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# **Whose Right Is It Anyway? Familiarity With Workers' Rights Among Older Adults, Family Caregivers, and Migrant Live-in Home Care Workers: Implications for Policy and Practice**

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## **Abstract**

Live-in home care provided to older adults blurs the boundaries between private and professional, personal and public matters, and working hours versus off-duty time. As a result, live-in home care workers are at risk for exploitation. The present study examines the extent to which older adults, family members and migrant live-in care workers are familiar with the rights of migrant live-in care workers. A random stratified sample of adults over the age of 70, who receive home care services was conducted. Overall, 338 migrant live-in care workers, 224 older adults and 442 family members were interviewed and asked about their knowledge regarding 10 basic migrant live-in workers' rights. Moderate levels of knowledge regarding migrant live-in care workers' rights were found. On average, older adults were aware of 4.22 workers' rights (out of a possible number of 10 rights), whereas family members and migrant live-in care workers were aware of 7.77 and 7.34 rights, respectively. No more than 4% of older adults, 18% of family members and 10% of migrant live-in care workers were aware of all ten workers' rights. It seems that whereas some rights regarding social benefits were well acknowledged, core issues related to the job and to the status of migrant care workers remain unclear. Implications for policy and practice are discussed.

## INTRODUCTION

Violations of workers' rights within the home care setting have a tremendous negative effect on both the care worker and the care recipient. Deprivation of the worker's free time, demands to do more than specified in the job description and denial of sick days have implications for the physical and mental state of the care worker (Ayalon, 2009a). This, in turn, impacts the quality of care provided to the care recipient (Vagner, 2010), and might also lead to aggression due to over-exhaustion of the worker (Vagner, 2010). Securing the rights of care workers is therefore, of utmost importance to all concerned.

In the past few decades, Western countries have become increasingly reliant on migrant labor force. At the present time, the number of older adults who need assistance in activities of daily living exceeds the potential number of local home care workers (Ayalon, 2009a), and many countries depend on migrant home care workers as care providers, and especially as live-in carers (Sole & Parella, 2005). There are two major reasons for this: insufficient number of local citizens who are willing to take hard and demanding jobs, such as becoming paid caregivers (Borjas, 1994), and a decrease in birthrate (Weaver & Weaver, 2014), which reduces the number of potential caregivers within the family. Migrant workers, on the other hand, are motivated to fill in the gaps, mainly due to economic hardship or an unstable political situation in their countries of origin (Ellman & Laacher, 2003).

The flow of migrant workers underscores the important question of how these workers are treated in the host country (Anderson, 2013). Migrant workers constitute a vulnerable group (Pande, 2013), and are employed at jobs that have been nicknamed the "triple-D jobs", namely, jobs that are demeaning, dirty, and dangerous (Pearson & Kusakabe, 2012). The financial compensation migrant workers receive in these jobs is inadequate, and disproportionate to the work they are required to perform (Iecovich, 2013). But even within this vulnerable group, the subgroup that is most likely to face workers' rights violations, abuse and exploitation is the group composed of migrant care workers. This stems mainly from the home care setting, and is intensified by their migratory status. As all care workers, they work in isolation at the homes of older adults, with very little guidance and supervision, and receive no support from colleagues (Barling, Rogers, & Kelloway, 2001). They also pay thousands of dollars just in order to obtain a work permit (Lurie, 2009), becoming "indentured servants". Many of them agree to work even under discriminatory conditions just in order to keep their job (Cooper & May, 2007).

The characteristics that are typical of live-in home care workers bring up issues concerning basic workers' rights. As opposed to live-out home care work, in live-in home care settings, working hours, breaks, and other work conditions are often undefined. For example, whereas live-out care workers have fixed working hours and time off, the boundaries between working hours and off-duty time are not as clear in the case of live-in care workers. The same goes for sick days; a live-out care worker may cancel a scheduled home visit due to illness, but what could a live-in care worker do when sick?

### *The Israeli Case*

As the ratio of migrant workers in the caring sector worldwide is raising consistently (O'Shea & Walsh, 2010), Israel constitutes an important case study as a country with a high rate of migrants who work in the home care sector. About 50% of the home care workers are migrants, compared to about 30% in other western countries (Cangiano, Shutes, Spencer, & Leeson, 2009). In Israel, migrant care workers are the only ones to provide round-the-clock home care (Blinded-for-peer-review). About 60,000 migrant live-in care workers live in Israel at the moment, and approximately 20% of them do not have a valid working permit (Avrams, 2013), This is slightly higher than the percentage of care workers who do not have a permit in EU countries (Triandafyllidou, 2009). As in other Western countries such as the UK, the US and Canada (O'Shea & Walsh, 2010), the majority of migrant live-in care workers in Israel are Filipino women (Natan, 2007).

