



## **MIGRANT CARE-WORKERS IN ISRAEL: BETWEEN FAMILY, MARKET AND STATE**

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*In the early 1990's, Israel opened its gates to migrant guest workers who were invited to work, on a temporary basis, in agriculture, construction and in-home care sectors in Israel. The in-home care sector developed quickly in those years due to the introduction of migrant workers into the care industry coupled with the creation of a new welfare state benefit: a long-term care benefit that subsidized the employment of in-home care workers working for dependent elderly and disabled Israelis. The article explores the legal and public policy ramifications of the transformation of Israeli families caused by the influx of migrant care workers into Israeli homes. Exploring the relationship between welfare, immigration and employment laws and marketized and non-marketized care relationships, it reveals the intimate links between public policy, 'private' families and defamilialization processes.*

### **Key words:**

Family, Care Work, Migration, Employment Law, Welfare State, Elderly, Transnational Families, Defamilialization.

## INTRODUCTION

In the late 1980s and early 1990s, a series of policy decisions and legal reforms changed the face of care provision for the dependent elderly in Israel. The change began with the introduction of a Long-Term Care Benefit (*Gimlat Siuud*; hereinafter Care Benefit) into Israel's social security system. It continued with a policy decision to issue guest-worker visas to migrant workers to serve as in-home care-workers for the elderly and disabled,<sup>1</sup> and with the regulation of migrant workers' work and life in Israel. The result deeply affected the Israeli family: familial relations changed due to the new availability of affordable in-home 24/7 care provision for the elderly, as did expectations in regard to care-giving for the elderly, intergenerational living arrangements, and the gendered division of care work in the Israeli household. These policy choices and legal changes also changed the interaction between the institutions of the state, the family, and the market in Israel, and the role of each institution in the provision of individual care. This article analyzes the ways in which legal mechanisms took part in shaping the change in the Israeli family and in care provision.

The article looks to three main areas of law that were pivotal to the reform of care for the elderly in Israel: welfare, employment, and immigration. These three fields of law are the essential building blocks of care-related policies in globalizing economies.<sup>2</sup> It is also these areas in the regulatory framework where reform can occur so as to meaningfully alter distributional inequalities in care markets. *Welfare law* shapes the basic institutional divisions of labor and determines whether the bulk of care will be provided by the state, the market, the family, or a mix of the three. *Employment law* defines central factors in the design of the care services market: it

regulates the distribution of the costs of care between employers and employees, thereby shaping families' considerations in turning to the market to purchase care services; and it affects the employment conditions, vulnerability, and bargaining power of the care-workers themselves. Finally, *immigration law* shapes migrant worker vulnerability as well as the cost of care services.

Each of the following parts of the article brings to the forefront one of these legal fields, but exposes how the distributive outcomes are determined by the confluence of one set of legal rules with background rules (Hale, 1923). The final part discusses their overall effect, focusing on traditional familial relationships (mostly parent-child) but adding to the picture as a main actor the in-home care worker. The care worker is discussed as an important figure that straddles family and market and is pivotal for understanding household structure and familial or familial-like care dynamics in Israel today.

## I. WELFARE STATE LAW AND POLICY

The forces of globalization and privatization, as well as the social change towards individualization, all played a part in Israel's changing policy in relation to old-age care, and in the creation and implementation of Israel's Care Benefit. The Care Benefit was added to Israel's Social Security Act in late 1980's (Shtasman, 2001). It was uncharacteristic of welfare developments in Israel at the time. During the 1980s the Israeli welfare state began a partial transformation from a social-democratic to a liberal welfare state, a process characterized by waves of privatization and welfare state retrenchment (Doron, 2003). The expansion of welfare to include a Care Benefit was a response to the rapid aging of the Israeli population, expressing a

clear preference for care of the elderly in their community, rather than in an institutional setting. This welfare state expansion and recalibration was not, however, wholly an anomaly, since its design incorporated elements of privatization that limited state responsibility for the services provided and the employment of care-workers.

After vigorous policy debates, it was decided that the National Insurance Institute (NII) will introduce a new Care Benefit that would provide 'in kind' services to those found eligible (Shtasman, 2001). Eligibility is determined by a triple test: for age (recipient must be of mandatory retirement age), income (relatively generously assessed), and dependency level. An applicant who is found eligible receives 'in kind' provision of care, chosen out of a package of services that includes, for example, in-home care, adult diapers, or laundry services.

