

LABOR MIGRATION IN ISRAEL: THE CREATION OF A NON-FREE WORKFORCE

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Abstract

This paper describes the ways by which state regulations created fertile soil on which legal labor migration in Israel developed into an unfree labor force. We show how state policies effectively subject foreign workers to a high degree of regulation, giving employers and manpower agencies mechanisms of control that they do not have over Israeli citizens. These mechanisms create a group of non-citizen workers that are more desirable as cheap, flexible, exploitable and expendable employees through enforcing atypical employment relations: fixed-term contracts, the binding system enforcing direct dependence of the migrants on manpower agencies and employers, and the threat of automatic deportation. These stringent state regulations have provided the context for the legal labor migrants to turn into a captive labor force, the system sometimes even degenerating into a human trafficking industry.

The social phenomenon of migration for work in low-waged labor markets has attracted attention in the sociological literature (see e.g. Castles and Miller, 1983; Sassen, 1988; Massey et al., 1998). Research tends to portray the various ways in which foreign workers have integrated into the global labor market as representing stages in the progression of labor relations from early capitalism to the present day: from the enslavement of native populations in the New World, through the construction of the system of slavery and various patterns of indentured labor in the colonial economies, up to more recent versions of temporary migration in the framework of guestworker programs (Miles 1987; Potts 1990).

However, the history of labor migration shows that the development of labor relations in capitalist society has not been linear. Alongside the formation of new patterns of labor that dissolved feudal relations of vassalage and created an enormous pool of a free and mobile, largely proletarian labor force, models of labor based on differential regulatory arrangements—aimed at maintaining a “non-free” workforce—have always existed (Miles 1987). In place since the beginning of capitalism, these arrangements should not be seen as a broad exception to capitalist norms of labor relations, or as an anachronistic remnant of pre-capitalist modes of production, but as inseparable from the logic of capitalism itself, sometimes even a condition for its success (Burawoy 1976; Potts 1990; Sassen 1999).

In this paper we hope to contribute to the existing literature by focusing on the processes of generation and maintenance of non-free labor in Israel. Specifically, we show the ways whereby state regulations created fertile ground for the creation of a precarious and captive workforce of overseas labor migrants in the Israeli labor market. To this end we first present a short description of labor migration in Israel. This is followed by an analysis of the main mechanisms that established the conditions for unfree labor among non-citizen workers: (1) the policy of quotas and work permits; (2) the binding system which regulates employment relations; (3) the deportation policy; (4) the manpower agencies and their active role in the institutionalization of labor migration.

1. Labor Migration in Israel

Overseas labor migration is relatively new feature in Israeli society. Until the end of the 1980s Palestinian daily commuters from the West Bank and Gaza Strip comprised almost 7% of the entire Israeli labor force. They were recruited following the Six Day War in 1967, to perform mostly menial, low-status, manual jobs in the secondary sector of the economy, mainly in construction, agriculture and services (Semyonov and Lewin-Epstein 1987). The outbreak of the first Intifada (Palestinian uprising) in 1987 created a shortage of labor in low-status positions, when the entry of non-citizen Palestinian workers into Israel was prevented because of imposed closure or self-imposed strikes. These events, coupled with strong pressure exerted by employers in the construction and agriculture sectors, set in motion the process that led to the massive organized recruitment of overseas labor migrants since 1993 (Bartram 1998).¹

By 2009, documented and undocumented labor migrants accounted for 12% of the total Israeli labor force (Eckstein 2010). This proportion placed Israel at the top of the industrialized economies most heavily dependent on foreign labor (Kemp and Raijman 2008). Overseas labor migrants were formally recruited for three main sectors: construction (mainly from Romania, Turkey and China), agriculture (from Thailand), and geriatric nursing care (mainly from the Philippines, but lately also from India, Nepal and Sri Lanka). Unlike

1 The ethno-national conflict thus proved a major “pull” factor for labor migration flows, and later a catalyst in their institutionalization. Here lies the uniqueness of the phenomenon of labor migration in Israel; while wars and ethnic conflicts are known in the migration literature as “push” factors for emigration flows, Israel has become a distinct case in which ethnic conflict has turned into be a “pull” factor in explaining the beginning and perpetuation of its overseas labor migration (For a detailed analysis of this argument see Raijman and Kemp 2007).

the construction and agriculture sectors, where labor migrants were clearly meant to replace Palestinian workers, their recruitment for the nursing care sector created an entirely new employment “niche,” staffed exclusively by non-citizen workers.

