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SOCIAL POLICY AND LABOR MIGRATION: THE ISRAELI CASE

СОЦИАЛЬНАЯ ПОЛИТИКА В ОБЛАСТИ ПРИЕМА ИНОСТРАННЫХ РАБОЧИХ: ОПЫТ ИЗРАИЛЯ

Introduction. Most developed countries experience a lack of labor force, especially for unskilled, physically hard or seasonal work in such sectors as agriculture, construction, care-giving and domestic sector [9, p. 3]. Migrant workers are often employed in jobs that are known as ‘3D’ – dirty, dangerous and demeaning. With rising living standards and educational level, the local population in developed countries avoids entering unqualified, low paid or strenuous jobs. Citizens of these countries prefer to be unemployed rather than engage such jobs. In order to fill the shortage in labor force, many countries invite immigrants and temporary guest workers.

Migrant policies reflect various attitudes that differ from country to country. The most popular regulations were established in U.S., Canada, and Australia, where decisions on the entry of new immigrants are made according to demand in the labor market. Visas and work permissions are granted to potential migrants on the base of grades that evaluate employment opportunities of candidates. Migrant workers at first usually only receive a temporary resident status with a work permit, but after some period of stay, determined by the law, and if they comply with certain requirements, migrants can gain the status of “permanent resident” and even citizenship.

Most European countries implement another approach. They receive migrants irrespective of the needs of their labor markets, so that it is easier for potential migrants to enter a country and to receive a work permit, but it is more difficult to receive citizenship, a process that takes much more time [4, p.171; 3, p.176]. In these countries, migrant workers who are not citizens are entitled to the same rights in the labor market as the local population [5, p.11; 12, p.39; 14, p. 259], including various types of social insurance (public health insurance, the right to receive a pension, etc.). Some countries, such as Germany and Switzerland, have even tougher regulations, and do not allow migrant workers to gain citizenship [10, p.12; 15, p.231]. In Israel, moreover, recruiting migrant workers is strictly limited and regulated, and permitted only on a temporary basis [6, p.108].

The **purpose** of this paper was to analyze the Israeli policy on providing social rights of migrant workers. This study is based on a review of available literature and analysis of data provided by both government institutions and NGOs, concerning violations of rights of migrant workers. The study also used data obtained by semi-structured interviews with migrant workers and in-depth interviews with experts and policy makers.

Migrant workers in the Israeli labor market. Temporary labor migration, which is a relatively new phenomenon for the Israeli labor market, started only in the 1990s [2, p.303]. The number of temporary migrant workers who arrived in Israel grew rapidly and by 2009 reached almost 12% of the Israeli labor force [7, p.15], placing Israel among the countries whose economies are heavily dependent on the influx of a foreign labor force [11].

In 2010 in Israel, a country whose population constituted about 7.8 millions, there were 116,-000 migrant workers with valid work permits and 95,000 illegal workers who entered Israel without work permits [8, p. 1]. These migrant workers had arrived from some 100 countries, mostly from the Philippines (30,900 entries per year), Thailand (28,400 entries), China (11,100 entries), and the Former Soviet Union (10,900 entries). About 35 percent of all migrant workers were employed as caregivers or nurses for elderly people who needed geriatric care or handicapped persons, 28 percent were employed in the agriculture sector, and 12 percent in construction. These three sectors provide jobs for 75 percent of all migrant workers in Israel. According to the Population, Immigration and Borders Administration (hereinafter referred to as PIBA), the number of illegal migrant workers is equal or even surpasses the number of workers with valid work permits.

According to a policy of Israeli government aimed at reducing the number of migrant workers, agriculture and construction sectors are assigned annual quotas, but the number of permits for non-Israeli care-givers has not been conditioned to quotas. An employer who requires a migrant worker must submit a request to the Foreign Workers Unit at the Population, Immigration and Borders Administration (PIBA), which issues a permit for employing a non-Israeli care worker. When the permit is received, the process of locating potential candidates starts. Only recruitment agencies accredited by PIBA are responsible for locating potential candidates abroad. These private agencies are defined as mediators and are responsible for a wide range of activities, including the recruitment and deployment of foreign workers. Officially, agencies are required to seek prospective workers through cooperation with local agencies in the migrants' countries of origin. Thus, there are two mediators – the recruiting agency in Israel and the recruiting agency abroad, both of which are entitled to charge the worker for arranging his/her employment. The Israeli law permits agencies to collect brokerage fees of no more than \$900 (this sum is updated annually) in addition to travel expenses. However, in reality, the commissions that manpower agencies charge migrants are significantly higher, reaching thousands of USD [13, p. 7].

