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حالة دراسية

Case Study on

”ظروف وشروط العاملين في قطاع النظافة
في المستشفيات – قطاع غزة“
قطاع غزة، 2018

“ Work conditions and circumstances of sanitary workers in
public hospitals in the Gaza Strip ”
Gaza Strip, 2018

With the support of

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MINISTRY OF FOREIGN AFFAIRS
OF DENMARK

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Introduction

The right to access to health care services is a fundamental human right, which States and competent authorities seek to provide to their citizens. In order to ensure health services of appropriate quality, health facilities require maintenance and cleaning work. In doing so, the fundamental rights of workers engaged in providing these services must be respected and guaranteed. As per article 7 of the International Covenant on Economic, Social and Cultural Rights, all workers are entitled to the enjoyment of just and favorable conditions of work which ensure, in particular, fair wages and equal remuneration for work of equal value without distinction of any kind, safe and healthy working conditions, rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays. In the Gaza Strip, sanitary workers employed in public hospitals have been deprived of many of these fundamental rights for years.

In 2005, the Ministry of Health decided to privatize the provision of cleaning services in public hospitals through a yearly tender, on the basis of which companies are awarded contracts to provide these services in hospitals and primary health care facilities in the Gaza Strip. As a consequence of the privatization process, for over a decade and a half, sanitary workers employed by companies in cleaning public health facilities have faced extremely difficult working conditions, which do not meet fundamental labor standards.

This case study aims to shed light on the work conditions and circumstances of sanitary workers in public hospitals in the Gaza Strip, and highlight responsibilities of concerned parties in upholding and respecting their rights.

In 2017/2018, 832 sanitary workers were employed by 13 private sanitary companies, 30% of them women workers. Women sanitary workers are mostly employed in hospitals, and none of them are employed in primary health care centers. The nature of the work undertaken by sanitary workers in public health facilities consists in cleaning these facilities with chemical cleaning products, and gathering and removing solid waste, including medical waste. Work is distributed by companies according to the needs of each health facility, and male and female workers work shifts (morning, evening and night). The work undertaken may be classified as hazardous, as workers are exposed to several risks at work: contracting diseases through exposure to contaminated blood, developing respiratory allergies, skin allergies or suffering burns due to exposure to the chemicals used in the cleaning process, or suffering bone fractures from falling on slippery floors. In addition, workers are often required to undertake tasks that are not within their job description, such as cleaning waste from construction works, carrying blood samples, transferring patients between departments, or deceased patients to the morgue.

When cleaning services were privatized in 2005, sanitary workers used to be paid 2 shekels per hour (0.44 USD), and earn about 400 shekels per month (89.13 USD), without benefiting from the basic labor rights guaranteed by the Palestinian Labor Law. Complaints over these extremely low wages and work conditions led to an increase of monthly wages in 2011 to 700 shekels (195.63 USD) for workers employed in hospitals and 650 shekels (181.66 USD) for workers employed in primary health care centers. The last tender in 2017 required companies to pay monthly wages of no less than 770 shekels (213.9 USD) to workers in hospitals for 6 working days per week, and 700 shekels (194.45 USD) to workers in primary health care clinics for 5 working days per week. This still constitutes only about half the national monthly minimum wage adopted in 2012 in Palestine, which is 1450 shekels.

In addition to stipulating minimum wages for sanitary workers, which remain well below the minimum wage, the annual tender includes other conditions that companies must fulfill, including provision of occupational safety and health tools, and health and work injuries insurance. However, the tender conditions also violate Palestinian law by including a discriminatory disposition, which stipulates that the sanitary workers employed should be free from any diseases and disabilities.

The most prevalent violations of sanitary workers' rights that have been monitored through field visits are as follows:

- Workers remain afraid to form a union due to fear of sanctions from employers if they organize in a formal body. In fact, even expressing their opinions can place them at risk of dismissal; in one instance, a female worker talked about her work on a radio program and her employer attempted to dismiss her. She only kept her job due to the intervention of the Labor Ministry.
- Since cleaning services have been privatized in 2005, no written collective or individual work contracts have been issued by sanitary companies to govern the relationship with their employees.

