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**Migration Regimes, Intra-State Conflicts and the Politics of  
Exclusion and Inclusion: Migrant Workers in the Israeli Welfare State**

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## RIIM

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**Migration, the Welfare State and the Politics of Exclusion and  
Inclusion:  
Labor Migrants in Israel**

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### **Abstract**

This paper studies the exclusion and inclusion of migrant workers in the welfare state within the context of the migration regime dominant in Israel. It is shown that while the policy implemented is marked by strong exclusionary practices, some state agencies — especially at the local level — endorse inclusionary approaches that contradict the basic assumptions of the migration regime. This inconsistency is analyzed considering the distinct institutional interests of different state agencies. It is concluded that even in cases in which the migration regime is strongly associated with restrictive ethno-national conceptions of membership, certain state agencies develop institutional interests that lead to inclusionary approaches. These approaches, in turn, can create openings leading to the partial inclusion of migrant workers in the welfare state.

## Introduction

Since 1993 substantial numbers of contract workers have been imported to Israel to replace the Palestinian workers from the occupied territories. At the same time, growing numbers of undocumented migrant workers have entered the country spontaneously, becoming illegal residents. Today, some 90,000 documented migrant workers and between 50,000-100,000 undocumented workers reside in Israel, all employed in the least-desirable occupations in the secondary labor market. The employment and living conditions of these migrant workers, as well as the social and political significance of their presence for Israeli society, are becoming important focuses of public and political attention. This article examines how the Israeli state is facing this new phenomenon, focusing on the politics of exclusion and inclusion in the welfare state.

Since T. H. Marshall's (1950) seminal work on the link between the dynamics of citizenship and the institutionalization of social rights, the welfare state has become a central research site for the study of inclusionary and exclusionary processes and of the creation of social hierarchies. In recent years, growing attention has been paid to the status of subordinate groups — especially women and ethnic minorities — in the welfare state. Important theoretical and empirical efforts have been invested in the examination of processes of exclusion and inclusion of such groups in the welfare state, the ideological and structural factors underlying these processes, and their effects on the political and economic incorporation of these groups into the polity (e.g. O'Connor 1996; Quadagno 1994; Sainsbury 1996).

As the concept of social rights developed historically with the extension of citizenship and the consolidation of the nation-state, non-citizen migrant workers present an especially interesting case of incorporation. They and their families' presence in Western countries represents a basic challenge to the exclusionary character of the welfare state. The status of migrants in the system of distribution of social rights and entitlements has emerged, therefore, as an important topic in the analysis of the dynamics of the welfare state and in the study of the constitution of differential categories of membership in democratic polities.

The aim of this article is to study the politics of exclusion and inclusion of migrant workers in the welfare state within the context of the migration regime dominant in Israel, which has as a fundamental characteristic a highly restrictive disposition towards the immigration of non-Jews. My claim is that while the policy implemented is marked by strong exclusionary practices, there are also some inclusionary trends that seem to contradict the basic assumptions of the Israeli migration regime. I analyze this tension considering the conflicts between different state agencies concerning the provision of social benefits and services to migrant workers. Thus, instead of referring to the state as a homogeneous apparatus, as is customary in the literature, I examine the divergent modes of operation of different state agencies and the diverse institutional interests within the state that shape policy formulation and implementation. This conceptualization of the state as a heterogeneous entity sheds light on the complexities of the politics of inclusion and exclusion of migrant workers in the welfare state.

Before proceeding with the examination of the Israeli case, I introduce some analytical and empirical links between the dynamics of the welfare state and the incorporation of labor migrants that have emerged mainly from the experience of Western welfare states with labor migration after World War II. I then refer to the replacement of Palestinian frontier workers with migrant labor during the early 1990s and to the challenges this process presents to the Israeli state. Next I assess the extent to which migrant workers — both documented and undocumented — have been included in various fields of social security and services, describing the diverse institutional arrangements through which the services are provided and analyzing the intra-state politics of policy formulation and implementation.

### **The Welfare State and Labor Migration**

Labor migration flows to Western industrialized countries have raised important questions concerning the functioning of the welfare state and its links to processes of political, economic and social incorporation. One of these questions refers to the political processes that determine whether and to what extent migrant workers are entitled to

social rights. The principle of closure, it has been noted, represents a key factor in the organization and functioning of the national welfare state (Freeman 1986). Due to the close connection between the emergence of the welfare state and the nation-state, access to social services and benefits was generally articulated in terms of membership to the national polity, reflecting the coupling between the two primary components of citizenship: identity and rights (Soysal 1996). Yet the presence of migrant workers posed a basic challenge to this articulation, raising the political issue of the distribution of social rights and entitlements, and making the exclusionary character of the welfare state increasingly difficult to maintain (Bommes 1995; Faist 1994; Freeman 1986; Soysal 1994). The challenge became more significant when, mainly as a consequence of family reunification processes, the maintenance and reproduction needs of the migrant population came to the fore of the public agenda.

The general trend has been one of gradual assumption of responsibility by the welfare and nation states for the living conditions of their non-citizen residents and a concomitant inclusion of these populations into the welfare state structures. There is, of course, significant variance between different countries, between the diverse legal categories to which migrants are assigned, and between different types of welfare programs. Notwithstanding these differences, however, it is possible to assert that all Western welfare states grant certain social rights to migrants concerning contributory programs of social security and access to social services — such as education and health services (Dorr and Faist 1997; Faist 1995a; Heinelt 1993). In certain cases, notably in the USA, even undocumented migrants enjoy certain access to welfare programs and to basic social services (Marcelli and Heer 1998; Schuck 1987).

