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Reforming Foreign Worker Employment in Israel

Transitioning from the Restrictive Employment Arrangement to the Corporations Arrangement

Yoram Ida

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Yoram Ida*

Abstract

Up until 2005, foreign workers could be employed in Israel only within the framework of a restrictive system – referred to as the "Restrictive Employment Arrangement" (*hesder hakvila*) – in which the individual worker was permitted to work only for the specific employer who had received the employment permit. Beginning that year, in accordance with the recommendations of the Andoran Committee (the Inter-Ministerial Committee to Assess Foreign Worker Employment Arrangements in Israel, hereinafter: the Andoran Committee, 2004), comprehensive reforms were instituted regarding

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the employment of foreign workers in the construction sector, in whose framework the Restrictive Employment Arrangement was repealed and an alternative system was implemented, referred to as the Corporations Arrangement. This new arrangement authorized the hiring of foreign workers on a fixed-quota basis, subject to various fees and employment levies, solely via licensed manpower corporations.

The findings of the present study, which looked at the reform's impact on foreign workers and their employers, indicate that the reform has significantly improved the employment conditions of foreign workers in the construction sector, reduced the profitability of switching to illegal employment frameworks, and created a financial incentive for workers to leave the country once their permitted employment period has ended. The wage increase enjoyed by the foreign workers, as well as the fees and levies imposed on their employers, have made it more expensive and less profitable to employ these workers in the construction sector – as a complementary measure to reducing the number of permits allotted to the sector. The reform also contributed to a re-integration of Israeli and Palestinian workers within this sector. At the same time, the arguments mounted by the Israeli human rights organizations against the new Corporations Arrangement as an alternative to the Restrictive Employment Arrangement (arguments formulated in the context of the organizations' petition to the High Court of Justice) were found to be unsubstantiated. In particular, no support was found for claims that the manpower corporations constitute an employer cartel whose members are coordinating worker employment conditions amongst themselves.

Nevertheless, when one assesses the degree to which the recommendations of the Andoran Committee (2004) and of the Eckstein Committee (the Committee to Formulate Policy on Non-Israeli Workers, hereinafter: the Eckstein Committee, 2007) were

implemented regarding the main sectors in which foreign workers are employed in Israel, one finds at best only partial implementation. Due to this, the number of foreign workers in Israel's construction sector has not declined to the level targeted, while in the agricultural sector, where none of the recommendations of the two aforementioned committees have been implemented, recent years have witnessed a rise in the number of permits granted.

Based on the findings of the present study, we recommend implementing the Corporations Arrangement in the agricultural sector (rather than the Restrictive Employment Arrangement that still prevails there), in order to improve the employment conditions of that sector's foreign workers, while also striving to reduce demand for such workers on the part of employers in the sector. We also identify a need for meaningful government intervention in the process by which workers are recruited in their countries of origin, via supervisory bodies and through the creation of a framework of international agreements and arrangements to ensure that workers are not required to pay broker's fees – or at least that such fees, where charged, are not unreasonable.

1. Introduction

The trend toward employing foreign workers gained considerable momentum in Israel starting in the early 1990s. The Palestinian uprising in Judea, Samaria and Gaza – areas that had supplied most of those working in Israel's construction industry – created a manpower shortage in the sector. This shortage worsened during the great wave of immigration from the former Soviet Union, when quick housing solutions were needed for the new immigrants.

One major reason why the State of Israel had, up to that point, opposed the hiring of foreign workers was the fear that some of these workers would not leave the country once their permit periods expired, and would settle in Israel permanently, demanding official status and recognition and, in doing so, threatening the Jewish character of the state. This fear was based on international experience, particularly the experience of Western Europe. Another important reason was the fear that these workers, due to their willingness to work at relatively low wages, would drive local unskilled workers out of the market, even in occupations where there was no manpower shortage – leading to a rise in unemployment and a consequent worsening of economic inequity in Israel.

For these reasons the state introduced employment arrangements regarding the hiring of foreign workers that were highly restrictive compared with those of other countries (Fisher 1996; Dahan 2001). The main purpose of these arrangements was to prevent foreign workers from settling in Israel on a permanent basis. Firstly, the maximum period of residence was set at 27 months, after which workers would be required to leave the country. Secondly, foreign workers were forbidden to bring family members with them during their period of residence. Thirdly, the hiring of foreign workers was subject to sector-specific quotas applicable only to sectors with

manpower shortages – construction, agriculture, manufacturing, and nursing care – with no possibility of switching from one sector to another. Fourthly, foreign workers were permitted to work only for specific employers who received permits to hire them (hereinafter: the Restrictive Employment Arrangement[1]). The practical significance of this latter arrangement from the workers' perspective was that if the worker left the permit-holding employer for any reason, even to work for another employer in the same sector, the worker would lose the legal right to live and work in Israel. A worker in this situation, if caught, could expect to be detained, usually for a few days, and then deportation to the country of origin.

Despite the aforementioned risks, the tendency of workers to leave their legal employers intensified over time. One interesting aspect of this phenomenon was that many of these workers did not wait until the end of their period of legal employment; rather, they left their legal employers shortly after arriving in Israel – an irrational course of action, on the face of it. A study conducted on foreign workers in the construction sector (Ida 2004) tested the hypothesis that this phenomenon was merely a response to the inferior conditions of employment provided by permit-holding employers, who took advantage of the employee-worker power imbalance protected in the Restrictive Employment Arrangement to violate the terms on which foreign workers were to be employed. Another finding yielded by that study was that workers from China, who constituted then and continue to constitute the largest foreign national group employed in Israel's construction sector, were required to pay large sums (by their own country's standards) for their Israeli work permits.

[1] This employment condition was called the "restrictive arrangement" since in practice the arrangement tied the worker to the employer holding the permit.

In February 2002 human rights organizations petitioned Israel's High Court of Justice[2] (HCJ 4542/02) against the restrictive employer arrangement policy, arguing that it was unreasonable in the extreme. The policy, so they argued, led to a serious violation of foreign workers' human rights – "…their dignity, liberty and their rights under employment law — and [made] them the property of their employers. It negate[d] the right to freedom of occupation in its most basic and fundamental sense."[3]

In April 2002 Israel's Minister of Finance appointed an inter-ministerial team to formulate principles for a new employment arrangement in the foreign-worker sphere (the Inter-Ministerial Committee to Assess Foreign Worker Employment Arrangements in Israel, hereinafter: the Andoran Committee 2004). The team recommended basing foreign worker employment in Israel on a new model, one of licensed manpower corporations (hereinafter: the Corporations Arrangement). According to this model, which was recommended for implementation only in the construction and agricultural sectors, employment permits would not be given to employers at the individual level. Rather, workers would be employed by a limited number of corporations licensed to employ foreign workers in a specific sector; each corporation would be authorized to employ only a limited number of workers. Corporation licensing would be conditional on the payment of a licensing fee to the state treasury, "in an amount that [would] reflect the difference

[2] The petitioners: Adva, Kav LaOved (Worker's Hotline), Hotline for Migrant Workers, The Association for Civil Rights in Israel, Physicians for Human Rights, Commitment for Peace and Social Justice; versus: the State of Israel, Minister of the Interior, Minister of Labor and Welfare, the Association of Contractors and Builders, the Association of Flower Growers and the Union of Communal Agriculture, Inc.