In Israel, as in other western countries (Ruhs, 2012), the social rights and workers' rights of migrant care workers are restricted. The first issue concerns the status of migrant care worker as non-citizens. Israel allows migrant care workers to enter the country only via the "guest workers" program. This program is used worldwide (Djaji, 2014). It allows non-citizens to work in the host country for a limited period in the specific profession for which they were recruited. In many countries, migrant workers cannot become citizens in the future, nor permanent residents (Pande, 2013).

Nevertheless, there are a few countries that eventually allow a migrant care worker to become a permanent citizen (such as the UK and Canada; Cangiano et al., 2009).

The view of migrant care workers only as guests influences the rights they are entitled to. For example, they are entitled for medical insurance, but at the same time, are excluded from other Israeli employment laws which preclude their right to overtime payment. This is similar to other Western countries, such as the US, the UK and Canada, where some of the regulations for institutional settings do not apply to the migrant home care workers (O'Shea & Walsh, 2010). Nonetheless, similar to the US (Lobel, 2001), there are a few rights that are not linked to citizenship or residency, such as minimum wage and the provision of sick days. The main problem is that entitlement to workers' rights does not guarantee that the rights will be truly honored. This depends on the willingness of the state to enforce the labor laws. Unfortunately, The Israeli government - similarly to the UK and the US governments (Bernhardt et al., 2008; Robinson et al., 2010), does not enforcing the labor laws very strictly (Shamir, 2013). According to Kaufka (2003), one of the main reasons for under enforcement of workers' laws is that the home care work is perceived by governments worldwide as part of the private sphere (Kaufka, 2003).

### ***The Present Study***

The first step towards securing workers' rights is ensuring that both employers and employees are aware of them. In the home care setting, deliberate and inadvertent violation might affect both care workers and care recipients. The present study investigated the extent to which older adults, their family members and migrant live-in

care workers were familiar with the workers' rights. The results of this investigation allude to the incidence of unintentional violations, which would be easier to prevent merely by educating the parties involved. The growing dependence of the Western world on paid home care requires ensuring that the rights of those who carry out this demanding job be respected. Because the live-in home care setting has unique characteristics, this study exclusively addresses this environment. To our knowledge, this is the first research to explore the familiarity with care workers' rights among older care recipients and migrant live-in care workers.

## METHOD

### *Procedure*

The study was carried out in a collaboration of Bar-Ilan University and the National Insurance Institute of Israel (NIII), which funded it. The Study was approved by the ethics committee of Bar-Ilan University. A random stratified sample of older adults over the age of 70 from the center of Israel was drawn from the national pool of older adults who receive financial assistance from the NIII under the long-term care community law. We aimed to recruit family units composed of an older adult, a family member and a home care worker for a large scale research survey regarding home care services for older adults. The eligibility criteria for inclusion in the research were based on the characteristics of the older adults. They had to (a) be 70 or older, (b) live in the center of Israel, (c) speak Hebrew or Russian, (d) be entitled to employ a migrant home care worker (only the most impaired older adults are entitled to employ a migrant home care worker), (e) employ a home care worker and (f) live in the community. After the

candidates' eligibility was established, specific inclusion and exclusion criteria were determined for family members and migrant live-in care workers. Family members were interviewed if they were registered at the NIII or were identified by the care recipients as their primary caregivers. Like the care recipients, they also had to speak either Hebrew or Russian. Because migrant home care workers are not registered with the NIII, they were recruited indirectly, with the help of the care recipients or their family members. They spoke either English or Russian.

A preliminary letter was first sent to 2,014 randomly selected older adults and their primary family caregivers. Two weeks later, a recruitment phone call was placed to those who did not refuse further contact. If the family member and/or the older adult agreed to participate, we asked them for the phone number of their migrant home care worker. During the recruitment process, it was emphasized that all potential participants had the right to refuse participation in the study and may withdraw from the study at any time. The participants were explicitly told that their answers would be anonymous and confidential and that refusal to participate would not harm them in any way. Although we were interested in collecting data from all the three participants of each caregiving unit – the older care recipient, the family member and the migrant live-in care worker, we interviewed whoever was available, sometimes only one of the three.