The position of migrant workers in the welfare state is significantly improved when they attain the status of permanent residents in the host countries — a status that most of the former guest-workers residing today in Europe have acquired. Although these “denizens” are not granted formal citizenship, and hence do not enjoy full political rights, they are entitled to social rights that are almost identical to those of nationals (Dorr and Faist 1997; Faist 1995b; Hammar 1990). This inclusionary trend has been interpreted as an indication of the decreasing importance of national citizenship in determining the

distribution of social rights and the legitimate access to societal resources (Jacobson 1996; Soysal 1994).

It should be stressed that those assertions do not mean that the process of inclusion does not encounter strong political opposition. Indeed, this has become a central issue in the politics of the welfare state: significant political forces oppose the granting of social rights to migrants, presenting them as taking over jobs and welfare resources from nationals and as a burden to the host societies (e.g. Castles 1986; Faist 1994; Schonwalder 1996). This approach is clearly illustrated by Proposition 187, passed in California in 1994, which denies the access of undocumented migrants to most basic social services (Smith and Tarallo 1995). Moreover, it would be naïve to claim that the inclusion of labor migrants is absolute or that their real access to resources distributed by the welfare state is equal to the access enjoyed by citizens. Diverse informal exclusionary practices restrict their de facto access to social services and limit their chances to actualize their formal social rights (e.g. Dorr 1997; Schuck 1987).

Notwithstanding these limitations in the inclusionary processes, the migrant workers' entitlement to social rights has had significant impact on their incorporation in the host society. Since the welfare domain is one of the most important sites in which membership in the polity is constituted and actualized, their inclusion into the welfare state has not only contributed to an improvement in their living conditions and in their life chances, but has also had broad political significance, decisively reshaping their status in the host polities. The extension of social rights to labor migrants implies recognition and legitimization of their presence by the state, substantiating the accountability of its welfare agencies for their living conditions. Once these populations are defined as having rights in the domain of distribution of societal resources, the way is open for their recognition as legitimate participants in the polity. In other words, their inclusion into the welfare state has enabled migrant workers to participate in the political sphere, elaborating and advancing demands upon the state formulated in the language of rights (Freeman 1992; Miller 1981; Schmitter Heisler 1992). By making the state accountable to all its residents, the process of inclusion into the welfare state legitimizes and encourages claims-making by non-citizens, connoting a basic transformation in the



articulation and actualization of the concept of membership in these polities (Soysal 1994).

Until now I have referred to general inclusionary trends that characterize Western welfare states. It is important to recognize, however, that the politics of inclusion and exclusion are conducted within specific social and political contexts. A key factor in the shaping of these processes is what Gary Freeman (1992) designates “migration regimes.” This concept refers to the set of goals, agencies and procedures — including both formal legal provisions and informal institutionalized practices — employed by states to deal with migratory flows. It includes the formulation and implementation of both policies of regulation and control of entry to the national territory, and policies related to the economic, social and political status of immigrants.

Migration regimes tend to be relatively coherent and stable. Nevertheless, the analysis of concrete modes of operation of these regimes can reveal complex pictures of inner tensions and conflicts, which are reflected in the diverse approaches and practices of different state agencies. As Calavita (1992) demonstrates in her analysis of the immigration policy in the USA, the state does not necessarily function as a monolithic entity. Different state agencies with diverse fields of action and clienteles develop divergent, and sometimes contradictory, institutional interests, ideologies and practices. Some of these practices, moreover, can deviate from the dominant migration regime. This claim does not mean that the state does not exist as an institutional complex or that it is merely a collection of agencies with no common logic of action (Calavita 1992; Evans, Rueschemeyer and Skocpol 1985). The concept of a heterogeneous state implies rather an institutional system potentially exposed to inner inconsistencies. In the following analysis of the Israeli case, I show how these intra-state tensions and conflicts function, along with the dominant migration regime, as crucial factors in the politics of exclusion and inclusion of migrant workers.

### **Palestinian Frontier Workers, Migrant Workers and the Israeli Migration Regime**

The employment of non-citizen workers is not a new phenomenon in Israel. Important economic sectors have been dependent upon the employment of non-citizens since the

late 1960s, when, following the 1967 War, Palestinian frontier workers from the occupied territories were incorporated into the secondary labor market as a cheap and unprotected labor force (Semyonov and Lewin-Epstein 1987). This situation began to destabilize as a consequence of a significant development in the Israeli-Palestinian conflict: the breakout of the Palestinian uprising (*Intifada*) in late 1987. Due to periodical strikes organized by the Palestinian leadership and closures imposed by Israel, the supply of Palestinian workers became uncertain, causing labor shortages and probably inducing wage increases in those economic sectors in which Palestinian workers were concentrated, especially construction and agriculture (Bank of Israel 1990). At this stage, the Israeli government successfully resisted pressure from employers to authorize the import of foreign workers, proposing instead diverse programs to attract Israeli workers to these sectors by offering subsidies to both employers and employees (Ministry of Labor 1990).