[3] From: http://elyon2.court.gov.il/Files_ENG/02/420/045/O28/02045420.O28.htm

between the cost of employing a foreign worker and the cost of employing an Israeli worker."[4]

The corporations would be the party obligated to pay the workers their wages and to ensure that they received the social benefits to which they were entitled by law. The new arrangement also called for foreign workers to be paid the minimum wage for a monthly total of 236 work hours (with 50 hours of overtime). The employer was also required to keep records of employee work hours; should a worker be found to have worked more than the predefined number of hours, the employer would be obligated to pay wages not less than the minimum wage for the actual amount of work. The corporation would also be required to make a regular monthly deposit in the worker's name, without deducting that amount from the worker's wages. A foreign worker who decided to leave Israel would be eligible to receive the money deposited in his[5] name. Should the worker leave the country after the final date of legal residence in Israel, the cost of deporting the worker, which he is liable for under the Entry into Israel Law, as well as pro-rated amounts in accordance with the time elapsed from the end of the lawful residence period, would be deducted from the deposit. These recommendations, combined with a policy of limiting the number of foreign worker employment permits, were expected to lower the number of foreign workers employed in Israel's construction and agricultural sectors, and to increase the number of Israelis employed in those sectors.

The Andoran Committee deliberated in depth on the possibility of completely canceling the Restrictive Employment Arrangement and enabling workers to work directly for their actual employers, rather than for licensed corporations. The Committee reached the conclusion

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4 Ibid.

5 Although the male possessive pronoun is used, the law and this paper apply to male and female workers alike.

that "giving absolute freedom to the foreign workers would not result in a sufficient increase in the cost of employing foreign workers and a reduction in their exploitation, since the foreign worker, as a worker that is not organized and that is operating in an environment that is not his natural environment, cannot demand a high price in return for his work potential. It is also clear that it will not be possible to maintain effective supervision so that the rights of foreign workers are maintained, as well as supervision of the number of workers and the payments of fees and charges for them, when there will be thousands of employers of foreign workers in Israel and there will be an unceasing movement of workers from one employer to another. The free movement of foreign workers between employers will also prevent any practical possibility of accumulating for the foreign worker amounts that will be given to him only when he is about to leave Israel, and this will prevent the use of one of the effective incentives for removing foreign workers from Israel."[6]

The petitioners were not satisfied with the manpower corporation-based employment arrangement because, in their view, the arrangement would give rise to a new form of restrictive employment whose ramifications might be worse than those of its predecessor, inasmuch as the foreign worker would be bound to a manpower corporation rather than to his actual employer. According to the petitioners, "[s]ince the manpower companies are companies whose purpose is to make a profit, […] it can be expected that they will make it difficult for workers to move from one corporation to another by [various] means. […]In addition, in view of the fact that the wages of the workers are paid by the corporation and not by the actual employer, there is no meaning to offers of higher wages from actual employers, and it can be expected that any additional wages that may be offered will not find their way into the worker's pocket. In

[6] http://elyon1.court.gov.il/files_eng/02/420/045/o28/02045420.o28.pdf

addition, licensing a limited number of manpower companies raises a concern that a cartel will be created, with the result that manpower companies will coordinate among themselves the amount of the workers' wages and their conditions of employment. Coordination of this kind will make the possibility of changing manpower companies a meaningless fiction, and the same is true of the rationale behind increasing competition in the foreign worker employment market."[7]

The High Court of Justice found in favor of the petition to cancel the Restrictive Employment Arrangement and ruled that the arrangement violated the workers' rights in a disproportionate manner. However, the Court did not grant the petitioners' request that a "restrictive industry" arrangement be created, ruling that the respondents must formulate "a reasonable and balanced arrangement, which will be capable of guaranteeing the purpose of supervising the residence and employment of foreign workers in Israel on the one hand, and the purpose of protecting their basic rights on the other."[8]

The inter-ministerial team's recommendations were submitted to the government in August 2004, and adopted on the same day by the government (Government Decision 2446), thereby paving the way to implementation of the Corporations Arrangement in Israel. The first stage of the process saw implementation in the construction sector only, starting in May 2005 when 43 corporations that had competed in a tender framework were granted licenses and permits to serve as manpower contractors for the employment of foreign workers in the sector. From that time on, manpower companies provide construction-industry employers desiring to hire foreign workers the sole possible means of doing so.

In 2007 another committee was formed to deal with Israel's foreign worker problem (the Eckstein Committee). The committee submitted

[7] Ibid.
[8] Ibid.

several recommendations for further action regarding the employment of foreign workers in Israel: with respect to the construction sector, the committee recommended implementing Government Decision 446 (2006), which called for reducing the sector's foreign worker employment quota, so that, starting in 2010, only a very small number of specialist foreign workers would be permitted. In the nursing care sector, the committee merely recommended slowing the rate of growth in the number of foreign workers residing in Israel, particularly those already present in the country for an extended period, in order to prevent their permanent settlement here. In the agricultural sector, the committee recommended several measures: permitting foreign agricultural workers on a permanent basis only in areas at Israel's distant periphery, to result in a gradual decrease from 29,000 to 5,000 by the end of 2014, when all would be working in the periphery. In the rest of the country foreign workers would be employed seasonally, on a quota basis. The committee also recommended increasing the cost of these workers to employers by at least 40 percent.

The first goal of this study is to assess the impact of the foreign worker employment reform on both workers and employers in the construction industry, the only sector in Israel where the reform has been implemented to date. On the one hand, we wish to determine how the transition to the new employment format has affected the employment conditions and rights enjoyed by workers from China – the largest foreign national group employed in the sector – as well as the degree to which these workers find it worthwhile to switch to unlawful employment. On the other hand, we want to trace the reform's impact regarding the profitability of employing such workers, from the perspective of Israeli employers in the construction sector, as well as its impact on the number of workers employed in the sector. We will also look at the effects of government regulation and restrictions in this sphere on the competitiveness of employing foreign workers in Israel's construction sector.

The second goal of the study is to assess implementation of the Eckstein Committee's recommendations (2007) for further action on the issue of foreign workers in Israel, both in the construction sector and in other sectors where foreign workers are employed – particularly the agricultural sector.

Against the background of these two goals, the following matters will be investigated:

A. Have the reforms in the construction sector improved the employment conditions of foreign workers in the sector, and to what degree?

B. Have the reforms in the construction sector raised the cost of employing foreign workers in the sector, and reduced the number of such workers, and to what degree?

C. Are the reforms in the construction sector likely to make illegal employment less widespread?

D. Are the reforms in the construction sector likely to provide foreign workers with an incentive to leave Israel at the end of their permit period?

E. Is there competition between the manpower corporations in the construction sector, and to what degree?

F. Have the Andoran and Eckstein Committee recommendations been implemented regarding the construction sector and other sectors in which foreign workers are employed in Israel, and to what degree?

The structure of the study is as follows. Section 2 presents a literature review focused primarily on the economic, social and psychological effects of employing migrant workers on the host country. Section 3 presents the methodology and data sources used in the study. Section 4 presents findings regarding the employment

conditions of foreign workers in Israel's construction sector under the Corporations Arrangement, along with a number of statistical analyses. In Section 5 the research questions are discussed, while Section 6 presents conclusions and recommendations.