The main service provided by the Care Benefit is in-home care (Natan, 2011). Depending on the level of financial and physical needs identified by the eligibility tests, a recipient can be found eligible for between 5 to 18 hours of in-home care per week. Once eligibility is determined, the state does not itself provide the service. Because the state was reluctant to employ the caregivers or publicly administer the provision of care-workers, it encouraged the establishment of a quasi-market, in which care-providing agencies are chosen by means of a tender, and from which the elderly can obtain the care-hours they are entitled to (Eizenstadt & Rosenhek, 2000).

The dependency test serves another purpose besides determining Care Benefit eligibility. Both a Care Benefit recipient and an applicant who passes the dependency test – regardless of his or her income – are eligible to apply for a permit to employ a migrant care-worker. Once the application is approved, the recipient must apply to the Ministry of Internal Affairs, which regulates immigration matters, and to a private

placement agency for care-workers (care-providing agency), which processes the request for a migrant care-worker and supplies the service. If the person in need of care passed the dependency test but not the income test, she has to pay the full cost of employing a care-worker, but the option of hiring a migrant worker significantly reduces her costs. If a person in need of care was found eligible for the benefit, part of the care-worker's wage is paid with the Care Benefit. The benefit, however, does not land directly with either the worker or the benefit recipient; rather, it is paid to the care-providing agency, which then pays the worker's wage.

If a live-in worker is employed fulltime by the elderly, thus exceeding the Care Benefit care-hour allocation, the benefit's recipient pays the care-providing agency for the extra service hours.<sup>3</sup> However, employing a live-in migrant care-worker, under the current system, does not require increasing the worker's wage by a comparable ratio to the increase in work hours. Although employers are obliged to comply with almost all protective employment legislation (except overtime compensation, as will be discussed in Part III), including minimum wage, they often end up paying less because they can legally deduct up to 25% of the workers' wage to cover costs such as housing and health insurance and other costs (Kav La-Oved, 2010; Natan, 2011). As a result the wage paid to a migrant care worker, employed full time in the elderly persons home, above the Care Benefit is an amount that even upper-tier low-income households can afford when they are assisted by the Care Benefit.<sup>4</sup>

In 2009, 17.7% of people over the age of 70 in Israel received the Care Benefit, compared to only 5.5% in 1990, and practically all of them used it to purchase live-in care (Natan, 2011; Brodsky et al., 2004). The new reliance on the in-home care of a care-worker rather than a family member both reflects and induces

profound changes in intergenerational relationships in Israel: it transformed options, expectations and care preferences in relation to old-age care, thus re-shaping familial relationships.

## II. EMPLOYMENT LAW

Employment law also plays an important role in shaping familial care provision decisions. Through family leave legislation, working hour laws, antidiscrimination law, wage regulation, and the regulation of part-time work, employment law shapes income level, as well as the time a working adult can spare for familial care without risking his job. For example, in Israel workers are entitled to take sick leave for their own illness as well as that of a spouse, a child or a parent. Familial leave days are subtracted from the worker's overall sick leave days, and there is a cap of six to eight days for each type of family-leave. Such leave therefore offers some relief to workers with familial care obligations, but cannot substitute for around-the-clock care, when such is needed for elderly and other dependents. Another, often less emphasized way in which employment law shapes care markets is through its regulation of care work itself. This part will focus on the way the exclusion of care-workers from some employment protections makes care work more affordable to households purchasing care services (ILO, 2010; Mundlak, 2011).

In-home care-workers in Israel, whether residents or migrants, are covered by all articles of protective employment legislation but one: overtime compensation (Mundlak & Shamir, 2011). The partial exclusion from overtime compensation in Israel is the result of the Labor Court interpretation and application of Article 30 of the 1951 Hours of Work and Rest Law (HWR), affirmed by the High Court of Justice (HCJ).