Paradoxically, the situation became much more acute following the signing of the Oslo accords between Israel and the Palestine Liberation Organization in 1993. The peace process fomented the perpetration of spectacular terrorist actions inside Israel by Palestinian organizations that opposed the process. In order to prevent these actions and the consequent erosion of Israeli public support for the accords, the Israeli government implemented a policy of hermetic closure of the borders between Israel and the occupied territories that caused severe labor shortages in the construction and agriculture sectors (Bank of Israel 1994). In the construction sector the problematic circumstances were aggravated by the fact that, due to the wave of mass immigration from the Soviet Union that began in 1989, this sector experienced a high level of activity, hence requiring a stable labor force. In these conditions, the employers' organizations intensified their pressure on the government, demanding a solution through the import of foreign workers (State Comptroller 1996).

These circumstances led the government to change its policy and authorize the recruitment of contract workers abroad (Bartram 1998). The number of work licences for foreign workers provided to the employers jumped from about 10,000 in 1993 to 70,000 in 1995, peaking at roughly 100,000 in 1996 and falling to 90,000 in 1997.<sup>1</sup> In addition,

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<sup>1</sup> Internal Report of the Manpower Planning Authority, Ministry of Labor and Social Affairs: 'Foreign Workers in Israel: Statistics for 1997,' June 1998.

significant numbers of migrant workers were employed without permits. While it is very difficult to establish the precise number of “illegal” foreign workers employed in Israel, the most reliable estimates range between 50,000 and 100,000.<sup>2</sup> These undocumented workers include foreigners who enter the country on tourist visas and stay to work, and authorized workers who become “illegal” after transgressing the permit conditions by overstaying their visas or by changing their employer.

The substitution of Palestinian frontier workers who commuted daily or weekly from their communities to work places in Israel with migrant workers who sojourn in the country for extended periods of time has created a new situation. First, while the maintenance and reproduction needs of Palestinian workers and their families — such as housing, health and education services — were met in their own communities, the presence of a substantial population of non-citizen residents in the country requires the development of institutional arrangements to provide these services. Furthermore, given the political context of the encounter between the Palestinian frontier workers and the host society, the prospects of their settlement in Israel were practically nonexistent. In the case of overseas migrant workers, by contrast, the probability that they and their families might permanently settle in the country is quite significant. Since the potential emergence of new non-Jewish minorities is perceived by large segments of Israeli society as a threat to the Jewish character of Israel, concern over the settlement of this population has become an important issue on the public agenda.

This situation contradicts the fundamentals of the Israeli migration regime, which has as its most basic principle the explicit and formal demarcation between Jews and non-Jews.<sup>6</sup> While Jewish immigration is actively encouraged and assisted by state and quasi-state agencies, the immigration of non-Jews is strongly restricted. This principle is reflected at the ideological, institutional and policy levels. Historically, the Zionist project

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<sup>2</sup> Internal Report of the Manpower Planning Authority, Ministry of Labor and Social Affairs: ‘Foreign Workers in Israel: Statistics for 1997,’ June 1998; Internal Report of the Central Bureau of Statistics: ‘Statistics on Foreign Workers,’ November 1996. The topic is politically charged, as it is linked to the moral panic that has been developing around the presence of migrant workers in Israel. In this context, exorbitant numbers such as 200,000 or 300,000 of ‘illegal’ foreign workers have been touted by some politicians and echoed in the media (Globes, 28/10/97; Ha’aretz, 6/9/96, 14/11/96).

<sup>6</sup> The distinction finds expression in the terminology used in Israel to refer to immigration. The term *aliyah* (literally, ‘ascension’) refers to the immigration of Jews to Israel, while the immigration of non-Jews is designated with the neutral term *hagirah* (literally, ‘migration’).

of state- and nation-building was founded on Jewish migration flows. The origins of the welfare state during the pre-state era and its subsequent dynamics are strongly related to the character of Israel as a colonial-settler society and to the process of Jewish nation-state building. Accordingly, one of the basic factors affecting the development of the welfare system has been the goal of promoting the social, economic and political incorporation of Jewish immigrants (Rosenhek 1998). Albeit less intensively than in the past, the immigration of Jews to Israel is still conceived as a crucial component of Zionist ideology and as the *raison d'être* of the state. State and quasi-state agencies are directly involved in the encouragement of Jewish immigration and in the execution of migration operations, Jewish immigrants are granted Israeli citizenship automatically upon their arrival in the country, and special programs of social and economic assistance are run with the aim of facilitating their integration.

With respect to non-Jews, by contrast, the state's migration policy is highly restrictive. In fact, until recently the possibility that substantial numbers of non-Jewish immigrants would settle in Israel was a non-issue. Two recent developments, however, have made this possibility real. First, the enormous migration flow from the former Soviet Union brought significant numbers of non-Jews who, due to their familial links with Jews are entitled to immigrate and settle in Israel. The second development concerns the topic of this article: the continued presence of both documented and undocumented migrant workers.

In accordance with the Israeli migration regime, the import of foreign workers was conceived as a temporary solution to the labor force shortages caused by the closures on the occupied territories, and the persistent presence of this population in the country is generally viewed as a basically negative phenomenon which the state has the duty to eradicate. Therefore, the state's declared goals are to reduce the number of migrant workers in the country and, especially, to prevent their permanent settlement. Reflecting these goals, the recruitment of documented migrant workers is based on quotas determined by the government, rotation, and strict impediment of family reunification. In the case of the undocumented migrant workers, the state's aims are to prevent their entry

to the country and to repatriate those already living and working in Israel.<sup>4</sup> Nevertheless, significant constraints impede the effective implementation of the policy.