2. The Impact on the Host Country of Employing Foreign Workers: A Brief Literature Review

A. The economic impact of employing foreign workers on the host country's labor market

The recommendations of the various committees formed to set policy on non-Israeli workers (the Andoran Committee, 2004 and the Eckstein Committee, 2007) indicate that the main economic rationale behind a policy of reducing the number of foreign workers – the policy that has been in effect in Israel in recent years – is the negative impact of such workers on the labor market. This impact is manifested in the replacement of local unskilled workers from the labor market, or their relegation to low-wage jobs. This results in rising poverty levels and greater income inequality among local residents. The literature points to both positive and negative economic effects of foreign worker employment on the host country's labor market. On the one hand, hiring adult transient workers who are willing to work at relatively low wages constitutes a kind of subsidy for the host country, which benefits from the presence of workers who received their training in other countries, at those countries' expense. The main beneficiaries of foreign worker employment are the employers in those sectors where permits are allocated for the hiring of foreign workers. The financial benefit to the Israeli economy of employing 50,000 labor migrants in the construction sector in 1999 has been estimated, on this basis, at between NIS 1.9 and 5.9 billion,

where 70-75 percent of this sum is a benefit to contractors (Perlman, Eckstein and Ravkai 1999). The host country also gains in that it bears virtually none of the cost of providing social benefits, like education, health and social services, to the families of labor migrants, inasmuch as most temporary workers leave their families behind, in their countries of origin (Dreby 2007).

The impact of foreign workers on the local worker population depends on their skill level relative to the local workers (Borjas 2006). The entry of unskilled foreign workers has the negative effect of displacing local unskilled workers, and leads to lower wages and lower employment levels among the latter group. Additional studies support the hypothesis that the entry of unskilled foreign workers has a negative effect on local unskilled workers, as manifested in lower labor market participation rates among the latter group, as well as a rise in wage inequity (McCarthy and Vernez 1997; Borjas, Freeman and Katz 1997; Antonji and Card 1991). By contrast, the entry of unskilled foreign workers has a positive complementary effect on local skilled workers, expressed in higher labor market demand for such workers. One study that looked at the impact of non-Israeli workers on the wages of Israeli workers (Gottleib 2002) found a positive complementary effect on the wages of Israelis with post-secondary education (more than 12 years of schooling). A rise in the number of foreign workers led to a rise in the real wage of these workers in all sectors where foreigners were employed, except for the construction sector where the impact was not found to be significant. It was also found that a rise in the number of non-Israeli workers had a negative substitution effect on the wages of Israelis with lower educational levels (less than 12 years of schooling). The study findings showed, moreover, that the lower the qualifications necessary for a given job, the greater and more significant the negative effect. Additionally, the study, which also looked at the impact of employing non-Israelis on labor market participation, demonstrated that the labor

market participation rate of less-educated Israelis declined as the relative proportion of foreign workers within the employed population rose. Kemp and Reichman (2003) found that the employment of foreign workers in the construction sector had led to a 60 percent decline in the number of Israeli plasterers, a 30 percent decline in the number of Israeli molders, and a 38 percent decline in the number of ironworkers. The total number of skilled Israelis in the construction industry dropped by 27 percent, while the number of unskilled Israelis in the sector declined by 56 percent.

B. The social and psychological impact on local workers of employing foreign workers

On the social plane, the negative impact of employing foreign workers is reflected primarily in widening circles of neglect and disenfranchisement, as may be seen in the areas where foreign workers are concentrated, particularly south Tel-Aviv, and in a growing burden on the public infrastructures providing education, health and social services. An increased presence of minority groups within the population at large – groups with little attachment to the national identity – may also undermine social cohesion and necessitate addressing moral and legal issues regarding the status of the non-Israeli workers and their family members.

As the worldwide foreign worker phenomenon has grown, manifestations of xenophobia on the part of local residents have become more commonplace (Canetti-Nisim and Pedahzur 2003). Studies on local Israeli attitudes toward foreign workers (Raijman and Semyonov 2004) have indicated that both Jews and Arabs oppose granting foreign workers equal rights in the spheres of education, health, housing, and social services. Some local resident antagonism toward foreign workers can be explained by the threat that these workers represent to the socioeconomic welfare of the local-resident

population, and to that population's national and religious identity. Another element of the antagonism, one that cannot be explained by these threats, can be attributed to socio-economic and ethnic factors, and to political outlooks. Moreover, government policy toward foreign workers, which represents them as a factor negatively affecting the employment and welfare of local residents, has considerable influence on local attitudes toward these workers.

C. Transience and status in the host country as factors affecting foreign worker wages

Studies conducted abroad on the effects of transience on foreign worker wages and on the degree to which employing foreign workers harms local workers have found that the wages of temporary foreign workers are generally lower than those of foreign workers who have settled permanently in their host countries. Brownell (2010), who looked at wage differences between labor migrants from Mexico to the US found that the wages of temporary labor migrants were 12 percent lower than those of permanent migrants. When social and human capital were controlled for, the wage differences narrowed to 7.4 percent. Among married workers, temporary migrants earned 9.6 percent less than permanent migrants. Regarding the degree of harm caused to local workers by the employment of foreign workers, opinions are mixed. In some studies, particularly ones seeking to investigate the impact of Mexican migrants on the American labor market (Massey, Durand and Malone 2002), one finds the argument that, from the perspective of local workers, temporary migration is preferable to permanent migration because the period in which local workers are negatively affected by the former is relatively short. In another study (Brownell 2010) it was argued that in temporary migration only the individual is temporary, while the system and framework of demand for low-wage workers is not temporary –

meaning that temporary migration offers no protection from the competition that labor migration poses to local workers. On the contrary: the low wages for which temporary migrants are willing to settle – particularly in sectors such as agriculture and construction where the supply of temporary workers is abundant – actually have a negative overall impact on wages in these sectors. It should be noted that the low wages paid to these workers reflect their temporary status, not the human and social capital that they represent.

Regarding the host state's prevailing socioeconomic approach and the impact of that approach on discrimination against foreign workers, a study that examined the relation between the hourly wage earned by local workers in Sweden and the UK and that earned by labor migrants in those countries (Kesler 2011) found smaller wage differences in Sweden, a social-democratic country characterized by relatively low levels of inequity. Migrant workers' desire to improve their standing in the labor market may also drive them to seek citizenship in their host countries, although a study conducted in Germany and the Netherlands (Euwals, Dagevos, Gijsberts, and Roodenburg 2010) found differences between these two countries regarding the degree to which such a measure is worthwhile – stemming, apparently, from institutional differences.

In Israel, government policy regarding foreign workers has been based over the years on the assumption that such workers are transient, that their employment should be subject to supervision and not their integration into Israeli society. These workers therefore usually hold the labor market's less desirable jobs, earn relatively low wages, and are employed in exceptionally bad conditions. In addition, they are not protected by Israeli labor unions (Amir 2002).

A worker's status (legal versus illegal residence and employment in the host country) is thought to exert an influence on his salary level when other factors such as human and social capital are controlled for. For example, a study that looked at the effect of status within the host

country on the wages of Latin Americans who had migrated for work to Spain and the United States (Conner and Massey 2010) found that illegal workers in Spain earned 12 percent less than legal ones. By contrast, worker status was found to have no significant effect on the wages of Latin American migrants to the U.S. However, earlier studies that looked at wage disparities among labor migrants to the United States found that the "penalty" for illegal status ranged from 14-24 percent of wages earned (Kossudji and Cobb Clark, 2002). Another study (Rivera-Atiz 1999) found more significant discrepancies – the wages earned by male Mexican migrants without US residence permits were 42 percent lower than those of migrants with permits, while the wages of female migrants without permits were 41 percent lower than those of female migrants with permits.