This latter recruitment was related to the Nursing Care Law of 1986, which was implemented in 1988.² The law stipulated that nursing benefits would not be remitted directly to the entitled person, but would be paid through service providers (Ofir et al. 2001). Because the number of hours paid for by the National Insurance Institute failed entirely to cover the cost of round-the-clock nursing care provided by Israeli workers, it offered only a partial solution to the problems of the needy and their families. The low allowance paid by the state meant that one could afford ‘round-the-clock help’ only by hiring nursing care workers who were willing to work for low salaries. Furthermore, unlike the agriculture and construction sectors—in which state involvement goes no further than deciding the framework of quotas, issuing work permits, and providing licenses to manpower agencies, in the nursing care sector the state has an additional and important role: it pays the salaries of most of the nursing care workers through nursing care benefits.

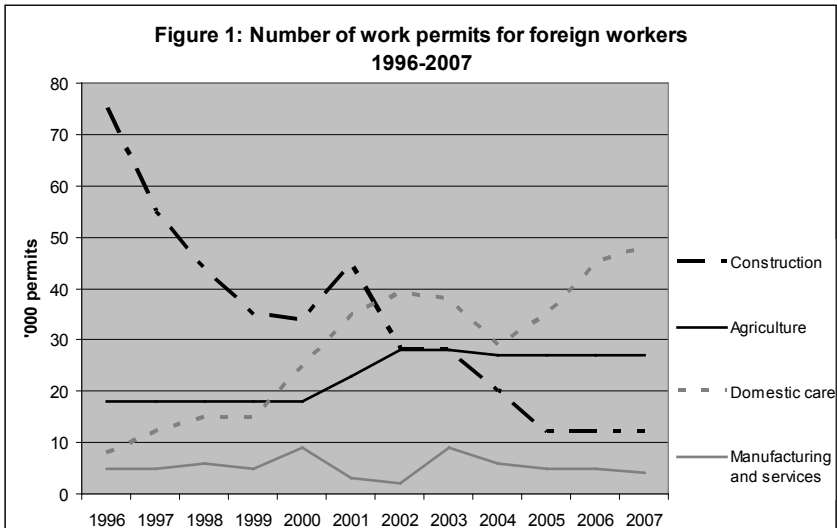
Official recruitment of foreign workers in Israel is completely privatized and conducted through manpower agencies. Legally recruited workers come alone (without their families), and for the most part they live and work in the same place (construction site, agricultural land or private household) with their work conditions resembling a kind of “total institution” leaving little or no room for initiatives on their part (Kemp et al. 2000). Like other cases where both housing and work are provided by the employer, this particular system increases the worker’s dependence on the employer, and hence the latter’s control over the former (see e.g. Smith 2003).

We identify four main mechanisms through which Israeli state regulations and controls have produced an unfree migrant labor force: (1) categorization of entrants through a policy of quotas and work permits; (2) a ‘binding system’, which regulates employment relations; (3) a complementary “disciplining” mechanism for controlling workers in the form of the deportation policy; (4) manpower agencies, which over time have become the main stakeholder in the institutionalization of labor migration. Next we address each of these in detail.

2 The law aimed at providing nursing services that would directly improve the quality of life for those who needed them—and indirectly that of their families, while enabling those receiving the services to remain within the community. As such, the law stated that nursing benefits would not be paid to those living in a nursing home or in the nursing ward of an old age home.

1.1 The quotas and work permits policy

The policy of quotas and the provision of permits is a central regulatory means for the government to determine the volume, nature and composition of labor migration. While the agriculture and construction sectors were assigned annual quotas, the nursing care sector has no limitations regarding work permits; this is based on the understanding that with longer life expectancy the need for nursing caregivers for the elderly population will only increase over the years.³



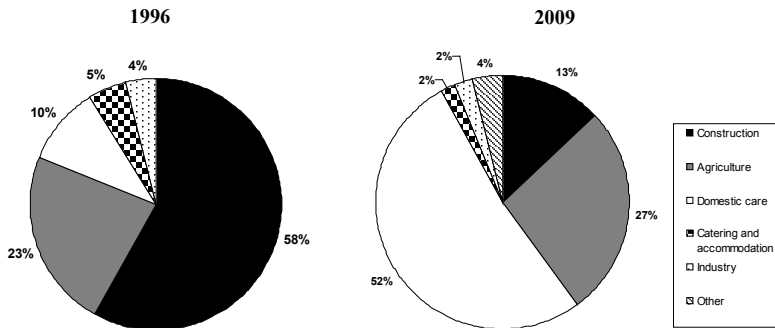
Source: Bank of Israel, 2007.