The failure of the state's attempt to prevent the presence of migrant workers yielded important questions regarding the provision of social services and the eventual granting of social rights to that population. Given the restrictive character of the Israeli migration regime for non-Jews, it could be expected that the migrant workers would be absolutely excluded from the welfare state. Indeed, the social policy towards them is marked by strong exclusionary practices. Interestingly, however, some state agencies endorse and implement partially inclusionary practices. The existence of these contradictory trends makes it necessary to consider the state as a heterogeneous apparatus, calling for the study of the tensions and conflicts between different state agencies regarding the issue of inclusion of migrant workers into the Israeli welfare state. These intra-state conflicts and tensions appear mainly at two axes: the vertical axis, between the central and the local levels of the state apparatus; and the horizontal axis, between the professional and bureaucratic staffs of agencies charged with the provision of social services — such as the Ministry of Health and the Division of Welfare in the Ministry of Labor and Social Affairs — and those of agencies functioning mainly as carriers of the Israeli migration regime and as gatekeepers — such as the Ministry of Interior and the Authority for Foreign Workers in the Ministry of Labor and Social Affairs. In the following sections I specify these conflicts and the institutional interests that underlie them.

### **Exclusion and Inclusion of Migrant Workers in the Israeli Welfare State**

In describing the mechanisms through which the maintenance needs of migrant workers are supposed to be satisfied, we must first distinguish between those workers with residence and work permits and those living and working in Israel without authorization. There are important differences between these populations with respect to their demographic characteristics and the institutional arrangements that shape their

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<sup>4</sup> 'Policy Proposal Regarding Foreign Workers,' submitted to the government by the Minister of Labor and Social Affairs, August 1996.

employment and living conditions. These differences, in turn, lead to the emergence of distinct needs for social services.

As part of the state's attempts to prevent the permanent settlement of migrant workers, in the case of those imported legally it precludes the recruitment of married couples. Moreover, as the state does not entitle these workers to residence rights beyond the work contract period, family reunification is absolutely banned. As a consequence, the documented migrant workers population is characterized by the virtual total absence of families with children. Thus, the major maintenance needs of this workforce are related to the provision of housing and health services for an adult population. By contrast, in the case of the spontaneous undocumented migrants, the state lacks the institutional capabilities to prevent the immigration of married couples, the marriage in the country of new couples, and the birth of children. Therefore, there are significant numbers of families and children among this population. Due to this demographic structure, the maintenance and reproduction needs of undocumented migrants include health services both for adults and children and education. As we shall see below, there are significant differences in the institutional arrangements for providing these social services to documented and undocumented migrant workers.

#### *Documented Migrant Workers*

The basic principle guiding the state's policy on documented migrant workers is to keep its direct involvement with their living conditions minimal. A clear manifestation of this principle is the government's refusal to sign bilateral agreements with the sending countries to formalize and regulate the procedures for the recruitment and employment of foreign workers. The government has declined requests by the sending countries on that issue because such international treaties might legally define the state's responsibility for the workers' employment and living conditions, making it accountable to the governments of the sending countries and to the migrant workers. Moreover, the

agreements might be interpreted as indicating the legitimization and formal endorsement by the state of the importation of foreign workers.<sup>5</sup>

In line with its policy of avoiding direct involvement, the state has defined the provision of basic social services — housing and health insurance — to the workers as the employers' exclusive responsibility, limiting its role to stipulating some formal regulations. In the legal undertaking that employers sign with the Employment Service to obtain the permit to hire foreign workers it is specified that they are responsible for providing them with adequate accommodation and with private health insurance equivalent to the coverage granted to Israeli residents by the national health insurance program. Yet the state is reluctant to implement effective control measures to guarantee that the employers fulfill their legal obligations. In the case of workers' accommodation, for instance, the Ministry of Labor and Social Affairs is supposed to inspect the housing conditions provided by employers and verify that they are of adequate standards. In addition to the fact that no clear criteria exist specifying what proper accommodation means, the Ministry has not established a suitable control apparatus to enforce the regulations (State Comptroller 1996), and only six inspectors from the Division of Labor Laws Enforcement supervise the housing conditions of foreign workers in all the country (State of Israel 1997). It is not surprising, therefore, that in numerous cases, especially in the construction sector, workers are accommodated in extremely harsh conditions of overcrowding and lack even minimal sanitary facilities.<sup>6</sup>

During the first half of 1995, for example, the Division of Labor Laws Enforcement managed to inspect the accommodation conditions of only 1,895 workers. In 75 percent of those cases, the housing conditions were defined as inadequate. Although the Ministry has the authority to revoke employers' permits to hire foreign workers if they violate the regulations, such disciplinary action was never implemented

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<sup>5</sup> Letter from the Head of the Coordination Department, Ministry of Foreign Affairs, to the Association for Civil Rights in Israel and to Workers' Hotline, 6/2/95; interview with a senior official in the Ministry of Finance, 26/2/97; interview with an official in the Ministry of Foreign Affairs, 7/12/97.

<sup>6</sup> Letter from the Association for Civil Rights in Israel and Workers' Hotline to the Minister of Labor and Social Affairs, 16/1/95; interview with a senior official in the Tel Aviv Municipality, 8/12/96.