A wage comparison of legal and illegal workers in Israel under the Restrictive Employment Arrangement yielded an unusual finding vis-à-vis other countries, namely that the wages of foreign workers in Israel in the construction sector who had switched from legal employment frameworks to illegal ones rose by at least 50 percent (Ida 2004). Additional studies have called attention to this paradoxical situation in Israel, in which non-permit-holding labor migrants enjoy a better status than do permit-holding migrants – as a direct result of the Restrictive Employment Arrangement. There are two main reasons behind these differences, the first being labor market mobility, as manifested in the fact that non-permit-holding labor migrants are active in a free market and can choose their employers. The second reason is the existence of supportive communal frameworks for such workers since the Restrictive Employment Arrangement keeps permit-holding workers from organizing in the kind of supportive communal frameworks that might improve their living conditions in Israel (Kemp and Reichman 2003).

Spotlight: The Findings of a Previous Study[9] on Employing Foreign Workers in the Construction Sector Under the Restrictive Employment Arrangement

In 2002, as part of a comprehensive survey conducted by the Manpower Planning Authority in Israel's Ministry of Labor and Social Affairs, a study was conducted at the detention center for foreign workers at Maasiyahu Prison in Ramla. The study looked at the employment conditions of foreign workers who had arrived with permits to work in the construction sector, had switched to illegal employment frameworks, and been caught by the authorities (Ida 2004).

The study examined the employment conditions of workers from China and Romania during the period 2001-2002:

Regarding the workers from China, it was found that during this period they were required to pay their Israeli brokers an average sum of NIS 48,480 for their work permits. These payments were divided between the brokers in the country of origin and the employers and manpower companies in Israel. At the same time, Chinese workers were working 230 hours per month at an hourly wage of NIS 13.30. This left them with an average net monthly wage (after deducting the fee paid in the country of origin) of NIS 2,316. Within a permit framework dictating a maximum employment period of 27 months, a representative Chinese worker earned a capitalized net wage totaling NIS 12,321[10], after deducting the fee paid in China for the Israeli work permit. On the face of it, this would seem to indicate irrational behavior on the part of those workers who chose Israel as their target country (Kennan and Walker 2003).

[9] This was a comprehensive study conducted in 2002: Ida, 2004.

[10] The net receipts were calculated using an annual interest rate of 4 percent.

A worker who chose to leave his permit-holding employer for an illegal employer would do so after an average of six months of lawful employment. In his illegal employment framework the worker would then work an average of 225 hours per month for an hourly wage of NIS 20.60, leaving him with an average net monthly wage of NIS 3,960. Within the framework of a planned average residence period of 28 months, and with a monthly probability of 0.22 percent of being caught during the period of illegal employment, the net capitalized wage expectancy for a representative worker who spent 6 months in legal employment and 21 additional months in illegal employment would have been NIS 42,480 – a greater sum than the NIS 30,158 that would have been earned via legal employment.[11] Moreover, the Chinese workers also pointed to such phenomena as non-payment of wages, paid wages lower than those promised them, withholding of wages, and poor treatment by legal employers as factors that drove them to illegal employment.

Regarding Romanian workers, it was found that a representative Romanian worker had paid an average sum of NIS 4,660 in his country of origin for the Israeli work permit, that he worked 255 hours per month at an hourly wage of NIS 11.30, which left him with an average net monthly wage (after deducting the fee paid in the country of origin) of NIS 2,318. After integrating the relevant data it was found that, within a maximum permit-based employment framework of 27 months, a representative Romanian worker earned an overall capitalized net income of NIS 55,118.

[11] The data included the probability of being caught, calculated by dividing the average number of workers caught per month by the total number of illegal foreign workers. During the period in question, an average of 314 workers were caught each month, while according to official estimates the number of illegal foreign workers stood at some 140,000. This leads to a monthly probability of being caught of 0.22 percent.

A worker who chose to switch to illegal employment would do so after 7.29 months on average. In the illegal framework he would then work an average of 263 hours per month, at an hourly wage of NIS 17.7. This would leave him, on average, a net monthly wage of NIS 4,045. The Romanian workers did not specify any desired employment period, possibly indicating a trend toward relatively lengthy periods of residence, and perhaps even to a trend toward settling permanently in the target country (Dustmann and Kirchkamp 1999). Based on calculations for an overall employment period of just 27 months, using the relevant data, an overall capitalized net income expectancy figure of NIS 88,152 was obtained – higher than the NIS 33,034 that would have been earned via legal employment. Moreover, Romanian workers also noted the existence of such phenomena as non-payment of wages, harsh physical labor, poor treatment by lawful employers and poor living conditions as factors that had driven them to illegal employment.

The study conclusions were that, given the relatively low probability of being caught, and given the relatively large discrepancies between wages earned via legal employment and those earned via illegal employment, switching from legal to illegal employment was a rational choice from the workers' perspective. This was especially true regarding workers from China, whose net wage via legal employment over the course of 27 months amounted to just NIS 12,321. Even if their employers provided them with housing, medical insurance and transportation as required by law, the workers still had living and personal expenses of various kinds that doubtless exceeded that sum.

These findings indicate that under the conditions described above, it was not worthwhile for such workers, who wished to maximize the benefits of working in the target country (Djajic 1989), to remain with a permit-holding employer; the relatively brief period of legal employment was explicable in light of the data. Additional factors such as non-payment of wages, reduced wages, hard labor, poor treatment by employers and difficult living conditions were also found to drive the decision to switch to unlawful employment.

To conclude, the main rationale for implementing reforms in Israel's foreign-worker employment sphere results primarily from the reduction in wages and loss of jobs experienced by local unskilled workers, and the various social and national dilemmas raised by the employment of non-Israeli workers on a temporary basis. The Restrictive Employment Arrangement, which "bound" foreign workers in Israel to specific employers, served to depress these workers' wages and compromise their employment conditions disproportionately – driving them, often inevitably, to alternate, illegal employment frameworks.

3. Do Differences Exist Between the Employment Conditions of Foreign Workers in Different Frameworks? Differences between the manpower corporations and the impact on worker wages of switching corporations

A. Methodology

In order to understand the array of considerations that foreign workers took into account when deciding whether to continue working for legal employers or to switch to illegal employment under the Restrictive Employment Arrangement; and in order to determine the impact of the Corporations Arrangement reform on the profitability of working in Israel from the foreign workers' perspective, we shall employ a decision making model that assesses the net current value of foreign workers' income from employment in Israel (Ida, 2004). The model distinguishes between two possible situations: in one, the worker chooses to remain with the permit-holding employer throughout his period of employment, while in the second the worker chooses to leave the permit-holding employer during his period of employment and to work in an illegal framework.

The study draws on two main data sources:

- The findings of the study discussed previously – a study conducted in 2002 at the detention center for foreign workers at Maasiyahu Prison in Ramla – regarding the employment conditions of workers from China (Ida 2004). These data will be used for purposes of comparison and measurement of the effects of switching from the Restrictive Employment Arrangement to the Corporations Arrangement on the Chinese worker population in Israel.

- Two data sets based on the reports of 42 manpower corporations to the Ministry of Industry, Trade and Labor's Payments Division:

One contains data regarding the number of work hours, wage components and mandatory and elective payroll deductions of 775 Chinese workers employed by a single corporation over a period of 40 months, beginning in June 2005.

The other data set contains data on the number of work hours, wage components and mandatory and elective payroll deductions of 832 Chinese workers who worked for several different corporations over a 40-month period starting in June 2005. This data set also includes data on the number of those who switched corporations (two to seven transfers per worker).

In order to determine whether and to what degree the profitability of employment in Israel increased in the wake of the reform, an average wage will be calculated for each of the worker groups. The profitability of working in Israel will be assessed via the model presented above, and through comparison with the findings of the previous study (Ida 2004). These data will also serve as a basis for determining whether the reform decreased the attractiveness of foreign workers in the eyes of Israeli employers in the construction sector.