In Figures 1 and 2 we show trends in work permits issued in Israel according to employment sector. In 1996 the construction sector was the largest employer of migrant workers (58% of all permits), but by 2009 the nursing and geriatric care sector had become the main recipient of work permits, availing of over half the total issued that year. The share of agriculture increased in the early 2000s but remained pretty stable in the following years of the decade (with about a quarter of all permits). The new distribution of quotas and permits among the sectors undoubtedly indicated a change in the balance of forces between employers and state agencies, and highlighted the government's abil-

3 Experts³ in other areas such as industry, hostelry, and services are granted special permits according to employers' request (Fisher 1999).

ity to determine which sectors it wished to benefit (see Rajjman and Kemp 2007).⁴

Figure 2: Distribution of foreign workers, by economic branch



The ethnic composition of the flows also changed over time with migrants from Asia increasing their proportion by the end of the 2000s to comprise 72% of all arrivals by 2009 (see Table 1). This is explained by the changing composition of work permits, which reduced the number of workers in construction (from Eastern Europe, mainly Romania and Turkey) and increased the number employed in agriculture (from Thailand) and nursing and geriatric care (mainly from the Philippines but lately also from India, Nepal and Sri-Lanka).⁵ Given the increasing proportion of work permits in the latter sector, and that most work permits are granted to women, the gender composition of labor migration flows to Israel changed over time. For example, while men comprised 85% of all arrivals in 1995, by 2009 the figure had shrunk to 43%.

The system of incentives that causes employers to prefer labor migrants over Israeli workers is fairly robust. Employers are required to make National Insurance payments at a rate of 0.84% of the migrant worker's gross salary, compared with 4.93% of the Israeli workers' gross salary. The hourly cost for a labor migrant in the construction sector is NIS [New Israel Shekel] 24.32 shekels (or

4 The construction sector, in recession since the mid-1990s, was the one that paid the major price for the "Closed Skies" policy, leading the large and established construction companies to transfer their activities overseas (Kemp and Rajjman 2008).

5 Most migrants in the construction and agricultural sectors are young men in their mid-thirties (median age 35).

about \$5.90), compared with NIS 37.70 (or about \$9.20) for an Israeli worker. The overall percentage of national insurance and health tax payments incumbent on Israeli workers presently amounts to almost 16%, compared with 1-2% for a labor migrant. Another difference is that labor migrants do not make payments toward their pension or for compensation in the event that they are fired (payments which can reach 15% for the employer of an Israeli worker) (see The Endorn Report, 2004, Appendix C, 52).⁶

Table 1: Arrival of Work Permits by Country of Citizenship and Gender Composition

Country of Citizenship	1995		2000		2009	
	%	% Men	%	% Men	%	% Men
Asia-total	33.1	81.0	44.1	63.0	71.8	51.0
India	0.4	86.0	1.3	78.0	7.9	45.0
Turkey	7.7	94.0	3.4	98.0	3.8	99.0
Lebanon	5.9	74.0	1.7	56.0	–	–
China	2.4	97.0	5.6	96.0	4.1	94.0
Philippines	2.9	18.0	14.6	17.0	19.2	12.0
Thailand	13.3	90.0	15.3	91.0	21.1	94.0
Nepal						
Other	0.5	79.0	2.1	66.0	15.8	20.8
Africa- total	0.4	75.0	1.1	51.0	0.4	90.0
Europe-total	62.3	87.0	51.1	78.0	25.6	18.0
Bulgaria	2.6	96.0	4.4	69.0	0.7	7.0
USSR (former)	3.2	85.0	8.2	66.0	19.2	9.0
Romania	52.7	89.0	31.8	86.0	3.4	19.0
Other	3.8	59.0	6.8	61.0	2.3	80.8
America-Oceania	3.0	70.0	3.3	63.0	1.9	68.0
USA	2.2	69.0	2.1	67.0	1.1	77.0
Other	0.8	71.0	1.1	55.0	0.7	54.0
Not Known	2.9	81.0	0.2	78.0	0.0	0.0
TOTAL	100.0	85.0	100.0	71.0	100.0	43.0
	(78,300)		(52,200)		(26,600)	
Mean Age	35.0		35.4		36.3	