Court opinions dealing with live-in care-workers' entitlement to overtime pay have revolved mostly around whether live-in care workers fall under one of the general exceptions in Article 30 of the HWR: the personal confidence exception in subsection or the supervision exception. After several years of shifts in the case law on the question of the application of the HWR Law to care workers the matter reached Israel's High Court of Justice (HCJ).<sup>5</sup> While the interpretation of Article 30 of the HWR may appear to be a technical problem, its underlying concern is anything but technical: it effects the cost of care services and requires the resolution of a conflict between two vulnerable groups. Recognizing the rights of migrant care-workers to full compensation may end up harming another vulnerable group, namely the elderly, the disabled and their families who are in desperate need of affordable care (Mundlak & Shamir, 2008). The HCJ decided not to intervene in the competing Labor Court rulings on the subject, thus affirming the position that excluded of in-home care-workers from overtime pay. Due to the exclusion of care-workers from overtime pay, migrant care-workers' current wage does not substantially exceed the rates of the Care Benefit, thus ensuring that live-in care remains affordable to Israelis across most income levels.

### III. IMMIGRATION LAW

Another aspect of the Israeli legal system which is partly responsible for the increasing affordability and popularity of in-home care work by migrant workers, is the regulation of the migrants' work and life in Israel through immigration law.

Labor migration was introduced into Israel in 1993. Following the outbreak of the first Palestinian uprising in the Occupied Territories (First *Intifadah*) and the Oslo Accord signed in 1993, Palestinians were no longer permitted to enter Israel for work



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purposes. The “sealing off” of the Occupied Territories, which was justified by security considerations, created a shortage in the Israeli secondary labor market (Farsakh, 2005). In order to deal with the labor shortage, the Israeli government established a guest worker visa program. Permits to employ migrant workers are limited to certain industries, namely construction, agriculture and care work. While the demand for workers in construction and agriculture was the direct result of the sealing off of the Occupied Territories, the same was not true of care work. Palestinians were not previously employed as in-home care-workers, nor was there, in fact, a thriving care market (Semyonov et al., 2002). The guest worker regime in the care sector was developed in tandem with the developments in the Israeli welfare state described in Part I, namely the introduction of the Care Benefit (Schmid, 2005). To ensure coordination between immigration and welfare policy, it was determined that there would be no administrative cap on the number of migrant care-workers entering Israel. Rather, the entrance of workers is determined by the need for care.

The growth in the numbers of migrant care-workers coming into Israel is significant. Data is imprecise, but it is estimated that in 2010 there were approximately 54,000 migrant care-workers, more than seven times their number in 1996 (Kav La-Oved, 2010). A governmental committee estimates that migrant workers account for 50% of the workforce in the care sector (Ministry of Finance, 2007). Migrant care-workers arrive mostly from the Philippines, Nepal, India, Sri Lanka, and Eastern Europe.

The employment of migrant workers is regulated by the Foreign Workers Law (Prohibition on Unlawful Employment, and the Assurance of Fair Conditions) 1991, which was enacted shortly before the mass entry of migrant workers and foresaw it.

The law was concerned with the problem of avoiding undocumented ('illegal') work and securing the state's control over the presence of migrant workers. It was initially confined to sanctions against employers who employ undocumented workers, but was amended in 2000 to include a list of employer obligations to the migrant workers they employ, granting workers the rights to decent accommodations, health insurance, and a written employment contract in the workers' language. This regulation maintains a minimal direct involvement of the state in the workers' living and working conditions by assigning employers the responsibility for providing these social services. Employers, seeking to reduce costs and facing very weak enforcement of their obligations, often do not comply with the requirements. Accordingly, in reality, few migrant workers enjoy the full range of the rights theoretically extended to them by law (Kav La-Oved, 2006).

Despite the formally equal applicability of employment rights to care-workers, the main obstacle to realizing these rights has emerged in the seam between labor law and migration law. The most glaring example is the binding arrangement imposed on all migrant workers (Kemp, 2010), according to which a worker's visa is granted only for working with a particular employer. Hence, termination of the employment relationship – for whatever reason – entails a violation of the terms of the visa, driving the worker into an 'undocumented' ('illegal') status. Although migrant workers are often considered 'weak' in terms of labor market power, they are in large demand; this is particularly true with regard to care-workers. The binding arrangement sought to inhibit labor market mobility and suppressed the migrant workers' market power, making them reluctant to resist employers' exploitative behavior for fear of losing their visas (Ellman & Laacher, 2003). Its unintended result was the creation of an

incentive to work in an undocumented fashion, thus avoiding the restrictions imposed by the legal regime (Shamir, 2011).