(State Comptroller 1996). This indicates the limited willingness of the state's enforcement apparatus to prevent employers' violations of the regulations.

A similar situation exists with respect to the employers' obligation to provide comprehensive health insurance. Many employers provide their workers with health insurance that covers only limited medical services, thus paying lower premiums to the private insurance companies.<sup>7</sup> Furthermore, it was reported that in many cases insurance companies offer employers discounts in the premiums if their workers do not require medical treatment frequently.<sup>8</sup> Since even in those cases the employers deduct from the workers' salaries the full price of around US\$1 per day for their health insurance, these discounts function as an economic incentive to employers not to send their workers to receive medical treatment, lowering the level of health services to which the migrant workers have access. Although these facts are well known to officials in the Ministry of Labor and Social Affairs and in the Ministry of Health, only recently did the General-Director of the Ministry of Health announce that a special team would be established to supervise the health insurance programs provided to foreign workers.<sup>9</sup>

An interesting illustration of the politics of documented foreign workers' exclusion from the Israeli welfare state is the debate over a proposal to include them in the national health insurance program. This proposal was advanced by several non-government organizations advocating migrant workers' rights, and although it gained the support of the professional staff of the Ministry of Health, it was eventually rejected.<sup>10</sup> First, it is worth referring to the sources of the support for the proposal by part of the state apparatus. The main considerations were of a professional-bureaucratic character, especially the concern for the threat to public health implied in the existence of a

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<sup>7</sup> Dana Alexander, the Association for Civil Rights in Israel, and the director of a private insurance company, at the seminar: 'Foreign Workers in Israel: Human Rights and Economic Aspects,' Jerusalem, 5/11/96; Ran Zafrir, Ichilov Hospital administration, Tel Aviv, at the seminar: 'Foreign Workers and the Health System,' Tel Aviv, 28/5/98.

<sup>8</sup> 'On Foreign Workers and Rights,' the Association for Civil Rights in Israel, September, 1997, p. 9; Newsletter of Physicians for Human Rights, No. 4, April 1997.

<sup>9</sup> Ha'aretz, 18/3/98.

<sup>10</sup> Letter from the Association for Civil Rights in Israel and Workers' Hotline to the Minister of Labor and Social Affairs, 16/1/95; the Association for Civil Rights in Israel, Annual Report June 1996-May 1997, p. 54.



significant population not covered by appropriate health insurance.<sup>11</sup> According to this approach, comprehensive health insurance must be provided to migrant workers primarily in order to protect the ministry's clientele — the Israeli population — and to avoid a problematic situation from the point of view of the ministry's institutional logic.

As for the reasons for the proposal's rejection, one could expect that the main argument would be that the Israeli public health system, which is already in deep financial crisis, might be required to bear the financial burden if the national health insurance program is extended to the documented migrant workers. But this was not the case. At both the Ministries of Health and of Finance it was realized that, from a budgetary perspective, the inclusion of a young and healthy population into the national health insurance program would not be a financial burden, and could even assist in reducing the system's deficits.<sup>12</sup> The reasons for the proposal's rejection are of a broad political nature and are linked to the pattern of relationships, or lack thereof, that the state aims to institutionalize with migrant workers. The major argument was that such an inclusionary step, implying a *de jure* recognition by the state of their social rights, might have implications on their legal and political status.<sup>13</sup> Such recognition would contradict the basic principles of the state's policy, which aims at avoiding the institutionalization of binding ties of responsibility and accountability for the migrant workers' living conditions.<sup>14</sup>

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<sup>11</sup> Interview with a senior official in the Department of Public Health Services, Ministry of Health, 28/8/97; Dr. Itzhak Berlowitz, Director of the Department of Medical Services Administration, Ministry of Health, at the seminar: 'Foreign Workers and the Health System,' Tel Aviv, 28/5/98.

<sup>12</sup> Interview with a senior official in the Ministry of Finance, 26/2/97; interview with an official in the Legal Department of the Ministry of Health, 10/4/97.

<sup>13</sup> Interview with a senior official in the Ministry of Finance, 26/2/97; interview with an official in the Legal Department of the Ministry of Health, 10/4/97; interview with the Head of the Authority for Foreign Workers, Ministry of Labor and Social Affairs, 6/10/97.

<sup>14</sup> As a way of taking advantage of the potential profits of the insurance of that population and improving the financial situation of the Israeli public health system, while simultaneously preventing the political implications of its inclusion into the statutory program, a plan is currently under consideration to authorize the public health funds to insure the foreign workers in private schemes (Interview with an official in the Legal Department of the Ministry of Health, 10/4/97; interview with a senior official in the Department of Public Health Services, Ministry of Health, 28/8/97).