Sources: Central Bureau of Statistics, 2004, Table 4.10; 2010, Table A

The policy of quotas and permits and the system of subsidies for employing labor migrants illustrate two important issues: first, the state's commitment to

6 Likewise, the cost of employing labor migrants is lower than cost of employing Palestinian workers (see Kemp and Raijman 2008).

provide Israeli employers with a cheap and unprotected labor force; second, the creation of conditions for preferring labor migrants over Palestinian and Israeli workers in the secondary labor market. This is achieved through the implementation of the binding system and a strong policy of deportation of those residing in Israel without work permits (Kemp and Rajman 2008).

1.2. The Binding System

Labor migrants' employment in Israel is based on the "binding system,"⁷ that is, employers or manpower agencies, but not the workers themselves, hold their work permits, individually allocated by the state. The Israel version of the binding system matches the generic pattern of contract or indentured labor, which places the worker outside the free labor market. The worker's passport is stamped with the name of the employer for whom s/he is permitted to work, and s/he is forbidden from working for any other employer. Accordingly, the labor migrants' relationship with their employer, to whom work and residence permits for that worker are issued, is crucial to their right to work in Israel: workers may not leave their legal employer for another, and should they do so for any reason whatsoever, their residence permit is invalidated. This immediately makes the worker "deportable" and his/her illegal employer "punishable."

Under the auspices of the state and its law enforcement mechanisms, the binding system subjects a large population of human beings entirely to the caprice of their permit-holding employers. The arrangement is aimed at maximizing the surveillance over labor migrants' entry into the country and their activities in the labor market. To this end, a number of regulations have been added to the binding system with the aim of restricting the labor migrant's activities to his/her economic function. For instance, to prevent extended stays in Israel, a rotation system exists that prevents workers from staying for longer than 54 months;⁸ and to prevent labor migrants from establishing permanent residence and starting a family in Israel, they are forbidden to enter the country with their spouse or any other first-degree relative. Labor migrants are forbidden from having children; should they have them they are at once faced with

7 This arrangement is rooted in the Entry into Israel Law, 1952, the Employment Service Law, 1959, as well as in Clause 1M(a) of the Foreign Workers (Prohibition of Unlawful Employment and Assurance of Fair Conditions) Law, 1991

8 In June 2004 a new procedure was implemented, the initiative of the Minister of the Interior Avraham Poraz, by which workers in the nursing and geriatric care sector can be given a work permit for more than 5 years, with no time limit, if a professional opinion is proffered that asserts that taking the worker away from his or her patient would cause damage to the latter.

two options: either to send the child to their country of origin and continue working until their visa expires, or to lose their work and residence permits, and thus become candidates for immediate deportation.⁹

Contract labor has become a fertile ground for the violation of labor migrants' basic social and civic rights, despite laws designed to protect them. Israel has legislated advanced laws regarding workers' rights, stipulating, a minimum wage, working hours, working conditions, and more. Being territorial, these laws apply without discrimination to all inhabitants of Israel, regardless of their legal status in the country. Moreover, Israel is a signatory to international conventions such as the Migration for Employment Convention of the International Labor Organization (1949), ratified by the Knesset in 1953, and the International Convention on the Rights of the Child, ratified in 1991 (Yanay and Borowski 1998). All this notwithstanding, the binding system imbues those laws with new meaning, making them practically unenforceable.