In 2006, the HCJ responded to a constitutional challenge to the binding arrangement, holding it void due to the violation of human rights,<sup>6</sup> and directed the legislative and executive branches to identify alternative measures. Since then, the state has gradually replaced the binding arrangement in some sectors. In the care sector, it was determined that migrant workers can only work through intermediaries (licensed private employment bureaus, hereinafter: PEBs). The person holding the permit to employ a care-worker and the care-workers must register with one of a few dozen PEBs. The worker may choose to move from one PEB to another, i.e., the binding system of the past has been abolished and replaced with a more flexible type of sectoral binding (Kemp, 2010).

After the move to a sectoral binding arrangement, organizations for the elderly lobbied for a stricter binding arrangement, arguing that the labor mobility facilitated by the new arrangement leads to high employee turnover and the abandonment of people in need of care by their caregivers. As a result, in 2011 the Law of Entry to Israel was amended to limit care-workers' labor market mobility. The amendment permits the passage of regulation limiting the number of employer changes a care-worker can request during their visa period, as well as regulation limiting employer changes to employers within a certain geographical area. At the time of writing of this article, the regulation had not yet been introduced.

Whereas in other industries the guest worker visa is limited to five years, after which the employer is responsible for the worker's departure from Israel, care-workers can apply for almost unlimited extensions of their visas (Greenfield, 1996).

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An extension can be given if a social worker has determined that the worker's departure will cause severe harm to the person in their care. As a result, some migrant care-workers, especially those taking care of disabled children, can remain in Israel legally for decades yet not gain any legal rights towards residency or citizenship. Nevertheless, measures are taken to ensure that their stay in Israel is temporary. One such measure is the adoption of a "no-family" policy towards migrant guest-workers (Ben-Yisrael & Feller, 2006). Migrant workers can enter the country on a guest-worker visa only if they do not have a close family member (spouse, parent or child) who is also a guest-worker in Israel. Similarly, if two migrant workers get married in Israel, one of them is required to leave the country, and until recently if a female migrant worker gave birth to a child she had to leave the country with the newborn within twelve weeks of the birth and was allowed to return to Israel for the remaining period of her visa only if she returned alone.<sup>7</sup> Furthermore, since 2010 new regulations stipulate that all migrant care-workers must work in a live-in arrangement.<sup>8</sup> These policies aim to ensure that migrant workers do not settle in Israel, and minimizes the social services that the population of documented migrant workers requires (Shamir, 2011).

Another important characteristic of the Israeli guest worker arrangement is that most workers incur great debt in order to travel to Israel. Israeli PEBs use recruiters in the countries of origin that often promise workers high wages and, in return, demand high fees for their services and provide high interest loans to cover their travel expenses (Raijman & Kshinrovitch, 2012). A survey conducted by the Israeli NGO Kav La-Oved showed that migrant care-workers pay their recruiters an average fee of approximately \$6,000, which is equivalent to seven average monthly salaries they will earn in Israel, and seven times the amount permitted by Israeli law

(Kav La-Oved, 2010). Due to the excessive recruitment fees, even when workers are paid their full wage, repayment of their debt may take several months, putting them in a situation akin to debt bondage, and reducing their ability to leave their employer without harsh economic consequences.

The combination of all these policies creates plenty of incentives for migrant workers to violate the conditions of their visa and remain in Israel “illegally.” When a worker violates her visa conditions and becomes undocumented, she frees herself from the state’s regulatory mechanism, becoming at once freer due to increased labor market and social mobility, but also more vulnerable to exploitation (Rosenhek, 1999a). Accordingly, an inadvertent result of the care-worker visa regime has been the creation of another flourishing care market in Israel, consisting of low-wage, undocumented nannies and domestic workers that serve the Israeli middleclass.

## VI. DISCUSSION: CARE WORK, FAMILIES AND DE-FAMILIALIZATION

The combined effect of welfare, employment, and immigration law significantly contributes to the change in intergenerational care expectations and solidarities in Israeli society. A 2010 report suggests that if current trends and policy persist, then by 2025 every fifth elderly person in Israel will be aided by a migrant care-worker (Eckstein, 2010). Indeed, currently many dependent elderly people in Israel, across income levels, can expect to be cared for by a migrant worker who lives in their own home rather than be taken in by their children or moved to a formal care institution (Mazuz, 2008). However, research suggests that this does not reduce intergenerational solidarity or weaken family ties (Lowenstein & Katz, 2010). Family members of elderly people in need of care continue to play an important (and time-consuming) role in their parents’ care. What changed dramatically is the *type* of care

provided by family members. After employing a care-worker, family members no longer engage in menial tasks involved in care, mainly taking care of the elderly person's physical needs. Rather, theirs has become a more administrative as well as spiritual role (Roberts, 1997), providing social and emotional support, and handling bureaucratic aspects of the elderly person's life (Iecovitch, 2011). While this phenomenon is significantly more prevalent among the Jewish population in Israel, it is becoming increasingly more prevalent among Israel's Arab citizens as well (Khalaila, 2008).

