

The impact of the continuous inter-state conflict on the policy toward rights of migrant workers in Israel

The Israeli – Palestinian conflict

Since the days of its establishment in 1948 (and actually long before that), the State of Israel, with a majority of Jewish population, is at continuous conflict full of bloodshed with its Arab neighbors. It is important to give some background to the nature of the conflict, in order to understand why it shaped the views of migration in Israel the way it did, and why it plays such an important role in shaping the state policy concerning migrant workers in general, and specifically toward women migrant workers. Human rights organization in Israel, such as Kav-Laoved, needs to deal with very hurtful regulations and general hostility towards migrant workers, which result from national xenophobia that has historical roots, as I will explain briefly as follows.

Israel is a small country which was established on 1948 as a "home for the Jewish people", after the Holocaust. Before the 20th century, there were only few and rather small Jewish communities in the territories that are now Israel and the Palestine Authority, and most of the population was Palestinian. In the 20th century mass Jewish migration to Israel began, and it increased after the mass-murder of Jewish communities during World War 2.

Israel is surrounded by Arab countries, who, together with the Arab-Palestinian local population that is living within the borders of the State of Israel, were highly dissatisfied with the establishment of the new Jewish state, to say the least. The armed conflict that has been going on since then, has led to an atmosphere in which the Jewish people in Israel felt a threat of its existence, and that it should protect itself by any means necessary. On 1967 Israel had conquered a territory populated with Arab Palestinian (mostly Muslims) population, and is occupying this territory under military regime, and with no civil rights until today. There is also a significant minority (around 20%) of Palestinian population within the official borders lines of the State of Israel, who belong actually to the same national community as the conquered population in the occupied territory.

The fact that Israel is in continuous conflict affects the rights and living conditions of migrant workers on two levels: personal level, and policy level.

Personal level

On the personal level, migrant workers might find themselves working under dangerous conditions that employers might use as another mean of control over the worker. For example, the story of a female migrant worker from India, who worked as caregiver for a handicapped man, who lived with his extended family at the north of the country during the war with Lebanon in 2006. During that time the north of Israel was bombard with missiles, and the residence of the northern cities had to sit in shelters underground. The woman was held as a slave, and was forced to work around the clock for the whole family, and also suffered from sexual abuse by 2 members of the family. Once she tried to protest against her working conditions, the family kicked her out of the bomb shelter for a few hours, leaving her exposed to the missiles attack. In this case, the war was used as a "loaded gun" in the hand of the employers, enabling them to use a very realistic death-threat to keep control over the worker.

Another example is concerning agriculture workers in the villages around the Gaza strip – an area that has suffered from missile bombardments over the last 5 years. Most of the agricultural migrant workers in Israel are from Thailand, and it's been so since the early 90's. There are around 25,000 Thai workers in Israel now. When the bombardment continued, the Thai workers refused to work in the area, and with the assistance of the Thai embassy in Israel, many of them were removed to work in other parts of the country. In response, the human resources agencies began to bring agriculture workers from Nepal to work near the Gaza strip. The Nepali workers were few, and had no sort of community in Israel, unlike the Thai workers. They also had no embassy in Israel where they can turn to help. In addition, other farmers, outside the dangerous area, don't want to hire them, claiming that they can't get along with the Thai workers. That means that Nepali worker who lost his job, or just wants to leave, is risking unemployment and therefore loss of his legal status and deportation, after paying thousands of dollars for the opportunity to work in Israel. To summarize this: the active conflict situation near the Gaza strip caused the replacement of one weak group of migrant workers with a weaker group of migrant workers, which is therefore more exposed to abuse and exploitation. That's of course, in addition to the obvious risk of being hurt from the missiles themselves.

Nevertheless, this case demonstrates that the combination of problematic security situation, and the dependency of the Israeli market on migrant workers, does give the diplomatic corps some power to protect their citizens. All kinds of problems related to the security situation are always treated more seriously and sympathetically in Israel than workers or human rights claims.

Policy level

However, the wider impacts of the conflict on migrant worker in Israel, is on the policy level. One impact is official and blatant, and the other one is less so.

Migrant workers as a "weapon" used to control Palestinian population

The impact that is less talked about is that migrant workers played a role in the conflict management with the Palestinian population in the occupied territories¹. From 1967 until the early 90's, Palestinian workers from the occupied territories worked in the construction and agriculture sectors in Israel. After the first Intifada (the uprising against the Israeli occupation), that began on the late 80's, the State of Israel established a concept of separation between Israel and the Palestinian population who lived in the occupied territories. That meant, that for longer and longer periods – Palestinian workers could not enter Israel to work, and that meant a harsh economical sanction for them. Since the construction and agriculture sector were dependent on a continuous flow of cheap workforce, bringing migrant workers from overseas countries was the solution for the replacement of Palestinian workers. Over time, the temporary solution became an instrument of deterrence and punishment to the Palestinians, which Israel used to damage the Palestinian economy, as part of the conflict management. It is important to emphasize, that the State of Israel **needs** the migrant workers, and it needs them cheap and weak. If the government will act to promote migrant workers rights – these workers would no longer be in such demand, and could not be used as a threatening substitute for the Palestinian population.