In the realm of contributory social security programs, the state assumes a very limited responsibility. As in the case of Palestinian workers, migrant workers are covered by only three of the social insurance schemes operated by the National Insurance Institute — work injuries, employer's bankruptcy and maternity — and they are excluded from important social security programs, such as unemployment benefits, old age and survivors' pensions, and children's allowances. Of the three programs by which migrant workers are covered, the most pertinent is work injuries insurance. The occupational sector in which most of these workers are concentrated — construction — is characterized in Israel by a low level of occupational safety and by a concomitant high incidence of accidents. Yet there are clear indications that bureaucratic obstacles seriously reduce the migrant workers' ability to effectuate their formal rights.<sup>15</sup> In many cases, therefore, migrant workers who suffered work accidents do not receive appropriate medical treatment and benefits to which they are entitled.<sup>16</sup>

The description of the institutional mechanisms in operation and of the political processes underlying their shaping indicates that the basic principle of the state's policy concerning the provision of social benefits and services to the documented migrant workers is to avoid any direct involvement with their living conditions. It is understood that such involvement might create a situation in which the state is perceived as legally and politically accountable to them. This situation, in turn, might encourage the articulation of claims-making by the migrant workers, legitimizing the eventual emergence of social rights-based politics around the issue of labor migration in Israel. The alternative adopted by the state has been to define the provision of social services as belonging to the private sphere of employer-employee relations, keeping the topic outside the political sphere of definition and actualization of entitlements and state's relations

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<sup>15</sup> Officials in the National Insurance Institute recognize that the number of reports of work accidents in which migrant workers are involved is much lower than could be expected. They explain this by the fact that many employers refrain from reporting accidents to avoid official investigations of occupational safety conditions (interview with a senior official in the Division of Work Injury Insurance Program, National Insurance Institute, 17/7/97).

<sup>16</sup> Letter from the Association for Civil Rights in Israel and Workers' Hotline to the Minister of Labor and Social Affairs, 16/1/95; interview with the Director of Physicians for Human Rights, 26/6/97.

with the population resident in its territory. As a corollary of this policy, documented migrant workers remain basically excluded from the Israeli welfare state.

### *Undocumented Migrant Workers*

In the case of undocumented migrant workers, the state's agencies have to confront a situation even more complex than in the previous case. Since their migration to the country is not based on formal recruitment by employers, and they are incorporated mainly in the informal sector of the labor market, the state cannot make the employers responsible for the provision of basic social services. Moreover, the presence among this population of families and children makes it more difficult for the state agencies to completely ignore their needs regarding medical, educational and welfare services. It is within this context that significant differences emerge between the modes of operation of different state agencies, and the provision of social services to undocumented migrant workers becomes a focus of intra-state tensions.

The basic declared principle guiding policy formulation and implementation is the non-recognition of the undocumented migrant workers as legitimate clients of the Israeli welfare state. Rather, they are considered only as a population that must be repatriated. In the policy proposal submitted to the government by the Ministry of Labor and Social Affairs, for instance, the only question considered regarding the undocumented migrant workers was how to repatriate them.<sup>17</sup> Similarly, the Head of the Authority for Foreign Workers in the Ministry of Labor and Social Affairs defines the duty of the agency with respect to the undocumented migrants as "their deportation in humanitarian ways."<sup>18</sup> The government's official stand is that recognition of that population as legitimate clients of the Israeli welfare agencies would imply the legitimization of their illegal presence in the country, thus encouraging their permanent settlement and attracting more undocumented migrants. Reflecting this logic, the Minister of Internal Security urged Tel Aviv

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<sup>17</sup> 'Policy Proposal Regarding Foreign Workers,' submitted to the government by the Ministry of Labor and Social Affairs, August 1996; 'Proposal for the Establishment of an Authority for Foreign Workers,' Ministry of Labor and Social Affairs, 6/5/98.

<sup>18</sup> Interview with the Head of the Authority for Foreign Workers, Ministry of Labor and Social Affairs, 6/10/97.

Municipality to cease providing social services to undocumented migrants and “to make their life in Tel Aviv miserable.”<sup>19</sup>

Officials in the Ministry of Interior and the Ministry of Labor are well aware of the broad political implications of the provision of social services: granting social rights to migrant workers and their families implies their recognition as members of the polity, eventually creating openings for claims-making to the state. In their strong opposition to even the most minimal inclusion of the migrant workers into the welfare state, they reflect clearly the basic premise of the Israeli migration regime that “Israel is not an immigration country,”<sup>20</sup> meaning, of course, the immigration of non-Jews. This approach is explicitly articulated in the following statement by a Ministry of Interior official:

The granting of illegal foreign workers with any status might create the illusion among them that they can stay here permanently. If we give services, we encourage them to stay... When the foreign children study Israel’s heritage in our schools, we make them feel that they are part of us. We are actually hurting them, because they are not going to be part of us. It would be better if those children would not go to school and would watch TV all day instead.<sup>21</sup>

With this exclusionary approach as background, it is surprising that the undocumented migrants and their children have certain access to some social services provided by state agencies, particularly in the domains of education and preventive medicine. Since in the Israeli welfare state the local authorities play an important role in the provision of these services, the Tel Aviv Municipality, in whose jurisdiction the undocumented migrant workers are concentrated, has emerged as a central actor in the field, and the financing of the social services it provides to them has become a major point of contention with the central government.

With respect to education, a significant number of undocumented children — almost 300 in 1998 — attend kindergartens and schools administered by the

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<sup>19</sup> Ha’aretz, 18/9/96.

<sup>20</sup> Interview with a senior official in the Ministry of Labor and Social Affairs, 5/1/97.