The sector's degree of competition will be determined by two methods:

The first is by assessing the difference in the employment conditions offered to workers by the various corporations. The starting premise is that if there is indeed any truth to the claim that these corporations constitute an employer cartel, no significant difference should be found in the work conditions that they offer. If a significant difference is found between the corporations, then the influence on hourly wage of factors such as corporation size and number of years' activity in the field will be examined.

The second method is that of comparing the employment conditions of workers who have not switched corporations with those of workers who have switched. In this case as well there is a starting premise that significant employment-condition differences between the two groups should reflect a high level of competition. In addition, the impact on wages of the number of times workers switch corporations will be examined, on the assumption that high worker mobility will be reflected in wage levels.

B. Research findings on employment-condition differences between foreign workers

The findings are set forth below in two parts: First, descriptive statistics are presented for the data on the wages, work hours and payroll deductions of Chinese workers who were employed by manpower corporations during the period 2005-2008; the presentation distinguishes between those who switched corporations and those who did not (Table 1). Afterward, a statistical analysis, in particular an analysis and assessment of employment-condition differences between the various corporations and the market's degree of competitiveness, will be presented in terms of several parameters.

Workers who were employed by the same corporation throughout the relevant period of employment (2005-2008) were found to have worked 233 hours per month on average, and to have earned a mean net wage (after mandatory and elective deductions) of NIS 5,418 per month (including a NIS 700 deposit). That is, their average gross hourly wage was NIS 23.70, and their average net hourly wage was NIS 20.

Table 1. **Pay and hours of work for workers in corporations, 2005-2008**

	Workers in a single corporation N=775	**Workers who moved corporations N=832**	**t-test for the significance of difference between the means**	**Level of significance**
Mean gross pay (NIS)	5550 (1,092.86)*	5397.50 (1,262.06)	2.579	.010
Mean mandatory deductions (NIS)	395 (277.46)	323.10 (264.59)	5.307	.000
Mean authority deductions (NIS)	437.20 (349.79)	445.30 (384.80)	-.438	.660
Gross pay per hour (NIS)	23.70 (3.24)	24.40 (3.98)	-4.00	.000
Net pay per hour (NIS)	20.10 (2.69)	21.00 (3.23)	-5.55	.000

***** The numbers in parentheses are the standard deviation.

Source: Economics and Research Administration, 2011.

Workers who switched corporations during the relevant employment period were found to have worked 220 hours per month on average, and to have earned an average net wage (after mandatory and elective deductions) of NIS 5,329 per month (including a NIS 700 deposit). That is, their hourly gross wage was NIS 24.4 and their hourly net wage was NIS 21.

No significant differences were found between the employment conditions of workers who had switched corporations and those who had remained with the same corporation throughout the period in question. On the one hand, the hourly wage of a worker who switched corporations was significantly higher than that of a worker who did not (NIS 24.40 versus NIS 23.30, respectively). On the other hand, the number of monthly work hours of the former group was significantly lower than that of the latter group (13 hours per month), meaning that overall income of workers who switched corporations was slightly lower than that of workers who had remained with the same corporation throughout the period.

C. The market's level of competition

One major argument mounted by Israeli human rights organizations against the Corporations Arrangement has to do with the construction sector's level of competition. The organizations raise the concern that an employer cartel has been formed, in which the employers are coordinating foreign-worker employment conditions between themselves. One can test the validity of this claim by assessing differences between corporations in terms of the employment conditions that they offer to their employees, differences in the elective deductions taken from foreign workers' wages, in the number of work hours, and in the workers' gross and net wages. Should a significant degree of difference between corporations be found, this

would refute the human rights organizations' claim that the reform has undermined competition in the sector.

Analysis findings: Significant differences were found between the corporations for all of the chosen parameters: work hours, elective deductions and hourly wage. That is, these findings do not support the argument that manpower corporations in the construction sector are behaving in the manner of a price-fixing cartel.

In order to isolate the possible reasons behind the differences between corporations in employment conditions, we will look at the relationship between gross hourly wage and corporation size. An analysis of the findings shows that the larger corporations (those with over 200 employees) paid a mean hourly gross wage that was higher, at a statistically significant level, than that paid by the smaller corporations (a difference of approximately 4 percent – NIS 24.05 and 23.17, respectively).[12]

Another variable that tends to affect wages is that of employee seniority in the corporation. In order to test this, we looked at the relationship between the employee's seniority in the corporation[13] and gross hourly wage. The analysis indicated the absence of any statistically significant relationship between gross hourly wage and seniority in the company. What this means is that employee seniority in the corporation does not affect gross hourly wage in a statistically significant way.

In order to trace the impact of worker mobility (measured in terms of the number of times workers switched corporations) on wages, we looked at the relationship between the number times workers changed corporations and their gross hourly wage.

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[12] The calculation is based on calculations by the author from reports of the manpower corporations in construction to the Payments Division of the Ministry of Industry, Trade and Labor for 2005-2008.

[13] Seniority in a corporation is the time elapsed since the first report by the corporation of a wages payment made to the employee.

Analysis findings: a weak and statistically significant negative correlation was found between gross hourly wage and the number of times a worker switched corporations. In other words, the more times a worker changed corporations, the lower the hourly wage.

In summation, worker monthly wages increased significantly compared with those paid under the Restrictive Employment Arrangement. No significant differences were found between the wages earned by workers who switched corporations and those who remained with the same corporation; differences were found between corporations in terms of the employment conditions that they offered. Additionally, the larger corporations were significantly more likely to pay a slightly higher wage than those of the smaller corporations. Worker seniority had no significant effect on wages, while the number of times a worker switched corporations had a weak, statistically significant negative effect on wages.

4. The Foreign Worker Employment Reform in the Construction Sector and Implementation of the Andoran and Eckstein Committee Decisions: Discussion

An examination of the employment conditions of Chinese workers in Israel's construction sector until 2005, and of the rise in incidence of illegal employment within this worker group due to poor employment conditions – taking into account that workers from China constitute the largest foreign national group employed in this sector – served as the basis for a High Court of Justice ruling to repeal the Restrictive Employment Arrangement under which these workers were employed. The inter-ministerial committee charged with planning an employment framework for foreign workers in Israel and with setting conditions for permit allocation (the Andoran Committee, 2004),

recommended, as noted previously, that the employment conditions of foreign workers in the construction sector be subject to strict government regulation. The change was meant to raise the cost to employers of employing foreign workers, and ultimately to reduce the number of such workers. The committee also recommended ways of encouraging foreign workers to leave the country at the end of their permit period.

In order to assess the reform's achievements in terms of ensuring appropriate employment conditions for foreign workers in the construction sector, and in order to assess the degree to which the recommendations of the committees established to address the issue of non-Israeli workers in Israel have been implemented, the present study examined several relevant issues:

The first of these issues had to do with the reform's impact on the employment conditions of Chinese workers in Israel's construction sector; the investigation was based on the legal employment model (Ida, 2004), through which one can calculate the current value of the income earned by workers under the Corporations Arrangement and compare it with the prior state of affairs under the Restrictive Employment Arrangement.

The net present value of employment in Israel for a worker who remained with the same employer is represented by Equation 1:

$$1)\ G_i^L = \sum_{t=1}^{N} \frac{Y_t}{(1+r)^{t-1}} - C_0$$

G_i^L – The net present value of employment in Israel for Worker I.

Y_t – The monthly net income earned via legal employment – overall financial receipts in Israel, minus all of the receipts that the worker might have received via employment in his/her country of origin.