### ***Participants***

In all, 224 older adults, 442 family members and 338 migrant home care workers were recruited. 84% of the migrant home care workers were women, 44.4% of them from the

Philippines, and their mean age was 38.86 (SD=8.56). About 58% of them were married, and 62% were high-school graduates. About 47% had no home care experience prior to their arrival and 24.2% lived for less than two years in Israel. Only 21.5% described their financial status as comfortable and above. As for older adults, 69.6% were women, 67.1% were widowed. Overall, 58.6% described their health status as "poor", and only 6.8% described it as "good". As for family members, most of them were women (66.9%), 82.2% were married and 47.3% described their financial status as comfortable and above.

### ***Measures***

*Socio-demographic characteristics.* Age, gender and subjective financial situation ("can't make ends meet"(1) to "excellent "(4)) were gathered from participants.

*Familiarity with migrant care workers' rights.* This questionnaire was based on the Israeli foreign workers' law of 1991, and was composed of ten statements representing basic workers' right (e.g., "Migrant care worker are entitled to take a day off each week", "Migrant care worker are entitled to be paid no less than the minimum wage, just like Israeli citizens"). For each statement, the participants were asked to state whether it was true or false. A "knowledge score" was calculated based on the average number of correct responses. See Table 2 for a description of the questionnaire.

## **RESULTS**

Many home care workers, care recipients and family members were unaware of several basic workers' rights. Only 4% of the older adults, 17.6% of the family members and

9.8% of the migrant live-in care workers were aware of all ten rights. Consistently, the highest average of correct answers was found among family members (7.77, SD=2.10), followed by migrant live-in care workers (7.34 SD=2.04). Older adults were only familiar with 4.77 of the workers' rights on average (SD=3.22).

Table 2 shows the percentages of correct answers on each of the ten basic workers' rights. The right of which awareness was highest was entitlement for a weekly day off (90.8%), followed by entitlement for a vacation and sick-leave days (82%). The least known right was the right for a maternity leave (50.2%). Over 30% of the participants thought wrongly that a migrant home care worker was allowed to provide additional services to other family members of the older care recipient, and about 43% wrongly thought that a migrant home care worker who had a work permit was allowed to take other jobs not within the home care field. Significantly, about 50% of all three stakeholders involved in this study, wrongly thought that if the care worker decided to leave the care recipient he or she would be immediately deported.

In order to determine whether there was a difference in the level of familiarity with workers' rights among the three stakeholders, a series of 30 chi-square tests was performed (ten workers' rights multiplied by three stakeholders – a migrant home care worker, an older adult and a family member). Based on the Bonferroni correction, the critical alpha for determining the level of significance was determined as. It was found that older adults were the least aware of all migrant workers' rights, compared with both

family members and migrant live-in care workers. No differences were found between migrant live-in care workers and family members.

$$\alpha' = \frac{\alpha}{k} = \frac{.05}{30} = .002$$

## DISCUSSION

The purpose of the present study was to explore the extent to which migrant live-in care workers, older adults and family members were familiar with basic workers' rights. Our findings show that the three groups had only partial knowledge of migrant workers' rights. Whereas some rights regarding social benefits were well acknowledged, core issues related to the job remained unclear. Our results confirm that workers' rights are inadequately defined or understood (Edwards, 2011), and potentially explain recent reports of local aid organizations regarding the violation of worker' rights within the home care sector (Kav-Laoved 2010).

An important finding is that older adults are the least aware of their migrant care workers' rights. This could put migrant care workers employed by older adults who have no family support at a higher risk for unintentional violation of workers' rights. It should be borne in mind that in most Western countries family support is decreasing rapidly (Dougherty & West Jr, 2000) because family members no longer live near their parents and are therefore unable to support them on a daily basis (Harrington, 2000). Hence, we should expect the number of migrant care workers employed by older adults who have no family support to increase. Thus, further attention should be given to the level of familiarity of

older care recipients with rules and regulations concerning the employment of their migrant live-in care workers.

A number of false perceptions on core aspects of care work require further elaboration. The first is that a migrant home care worker should provide additional services to other family members of the older adult. Our findings suggest that many care recipients and care workers interpreted "round-the-clock home care services" literally as round-the-clock work. Recent reports from EU countries and the US that point out to workers' rights violations of migrant care workers, suggest that this perception is probably widely adopted (e.g., Robinson, T., Dryden, J., & Gomez-Duplantis, 2010, Poinasamy, 2009). As home care is a physically demanding and exhausting profession (Pinquart & Sörensen, 2003), any spare time the care worker has should be dedicated to resting and gathering strength.