The conflict's impact on shaping Israel strict migration policy

The other impact of the conflict is clearly manifested and concerns the strict supervision and control of the state over migrant workers in order to prevent them from settling in Israel.

Due to the history and the nature of the conflict, as mentioned above, there is a deeply common and strongly held belief among the Jewish population in Israel that the very existence of the State of Israel, as a safe place for the Jewish people, depends on ensuring that the Jewish population continues to outnumber the non-Jewish population. (To be fair, it can also be said that there is similar conception among the Palestinian population, and this creates an

¹ Kamp, Adriana, Rebeca Rajzman, 2008 **Migrants and Workers: The Political Economy of Labor Migration in Israel** Jerusalem: Hakibbutz Hameuchad Publishing House (Hebrew)

atmosphere of "birth contest"², where the idea is to have as many babies as possible, to maintain the demographic balance, as far as the Jewish population is concerned, and to change the demographic balance, as far as the Palestinian population is concerned).

As a result, the migration policy is looked at as a matter of a national security, and non Jewish foreigners are considered a threat, and must be carefully monitored, and got rid of as soon as possible.

The love-hate relationship of Israel with migrant workers

There is, therefore, a very visible gap between the ethnocentric attitude of the State, and the fact that it allows so many migrant workers to come into its territory. In fact, in 2002, migrant workers (including Palestinian workers) were 12% of the workforce in Israel, which is a very high percentage compared with most European developed countries³. The "solution" that the state found for the situation is to treat migrant workers as a very temporary guests, and impose very strict regulations – to make sure that they will not "take root" in Israel and grow in strength.

Israeli law limits the employment of migrant workers to a period of five years, after which they must leave the country. If they don't, they will be arrested and deported. Only home nursing care workers are allowed to remain for an unlimited period, on the condition that they stay with the same employer. In other words, nursing care workers can live many years in Israel – without permanent resident status, without the right to national health insurance, without the right to be unemployed for more than a couple of months, and without other social rights. If they are dismissed, resign, or the person in their care dies, they must leave Israel or risk arrest and deportation. In the eyes of the Israeli authorities, the men and women who come to the country as migrant workers are in Israel temporarily and have one single purpose: to work.

This approach is artificial because the State decided to base entire fields of employment – particularly construction, agriculture, and home nursing care – on migrant labor. It is therefore clear that the government's purpose in allowing the entry of migrant workers is not to fill a

² This concept also affects Israeli women rights and place in society on many levels.

³ Kamp, Ibid.

temporary labor shortage, but rather, to base these fields entirely on the labor of migrant workers⁴.

However, remaining true to its view of migrant workers as temporary residents whose only purpose is to work, and who must be kept from "taking root" in Israel, the State prohibits them from engaging in a broad spectrum of human activities and human rights.

Restrictions on family life

- The State prohibits the entry of migrant workers who are immediate family members (parents, children, or partners) of migrant workers already in Israel.
- The State also prohibits the staying of partners, who meet each other in Israel and become a couple. They are likely to lose their residency permits and risk deportation if the Interior Ministry learns of their relationship; this also applies to couples who are not married. This regulation forces couples of migrants to hide their relationships; not just from the authorities – but from their employers and communities. Otherwise – they may become victims of blackmailing, and threatened that their relationship will be reported to the Ministry of Interior and they will be deported. Kav Laoved was involved in a case of migrant worker from Moldova who worked in Israel in home care giving. About a year after her arrival, she met a migrant worker from Romania who worked in construction. The two became a couple. The son of the woman's employer, who had sexually harassed her and sought revenge after a confrontation with her, contacted the Interior Ministry to inform them that she had a partner in Israel. Both workers were ordered immediately, without any enquiries being made, to leave Israel within seven days. Only after the male migrant worker left the country did the Interior Ministry agree, following Kav LaOved's intervention, to renew the woman's residency permit, enabling her to find a new employer in Israel.

Pregnant migrant workers

Maybe the most blatant expression of this hypocritical policy that invites and encourages migrant workers to come to Israel and give up every other aspect of their life other than working, is the regulation concerning a female migrant worker who becomes pregnant in Israel. According to the current regulation, a pregnant migrant worker in Israel is forced to leave the

⁴ Ben-Israel Hanny, Oded Feller **There Is No Country For Love** 2006 (Hebrew)

<http://oded.feller.googlepages.com/NoStateForLove.pdf>

country with her infant, 12 weeks after the delivery. If she loses her job during the pregnancy, she will lose her working permit, and will be given a tourist visa until 12 weeks after the delivery. In other words, migrant women in Israel do not have the right to have children and remain as workers in the country. The violations of rights resulting from this regulation are many and severe.

