

Sunday

February 23, 2020

8:30-12:30

Tel Aviv University
Buchmann Faculty of Law, Room 307



TraffLab

A Decade to Gluten v. The National Labor Court:

The Exclusion
of Migrant Care Workers
from the Work and Rest Hours Law

Hosted by the Legal Clinics - Interdisciplinary Center,
Herzliya and the TraffLab (ERC)
Labor Perspective to Human Trafficking research project:

[The event will be held mostly in Hebrew]

08:30

Gathering

09:00

Opening Remarks: The Gluten Court Decision in the Legal Framework for the Employment of Migrant Care Workers

Adv. Hanny Ben-Israel, Clinic for Migrants' and Refugees' Rights, Interdisciplinary Center, Herzliya, and TraffLab Project team, Tel Aviv University Faculty of Law

09:15

The Meaning and Consequences of Round the Clock Care Work

Chair: Professor Daphna Hacker, Faculty of Law and Women and Gender Studies Program, Tel Aviv University

Panel Participants:

Ms. Jean Trapal, Care Worker

Workers' Perspective

Dr. Keren Mazuz, Hadassah Academic College, Jerusalem

Anthropological Perspective

Dr. Irit Porat, Gender Studies Program - Bar Ilan University, volunteer at Kav LaOved, Gerontologist for the care services company "Amal v'Ma'avar"

Patient's Perspective

10:45

Break

11:00

The post-Gluten Era - The Future of Migrant Care Work In and Outside the Law

Chair: Professor Guy Mundlak, Faculty of Law and the Department of Labor Studies, Tel Aviv University

Roundtable Discussion – Participants:

Adv. Meytal Russo, Coordinator of the Care Sector – Kav LaOved

Adv. Shiri Lev-Ran Lavi, Commissioner on Foreign Workers' Labor Rights, Ministry of Labor

Dr. Hila Shamir, Faculty of Law, Tel Aviv University and TraffLab (ERC) Principal Investigator

The ruling in *Gluten v. The National Labor Court*, which was handed down a decade ago and upheld on rehearing by an expanded Supreme Court panel, excluded migrant in-home care workers from the application of the Work and Rest Hours Law.

Employing unusual legal reasoning, the Court held that the Work and Rest Hours Law does not apply to migrant workers in the care sector, due to the special nature of care work. It further held that the exclusion of care workers from the Law serves to benefit both patients receiving care and care workers. The decision, described as the "Israeli *Lochner*", led to the widespread exclusion of tens of thousands of marginalized and vulnerable workers from cogent labor legislation.

Although the two consecutive *Gluten* rulings called for legislative intervention and regulation of the long working hours of care workers and their compensation, in the decade since, no significant attempt has been made in furtherance of any such legislation. Nearly a decade later, care workers continue to be excluded from the Work and Rest Hours Law; a central pillar of the protections provided by Israeli labor law to workers.

This event seeks to assess the implications of the *Gluten* decision in the decade since it was handed down, and to reflect on trends, possibilities, and opportunities for the post-*Gluten* era.