The binding system was the target of public criticism, largely leveled by non-governmental rights organizations throughout the 1990s and into the early 2000s. The struggle against the binding system peaked in 2002, with the submission of a petition by several NGOs to the Supreme Court of Justice to abolish it, and calling for an alternative system for the employment of labor migrants.¹⁰ The petition held that the binding system violated "fundamental constitutional rights and basic legislative norms, including human dignity and liberty; entitlement to human respect; the right to freedom of contract and association; the freedom of choice and action, and the freedom of occupation, due to the fact that it does not meet the requirements, and specifically the proportionality requirements, of the provisions of the Basic law that allow limitations on such basic constitutional rights."¹¹

In September 2004, about two years after the petition was submitted, the state announced a new employment method which would permit labor migrants mobility among employers. According to this new system, which was implemented in 2005 in the construction sector, work permits are allocated to state-supervised manpower agencies, while foreign workers have the practical

9 For an extensive discussion of "Procedures for pregnant foreign workers" see Protocol No. 39, Meeting of the Special Knesset Committee for the Problem of Foreign Workers, 3 Nov. 2004.

10 SCJ 4542/02. The petition to cancel the binding system was submitted by the following organizations: Kav La'oved, The Hotline for Migrant Workers, The Association for Civil Rights in Israel, Physicians for Human Rights, The Adva Center, and Commitment to Peace and Social Justice—which runs a Center for the Rights of the Unemployed, and the Tel Aviv University Welfare and Law Program.

11 The main arguments of the petitioners, Clause 9.

right to move among employers and registered agencies, as long as they do not move from the sector in which they are permitted to work to another.¹² Despite the state's claims that the new system 'annulled' the binding system, it merely bound the worker to a new employer: the manpower corporation. Furthermore, although the new method improves supervision of employment conditions a high percentage of corporations violated the workers' rights (delayed wages, not complying with social rights and treatment of permit issues: see State Comptroller 2010).

In 2006 Israel's Supreme Court accepted the NGOs 2002 petition and demanded the abolition within six months of the binding system and the establishment an alternative way for the employment of labor migrants. The Court affirmed that the binding system, by violating labor migrants' basic human rights, created a kind of modern slavery and therefore should be annulled.¹³ The decision stated:

... There is no avoiding a painful and shameful conclusion... that the binding system is creating a modern-day version of slavery. In this binding system, decided on and enforced by the state, the state has bound the guest workers' hands and feet to the employer that has "imported" them to Israel, no less. The guest worker has been transformed from a subject of trial—a person given rights and duties by the court—to an object of trial, as if he were a chattel. The agreement has damaged the guest workers' autonomy as human beings, and has in practice denied them their freedom. According to this agreement, the guest workers have become working machines—especially since the employers have allowed themselves, in contradiction to the law, to pass them from hand to hand— and they have become modern-day slaves, like those human beings who built the pyramids or rowed the Roman empire's ships to war.¹⁴

Despite such a graphic description of the binding system as modern slavery, to date the state has not devised and implemented an alternative mode of employment that does not violate migrant workers' basic rights. Instead, the government announced a new arrangement for the care-giving and agricultural sectors. Similar to the construction sector, under the new system nursing workers will be bound to manpower agencies. The new arrangement in the agricultural sector, the Bureau system, establishes that work permits are assigned to employers but licenses to recruit workers are given to the manpower

12 Report of the Interministerial Committee on "The Mode of Employing Foreign Workers in Israel and Conditions for Issuing Permits," August 2004, 8.

13 Supreme Court Petition 4542/02:21. For a discussion of the legal aspects of the employment of labor migrants in Israel, and of the role of the courts see Sitbon 2006.

14 Judge Heshin, Supreme Court Petition 4542/02.

agencies. According to the new system migrant workers will have the right to move among employers and registered agencies. So far, the new arrangements have not been implemented (State Comptroller 2010). This is because the agriculture lobby has the political strength to resist changes that would affect their interests of the last two decades (see Raijman and Kemp, 2007).

1.3. Deportation Policy

One of the most important pillars in the policy of labor migration is the policy of deportation of migrants residing in Israel without work permits. For the last 15 years migrants without permits have comprised on average about half the total migrant worker population in Israel. Foreign workers lose their permits in three main ways: (1) overstaying their tourist visa,¹⁵ (2) losing their work and residence permits by leaving the employer to whom they are bound, (3) overstaying their work visa.¹⁶ Since the middle of the 1990s the primary method for dealing with the so-called “illegal” labor migrants has been to make their deportation a systematic policy. Between 1995 and 2008 over 76,000 migrant workers were deported; 2003 and 2004 constituted the peak years (Bar-Zuri 2009).