Another issue is the lack of knowledge about the wages to which the migrant live-in care worker is entitled. This might be due to the fact that care work is perceived as a low-skilled and an unrewarding occupation (Hondagneu-Sotelo, 2007). According to Robinson, Dryden, & Gomez (2011), one reason for this perception of the care work as unrewarding is related to racial difference between the employer and the worker "*Their [the migrant care workers] race/ethnicity, nationality, and immigration status intersect to define them as low-skilled and undervalued, no matter their previous background*" (p.180).

The third issue that seemed to be erroneously perceived is the right for employment mobility. This right impacts all aspects of the migrant care workers' lives. In Israel, however, this arrangement was canceled by the supreme court a couple of years ago, based on the recognition that employment mobility is a basic human right (Israel Supreme Court, ruling 4542/02). It is quite possible that this new regulation has not been brought to the knowledge of some of the migrant workers, especially those who had arrived in Israel before the amendment came into force. Care workers who think they are "duty-bound" to the care recipient are likely not to report any violations or leave the care recipient for fear of losing their working permits (Ellman & Laacher, 2003). Important to note that duty-bound is still the most common way of employment of migrant care workers worldwide (Andrevski, Larsen, & Lyneham, 2014; Chang, 1997; Preibisch, 2010; Sobieszczyk, 2002). Duty-bound produces an inherent tension between the workers' rights and obligations, because the migrant workers are completely dependent upon their employer (O'Shea & Walsh, 2010). We must bear in mind that the dependency of migrant home care workers is not only for financial compensation, but also for the maintenance of basic necessities such as food and shelter (Ayalon, 2009a).

### ***Implications For Policy And Practice***

Our findings indicate that care recipients and care workers may have limited knowledge of workers' rights, especially in issues regarding core job descriptors. It is therefore, recommended that an educational initiative be launched to ensure that all parties involved receive and understand all the information regarding care workers' rights. The fact that our findings concern legally employed care workers is disturbing, as the knowledge with regard

to the rights of home care workers who are illegally employed might be even poorer (Bernhardt et al., 2008).

One way to ensure that migrant care workers are familiar with their workers' rights, as well as any legislation updates is to make care agencies responsible for it. In many countries, care recipients and their family members are assisted by local care agencies, (Quinlan, Bohle & Rawlings-Way, 2014, O'shea, 2010). These agencies recruit migrant care workers and help them with their placement. Unfortunately, many of the agencies are for-profit organizations that are motivated by profit and loss calculations, and are less concerned with the welfare of the individuals they recruited (Dagan & Berman, 2006). Thus, when care agencies are involved, this should be their responsibility to make sure that both the care worker and the care recipients are familiar with the working conditions and workers' rights. The current practice, which put the responsibility solely on the care recipient is unjustified, and puts much power in the hands of the care recipient.

Another option to bring legislation updates to the knowledge of the involved parties as early as possible is through the monthly pay slip of the migrant care worker. Besides explaining in detail the salary components and any mandatory deductions, it can also include information regarding basic workers' rights, such as the minimum wage, or the number of sick and vacation leave days. Posting workers' rights and legislation on a mandatory monthly pay slip can be a very cost-effective way to deliver workers' rights information. Unfortunately, not all migrant care workers worldwide are entitled to such

pay slip. In some countries, such as Canada this is mandatory (Oxman-Martinez, Hanley, & Cheung, 2004), whereas in others, including Israel, it is not.

Despite its importance and innovation, this study is not without limitations. Even though it was based on a representative sample, the sample was limited to the center of Israel due to its relatively small size. We interviewed only care recipients who legally employed migrant live-in care workers with a valid working fee. Familiarity with the rights of both employers and workers without such permits might be different. Future research should focus on identifying the correlation between familiarity with workers' rights and violation of workers' rights.

It should be kept in mind that familiarity with workers' rights is the first step for ensuring appropriate employment conditions, but definitely not the end of the journey. Knowing the workers' rights does not prevent exploitation, especially if exploitation is intentional. Newly arrived migrant live-in care workers might be more vulnerable to intentional violation by the care recipient, and might agree to put up with discriminatory conditions simply because they have no other employment options and they are desperate for the money. Many of them took enormous loans in order to pay illegal working permit fees, and are indenture servants. As we mentioned before, this phenomenon of debt-bondage is very common worldwide, and many migrant care workers report the need to pay extra money for agents just in order to obtain a working permit (Chang, 1997). Veteran migrant care workers, on the other hand, sometimes give up the rights they are entitled to out of care and affection for the care recipient. With

time, a strong relationship may develop between the care recipient and the care worker (Ayalon, 2009b). When this happens, the care worker may decide to waive certain rights in favor of the care recipient. The fact that the workers are able to stay in the host country for only limited time puts another potential pressure on live-in migrant care workers to stay in an abusive position. These self-imposed violations are no less severe, as the consequences to the wellbeing of the care worker, and as result the care recipient are likely devastating.

