with the law. Violations of workers' rights regarding leaves concerned all types of leaves, annual leave, sick leave, labor education leave, bereavement leave, religious and official holidays, the pilgrimage leave, and the weekly leave, as well as breaks during work.
- Work accidents, particularly in construction workshops, have led to 7 deaths and 776 work injuries. Employers bear the primary responsibility for these accidents,

but workers' lack of respect of requirements for preserving their occupational safety and health are a contributing factor. It should be noted that about 84 establishments were closed in the West Bank due to infractions to occupational safety conditions. The year 2018 also registered many cases of violations of the right of female and male workers due to non-provision of insurance against work injuries, or avoiding the payment of compensations for work injuries.

- Several issues surfaced in the year 2018 related to the arbitrary dismissal of many male and female workers in the West Bank and Gaza Strip, in addition to denying them a notice allowance when the work relationship ended, and denying them a certificate of experience.
- Although the law grants employers the right to impose disciplinary sanctions on workers if they commit infractions to the law and the internal regulations of establishments as per the list of sanctions ratified by the Palestinian Ministry of Labor, we monitored violations of rights related to arbitrariness of employers in using their right to impose penalties on workers.
- One of the reasons for the continued violations of workers' rights during the year 2018 is the imperative direct relationship because there is no legislation regulating union work, which means interventions and judicial jurisprudence in stopping strikes that relate to demanding workers' rights. In addition, the presence of 280 labor inspectors, and awareness-raising and education efforts of The Ministry of Labor have been insufficient to address the magnitude of violations of labor rights for the year 2018. Finally, there is a need to review the role of implementation departments in cases related to labor disputes that are decided in the Palestinian courts in terms of prompt payment and closure of the implementation file

Recommendations

In light of violations of rights monitored and their causes, and geographical difference, official bodies should take into account the challenges faced by Palestinian workers and the Palestinian labor market, when elaborating and implementing various policies, particularly economic policies. They should work to improve workers' ability to realize their right to decent work, and address the causes of violations of Palestinian workers' rights, particularly those affecting women and child workers. This should also be reflected on legislations, so that they contribute in increasing opportunities for decent employment. Most importantly, implementation systems for labor legislation should be developed to stop infractions and violations of rights, and empower female and male workers to enjoy decent work conditions. Thus, we recommend that competent authorities undertake the following:

1. Provide all forms of social protection to male and female workers, and enable them to exercise their right to organize and undertake collective bargaining, and promote social dialogue regarding all policies that affect the interests of the parties to production. This mean calling for expediting the adoption of the law on union organizing, which is a priority, and the necessity of reinforcing protection for trade union freedoms and enabling unions to undertake their activities in defense of workers' rights without prejudice to them.
2. Eliminate discrimination in employment and protect all marginalized groups in the labor market, including children and women, in addition to addressing violations related to contracts, wages, leaves and vacations of all kinds, arbitrary dismissal, and any other violations of labor rights. This requires:
 - a. Protecting workers so that they are able to submit complaints or file labor cases against employers, even during their employment period. This requires a disposition in the Labor Law prohibiting employers from dismissing workers, when they seek to claim their rights in observance of legal procedures.
 - b. Male and female workers should be always in contact with trade unions to which they are affiliated or work on establishing workers' committees or unions for informal sectors, as unions are the first line of defense for workers' rights; they should also affiliate to existing trade unions to strengthen them and support them in taking legal steps to protect rights that have been violated. Only then can unions play an effective role in standing up against employers if they violate the Labor Law.
 - c. There are many organizations that provide legal aid and consultations regarding violations of labor rights, the most important being DWRC, and female and male workers can get in touch with the Center
 - d. Workers can submit written or electronic complaints to the Palestinian Ministry of Labor, as many cases related to labor rights violations can be addressed confidentially, and many cases have been resolved through unannounced visits of labor inspectors based on complaints

- e. Workers should file cases with the Palestinian judiciary, when their rights are violated during their employment period or when the employment relationship has ended, as it is the role of the judiciary to guarantee that workers obtain their rights based on the law
3. Increase awareness and education about labor rights, and occupational safety and health procedures through trade unions and human rights organizations, in addition to monitoring by the Ministries of Labor and Health and Civil Defense regarding occupational safety and health
 4. Increase the effectiveness of inspections carried out by the Ministry of Labor to ensure the application of the provisions of the Labor Law. This requires increasing budget allocations to the Ministry of Labor, so that the Ministry is able to hire an adequate number of inspectors, and develop their capabilities, in addition to providing means of transport, logistics and technical services, which would allow for continuous work throughout the year.
 5. Strengthen cooperation between all competent institutions (Ministry of Labor, other competent Ministries, the Prosecution, the Civil Defense, the Police and Local Authorities) to ensure the implementation of decisions taken by courts or the Labor Ministry through the police, or the requirements for abiding with the law. This cooperation should also allow withholding licenses or renewal of licenses by competent authorities until the establishment or employer fully abides with the law.