The most significant organizational and institutional expression of the deportation policy was the establishment of the new Immigration Administration in 2002. From the outset, the Immigration Police had a double function: as an enforcement mechanism, and as an apparatus for disseminating information, primarily to employers in Israel, who had enjoyed a large and accessible pool of undocumented labor migrants. Accordingly, since its establishment the Immigration Police have not refrained from detailing to the public the supposed threats arising from the presence of ‘illegal migrants’: migrants are an economic threat (“the illegal foreign workers have a significant impact on natives’ unemployment”; “there is a financial drain from Israel to their countries of origin”); a demographic and national threat (“demographically speaking, a ‘state’ within a ‘state’ is taking shape”; “the Jewish character of the state is being damaged by intermarriage”); and even a security threat (“because of their lack of affinity

15 In Israel as in other immigration-receiving societies, the official recruitment of foreign workers opens a “backdoor” to an inflow of undocumented migrants arriving from almost every corner of the world—but mainly from eastern Europe, South Asia, Africa, and South America; they are employed primarily in the services sector (Kemp and Raijman, 2008).

16 According to Bar-Zuri (2005), out of the total number of foreign migrants without work permits in prison awaiting deportation, 41% reported entering the country with a work permit and 59% with a tourist visa.

to Israel, the illegal residents are liable to be a platform for security crimes and hostile destructive activity” (Gill and Dahan 2006).

However, the concrete consequences of this crusade against “illegal employment” mostly impacted on illegal immigrants and their families, and much less on their Israeli employers.¹⁷ This is clearly indicated by the Immigration Authority’s budget, of which in 2004 only 1% was allocated to activities against employers who violated labor migrants’ rights (e.g. by confiscating their passports, trafficking in human beings, providing unbefitting living and working conditions, withholding wages, etc.), while most of the resources were devoted to arresting and deporting the migrants themselves.¹⁸

The Immigration Police signified an important turning point in the volume of deportation of undocumented labor migrants: according to its own reports, since its establishment in September 2002, 118,105 people have left Israel, 40,000 of whom were deported. Mass deportations took place after the arrest of migrants arrested in raids on houses, workplaces, buses, and shopping centers, and even in street pursuits. Such arrests, many of which were accompanied by callous violence by the police and the crude violation of rights, became an everyday spectacle (Gill and Dahan 2006).¹⁹ Not only did the sheer quantity of deportations change, but also the targeted groups. Recognizing the central role played by community networks and organizations in the lives of undocumented migrants, in addition to individuals police activities were directed at dismantling the communities themselves. Extensive police and intelligence work was devoted to locating and deporting community leaders, and raiding places where labor migrants held community gatherings and spent their leisure time.²⁰

One of the main consequences of the establishment of the Immigration Police, therefore, was that state mechanisms singled out labor migrants as the scapegoat for Israel’s economic and social ills. This enabled the government

17 See Ettinger, Y. and R. Sinai, “Who is replacing the foreign workers/ Cleaning. The foreign cleaners have been deported—and there’s no one to clean the Israelis’ houses,” *Haaretz*, 6 Oct. 2004, A1 and A6.

18 Korzen, S., 2005, “Less than one per cent for the violation of rights,” *Haaretz*, 8 May 2005, B2.

19 See also Sinai, R., 2005, “After two and half years, it is much harder for the Immigration Police to find people to deport,” *Haaretz*, 3 Feb. 2005, A1 and A5.

20 Wurgaft, N., 2004, “Goodbye and thank you for the humiliation,” *Haaretz*, 5 April 2004, B9; Sinai, R., 2004, “Foreigners are arrested so as to give up their friends,” *Haaretz*, 16 Feb. 2004, A1 and A11; “38 foreign workers arrested at a dance club in Tel Aviv,” *Haaretz*, 16 Feb. 2004, A11; Wurgaft, N., “The tenure of the leaders of the foreign workers is very short. Then comes their deportation,” *Haaretz*, 6 May 2003, B4; Leibovitz-Dar, S. 2003, “The Chinaman has played his part,” *Haaretz Supplement*, 9 May 2003, 26-30.

to hide from the public the very conditions that had led to the phenomenon of “foreign workers” in the first place. The state itself had allowed the massive recruitment of cheap labor migrants and offered a series of incentives for preferring them over other workers. At the same time it consistently turned a blind eye to their working conditions, and ignored the unintended consequences that accompanied the recruitment of labor migrants when some of them become migrants on a permanent basis. By detaching decisions and government policy from the phenomenon of the “illegal aliens,” and by presenting them as appearing to both break the law and violate Israel’s sovereignty, the government could absolve itself of all responsibility (Kemp and Raijman 2008).