C_0 – The cost of an Israeli work permit – a one-time sum paid by the worker prior to his/her arrival in Israel.

r – The deduction rate by which future receipts and costs are capitalized.

N – The maximum period of employment permitted (rose from 27 months to 63 months).

A review of the relevant data on workers who were employed by the manpower corporations during 2005-2008 indicates that, over an employment period of 63 months, a worker should have been expected to earn a net sum of approximately NIS 270,000, not including the fee that was required for the Israeli work permit.[14] Theoretically, if we deduct from the aforementioned figures the cost of the Israeli work permit, at a level identical to the amount that the Chinese workers paid during the Restrictive Employment Arrangement era (NIS 48,000), then we obtain a net current value of NIS 222,000. However, a rise in the profitability of working in Israel also led to a rise in the cost of the work permit. An investigation of this matter (the Committee to Formulate Policy on Non-Israeli Workers 2007) revealed that the cost of the work permit under the

[14] Since the difference between workers who changed corporation and those who remained with a single corporation are negligible, the calculation was done using the average monthly income.

Corporations Arrangement had risen by 50 percent (from NIS 48,000 to 72,000). On the assumption that these data are indeed accurate, the net current value of employment in Israel should have declined by NIS 22,000, leaving the foreign worker with a sum of approximately NIS 198,000 at the end of his employment period.

This analysis unequivocally indicates that, from the Chinese workers' perspective, the profitability of working in Israel has significantly increased under the Corporations Arrangement, compared with the Restrictive Employment Arrangement (Ida 2004). It should be recalled that, under the Restrictive Employment Arrangement, the net current value of a Chinese worker's income via legal employment was NIS 12,321, while the expected net current value via illegal employment was NIS 42,480. A more detailed look at the wage differentials under the Corporations Arrangement revealed that the major contribution to profitability (NIS 146,000) is the significant lengthening of the maximum allowable period of employment in Israel from 27 to 63 months.[15] Due to the rise in wages and the lengthened maximum period of employment in Israel, the Chinese workers were, as noted above, required to pay a significantly higher sum for the Israeli work permit. However, despite the increased cost of this variable, it is clear that the wages received by Chinese workers have changed for the better under the Corporations Arrangement, compared with the Restrictive Employment Arrangement.

The second issue examined was that of the degree to which the reform has succeeded at making it more expensive for construction-sector employers to employ foreign workers, promoting the

[15] If the maximum permitted period of employment had not been lengthened, the current net worth of employment in Israel would have been around NIS 52,000, on the assumption that employees were required to pay NIS 72,000 for the work permit and NIS 76,000 if they were required to pay only NIS 48,000 for the permit.

integration of Israeli workers in this sector and reducing the number of foreigners employed in the sector. It is important to note that the wage data presented in the framework of this study do not represent the entire cost to the manpower corporations of employing foreign workers. These corporations also bear the costs of additional employment terms, e.g. housing and medical insurance costs – only some of which the corporation is entitled to deduct from the workers' wages – and other costs such as fees, levies and guarantees stipulated by the regulations. On the assumption that the manpower corporations are commercial, for-profit enterprises, the cost to the actual employers, i.e., the construction companies, of employing foreign workers may be expected to be higher than that incurred by the corporations. Ultimately, there appears to have been a significant rise in the cost to employers of employing foreign workers and, indeed, Ministry of Industry, Trade and Labor reports on the cost of employing foreign workers in the construction sector indicate that the cost has risen and has even come to exceed that of employing Israelis in the sector (NIS 39.4 per hour and NIS 36.4 per hour, respectively).[16] Nevertheless, employing foreign workers still retains a certain degree of profitability because the output of a foreign worker in the construction sector is higher than that of an Israeli, meaning that a foreign worker's labor cost per unit of output is lower than that of an Israeli (Eckstein Committee 2007).

It should be noted that, alongside the policy of making it more expensive to employ foreign workers in the construction industry, the period 2002-2010 witnessed a process of reducing the number of permits to employ foreign workers in this sector, as shown in Figure 1.

[16] According to the Central Bureau of Statistics (Table 1.22, *Statistical Abstract of Israel 2006*) the wages for a non-Israeli worker in the construction sector in a full-time position in 2005 was an average of NIS 5,046. The costs of employing a full-time worker according to this data was NIS 7,320, where 33 percent of the costs relate to additional costs other than wages.

Figure 1 shows that the number of permits to employ foreign workers in the construction sector declined drastically during the years 2002-2004, from 41,000 to just 11,000. From 2004 on the rate of decline slowed and stabilized; in 2010 there were a total of 10,000 permits in the sector. At the same time there was a rise in the number of Israeli workers, from 117,000 in 2001 to 157,000 in 2010. The major portion of this increase, from 127,000 to 157,000 (a 24 percent rise) took place during the latter half of the decade from 2005-2010, that is, after the transition to the Corporations Arrangement. That same period also witnessed a significant rise in the number of Palestinian workers employed in Israel's construction sector, from about 1,400 in 2001 to 16,300 in 2010. Regarding Palestinian workers as well most of the increase in employment numbers took place after the move to the Corporations Arrangement (from 6,700 in 2005 to 16,300 in 2010 – a 143 percent increase).

Figure 1

Israeli, foreign and Palestinian workers in the construction sector in Israel

thousands, 2001-2010

Source: Yoram Ida.

Data: Central Bureau of Statistics, *Statistical Abstract of Israel 2011*, Table 22.5.

A third issue examined is that of the degree to which the reform helped reduce illegal employment. Equation 2, which presents the expected net present value of income from illegal employment, is helpful in framing the issue (Ida 2004).

$$2)\ G_i^{IL} = \sum_{t=1}^{K} \frac{Y_t}{(1+r)^{t-1}} - C_i + \sum_{t=K+1}^{M} \frac{P_t(X_t - p_t F_t)}{(1+r)^t}$$

G_i^{IL} – the overall profit from illegal employment for Worker *i*.

M – the desired total period of employment in Israel, some of which Worker K spends working legally and some of which he/she spends working illegally.

X_t – the net monthly income earned via illegal employment during period t – all financial receipts minus all receipts that the worker would have received via employment in his/her country of origin.

p – the chance of being caught by the immigration authorities.

P_t – the probability of not being caught by period $t - 1$.

F_t – the cost to a worker caught during period t. The cost encompasses loss of time, detention, property left behind, the remaining wages that the worker is obliged to give up, various deposits, etc.

The two equations indicate that the relative profitability of switching to illegal employment depends on several factors:

- The maximum permitted period of employment (N). The longer the allowable period of employment, the higher the present value of income from legal employment will be, and thus the lower the relative profitability of illegal employment.
- The ratio of income from illegal employment to income from legal employment: ($\frac{X_t}{Y_t}$). The lower this ratio, the smaller the disparity will be between the present value of expected

income from illegal employment and the present value of income from legal employment, and thus the relative profitability of switching to illegal employment will decline.

- The probability of being caught (p_t). The greater the likelihood of being caught, the lower the current value of expected income from illegal employment will be, and thus the lower the relative profitability of switching to illegal employment.

- The financial cost to the worker who is caught (F_t). The higher the cost to the worker who is caught, the lower the current value of expected income from illegal employment will be, and thus the lower the relative profitability of switching to illegal employment.