The maximum term of a work permit is about 54 months (in the care-giving sector the work permit can be prolonged), and after this period the migrant worker is expected to leave Israel. Once this permit has expired, the migrant worker becomes “illegal”. Employment of a foreigner without a work permit is a criminal offense, and the fine for it can reach 18 thousand dollars.

In Israel, work permits are not given to employees but to employers. In the early 2000s, labor migrants' employment in Israel was based on the “binding system”, according to which migrant workers were not allowed to move freely to another employer. A migrant worker was allowed to do so only if s/he was fired, or his/her employer had died or declared bankruptcy. This system created a situation in which migrant workers became overly dependent on their employers. This bondage created fertile grounds for the flourishing of various forms of exploitative practices by employers; even if there were abuses of migrant's rights, migrant workers were afraid to complain about employers, fearing to lose their jobs and incomes or even to be deported.

In 2002, this system was officially abolished (Tavivian-Mizrahi, 2004), but in practice it conti-

nued to work up to 2005. However, with its demise, a new problem arose: many migrant caregivers, who came to Israel to work with handicapped people who were unable to serve themselves, left their “patients” (employers) and moved to others who were less disabled and, therefore, required less care. Furthermore, most of the caregivers who were supposed to work in small settlements in the periphery moved to big cities for work. As a result, a shortage of caregivers, especially for handicapped persons who require ongoing care and live in the periphery, emerged. In 2011 a new law was passed, according to which migrants would be allowed to change no more than three employers and only by specific authorization of the Ministry of Interior. Moreover, caregivers would not be able to change their geographic locality. This was, in fact, a partial return to the “binding system”. This law is strongly criticized by NGOs as “geographical bondage”, placing migrant workers outside the free labor market.

Social rights of migrant workers in Israel. With the arrival of large numbers of migrant workers to Israel, it was necessary to develop a system of social insurance for this category of workers. This system should determine the rights and duties of foreign workers in cases of layoffs, absence from work due to illness, medical care, and moving to another employer. According to the Law of Foreign Workers (1991), a foreign worker in Israel is entitled to the same working conditions as an Israeli employee, but there are also special rights to which only migrant workers are entitled. The rights that are similar to Israeli employees include:

- The right to receive a wage which is not less than the minimum-wage;
- Payment for overtime work hours;
- Paid annual vacation;
- The right to a weekly rest period of at least 36 hours, and up to 9 religious holidays a year, depending on the worker’s religion, when the said holidays do not fall during the weekly rest period;
- An employee who needs transportation to his place of work is entitled to a travel allowance from his employer;
- Sick pay according to the length of worker’s employment, upon presenting a doctor’s note stating the need for absence from work as the Israeli law requires;
- Once a year every worker is entitled to receive an additional sum known as “recovery pay” which is calculated in accordance with his/her seniority at the work place and constitutes about 500 \$ USA;
- An employee, who is dismissed after working for one employer for a period of one year or more, is entitled to severance pay; the rate of the severance pay is one month’s wage for each year of employment.

However, migrant workers have restricted access to social insurance services. For example, migrant workers are not covered by social public insurance of unemployment and by income support benefit. Moreover, if a migrant worker fails to find new work within two months after s/he was fired or voluntarily left his/her previous workplace, his/her work permit is automatically cancelled, that immediately makes them “deportable” [1].