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Table 1. Demographic characteristics

VARIABLE	MIGRANT WORKERS (N=338)	OLDER ADULTS (N=224)	FAMILY MEMBERS (N=442)
Gender			
Male	16%	30.4%	33.1%
female	85%	69.6%	66.9%
Marital Status			
Single	30.2%	>1%	4.8%
Married	57.7%	27.4%	80.2%
Divorced	6.8%	4.0%	10.5%
Separated	2.1%	>1%	>1%
Widowed	3.3%	67.1%	4.1%
Education (years)			
Did not enroll	1.8%	7.2%	>1% <sup>2</sup>
Up to 8	12.4%	29.5%	6.1%
9-12	50.3%	40.5%	36.2%
13 and above	35.5%	22.8%	57.5%
Health status			
Excellent	24.9%	None	8.2%
Very good	32.2%	None	24.2%
Good	37.9%	6.8%	34.7%
Fair	4.7%	34.7%	24.9%
Poor	0.3%	58.6%	8.0%
Financial situation?			
Can't make ends meet enough to get along	13%	24.2%	15.1%
Comfortable	51%	54.3%	37.6%
Excellent	29%	19.7%	43.6%
Excellent	7%	1.8%	3.7%
Age			
	Up to 35- 39%	70-74- 6.3%	Up to 45- 5.9%
	36-50 – 51%	75-84 – 36.1%	45-60 – 49.6%
	51 and above – 10%	85 and above – 57.6 %	51 and above – 44.5%
Birth country			
	Philippines – 44.4%	Former USSR – 48.9%	Israel – 60.2 %
	Nepal – 19.2%	Israel – 8.6 %	Former USSR – 18.6 %
	Former USSR – 16%	Others – 42.5 %	Others – 21.4 %
	India – 11.8%		
	Eastern Europe – 2.4%		
Rights knowledge score  (Range 0-10)	7.34	4.77	7.77

Table 2. Knowledge of workers' rights

WORKERS' RIGHTS	% OF RIGHT RESPONSE			DIFFERENCE BETWEEN STAKEHOLDERS ( $\chi^2$ )			OVERALL EFFECT	
	All	(a) Migrant care workers (N=338)	(b) Older adults (N=224)	(c) Family members (N=442)	(a) vs (b)	(b) vs (c)		(a) vs (c)
1. A migrant home care worker with a work permit can work in any job as long as his or her work permit is valid (FALSE)	57.5%	60.7%	29%	69.5%	54.01***	98.60***	6.59	101.57***
2. A migrant home care worker with a work permit can provide additional services to the family members of the older adult, such as babysitting and cleaning. (FALSE)	69.1%	71%	42.9%	81%	44.40***	99.65***	10.68	102.16***
3. Worker's passport should always be kept with his or her employer (FALSE)	77.7%	85.5%	55.4%	83%	62.83***	58.77***	0.87	83.64***
4. A worker is entitled to take a day off each week (TRUE)	90.8%	94.4%	76.3%	95%	39.25***	55.79***	0.49	73.08***
5. Once a worker leaves his employer he has to leave the country (FALSE)	57.5%	70.4%	30.4%	61.3%	87.15***	57.00***	7.00	93.21***
6. Employers do not have to pay social security for the workers (FALSE)	72.3%	76.3%	47.8%	81.7%	48.28***	81.81***	3.34	89.47***
7. Upon giving birth, a worker is entitled for maternity leave (TRUE)	50.2%	50.6%	35.7%	57.2%	12.06***	27.55***	3.41	27.59***
8. A worker is entitled to take vacation days and sick leave days (TRUE)	82.2%	86.7%	62.5%	88.7%	44.56***	63.44***	0.72	76.68***
9. Employer is not supposed to pay for worker' medical insurance (FALSE)	75.8%	80.8%	50.9%	84.6%	56.08***	86.33***	2.00	99.02***
10. Migrant workers are entitled to be paid at least the minimum wage, similarly to Israelis (TRUE)	62.9%	58%	46.4%	75.1%	7.23	54.01***	25.68***	57.82***

\*\*\*p<.002

Accepted