This means that when a dispute arises with the employer, workers have to rely on witnesses to prove their employment relationship, instead of being able to submit a work contract.

- Wages are not paid on a regular basis and in a timely manner. Delays in payment of wages have reached up to 8 months. Since sanitary workers are directly employed by the cleaning companies, they should be paid their monthly wages within 5 days of due date, regardless of the amounts due to these companies by the Ministry of Finance. This is not the case.
- Workers have no job security, as their jobs depend on the results of the yearly tender for sanitary companies
- Preliminary and periodical medical examinations are not conducted for some of the workers
- Some workers are required to perform tasks outside their job descriptions and in contravention of tender conditions. Such tasks include delivering medical drugs and oxygen cylinders to hospitals, undertaking digging and construction work inside hospitals, washing the cars of physicians, buying food for doctors and nurses from outside the hospital premises, transferring patients inside departments, transferring blood samples from departments to the medical lab, washing dialysis equipment.
- Hospital administrators and Health Ministry employees interfere with sanitary workers' employment, and impose on company representative to dismiss some workers.
- Except for the weekly holiday, workers do not obtain any of the paid leaves that are stipulated by the Palestinian Labor Law. Leaves that workers are denied include an annual paid leave of 14 days, paid sick leave, paid maternity leave for women workers, paid educational leave, paid leave on official and religious holidays, and paid bereavement leave.
- Companies do not respect the terms of the tender, as they do not provide free health insurance to their employees. Sanitary workers are registered as employees with the Ministry of Labor and have to pay annual health insurance fees.
- Sanitary companies have no sanctions by-laws; they deduct amounts from workers' wages in an arbitrary manner, which is illegal.
- Some companies do not provide occupational safety and health tools. Although all companies provide a work uniform, and some provide some tools (gloves, masks, shoes), these tools are not replaced when they are used up. Thus, about 60% of sanitary workers lack occupational safety and health tools.
- Workers are not provided with specific spaces, where they can drink, eat, rest, change their clothes and shower as required by Cabinet decision on safety and health requirements in application of the Labor Law. Sanitary workers have to use physicians or nurses rooms to change their clothes. In order to be allowed to use these rooms, they need to maintain a good relationship with doctors or nurses.
- All workers are forbidden by companies and hospital administrations from using the washing machines inside hospitals to launder their uniforms. They have to take their work clothes home to clean them. Workers are demanding the allocation of time slots to use hospitals washing machines for laundering their uniforms in order to prevent the risk of transmission of pathogens.
- Workers are exposed to verbal violence (insults, humiliation) from some company supervisors and some Ministry of Health employees.
- Every time an item is stolen in hospitals, hospital police interrogate sanitary workers, accuse them, and do not even apologize to them when the identity of the perpetrator is discovered.
- Some company owners oblige workers to sign a clearance stating that they have obtained all their rights, while end of service indemnities have not been paid to them, or only a fraction of the amount due has been paid.

The role of various parties that impact workers' realization of their rights:

