Between Markets and Morals of Care: Migrant Care Workers in Israel

Adriana Kemp

"Who at all was taking care of the elderly and disabled before the foreigners arrived?" wondered member of Knesset Ran Cohen, head of the Knesset Committee on Foreign Workers , in 2005. At the time, widespread consensus over the "essential necessity" of migrant worker caretakers seemed to have become axiomatic for all parties involved. And his was a well-put question.

Since the mid-1990s, a new market of live-in care workers was created in Israel. In no time, it became associated with migrant women, under the implicit assumption and policy framework that only foreigners could perform underpaid, physically and emotionally demanding work with the disabled and elderly. High demand for global care workers in Israel is the result of changing demographic, family, and welfare configurations taking place within an increasingly unequal and gendered international division of labor. The catalyst for the "insourcing" of live-in migrant care workers was the implementation of the Long-Term Care (LTC) insurance program in 1988, which expanded the social security net provided by the state to disabled, chronically ill, and elderly people living in the community. However, this progressive social program was underfunded and failed to cover the cost of round-the-clock home care. The budget solution was found in the 1995 "Filipino Plan" (*Ha-tokhnit ha-Filipinit*), which aimed to save up to 50% of the costs of home care by bringing in foreign workers. Hiring a foreign care worker means that one can have live-in help, twenty-four hours per day, six days a week for the equivalent of a monthly salary of about $800.

Ever since, LTC has been the only sector for which there are no permit caps, and its continuous growth has not been affected by restrictive recruitment policies. The number of care workers who can enter is linked to the number of Israeli citizens found eligible to employ a care worker. Yet, while the number of people entitled to nursing care benefits grew by only 60% between 1996 and 2002, permits allocated to foreign care workers grew by 350% over the same period. The growth is related less to demographic trends than to the advantages it entails for private employers, their families, and brokerage agencies specializing in supplying services. The LTC benefit is paid to the worker through agencies, but the employer is expected to pay the worker directly for additional hours, a fact that opens a door for abuse. All foreign care workers must be registered with a licensed care-giving agency, which places foreign workers with the employer. These have become a major force in pushing for further recruitment of migrant worker women and profiting from high—if illegal—mediation fees that range from $5,000 (Philippines) up to $20,000 (China).



Meeting in Ramat Gan park. Photograph by Anna Lim.

The social welfare laws, coupled with virtually unlimited permit policies and high profits derived from the system by vested parties, contribute to the commodification of care and the feminization of migration flows. Women make up to 52% of all officially recruited migrants. Women arrive primarily from the Philippines but also from India, Nepal, Sri Lanka, and Bulgaria. They work with the elderly or disabled if they hold permits and in domestic labor if they don't. Undocumented migrants arrive from Eastern Europe, South Asia, Africa, and South America. While most of them enter through the "tourist loophole," there is a margin of overlap between countries of origin of documented and undocumented migrants because of two main reasons: first, women who enter with a work permit and overstay once it expires; second, women who enter with work permits and lose it once they leave or are made to leave the original employer to whom they are bound by contract.

Until 2005, a "binding policy" prohibited visa portability and rendered the work and residence permit of foreign workers valid only for a single employer. Binding the worker means that any change in work relations, such as dismissal, resignation, or employer bankruptcy, can lead to the loss of the worker's residence permit, with the worker automatically becoming subject to arrest and deportation. Any foreign workers who demanded that their employers respect labor legislation on working conditions or sought remedies for such violations faced the risk of being immediately fired and losing their legal status. Losing the work permit as a result of the binding policy has detrimental effects on the workers' ability to repay the loans they had taken out back home to pay the high recruitment fees demanded by recruiting agencies. Withholding the workers' passport to prevent them from leaving their jobs became a widespread norm among employers and a major means of creating forced labor. Following a petition, in 2006 the High Court of Justice declared binding as a violation of "the inherent right of liberty" and a form of "modern slavery" (HCJ 4542/02); yet, binding is still very much alive.

The increasing reliance on global care workers has been met with their depiction as a threat to the political body of the nation. Official discourse in Israel has presented an ambiguous image of migrant women as an "essential" pillar for

the well-being of Israeli families and, at the same time, as a danger to the integrity of the ethnic boundaries of the nation. Policies, regulations, and deeply seated social norms provide ample evidence for this duality of seeing care work as a "dangerous necessity." Tensions between the economic and moral dimensions of a migrant labor force resurface when migrant women marry local residents, give birth, or seek to reunite with their own families in the host society.

The issue of migrant workers' families brings to the forefront competing interests between the universal recognition of the family as the natural and fundamental unit of society enshrined in international human rights instruments, and national interests and prerogatives regarding immigration. These tensions are further complicated if we bear in mind that the "supply" of foreign care workers is conceived in Israel as part of a "contract" between the state and its own citizens to safeguard the well-being and social rights of the elderly and handicapped and of their families. Last, but not least, the physical and social presence of migrants' families and children, who are in a legal limbo, at once within society but not an integral part of it, mobilizes a variety of societal responses, emotional and moral, calling for their social integration and for political solutions that go beyond humanitarian and piecemeal governmental decisions. Or as put by one NGO official, "As long as there are migrant workers in Israel, there will be also migrant workers' children" (O. F. interview 29.2.12).