<sup>21</sup> Commissioner of Visas, Ministry of Interior, Meeting of the Knesset sub-committee on infants, 30/6/97.

municipality.<sup>22</sup> Since the Ministry of Education does not recognize these pupils, the schools in which they study do not receive any special budgetary assistance.<sup>23</sup> The municipality's Department of Education requested the Ministry to grant these children the status of "new immigrants",<sup>24</sup> so they would be entitled to special assistance teaching hours for Hebrew instruction, but in accordance with the government's policy of non-recognition the Ministry of Education refused.<sup>25</sup>

The same pattern of provision of services by the municipality without official recognition and budgetary participation by the central government characterizes the field of preventive medicine.<sup>26</sup> The municipal centers for family and infant health provide preventive and basic medical services to undocumented pregnant women, babies and infants.<sup>27</sup> Although the aim of these health centers is to provide only preventive medical services, it has been reported that in the case of undocumented migrants, nurses and doctors also treat cases belonging to the field of corrective medicine.<sup>28</sup> Also, public hospitals in the Tel Aviv area provide medical services to this population.<sup>29</sup> Nearly 300 migrant workers per month receive medical treatment and around 60 are hospitalized in Tel Aviv's main hospital, most of them undocumented migrants with no health insurance. According to Israeli law, hospitals are obliged to provide emergency medical services to

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<sup>22</sup> Meir Doron, Director General, Tel Aviv Municipality, at the seminar: 'The National and Social Prices of the Employment of Foreign Workers,' 19/2/98. Other undocumented children attend private Christian schools in Jaffa and in Jerusalem.

<sup>23</sup> Letter from the Director of the Department of Education and Culture, Tel Aviv Municipality to the Tel Aviv Deputy Mayor, 11/7/96; interview with a senior official in the Tel Aviv Municipality, 8/12/96.

<sup>24</sup> The term 'new immigrant' refers to a legal category applicable to those immigrating within the framework of the 'Law of Return.'

<sup>25</sup> Director of the Division of Elementary Education, Tel Aviv Municipality, Summary of the Meeting of the Committee on Foreign Workers, Tel Aviv Municipality, 18/9/96.

<sup>26</sup> Interview with a senior official in the Tel Aviv Municipality, 8/12/96.

<sup>27</sup> In late 1997, 16 pregnant women and 878 infants and babies received medical treatment in Tel Aviv's health centers (Meir Doron, Director General, Tel Aviv Municipality, at the seminar: 'The National and Social Prices of the Employment of Foreign Workers,' 19/2/98).

<sup>28</sup> Letter from the Director of the Department of Public Medicine, Tel Aviv Municipality to the Tel Aviv Deputy Mayor, 20/1/97.

<sup>29</sup> Another important source of medical services are Palestinian hospitals and clinics in East Jerusalem, where undocumented migrant workers pay much lower prices than in Israel (Director of the Tel Aviv District Health Bureau, Ministry of Health, Summary of the Meeting on Foreign Workers in Tel Aviv, Tel Aviv Municipality, 24/7/96). In addition, in May 1998 an Israeli NGO – Physicians for Human Rights – opened a special clinic to provide immigrant workers and their families with medical services.

patients in critical condition, whether they are covered by health insurance or not. Frequently, it has been noted, doctors in the hospitals apply “flexible” definitions of life-threatening situations in order to provide treatment to undocumented foreign workers with no health insurance, even if they are not in real danger.<sup>30</sup> A significant part of the costs of these services is considered by the hospital administration as irreclaimable debts.<sup>31</sup>

The conflict with the central government arose mainly around the question of which government level should be responsible for the provision of basic social services to the undocumented migrant workers from a budgetary and political perspective. One of the central arguments advanced by the municipal officials is that as a signatory to the UN Convention on the Rights of the Child, Israel is compelled to provide basic social services to migrant workers’ children.<sup>32</sup> These officials emphasize that while the government ministries do not recognize the needs of undocumented migrant workers and their families and therefore do not allocate resources for the provision of basic services, the municipality needs to confront the concrete budgetary, social and political implications of their presence within its jurisdiction.<sup>33</sup> This allegation is clearly expressed in the following statement by the Tel Aviv Deputy Mayor: “For the government the foreign workers resolve a problem, but the municipality has to deal with the troubles caused by their stay in the country.”<sup>34</sup>

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<sup>30</sup> Interview with the Director of Physicians for Human Rights, 26/6/97.

<sup>31</sup> Ran Tzafrir, Ichilov Hospital administration, at the seminar: ‘Foreign Workers in Israel: Human Rights and Economic Aspects,’ Jerusalem, 5/11/96.

<sup>32</sup> Letter from the Director of the Department of Education and Culture, Tel Aviv Municipality to the Tel Aviv Deputy Mayor, 11/7/96; Summary of the Meeting of the Committee on Foreign Workers, Tel Aviv Municipality, 19/8/96.

<sup>33</sup> Background report: ‘Foreign workers in Tel Aviv,’ Michael Ro’e, member of Tel-Aviv City Council, 9/6/96; Tel Aviv Deputy Mayor, Summary of the Meeting of the Committee on Foreign Workers, Tel Aviv Municipality, 19/8/96; memorandum submitted to the chairperson of the Knesset Labor and Social Affairs Committee by Tel Aviv Municipality in January 1997; interview with a senior official in the Tel Aviv Municipality, 25/3/97; Assistant of the Tel Aviv Municipality Director- General and Director of the South District, Department of Welfare, Tel Aviv Municipality, Meeting of the Knesset sub-committee on infants, 30/6/97.

<sup>34</sup> Tel Aviv Deputy Mayor, Summary of the Meeting of the Committee on Foreign Workers, Tel Aviv Municipality, 19/8/96.