Migrant workers are also not covered by social health insurance. It should be noted that the Israeli health insurance system prescribes obligatory deductions from workers’ salaries, providing them the right to free medical services via the social healthcare system. Since foreign employees are not included in this arrangement, employers of foreign workers are obligated to provide foreign workers with private medical insurance throughout the employment period. In Israel, any person needing emergency medical care will receive it unconditionally, but s/he will be billed for the coverage if s/he lacks proper insurance. The employer may deduct a part of the costs of

health insurance from the migrant worker's salary (up to a half or one-third of the amount paid by the employer for the insurance, depending on the sector of employment, but no more than 35\$ USA, whichever is lower). The rest of a sum has to be paid by the employer.

Migrant workers are also not entitled to an old-age pension, regardless of how many years they have worked in Israel. However, there is a law on compulsory pension insurance that should cover all workers. In order to solve this contradiction, a pilot project for workers employed in the construction industry has been initiated. All pension payments, both deducted from the salary of migrant workers and remunerated by the employer, are deposited in a special fund. A migrant worker can receive this money when s/he leaves Israel. Creating such a deposit contributes to the implementation of the law on obligatory pension insurance, is used as severance pay and as an incentive to leave Israel when the work permit expires. Migrant workers, who do not leave Israel when their visa expires, will not be entitled to receive money from the deposit. Unfortunately, thus far this system has only been applied to the construction industry, and does not yet work in other sectors.

Nevertheless, migrant workers are entitled to social insurance of injury including work injury; social insurance of maternity (including payment of medical services for childbirth, receiving a one-time benefit for childbirth, etc.); as well as compensation for unpaid wages and severance pay in case of the employer's liquidation or bankruptcy.

One of the specific rights, which only migrant workers are entitled to, is the provision of proper housing by the employer. The employer has to provide living quarters that are separate from the migrant's workplace, which must include at least 4 square meters sleeping space per worker, and with no more than 6 workers in one room. Besides, the employer must provide the worker with personal cupboards and bedding; heating and ventilation; reasonable lighting and electric outlets in each room; hot and cold water in the bathroom, kitchen and showers; sinks, kitchen counters and cupboards; burners, refrigerator, table and chairs; a washing machine for every 6 workers; and a fire extinguisher. There must be reasonable access to the living quarters as well as to the bathrooms.

Employers who hire caregivers who live in their home must also provide them with meals. An employer may deduct from the salary of migrant worker deductions for the provision of residence and food, but the maximum permitted monthly deduction for health insurance, suitable housing and related expenses, and debts owed to the employer, is 25 percent of the employee's salary.

Protection of the rights of migrant workers . Despite the fact that Israeli law circumstantially defines and prescribes the rights of migrant workers, in practice, these rights are not always respected. In Israel, the responsibility for enforcement is distributed between many different institutes, but the multiplicity of these institutes, a lack of staff, a shortage of other resources coupled with insufficient interaction between authorities lead to significant abuses that cannot be controlled. The body that is responsible for the enforcement of illegal employment of migrant workers is Population, Immigration and Borders Administration (PIBA), and the Ministry of Trade and Industry is responsible for enforcement of migrant workers' employment conditions and rights in the labor market. Neither of them verifies issues that are the responsibility of the other. Besides, there are personnel responsible for migrant workers in the Ministry of Justice, and in other government institutions. The problem is that very often these personnel include only a few or even one supervisor, who is simply unable to manage massive comprehensive verification.

Apart from government organizations, there are NGOs that deal with protecting the rights of migrant workers. They are Kav la-Oved – Workers' Hotline, Hotline for Migrant Workers, and the Mesilah Aid & Information Center for the Foreign Community. The activity of these organizations on the protection of migrant workers' rights is quite effective. Official sites of various ministries and other governmental bodies often provide the phone numbers and addresses

of these NGOs, recommending that migrant workers apply there for general information, advice and legal aid, or if they encounter a problem.