- The Ministry of Health is the recipient of the companies' cleaning services in its facilities, and is first and foremost concerned about the quality of the services provided and their abidance with the standards it has set. The hostelry department at the Ministry of Health has the responsibility of monitoring this matter, and submits a monthly evaluation to the Ministry of Finance about the quality of the services provided by each company, which is taken into account by the Ministry of Finance when settling payments due to them. The Ministry of Health is partially responsible for the fact that sanitary workers are required to perform tasks outside their job description.
- The Ministry of Finance is responsible for signing contracts with sanitary companies based on a tender. The contracts for last tender period (2017/2018) were signed during the period of the Unity Government, but the Ministry of Finance in Ramallah did not pay the amounts due to the companies for a period of 5 months, due to the political differences and the political split. The Ministry of Finance in Gaza passed an agreement with the companies to freeze these financial dues, and committed to paying subsequent monthly amounts. The freezing of these financial dues negatively impacted workers' wages, as by the end of the tender's period on 31/08/2018, sanitary workers were still owed between 5 to 8 months of wages from most of the companies. As the Ministry of Finance alleged that it cannot meet its financial obligations towards the companies, it extended the tender's period by 6 months and has not launched a new tender due to the opposition of the companies to such a step until all financial dues are paid to them.
- The Ministry of the Labor is responsible for monitoring work conditions and circumstances, and ensuring the implementation of Labor Law dispositions and specific tender conditions related to workers' rights. However, they used to implement only few inspection visits. In August 2018, after the signature of a cooperation agreement between the Ministry of Health, Labor and DWRC, initiated by the Center, a joint campaign was organized to follow-up on work conditions and circumstances, and assess the level of rights violations. This led labor inspectors to notify all thirteen companies that they were required to take measures within a week in order to ensure all rights to their employees. Six written warnings were issued to companies, and complaints against two companies were referred to the prosecution.
- Cleaning companies are contracted by the Finance Ministry to provide a service, and are concerned about obtaining a positive evaluation from the Health Ministry about the quality of the service provided. Some of them avoid respecting their obligations with regard to work conditions and circumstances. Companies faced a severe crisis due to the non-payment of their compensations for 5 months, and organized a strike with workers to put pressure on the Ministry of Finance. At the end, they still did not obtain these compensations and resumed the provision of their services.

Interventions undertaken to address the situation:

In 2005, when sanitary workers were paid only 2 shekels per hour, DWRC started raising workers' awareness about their rights and provided them with training on organizing skills, in order to mobilize them to defend their rights. The results of this work over five years led to an increase of wages from 400 to 650 shekels in 2011. From 2011 to 2017, DWRC continued supporting workers and advocating for their rights, until work conditions were specified in the year 2017 tender. DWRC supported workers in forming workers' committees, and sometimes coordinated efforts with other organizations and unions, such as the General Union of Health Service Workers. Throughout the period, DWRC provided legal consultations and adopted complaints, filing some cases with courts to enable workers to obtain their rights, while solving many labor disputes through direct negotiations with employers. We supported sanitary workers' strikes in 2012, 2014 and 2017. We organized many workshops between workers, employers and the Ministries of Health and Labor, which issued recommendations to reform the tender conditions. We reported violations of rights in numerous letters addressed the competent ministries. DWRC also highlighted violations of workers' rights in the media, turning it into a public interest issue. In particular, Al-Shaab radio in Gaza held several weekly programs that discussed the situation, hosting representatives from all concerned parties. In 2018, DWRC signed a cooperation agreement with the Ministries of Labor and Health for field follow-up of workers' situation. The ensuing inspection campaign in August 2018 led to issuance of notices to the companies for contraventions of the law. In parallel, DWRC distributed awareness brochures to inform workers about their rights, and produced guidance posters for sanitary workers about risks at work and how to prevent them, which were posted in all health facilities.

In addition to DWRC's interventions, the General Union of Health Service Workers and the Labor Resource Center in Gaza undertook an awareness campaign targeting a number of female and male sanitary workers in hospitals about their rights in 2016, as well as a social media campaign to demand the implementation of the minimum wage and occupational safety and health standards.

Recommendation

- Recommendations to the Ministry of Labor:

- Impose the signature of work contracts by sanitary companies with their employees; the dispositions of the work contract should be unified for all sanitary workers and guarantee the basic rights stipulated in the Palestinian Labor Law, and copies should be deposited with the Ministries of Labor and Health
- As per point 22 of the tender, detailed lists of employees' names and data should be deposited with the Ministry of Labor, and should be referred to in case of any labor dispute
- A yearly inspection visits program should be adopted by the Ministry, so that at least 2 workplaces for each company are visited during the year to ensure that the Labor Law and contractual obligations are respected
- Ensuring that periodical medical examinations for workers and necessary vaccinations are undertaken in cooperation with the Ministry of Health
- All occupational safety and health requirements in workplaces should be met (requirements regarding drinking water, sanitary facilities, specific areas for workers to have food, areas where workers can change into their work clothes) in accordance with Cabinet decision no 15 of the year 2003 pertaining to Labor Law no 7 of the year 2000
- The Ministry of Labor should prepare a sanctions by-law and oblige employers to abide with it based on Cabinet decision no 121 of the year 2005 regarding rules for sanctions, to prevent that employers impose sanctions on their employees that are not stipulated in the law
- The Ministry should monitor the provision of all occupational safety and health tools as required by the tender and Cabinet decision no 49 of the year 2004 regarding prevention of work risks and occupational diseases at the expense of the employer; it should request the imposition of fines on the employer if these tools are not provided and deduct their amount from payments due to the employer
- The Ministry should monitor the existence of work injuries' insurance and keep a copy of insurance policies, including lists of workers insured
- Monitor abidance with paying workers' wage in accordance with the law and in a timely manner
- The clearance document should be issued at the end of each tender through the Labor Relations department at the Ministry of Labor, and no clearance documents signed outside this framework should be recognized

- Recommendations to the Ministry of Health:

- The hostelry department at the Ministry of Health should monitor the implementation of all tender items, in particular those relating to female and male workers' rights
- The Ministry should issue a directive to all its employees in workplaces where sanitary workers are employed, which prohibits giving them any additional tasks or orders, and appoint someone to receive complaints in case of non-compliance
- The Ministry should allocate a space within medical facilities, where sanitary workers can change their clothes; it also should reach an agreement with sanitary companies for ensuring the cleaning of work clothes in accordance with standards applied in medical facilities
- The Ministry should provide free health insurance to workers and their families in view of the low wages paid to them for working in public health care facilities

- A number of employees should be assigned to working as “messengers”; specific work contracts corresponding to this position should be prepared under the management and supervision of the Ministry of Health. This would allow preventing the assignment of tasks to sanitary workers that are outside their job specifications.

- Recommendations to the Ministry of Finance, which is responsible for the tender:

- The Ministry should allocate a sufficient annual budget to increase the sanitary workers’ salaries to the minimum wage
- A condition should be included in the tender that obliges companies to periodically submit a document disclosing the amounts paid to workers during their employment period and after their contract ends
- Yearly tenders are a main cause for the lack of job security for sanitary workers, thus the tender period should cover more than one year and require guarantees that workers will not be replaced during or after the tender periods
- The Ministries of Health and Finance should monitor the situation to make sure that employers actually bear the cost of the Finance Ministry deductions from payments to the companies, and do not reflect these deductions on workers’ wages. They should also modify the tender condition that stipulates that sanitary workers must be free from diseases and disabilities, as this constitutes clear discrimination against persons with disabilities and thus contravenes Palestinian law and international conventions. As long as the nature of the work does not negatively affect their health, and they are able to perform it, it is not justifiable to exclude persons with disabilities from being eligible for these jobs. The same applies to persons suffering from diseases, as suffering from a disease does in most cases not affect a person’s ability to perform a job or work in a health facility.

- Recommendations to cleaning companies (the employers):

- Cleaning companies should respect tender conditions, in particular those that concern female and male workers’ rights
- They should submit offers to tenders that guarantee the implementation of the minimum wage decision of the year 2012
- They should abide with conducting medical examinations for workers and direct them to obtain the necessary vaccinations, at the employers’ expense
- They should provide all occupational safety tools needed by workers, as well as required facilities within workplaces
- They should work on improving work conditions and circumstances, which in turn would contribute in achieving better cleaning services

- Recommendations to civil society organizations and trade unions:

- They should coordinate among themselves to implement periodical visits to workers in this sector, and raise their awareness of their rights as guaranteed by the law
- They should monitor and document violations of sanitary workers’ rights, and refer these cases to competent authorities
- They should organize advocacy campaigns for the improvement of work conditions and circumstances, so that rights guaranteed by the Labor Law are applied
- They should apply joint pressure for amending the current tender items and include specific benefits for sanitary workers due to the hazardous nature of their job
- They should join efforts to organize workers in workplace committees as a first step towards the establishment of a union that will defend their rights and represent them in front of official and non-official institutions

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