The care-worker's intimate involvement in every physical aspect of the elderly person's life in some cases makes him or her much more than a 'mere' worker and allows them to develop a quasi-familial relationship with their employers (Mazuz, 2008; Ayalon, 2009b), a phenomenon known as "false kinship" (Cox & Narula, 2003). Seeing the worker as 'one of the family' at times leads to close and loving relationships, but may also entrench unequal power relations, and disarms contractual and legal claims made by the worker (Lutz, 2008; Parreñas, 2001).

This Israeli policy has affected the level of care families can provide (buy) for dependent family members, as well as the level of direct one-on-one care they can now *avoid*. While it is impossible to show a direct causal relation, it can generally be speculated that with the entrance of cheap unskilled labor into the country Israeli women's level of (full time) market participation increased,<sup>9</sup> as well as, most probably, their leisure time. This regime, however, does not necessarily imply greater gender equality. The gendered division of labor remains largely intact given the fact that the majority of migrant care-workers are women and that women in Israeli

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families are still seen as responsible for managing dependent family members' care (Ron, 2009).

While the Israeli Care Benefit increased women's "de-familialization" – i.e., it decreased their responsibility for direct care provision to family members as well as their dependency on the family for economic survival (Esping Andersen, 1999) – it had an unintended consequence of particular significance to the middle class. An inadvertent result of the care-worker visa regime was the opening of another flourishing care market in Israel, consisting of low-wage, undocumented nannies and domestic workers. Due to the lowered costs of domestic labor, many middleclass families can now afford to pay a migrant worker to do domestic work or care for their children. As for the migrant workers, such employment opportunities often provide them a better income and greater flexibility than working legally as in-home aides. The unpredicted consequence of the migrant care-worker visa policy, then, has been an intensified de-familialization of the middle class through the emergence of a supply of cheap labor for the provision of commodified forms of family and household care.

Besides its possible gender equality effects, the Israeli case features significant class effects as well, since the cost of care was lowered for families across income levels. The cost of care to low-income families is directly subsidized by the Care Benefit, which often ends up paying for more than half the wage of a fulltime migrant care-worker. The cost of care work is also indirectly 'subsidized' for those who do not pass the income test, but nevertheless receive an employment permit for a migrant worker after passing the dependency test. These high-income and middle-income families are subsidized in effect due to the availability of cheap labor. As a result,

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families across most income levels benefit from the reliance on migrant labor, which is cheaper than Israeli labor, due to, among other factors the exclusion of migrant workers from overtime pay. Even though the poorest families still cannot afford such care (Iecovitch, 2011), it is clear that live-in care is affordable to lower-income families. One indication for its affordability is the widespread presence of care-workers even in poor neighborhoods and in the economically underdeveloped periphery of Israel (Mazuz, forthcoming 2013). The result is greater equality among the Israeli citizenry.

While the increased de-familialization of Israeli women can be seen as an achievement of Israel's care policy, the effect on care workers seems to be a case in which de-familialization runs amok. As discussed in Part III, Israel holds an official de-familializing approach as part of its guest worker regime. Workers enter Israel on the condition that they leave their families behind (immediate family members cannot work in Israel at the same time) and do not establish families in Israel. Thus the immigration policy attempts to prevent the possibility of the settlement of migrant workers. Furthermore, unlike migrant workers in other labor sectors whose migration to Israel is truly temporary, migrant care workers can potentially stay in Israel legally for decades. During these long years many migrant workers family lives become transnational and a "global care chain" develops in which women migrate to care for family members in receiving countries, leaving their own children and dependents in the care of unpaid family members or paid care workers in the sending countries (Hochschild, 2000). Research of sociologist Rhacel Salazar Parreñas shows, that many transnational families suffer great difficulties, and pay a harsh price due to these de-familializing policies (Parreñas, 2005).<sup>10</sup>