Two of the factors that changed in the wake of the committee recommendations – the lengthened permitted employment period and the increased probability of being caught due to greater enforcement – work to reduce the profitability of switching to illegal employment, particularly at the earlier stages of the employment period. The rise in financial cost to the worker who switches to illegal employment (forfeiture of the deposit that has accumulated in the worker's account), helps reduce the profitability of switching at the later stages, since the sum that the worker will lose becomes greater with the passage of time. Regarding the fourth factor, that of the [insert ratio] income ratio, no data are available regarding the wages paid to illegal workers during the relevant period; one may assume, however, that the rescinding of the Restrictive Employment Arrangement and a concomitant crackdown on non-permit-holding employers have reduced both the income gap and the profitability of working in illegal frameworks. The conclusion to be drawn is, therefore, that the reform does include elements that work to reduce illegal employment within this worker group.

The fourth issue has to do with the incentive that is created for workers to leave Israel once their permits expire. Within the reform framework, the government required the corporations to deposit a monthly sum of NIS 700 into each worker's account; the worker is eligible to receive the accumulated amount at the time of his departure from Israel. Should the worker not leave Israel, some, or all of the accumulated sum, is forfeited. In addition to the role played by the deposit in making it more costly to employers to employ foreign workers,[17] the deposit is supposed to encourage workers to leave Israel at the end of the maximum employment period (Epstein, Hillman, and Weiss 1999). A simple calculation reveals that a worker who has reached the end of the 63-month permit period will be eligible to receive an accumulated deposit of NIS 44,000 – a sum that he stands to lose, in part or in full, if he does not leave Israel in time, or at all. This constitutes a major incentive to leave the country at the end of the permit period, at least in terms of the relevant population.

The fifth issue examined is the existing degree of competition between the construction-sector manpower corporations. Theoretically, the fact that the workers in question are unskilled and subject to strict government regulation dictating a minimum wage and a minimum number of work hours for which the corporation must pay the worker, would naturally have caused worker wages in all corporations to be around the fixed wage level. One indeed finds that the mean wage received by the workers was in the area of the minimum wage, and that the average number of hours worked was more or less at the level stipulated in the regulations. When one compares the corporations, however, one finds that, from an employment-conditions perspective (number of hours, hourly wage and elective deductions), there were significant differences between

[17] The corporations are obligated to deposit this money into a special account in the worker's name. For the purposes of the calculations of profitability, the deposit was added as a component of wages from the worker's perspective.

them. This testifies to the fact that the corporations are not behaving in the manner of a price-fixing cartel, as has been claimed by human rights organizations petitioning the High Court of Justice. Differences in gross hourly wage were also found between small corporations (those employing fewer than 200 workers) and large corporations (those employing over 200 workers); the wage paid by the smaller corporations was slightly lower than that paid by the larger corporations.

Contrary to expectation, the possibility of switching corporations – one of the basic principles of the reform – has had virtually no impact on the workers' employment conditions. When one compares the employment conditions of workers who switched corporations with those of workers who did not switch corporations, one finds that the hourly wage earned by the former group was only slightly higher than that earned by the latter group (those who did not switch corporations). Moreover, because the workers in the latter group worked more hours per month on average, their monthly wage was actually slightly higher than that earned by those who had switched. Another interesting finding is that multiple corporation transfers have a negative impact on a worker's gross hourly wage. That is, the more times a worker switched corporations, the lower the gross hourly wage became. One possible explanation for this is that a large number of employer changes testifies to instability or inadequacy on the worker's part, and not necessarily to a quest for better wages and employment conditions.

The impact on hourly wage of seniority within the corporation was found to be not significant. This might be explained by the fact that in this kind of employment model the actual employer is required, per the regulations, to transfer every payment that it makes to the worker via the corporation and not directly to the worker. The corporation naturally deducts a major portion of the remuneration for itself, meaning that the actual employers may refrain from compensating

workers for professionalism and seniority, at least not through the corporations.

The overall conclusion suggested by the above findings is that there is no basis for the human rights organizations' claim that the Corporations Arrangement has impaired competition in the sector.

At this point the question naturally arises of whether another employment system might not have proven more effective in attaining the goals defined at the policy making stage in this sphere. Considering the options at the time, the alternative to the Corporations Arrangement proposed by the petitioners to the High Court of Justice was that of employing foreign workers in the framework of a quota by sector, with the workers free to switch employers within the sector. On the one hand, this system might have increased competition in the construction sector, and even caused the wages of the foreign workers to rise more significantly. On the other hand, past Israeli experience with the employment of foreign workers indicates that such workers are a relatively weak population that has trouble exercising its rights – meaning that the proposed alternative would have exposed them to the risk of exploitation and to the potential violation of basic worker and human rights. It should be remembered that under this type of employment arrangement, in which the worker is free to move among a large number of employers in the sector, the government is unable, for obvious reasons, to impose strict regulation on the sector, as has been done under the new employment system. It therefore appears – particularly considering the reform's success in significantly improving the employment conditions of foreign construction workers – that even if a price is being paid in terms of relatively low competition within the sector, that price is reasonable from a standpoint of safeguarding the rights of all workers in the sector.

The sixth issue examined is that of the degree to which the Andoran and Eckstein Committee recommendations have been implemented. The former committee recommended switching to the

Corporations Arrangement in the construction and agricultural sectors, while the latter recommended a massive reduction in the number of permits granted for the employment of foreign workers in Israel. At a more detailed level, starting in 2010, the Eckstein Committee recommendation was that: only specialist workers be permitted in the construction sector; in the agricultural sector, the number of permanent workers be reduced to 5,000, to be concentrated in Israel's more distant periphery; and that measures be taken in the nursing care sector to slow the rapid increase in the number of permits being granted.

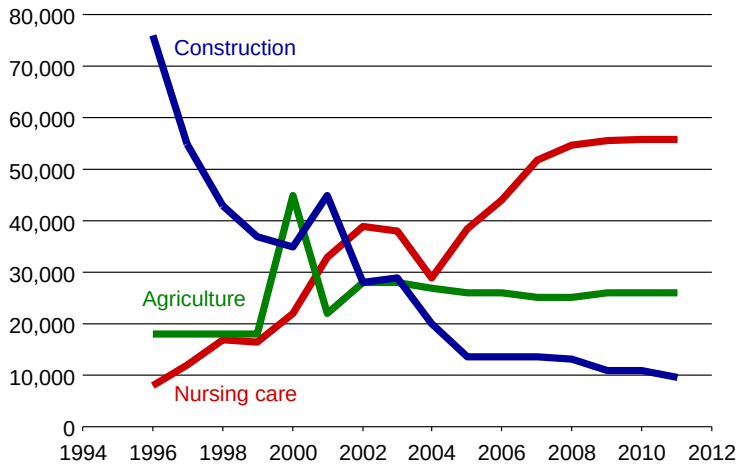
Figure 2, which presents changes during the period 1996-2011 in the number of foreign worker employment permits issued in the construction, agriculture and nursing care sectors, reflects the degree to which the committee recommendations have actually been implemented.

Regarding the construction sector, the Andoran Committee recommendation to switch to the Corporations Arrangement was implemented immediately. With respect to the Eckstein Committee recommendations regarding the number of foreign worker employment permits in the sector: although the recommendation to completely cease issuing employment permits in the construction sector from 2010 on was not implemented, one can see, nevertheless, that there has been a major decrease in the number of foreign workers over time, with a concomitant influx of local Israeli and Palestinian workers taking their place.

Figure 2

Work permits for foreign workers in construction, agriculture and nursing care

1996-2011



Source: Yoram Ida.

Data: Ministry of Industry, Trade and Labor, Foreign Workers Authority and Ministry of the Interior, Administration of Border Checkpoints, Population and Immigration.