According to the Kav la-Oved – Workers’ Hotline report, in 2010 they opened 1473 files based on migrant workers’ appeals. Forty seven percent of the complaints on rights violation derive from care-giving sector. The main reason for this situation is that caregivers live in the homes of their patients (employers), which makes monitoring and protecting their rights very difficult. Interviews with foreign workers revealed that they had encountered many abuses of their rights, among them delay of salary, being deprived of food, or prohibited to use house ware. Sometimes migrant caregivers are not allowed to take days off and to leave their workplace (thus leaving their employer alone); they have to be available ‘around the clock’, that imposes severe limitations on their daily life and rest hours. Migrant workers often do not receive payment for sick days and for annual vacation. Moreover, caring for elderly or handicapped patients and living at their home implies that the worker should be available 24 hours a day, lest his/her help is required, meaning that migrant workers are expected to serve the employers at night too. Migrant workers sometimes also suffer from verbal abuse. Caregivers, especially women, are vulnerable to sexual assault. Occasionally, migrant workers are forced to do jobs other than those specified in their visa, usually domestic work such as cleaning the house of the employer’s relatives, thus violating the terms of the visa (placing the workers at risk of being apprehended and deported).

According to a report by Kav la-Oved – Workers’ Hotline, the most widespread abuses in agriculture were salaries below the minimum legal wage (91 percent of appeals), delayed salary payments (88 percent of appeals), nonpayment for overtime (91 percent of appeals), inhumane living conditions (lack of access to drinking water, too many tenants in a room, etc.), and unreasonably high deductions for housing from the workers’ salaries (26 percent of appeals).

Conclusions. In sum, Israeli legislation on social rights and social insurance of migrant workers does not match the legislation of most European countries, according to which migrant workers are entitled to the same rights in the labor market as the local citizens, including the right to pension, public health insurance, social public insurance of unemployment, etc. On the other hand, it regulates and defines in detail the rights of migrant workers. Nevertheless, there are still many irregularities, violations and abuses of these rights. These violations include withholding and delaying salary, paying less than minimum wage, avoidance of payment for sick days and annual vacations, and charging excessively high deductions from the salary for housing and food provided by employers and other housing-related expenses.

The lack of coordination between various governmental and non-governmental bodies acting in the field of protection and enforcement of migrant workers’ rights, the shortage of resources and the absence of a common unified program lead to a lack of control. Existing regulations provide no effective measures for combating the non-observance of migrant workers’ social rights and, therefore, lead to malpractices and violation of these rights by employers.

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Анотація. В даній роботі досліджена соціальна політика Ізраїлю в області прийому іноземних робітників. Зроблено зіставлення прав іноземних та ізраїльських працівників на місцевому ринку праці. Проаналізовано діючу систему соціального страхування та специфічні права іноземних робітників. Виявлено порушення соціальних прав та визначено причини, що призводять до даних порушень.

Аннотация. В данной работе исследована социальная политика Израиля в области приема иностранных рабочих. Произведено сопоставление прав иностранных и израильских работников на местном рынке труда. Проанализированы действующая система социального страхования и специфические права иностранных рабочих. Виявлены нарушения социальных прав и определены причины, приводящие к данным нарушениям.

Summary. This paper examines the social policy on providing rights for migrant workers in the labor market, and explores existing approaches to granting social rights to migrant workers in different countries. The study maps the rights dividing them into three categories: rights which are the same as the social rights of local citizens in the labor market, rights to which migrant workers are not entitled (mostly different types of social insurance), and specific rights granted only to migrant workers.

The paper focuses on the links between the social rights of migrant workers and their vulnerability to exploitation, and analyzes protection and enforcement of these rights. It investigates how existing regulations of migrant workers' employment bind them to their employer and thus create fertile grounds for various forms of exploitative practices by employers. When migrant workers meet abuses of their rights, they are afraid to complain about their employers, fearing to lose their jobs and be deported.

The study found a wide range of irregularities, violations and abuses of social rights of migrant workers, such as wages lower than minimum wage, withholding and delaying of salary, and inhumane working and living conditions. Investigating the reasons for these irregularities revealed that the lack of coordination between various governmental and non-governmental bodies acting in the field of protection and enforcement of migrant workers' rights and the shortage of resources for enforcement lead to a lack of control. Existing regulations provide no effective measures for combating the non-observance of migrant workers' social rights, therefore, malpractices and violation of these rights are widespread.

Ключові слова: соціальна політика, права, трудові мігранти, іноземні робітники.

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