Undocumented migrant workers, on the other hand, are “under the radar” and therefore not controllable in the same way as documented migrants. Despite Israel’s vigorous attempts to prevent the settlement of migrant workers, small migrant communities have been established, introducing new needs related to education, healthcare, and other social services (Raijman et al., 2006, Rosenhek, 2000). While the state generally refuses to acknowledge these families (a child born in Israel receives his parents’ status), the reality in the field has led some municipalities – most notably Tel-Aviv – and NGOs to recognize them and provide social services including schooling, healthcare, and family services (Kemp & Raijman, 2008; Klein-Zeevi, 2003). Thus undocumented migrants experience weaker de-familialization than their documented counterparts. Furthermore, in 2006 and 2009, as part of sweeping campaigns to deport undocumented migrant workers, Israel operated an amnesty program for children of migrant workers who were born in Israel and their families (Mundlak & Shamir forthcoming, 2013a). The amnesty programs were limited in scope, highly restrictive, and led to the naturalization of approximately 1300 children and their families. Nevertheless, as a result some migrant workers entered into an unprecedented process of full inclusion as permanent residents, and eventually citizens, in Israel.

According to Israeli employment law, migrant care-workers in Israel theoretically enjoy working conditions on a par with those of Israeli workers. The main formal difference between a migrant and a domestic care-worker would appear to be the freedom to switch occupations and employers, which is limited. However, this single difference is crucial in determining their opportunities in the Israeli labor market, their level of dependence on employers, and, as a result, their bargaining power and ability to improve their working conditions. Both documented and

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undocumented workers share this vulnerability: documented workers experience it due to binding arrangements and debt while undocumented workers experience it due to the threat of deportation that looms over their relationships, including their employment relationship. As a result both groups are not only in a weak position to bargain for better conditions but also rarely take action to enforce their rights (Garcia, 2012).

Furthermore, the structure of employment of migrant workers in Israel makes the enforcement of such rights difficult. The protections that are granted to migrant workers are structured in a “privatized” way. The state itself is neither a party nor directly responsible for any of the rights guaranteed. Instead, the regulation, supervision and provision are delegated to the employers and to the PEBs and care-providing agencies. The state avoids direct accountability by, for example, distancing itself from the employment relationship via the use of PEBs and care agencies, positioning the elderly person as the employer, and structuring the provision of social services such as housing and health insurance as the employer’s exclusive responsibility (Rosenhek, 2000). This employment structure also makes any unionization efforts almost impossible due to the difficulty of designating an employer that might be a viable counterpart in collective bargaining. Furthermore, the workers themselves express resistance to taking action against the person they care for (and, for example, take collective action and strike for a day) because of their responsibility, dependency, or close familial-like relationship with the person in their care (Mundlak & Shamir forthcoming, 2013b).

Finally, the exclusion of migrant care-workers from overtime compensation puts them at the additional risk of exploitative working conditions because the

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employer can expect their availability around the clock. Care-workers are legally entitled to one day of rest a week, but besides that there is no limit on their time of work. A survey among migrant care-workers found that they are employed on average 12.7 hours per day, and most remain on call throughout the night (Kav La-Oved, 2010). The reluctance to quantify the care workers' working hours may also be explained by their family-like role, and a "commodification anxiety" in relation to fully marketizing and regulating in-home care activities, even when undertaken by paid workers (Mundlak & Shamir, 2011).

The Israeli case is an example of a state policy that has managed, through a combination of welfare law, employment law, and immigration law, to create a relatively egalitarian apparatus for insiders (residents and citizens), whereby middleclass as well as some low-income members can purchase in-home care, but at the cost of employing a non-resident and therefore more vulnerable, unorganized, and often illegal workforce. It therefore seems that those who bear the main cost of (or provide the subsidy for) equality are 'outsiders', whose interests are rarely taken into account in the design of social policy.