The nursing care sector has become the main sector in which foreign workers are employed in Israel. Due to the field's complexity and the social and human factors at play within the sector, the Eckstein Committee made do with recommending that the rate of growth in the number of permits being issued be slowed. In actuality, during the period 2008-2011 the number of permits issued rose at a relatively moderate pace, from 54,700 to 55,500 (a 2 percent increase). The rate of growth in the number of permits being issued in the sector may thus be regarded as trending downward, relatively speaking.

In contrast to the construction and nursing care sectors, the agricultural sector stands out as one in which none of the recommendations of either committee have been implemented. The Andoran Committee recommendation that the Corporations Arrangement be instituted in the sector has not been acted on as of this writing, and the agricultural sector is the only one in Israel still operating under the Restrictive Employment Arrangement. Moreover, the Eckstein Committee recommendations have yet to be implemented in the sector – the number of permanent worker permits in agriculture has not only not declined to 5,000, as the committee recommended, but actually rose during the period 2008-2011 – from 25,100 to 26,000.

The State Comptroller's Report for 2010 addressed this issue by noting that the Israeli government had decided in September 2006 that the foreign worker's direct employer in the agricultural sector should be the Israeli farmer. This is despite the fact that the Andoran Committee had recommended employing foreign workers via corporations as in the construction sector. The Comptroller added that this government decision, which contradicted the recommendation of a committee that the government itself had appointed, required a clear explanation. The Comptroller also stated that in such a situation an array of alternatives should be considered – alternatives that had not been brought up before the government. The demand for an explanation was particularly important in light of the fact that the proposed decision contradicted the committee's recommendation; there was a concern that the decision would be influenced by interest groups and by opposing market forces. The government, for its part, did not require that alternatives be presented to it, and the State Comptroller ruled that the decision had been made on insufficient grounds.

When considering the Corporations Arrangement's ramifications for the construction sector, in terms of reduced profitability to the

employer of employing foreign workers (as demonstrated in this study), one understands the incentive for employers in the agricultural sector to continue with the sector's current employment arrangement. Not only that, their attempt to increase the sector's foreign worker employment quotas to the extent possible is also understandable.

The government's powerlessness, by contrast, to address the issue of foreign workers in the agricultural sector appears to be rooted in political forces. The power wielded by Israeli agriculturalists as a group, and their ties to the decision making echelon, have helped them delay and rescind the reform, which negates their interests.

In summary, the employment system referred to as the Corporations Arrangement, as implemented in the construction sector, is proving to be a correct choice in light of the constraints that characterize the foreign worker employment situation in Israel. When comparing the employment conditions of foreign workers under this arrangement with those under the Restrictive Employment Arrangement, there is a major improvement in the conditions under which Chinese workers in the construction sector are employed, due particularly to the lengthened maximum period of employment set by the new arrangement. The rise in worker wages and the fees and levies set by the government have made it more expensive and less profitable to employ foreign workers in construction and, combined with a reduction in the number of foreign worker employment permits issued in the sector, have helped foster the re-integration of Israeli and Palestinian workers into the sector.

The reform also included elements of intensified enforcement vis-à-vis foreign workers and their employers which, when added to the removal of the bonds tying workers to their employers, reduced the profitability of illegal employment from both the workers' and the employers' perspectives, leading to a decline in the prevalence of illegal employment. The requirement that a monthly deposit of NIS 700 be made into each worker's account, and the fact that this deposit

can be confiscated should the worker not leave Israel when the maximum period of employment has ended, constitute a meaningful incentive to the worker to fulfill his obligations in this sphere.

The study found no basis for the claims of the human rights organizations that the Corporations Arrangement has created an employer cartel that is coordinating worker employment conditions. Although no great difference was found in the wages offered by the various corporations, no support was found for the argument that employment conditions and wages are being coordinated among the employers.

Based on these conclusions, the Corporations Arrangement appears to be an effective means of achieving the goals defined for reforming the employment of foreign workers in Israel's construction sector. An investigation of government policy relating to implementation of the Eckstein Committee recommendations from 2007 regarding the reduction or termination of foreign worker employment permits reveals that the committee recommendations were partially implemented in the construction sector, where there has been a steady decline in the number of such permits. The nursing care sector witnessed a slowing of growth during the relevant period in the number of foreign worker employment permits. In the agricultural sector, where the recommendation of an earlier committee (the Inter-Ministerial Committee to Assess Foreign Worker Employment Arrangements in Israel 2004) to switch to the Corporations Arrangement has not as yet been implemented, there was a slight increase in the number of permits issued during the period in question.

5. Conclusions and Recommendations

The main conclusion to be drawn from the study is that the new employment arrangement for foreign workers in Israel's construction

sector has largely succeeded in achieving the goals set prior to its implementation. This success raises questions regarding the arrangement's non-implementation in another sector where large numbers of foreign workers are employed – the agricultural sector.

As noted, in 2004 the Andoran Committee recommended that the agricultural sector switch to an arrangement in which foreign workers would be employed via corporations, at the same time that such an arrangement was being implemented in the construction sector. However, this recommendation has yet to be acted on, and a similar state of non-implementation prevails regarding other recommendations and government decisions, i.e., the decision to severely reduce the number of foreign worker permits in agriculture and the restriction of foreign worker employment to specific areas. Thus, if the government is, for various reasons, not interested in, or capable of, reducing the number of foreign worker permits granted in this sector, it should at least change the employment arrangement that currently prevails in it. Such a measure would, in addition to improving the foreign workers' employment conditions and safeguarding their rights, also lead to reduced demand for such workers in the sector on the part of the employers, due to the anticipated rise in the cost of employing them.

Another problem, one requiring more specific and stringent measures, is that of the broker's fees that the foreign workers are required to pay for permits to work in all of the sectors that employ them in Israel. This problem is particularly troubling from a humanitarian perspective, and cries out for attention on the part of the relevant decision making bodies. The outrageous broker's fees that foreign workers are forced to pay constitute a modern form of human trafficking; they weaken the worker's negotiating position vis-à-vis the employer, damage Israel's international image and foreign relations, and could potentially result in sanctions (the Committee to Formulate Policy on Non-Israeli Workers 2007). The large sums of money

demanded in exchange for Israeli work permits – a requirement imposed most egregiously on Chinese labor migrants under the Restrictive Employment Arrangement – led to a situation in which legal employment in Israel became financially unfeasible and illegal employment frameworks experienced a massive influx of these workers, for whom it also became worthwhile to remain in Israel beyond the permitted period. The worker recruitment process generally involves fiscal offenses such as money laundering and tax evasion. Unfortunately, the transition to the new, corporation-based employment system has also had negative byproducts in the form of a significant rise in the broker's fees demanded of workers. This situation calls for government intervention in the process by which workers are recruited in their countries of origin, through entities empowered to supervise recruitment activity, and through the development of a framework of international agreements and arrangements designed to ensure that no broker's fees are imposed on workers – or at least that such fees remain within reasonable bounds.

The elimination or at least serious reduction in the broker's fees demanded of foreign workers would have additional positive repercussions. The aim is to diminish the existing financial incentive to bring additional foreign workers to Israel. A number of studies have shown that large sums of money collected from foreign workers in their countries of origin (the Eckstein Committee 2007; Ida 2004) find their way, unofficially and illegally, into the pockets of employers and brokers who, for their part, exert constant pressure to bring more workers in, even when manpower is available in Israel (Kemp and Reichman 2003). Thus, stringent government intervention in this area would also aid in attaining the declared goal of reducing the number of foreign workers in Israel.

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