From the local government's perspective, the presence of the undocumented foreign workers represents not only a technical or bureaucratic problem of social services provision, but mainly a political burden regarding its relationships with its clientele: the residents of Tel Aviv. According to the view of the municipality's apparatus, the social deterioration that could result if the undocumented migrant workers are deprived of basic social services might damage its image in the eyes of the city's residents. Since these residents see the municipality as responsible for preventing such a situation, officials assert, it must show them that it is doing its utmost to prevent the presence of migrant workers from negatively affecting their quality of life.<sup>35</sup> In the words of a senior municipal official: "We must help the foreign workers in order to resolve the problems of the veteran residents who are our clients."<sup>36</sup>

An inclusionary approach which supports the provision of at least basic social services to the undocumented migrant workers is expressed also by the professional staff of the Ministry of Health and of the Social Services Division of the Ministry of Labor and Social Affairs. This support is expressed mainly in terms of concrete problem solving and professional idioms. In their view, the presence of a population with no access to basic social services represents a grave threat to the Israeli population.<sup>37</sup> For instance, officials in the Ministry of Health stress that it is absolutely necessary to provide the undocumented migrant workers with medical services, not only for their own good, but also to prevent the threat to public health implied in the existence of a significant population with no access to preventive and corrective medical services.<sup>38</sup> It is important to emphasize that the officials, both at central and local agencies, claiming that migrant workers should be provided with basic social services do not challenge the premises of

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<sup>35</sup> Tel Aviv Deputy Mayor, Summary of the Meeting of the Committee on Foreign Workers, Tel Aviv Municipality, 19/8/96; interview with senior officials in the Tel Aviv Municipality, 8/12/96, 24/5/98.

<sup>36</sup> Interview with a senior official in the Tel Aviv Municipality, 24/5/98.

<sup>37</sup> Report: 'Foreign Workers,' Director of the Department of Social Services, Ministry of Labor and Social Affairs, 31/7/96.

<sup>38</sup> Director of the Department of Public Medicine, Tel Aviv Municipality, Director of the Department of Public Health Services, Ministry of Health, and Director of the Tel Aviv District Health Bureau, Ministry of Health, Meeting of the Knesset sub-committee on infants, 30/6/97; interview with a senior official in the Department of Public Health Services, Ministry of Health, 28/8/97.

the Israeli migration regime at the ideological level. Their approach is basically instrumental, reflecting the institutional and professional logics of the state agencies in which they are located. Nevertheless, they present an alternative to the broad exclusionary policy dictated by the Israeli migration regime. As expressed by one of these officials: “It would be preferable not to have foreign workers in Israel, but if they are already here we must give them social services.”<sup>39</sup>

## **Conclusions**

The basic character of the policy formulated and implemented by the Israeli welfare state toward both documented and undocumented migrant workers is one of non-involvement with their living conditions. In the case of documented migrant workers, the provision of basic social services is defined as belonging to the private sphere of employer-employee relations. Concerning the undocumented migrant workers, the official position is not to recognize them at all as potential clients of the welfare agencies. The inner logic of this exclusionary policy becomes clear when considered against the link between the migrant workers’ entitlement to social rights and the chances for the articulation of legitimate demands to the state illustrated by their inclusion in Western welfare states.

This policy reflects the restrictive character of the Israeli migration regime towards non-Jews and it is mainly directed at preventing the migrant workers’ permanent settlement in the country and their gradual recognition as members of the Israeli polity. Its rationale is to avoid a situation in which — through the granting of social rights to migrant workers — the state assumes direct responsibility for their living conditions. Such situation, the state agencies acting as gatekeepers realize, might encourage the articulation by this population of a legitimate politics of claims-making, leading to the transformation of their status from “foreign workers” to “denizens” with rights of access to societal resources.

The analysis indicates, however, that the state apparatus does not function in a homogeneous mode. Intra-state tensions between agencies with different institutional interests play a major role in the politics of exclusion and inclusion. Due to their specific

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<sup>39</sup> Interview with a senior official in the Tel Aviv Municipality, 25/3/97



location within the state apparatus and their professional-bureaucratic considerations, some agencies endorse and implement, at least partially, inclusionary courses of action. Local agencies provide basic social services to undocumented migrant workers and their families, although without recognition and budgetary participation by the central government. It is not my intention to assert that this inclusionary approach would necessarily lead to a complete extension of social rights and entitlements to migrant workers in Israel, yet it indicates the existence of fissures in the exclusionary policy dictated by the Israeli migration regime. If the presence of migrant workers in Israel adopts a more permanent character, these inclusionary practices based on professional idioms could develop as apertures with significant effects on the mode of incorporation of migrant workers.

Some general conclusions can be inferred from the Israeli case. It shows that even in cases — such as Israel — in which the migration regime is strongly associated with ideological principles dominant in society and with restrictive ethno-national conceptions of membership, it is potentially vulnerable to fissures. These fissures do not originate only from the political activity of actors in civil society presenting ideological alternatives, but can also emanate from the institutional heterogeneity of the state apparatus itself. Inclusionary approaches can be presented by agencies that, because of their location in the state apparatus and their specific clienteles, develop interests that depart from the exclusionary migration regime. While articulated in professional and bureaucratic idioms, these approaches can create openings leading to the partial inclusion of migrant workers in the welfare state.

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