It is worthy of note, that the phrase "regulation" is not accurate, because this rule is not legislated, not even in secondary legislation. This is just an Administrative Guideline expressing the wide discretion of the Minister of Interior.

Here is another important expression of ethnocentric attitude in Israel, and the fear of foreigners:

Israeli law grants Jews preferred and almost exclusive status with regard to entry into the country. "The law of return" guarantees every Jewish person **and** his family, citizenship if they wish to live in Israel. This law is regarded by the courts as a law of constitutional status. The Interior Minister has extremely **limited** authority when it comes to restricting the ability of an individual who complies with the criteria of the law of return to immigrate to Israel.

On the other hand, the law (entry law) allows the Interior Minister almost **unlimited discretion** in granting entry visas to non-Jews, and does not lay down criteria for issuing or refusing to issue these visas. The Interior Minister is not even required to explain his refusal to issue an entry visa and residency permit to an individual who is not Jewish.

Although almost obvious, it is important to understand how long and "black" is the list of human rights violations derived from this regulation:

Violation of the right to equality:

- The regulation discriminates against female migrant worker as opposed to their male spouses, who are not forced to leave Israel after the delivery and who do not lose their work permit during their spouses' pregnancy. It is also discrimination, on the basis of their pregnancy alone, comparing to all other migrant workers, who are allowed to stay 5 years in Israel. This discrimination contradicts the Equal Work Opportunities Law that forbids discrimination between workers or jobseekers because of (among other criteria) their sex, nationality, pregnancy or parenthood.
- The regulation discriminates against women migrant worker as opposed to Israeli women workers. It might seem obvious, as we know migrant workers are not entitled to

many civil rights: from healthcare to freedom of occupation, but in the field of labor protective laws, it is very clear that every migrant is entitled to the same rights, for example: minimum wage and severance pay. Israel also has rather progressive laws protecting woman from discrimination at the workplace. The main one is "the Employment of Women Law" that forbids the firing of a pregnant woman, and obliges employers to take a woman back to work after the maternity leave, (that last 14 weeks) and forbids her from being fired for at least 60 days after her return to work. Of course, if a woman is required to leave the country after the delivery – she will lose her job. In fact, even if the employer **wants** to take her back – he has no option to employ her legally, because she won't get a working permit.

It is interesting to mention, though, an expression of ambivalence about migrant workers who give birth in Israel. As mentioned above, migrant workers are not entitled to any benefit or aid from the social security system. This rule has two exceptions: work accident and benefits for new mothers. As bizarre it may sound, a migrant worker in Israel who manages to hold her job until soon before she gives birth, **will** get from the state treasury a full coverage of the hospitalization expenses, 1 time payment and 12 weeks salary – and then will be forced to leave the country.

Violation of the right to maintain family life

The victims of the violation are all the family members: the mother, the child, and the father that are not allowed to live together, or need to choose between raising their children together in great poverty back home or live separately in order to support them by the fathers working in Israel. This is a violation of the right to family, which is established in both Israeli and international law. The Israeli constitutional law also recognizes the right to be a parent, as part of one's human dignity, protected under the basic law - the Basic Law of Man's Dignity and Freedom. Kav LaOved, along with other human rights organization, has petitioned the High Court of Justice against the regulation.

Problematic side effects of the current policy

Invisible families

In spite of the regulation, in actual fact, women migrant workers with children are not being deported, probably because of the fear of public opinion (local and international) regarding arresting little children and mothers and deporting them. So in fact, there seem to be

quite a few mothers with children of different ages that now live in Israel, with no legal status. The mothers and children stay in Israel for years without even basic medical insurance, without "identity", and are ignored by the authorities as if they do not exist.

Thinking pattern

When the State denies migrant workers their rights as workers and as human beings, it contributes to the already problematic concept of migrant workers as work-force, and nothing else. If the State, in its official actions, degrades migrant workers to sub-civilian, sub-residents, sub-human degree, then it shouldn't come as a surprise, that employers treat them in exactly the same way, and feel completely comfortable in doing so. These regulations, combined with the binding arrangement that exists in Israel (where the migrant workers legal status depends on their working for a specific employer) create a fertile ground for abuse and trafficking in persons, in addition to the immediate harmful and humiliating affect that is mentioned above.

As I have explained, due the conflict, but also because of other circumstances that are beyond the scope of this paper, Israel has developed a significant dependency on migrant workers, mainly in the agriculture and nursing-care sectors. It is important that the governments of migrant workers countries of origin use this fact, combined with the fact that their citizens are willing to work in war zones, to negotiate over the rights of their overseas workers, in addition to human NGO'S advocacy efforts in Israel.