While the deportation policy aims at maximizing state surveillance of labor migrants by punishing those who do not comply with the terms of employment (the binding system), privatization of recruitment exclusively in the hands of manpower agencies minimizes the state responsibility for the ways in which labor migrants are recruited, the terms of their employment, and their living conditions.

1.4. Manpower companies and labor recruitment

One of the central characteristics of labor migration in Israel is the privatization of the recruitment, mediation, administration, and employment of labor migrants through manpower agencies, which serve as a kind of sub-contractor for the state itself and private employers. The Israeli state accorded the manpower agencies a central role by creating conditions that made them “essential,” that is, becoming the only bodies authorized to recruit labor migrants in the three main sectors: agriculture, nursing and geriatric care, and construction.

Although the state created the conditions for the burgeoning of the manpower agencies, the primary factor behind their prosperity, naturally enough, was purely economic. Its expansion, in a manner entirely unrelated to fluctuations in the local labor market, indicate that a large part of the “economic utility” of bringing labor migrants to Israel does not necessarily lie in their actual employment but in their being “imported.”

Laws exist that forbid agencies from taking recruitment fees from the labor migrants themselves, yet the bulk of their profits derive precisely from collecting such fees. The Manpower Contractors Law (1996) and its 1999 Amendment explicitly prohibit Israeli companies from charging recruitment fees from overseas jobseekers, but because its application is only territorial there is nothing to stop it from being sidestepped by charging labor migrants fees outside Israel’s

borders.²¹ The long-term lack of law enforcement in respect of the Israeli manpower agencies' overseas activities created a large "grey" industry that provided the basis for trafficking in human beings in Israel (State Comptroller 2010). Although it is difficult to evaluate precisely the extent of the financial activity of the trafficking industry, from testimony gathered by rights organizations it transpires that manpower agencies in Israel and in the workers' countries of origin widely charge potential labor migrants for recruiting them. Companies in the Philippines, Thailand, and China (among others) charge fees ranging from \$4,000 to \$20,000 for tests, recruitment fees, and air fares. Recruitment fees paid by the workers are divided between manpower agencies in the country of origin and Israel.

Since July 2006 manpower agencies have been allowed to charge workers wishing to go to work in Israel a maximum fee of NIS 3,050 (\$730).²² But agencies continue to flout the rules and charge sizable recruitment fees, which have even swollen over time.²³ In addition to recruitment fees, some manpower agencies demand that the labor migrants deposit a "guarantee" to ensure that they will not leave their original employer (Pilovsky 1999: 50-51)²⁴ Following the intervention of Israeli NGOs, these issues came to the attention of the US State Department in 2002.²⁵ A State Department report defined the situation in Israel, whereby manpower agencies required labor migrants to mortgage their properties to ensure their upholding their labor contract in Israel, as

- 21 Fishbein, E. 2000, "Deliberations in the Knesset: How to continue exploiting the nursing care workers," *Haaretz*, 4 Feb. 2000.
- 22 See Regulation 3, Regulations of the Employment Service (Payments from job seekers for broker's fees), 2006.
- 23 From interviews conducted with Chinese workers we learnt that whereas workers arriving in 2001 paid about \$10,000 in recruitment fees, those arriving in 2007 paid almost double—\$20,000. See Kav La'oved, 12 Feb. 2007. "\$20,000—This is the amount paid by Chinese workers who want to work in Israel." <http://www.kavlaoved.org.il/media-view.asp?id=399> (in Hebrew).
- 24 Even though this method of recruitment into debt bondage was exposed and subjected to public criticism, it sometimes remained active. In February 2003 a scandal involving Bulgarian workers hit the headlines. They had been recruited by a manpower agency, which demanded that each worker deposit a guarantee of \$5,000 and that they mortgage their homes to the agency to ensure their fulfillment of their obligations to the contractors. The same company even promised to compensate the contractors \$5,000 for every worker who dared to leave them. See for instance, Kashfi, O. "Registered workers," *Haaretz*, 11 Jan. 1999, B3.
- 25 In 2001 Israel was placed in the third tier, namely countries that do not comply with the minimum standards to eradicate human trafficking. In 2006 Israel was raised to the second tier, but still was referred to as a country in which the state does not do enough to combat the activity.