#### CONCLUSION

Whether migrant care-workers benefit from or overpay for the Israeli citizenry's equality with regard to old-age care may be debatable, but what is clear is the effect of the availability of migrant care-workers on Israeli families, and its deep de-familializing effect on care workers and their families. The policy decisions in these three areas of law have reached deep into families and relationships and shaped them in new ways: changing the patterns and roles of familial caregivers, transforming expectations about old-age care and intergenerational living, reducing

expectations of menial care by spouses and children of frail partners or parents, and freeing family members who previously provided menial care (mostly women) to participate more fully in the labor market. This care arrangement, which combines state responsibility for care with private market actors and familial caregiving, leads to the creation of close and intimate – perhaps even familial – relationships between men and women from the developing world who work in Israel and the aged Israeli citizenry. Yet these policies also create a work environment in which the worker is dependent and vulnerable, thus facilitating unequal bargaining positions that lead to some abuse and exploitation.

The combined analysis of the three areas of law shows the vital connection between legal policy and familial care. It is impossible to understand familial intergenerational expectations, dependencies, and practices in Israel without recognizing the effects of welfare, employment and immigration law on family structures, relationships and living arrangements. Law turns out not only to arrange state power vis-à-vis its subjects, but also to facilitate the redefinition of individual and community spaces and commitments, with diverse and often unexpected distributive results along axes of gender, class, age, and status.

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## NOTES

<sup>1</sup> Migrant care workers can be issued a visa to work in Israel to take care of elderly or disabled people. In this article I will focus on their role in relation to elder care alone because the case of elder care best exemplifies the confluence of the three legal areas – migration, welfare, and employment – in shaping familial care practices.

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<sup>2</sup> A fourth relevant area of law that is not covered in this article is family law. Family law is important in determining levels of familialization because it governs the entitlements and obligations of the parties within a marriage or a marriage-like relationship.

<sup>3</sup> Employing a live-in care worker is affordable for many Israeli families, even when the elderly in need does not pass the income test and is therefore not eligible for the Care Benefit, as well as in cases where the Care Benefit on its own may not cover the full cost of around-the-clock employment due to the widespread coverage of privately purchased Long-Term Care Insurance that covers the additional cost. Over 60% of the population is covered by such privately purchased insurance policies, which are common because they are sold via the main public health insurance providers (Natan, 2011).

<sup>4</sup> Currently the monthly minimum wage is NIS 4,100. For a recipient who is eligible for 18 hours of weekly care, the NII transfers to the care agencies NIS 3,469. Accordingly, even if the worker is paid minimum wage without deductions, the elderly or her family has to pay an additional NIS 600 per month, a sum that many Israeli families can afford.

<sup>5</sup> HCJ 1678/07 *Gloten v. National Labor Court* [2009] [Hebrew].

<sup>6</sup> HCJ 4542/02 *Kav La-Oved v. Government of Israel* [2006] [Hebrew].

<sup>7</sup> See Ministry of Interior, *Procedure for Treatment of a Pregnant Migrant Worker and a Migrant Worker that Gave Birth in Israel*, Procedure no. 5.3.0023 (Aug. 1, 2009). This procedure was found to be unconstitutional in a recent High Court of Justice decision. See HCJ 11437/05 *Kav La-Oved v. Minister of the Interior*, IsrSC

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[2011] [Hebrew]. The court ordered the government to establish a new and constitutional procedure. A new procedure was yet to be established by the time of publication of this article.

<sup>8</sup> See Ministry of Interior, Population, Immigration and Border Authority, *Criteria for Eligibility for Employing Foreign Workers* (January, 2011)., available at: <http://www.piba.gov.il/Subject/ForeignWorkers/siod/Pages/CriteriaForPermit.aspx> [Hebrew] (accessed 1 September 2012).

<sup>9</sup> In 2011 73% of women between the ages of 25-54 participated in the labor market, a distinct increase from the low 60% rates of the 1980s. Naturally, migrant care work is not the sole reason for the increase, but can definitely be seen as an element in it. See: Central Bureau of Statistic, *Percent in Civilian Labor Force by Age, Population Group, and Sex* (2012), [http://www.cbs.gov.il/publications12/saka0112Q/pdf/tab01\\_10\\_q.pdf](http://www.cbs.gov.il/publications12/saka0112Q/pdf/tab01_10_q.pdf) (accessed 1 September 2012) [Hebrew]

<sup>10</sup> Parreñas further shows that despite or due to these challenges, transnational families develop alternative perceptions of good motherhood as providing for their families and offering them a better economic future. She further suggest that despite the difficulties , the emotional bond between mothers and their children can remain strong, even if transformed, after migration (Parreñas, 2005).

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