

مركز الديمقراطية وحقوق العاملين في فلسطين

The Democracy & Workers' Rights Center in Palestine

النزاعات العمالية والقضاء الفلسطيني

Study on Palestinian Labor Disputes and the Role of courts
"Executive Summary"

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reinforce their rights; for example, workers should be urged to obtain written proof from their employers of their work status and working conditions. These organizations should also support workers' right to seek legal remedy. Moreover, the Palestinian Bar Association should monitor the lawyers refusing to adopt labor cases and find appropriate solutions to this problem. Finally, the production of more studies, statistical data and researches related to the subject of this study should be encouraged.

role in an adequate manner, and the absence of legal provisions obliging the judiciary to deal with the specifics and particularities related to labor cases in a positive manner.

The study findings led to a number of recommendations to the legislative authority. The Palestinian Legislative Council should enact a special law on the mechanisms for settling individual or collective labor disputes before these cases are taken to court. Moreover, the Legislative Council should amend all related laws in order to restrict jurisdiction over labor disputes to specialized labor courts. There must be a guarantee that labor cases will be processed in priority and that the enforcement of decisions rendered in these cases will be rapidly. Finally, article 4 of the Palestinian Labor Law should be amended to exempt workers from paying court fees for all labor complaints, whatever the grounds for the case.

With regards to the judicial authority, the study's recommendations focus on the necessity for the Supreme Judicial Council to establish specialized labor courts, train judges specialized in labor cases, issue directives to courts on the urgent character of labor cases and therefore the necessity to issue decisions rapidly, and develop an electronic archiving system for all cases processed by the judiciary, especially labor cases.

Regarding the recommendations to the executive authority, the Ministry of Labor should monitor enterprises and employers to ensure that they properly document their employees' affairs, in order to facilitate workers' access to the documents that prove their claims in front of courts. In addition, the Ministry should activate the role of labor inspectors in monitoring violations and abuses committed by the employers, as well as documenting these violations for the benefit of workers when they decide to resort to courts to enforce their rights.

Finally, the study also made a number of recommendations to civil society organizations. It is very important that these organizations educate and inform workers about the mechanisms to protect and

Executive Summary

Labor disputes represent a significant share of the cases filed with Palestinian courts. The special character of these cases requires their rapid resolution, and judges must be specialized in order to be able to take into account their legislative, economic, and social aspects. In contrast to the majority of legal systems around the world, particularly in neighboring countries, in general, the Palestinian Legislator did not adopt the principle of specialization in labor issues; and as a result, labor disputes continue to be filed along with ordinary civil courts.

This study aims at analyzing the procedures followed by Palestinian courts in dealing with labor cases and the impact of these court procedures on labor rights. For this purpose, the study includes a theoretical part, based on a descriptive and analytical methodology, and a comparison of the Palestinian legal system with international systems and those of some neighboring countries with regards to labor cases. On the practical side, this study relies on the analysis of specific indicators for a sample of 200 labor cases filed with Palestinian courts, in order to measure the effectiveness of the Palestinian legal system in terms of the timeframe for reaching a decision, and the level of responsiveness of courts to claims presented by workers in the complaint.

The various levels of analysis conducted through the study led to several conclusions. First of all, the Palestinian legal and judicial system is facing difficulties in solving individual labor cases in an acceptable manner, mainly due to legislation gaps. Palestinian laws and regulations do not properly address the specifics and particularities of labor cases. In addition, the judicial system is extremely slow in solving labor cases, and some judges try to act as mediators instead of issuing a judgment. According to the study, the weakness of the Palestinian judicial system is due both to internal and external factors. Internal factors are related to the problems experienced by the Palestinian judicial system in general, in terms of lack of material and human resources. External factors are represented by the impediments to the judicial process due to the Israeli occupation, the failure of the Palestinian Ministry of Labor to fulfill its

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