“debt bondage,” and demanded that the Israeli government resolve the matter immediately. A State Department follow-up report in 2003 maintained that despite an improvement in the Israeli government’s efforts to combat human trafficking, it was still not doing enough to meet even the minimal standards to eradicate it.²⁶

Despite the plethora of reports on the part played by manpower agencies in exploiting workers the Israeli state still grants the agencies (especially the large corporations) maximum control over the migrant workers. Furthermore, the new licensing regulations have transformed the state into a new partner, benefiting from the accumulating profits in the sector. According to the Ministry of Industry, Commerce and Employment, since the new method of employment was implemented in the construction sector (2005-2007), state income from the employment of labor migrants by large manpower corporations has amounted to \$45,659,769. “The fact that the State benefits from the brokers’ fees through taxes makes the state an accomplice to trafficking in human beings.”²⁷

Conclusions

This paper has sketched the ways by which state regulations created fertile soil on which legal labor migration in Israel developed into an unfree labor force. We have shown how state policies effectively subject foreign workers to a high degree of regulation, giving employers and manpower agencies mechanisms of control that they do not have over Israeli citizens.²⁸ These mechanisms create a group of non-citizen workers that are more desirable as cheap, flexible, exploitable and expendable employees through enforcing atypical employment relations: fixed-term contracts, the binding system enforcing direct dependence of the migrants on manpower agencies and employers, and the threat of automatic deportation. These stringent state regulations have provided the context for the legal labor migrants to turn into a captive labor force, the system

26 For a detailed examination of trafficking in labor migrants in Israel see Kav La’oved, Annual Report for 2002, www.kavlaoved.org.il. See the section of the US State Department Report for 2002 on foreign workers paying fees to manpower agencies in order to work in Israel (<http://www.state.gov/g/drl/rls/hrrpt/2002/18278.htm>).

27 Kav La’oved. “State gains 190,000,000 shekels in taxes from employment of migrant construction workers; workers illegally charged higher brokers’ fees to cover taxes. http://www.kavlaoved.org.il/media-view_eng.asp?id=150.”

28 See Anderson (2010) for an analysis of immigration controls and the making of precarious workers in Britain.

sometimes even degenerating into a human trafficking industry.²⁹

Recruited labor migrants are usually defined in law as foreigners or aliens, as people who do not belong. This legal category has been utilized to deny the migrant worker legal rights of residence and of social, cultural and political participation, which are the corollaries of the conditions of unfree labour (see Miles 1987). As in most western European countries, migrant workers in Israel are perceived as temporary workers and not as prospective citizens. Even the term by which they are referred to in Hebrew, *ovdim zarim* (foreign workers), with its biblical connotations of idolatry, exemplifies their status as outsiders (Kemp et al. 2000).

The denial of legal citizenship to foreign workers assures the presence of a pool of precarious workers, excluded from the minimal protection of the welfare state and readily disposed of without consequences (Walia 2010, 73). Besides the strict mechanisms of state controls over labor migrants, the current migration regime in Israel is highly exclusionary regarding non-Jews (those not covered by the amendment to the Law of Return) and also removes a priori any possibility for their incorporation. Unwillingness to accept non-Jewish immigrants is expressed through exclusionary immigration policies (especially limitation of family reunion and refusal to secure residence status), restrictive naturalization rules, and a double standard: an exclusionary model for non-Jews as against an “acceptance-encouragement” model for Jews. The official discourse that frames debates about labor migrants in Israel is a basic assumption that non-Jewish labor migrants pose a challenge to the Jewish character of the state. Labor migrants may thus be considered “margizens,” that is, a new category of people who, denied membership in the host society, remain excluded in legal, social, cultural and political terms (Martiniello, 1994; Kemp et al. 2000).

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29 According to the 2006 US State Department report on Trafficking in Persons, Israel belongs to the group of countries in which the phenomenon is strongly marked: “some foreign laborers enter into Israel for labor under conditions that constitute trafficking. Some laborers are subjected to debt bondage and restriction on their movements, including employer confiscation of their passports” (US Department of State, 2006:194).

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