Ongoing social negotiations around migrant women's own families and their place in relation to Israeli families and the Israeli public have been reflected in court litigations and public campaigns throughout the last decade. A decision of the Tribunal for Review of the Detention of Unlawful Residents on the matter of a migrant worker from the Philippines upholds the "pregnant foreign workers directive" (PFWD) from 2004, which revokes work permits from migrant women who become pregnant. PFWD is part of a "no-family" policy that aims to ensure that migrant labor will not turn into a venue for immigration. Accordingly, work visas are issued only if migrant workers do not have a first-degree family member working in Israel. If two migrant workers get married in Israel, one of them is required to leave the country, and if a woman gives birth, she must either send the baby away or leave the country with the newborn and return alone in order to regain her visa.

The decision reads:

> The detainee is staying and working in Israel for three and half years. The detainee is in the 30th week + 5 days of her pregnancy. Her partner, the baby's father, is a Philippine citizen lawfully working in Israel.
>
> The detainee requests that she will be released so that she can give birth in Israel and then continue to work in Israel.
>
> The detainee is staying and working in Israel together with a partner, the father of her baby who is supposed to be born, besha'a tovah (congratulations in Hebrew), in two months. According to the Interior Ministry's procedures, partners cannot work together in Israel. The detainee has a family unit to which a baby is about to join.
>
> Under these circumstances, in which the Interior Ministry will not

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> give a work permit to the detainee, I don't see that there is cause to release her, even if the detainee states that she intends to send the baby to her country of origin. I am authorizing the detention order without changes. (Quoted in Hanny Ben Israel, 7.3.2010, http://www.kavlaoved.org.il/media-view_eng.asp?id=2854, retrieved on 15.1.2012)

Like in other countries in the Middle East and South East Asia that are engaged in temporary labor migration schemes for low skilled jobs. the no-family policy is part of the contractual relations between invited foreign workers and host societies, as explained by a government official: "The foreign worker who comes here knows that this is the condition; she knows, and she signs her name to it" (Knesset Committee for the Examination of the Foreign Workers Problem, November 3, 2004). The no-family policy is also understood, even expected, given that Israel is a country designed for the immigration of Jews. However, labor migrants constitute the largest group of migrants that has arrived in Israel in the last decade.

Neither the "contract" nor the "regime" has prevented the creation of families and households. The precise number is subject to speculation. Two government decisions reached in 2005 (#3807) and 2010 (#2183) granted status to over a thousand migrant children whose parents entered with valid visas but overstayed them. The decision, which normalized their families, shows the possible contradictions between the economic benefits and the social costs of importing laborers, as they are manifested in the phenomenon of migrant workers' families. No less significantly, both the PFDW and the naturalization decisions on children point to the undefined zone between what is officially sanctioned as (il) legal and what is socially sanctioned as (il) licit, a messy zone where Israeli civil society, individuals, migrants themselves, and the authorities have been negotiating the political and moral economies of labor migration.

The PFW procedure was eventually banned by the High Court of Justice in April 2011, asserting that it violates the foreign worker's constitutional right to family life and is incongruent with Israeli labor laws that safeguard the rights of women both during and after childbirth. At the same time, the ruling made the protection of the migrant worker's right to parenthood in Israel contingent on her legal persona as a female worker, and therefore, as subject to constitutional principles on gender equality in labor law that sanction the release of women from work on grounds of pregnancy or childbirth. Second, the court instructed the state to design a new procedure that will ensure that the care worker would leave the country with her baby upon the termination of her work permit. Finally, the renewal of the work permit will be contingent upon the foreign workers' proven ability to combine care of her child and care of the elderly employer (http://elyon1.court.gov.il/files/05/370/114/r27/05114370.r27.htm).

The "children's campaigns" took place outside the courtroom. A wide and heterogeneous network of activists, sympathizers, and public figures rallied high profile campaigns under the banner of "Israeli children," which encapsulates the idiom in which the campaigns were conducted. The protestors called the government's planned deportation of children who grew up in Israel and whose only language was Hebrew an act of "cultural exile." The campaign proved successful, to a certain extent. Following a visit to a school in south Tel Aviv attended mainly by migrant workers' children, President Shimon Peres penned an emotional letter to the minister of Interior, Eli Yishai, asking him to cancel the expulsion. "I heard Hebrew ring naturally from their mouths. I felt their connection and their love for Israel and their desire to live in it, to serve in its army, and to help to strengthen it . . . Who if not a people who suffered embitterment in the lands of exile, should be sensitive to their fellow man living amongst them?"

As the ongoing negotiations over the reproducing bodies of migrant workers seem to show, the presence of migrant workers' families exposes and challenges the multiple ethics that animate Israel's identity politics. These negotiations elicit claims of Jewish exclusivity and anxieties over Israel's changing ethnic demography; carry the weight of Jewish history and the heritage of "not oppressing the stranger"; express a yearning for "normalcy" centered on cosmopolitan human rights and liberal values; and, perhaps most powerfully, emphasize participation and assimilation over rights. While labor migration has changed the ethnic composition of the Israeli labor market and society, it has not challenged the national meaning and quandaries of "being Israeli" in any significant way.

Adriana Kemp is senior lecturer in the Department of Sociology and Anthropology at Tel Aviv University. She is the author of Migrants and Workers: The Political Economy of Labor Migration in Israel *(Kibbutz Hameuchad and Van Leer Publications, 2007 [in Hebrew, with Rebeca Raijman]).*

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