

## Employment of Foreign Workers in Israel under the "Binding Arrangement"

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### Abstract

*This study examines the effects of a restrictive employment method for foreign workers that tied foreign workers to the employer holding the permit, formerly customary in Israel in all sectors which employed foreign workers. Using a decision making model, the study examines the phenomenon of illegal employment among foreign workers in the construction sector, and evaluates the expected effects of the new employment arrangement which was applied in the construction sector in 2005. In which a limited number of corporations were licensed to employ a limited number workers in a specific sector, under a strict government regulation The first recommendation is to tightly monitor the manpower corporations to prevent the creation of a cartel which will coordinate the workers' employment conditions among the corporations. At the same time it is necessary to combat the problem of charging high fees from foreign workers for work permits in Israel.*

**Keywords:** binding arrangement, foreign workers, Illegal employment, License fees

### 1. Introduction and Background

Labor migration is a phenomenon that has economic, social, and nationality impacts on the host country. On the one hand, the host country benefits from employing workers trained in another country, and willing to take relatively low wages (Borjas, 2006). On the other hand, this phenomenon has a negative effect of substitution on unskilled native workers, reflected in a decline in wages, declining employment rate and declining percentage of participation of these workers in the labor force (Altonji and Card, 1991; Borjas, Freeman and Katz, 1997; McCarthy and Vernez, 1997). These effects are usually stronger in cases of illegal foreign workers that typically receive lower wages in compare to legal migrant workers (Connor and Massey, 2010; Kossudji and Cobb-Clark, 2002; Rivera-Batiz, 1999). Moreover, the employment of migrant workers creates a burden on public services systems (Esses et al., 2001; Scheepers et al., 2002), and may sometimes be perceived as a threat on national and religious identity. Consequently, this perceived threat might develop exclusionary attitudes towards foreign workers (Canetti-Nisim and Pedahzur, 2003; Raijman and Semyonov, 2004).

Employment of foreign workers greatly accelerated in Israel from the beginning of the 1990s. The Palestinian uprising in Judea, Samaria and Gaza, which had supplied most workers in the construction and agricultural sectors, created a shortage of human resources in these economic sectors. The great waves of immigration from the former Soviet Union and the ensuing need for quick housing solutions for immigrants worsened the problem, particularly for the construction sector. Thus, the government surrendered to the pressure from employers and began to issue permits for the employment of foreign workers.

One of the salient reasons for the official opposition of the State of Israel to employment of foreign workers was the fear that these workers, willing to labor for relatively low salaries, would take the jobs of local workers, particularly unskilled ones (Borjas, 2006). Another important reason was the fear that some of these workers would not leave the country when their permit had expired. Instead, they would remain permanently, and demand legal status and recognition and would threaten the Jewish character of the state (Kemp et al, 2000).

Most Asian non-member economies to which labor migration is significant impose restrictions on labor migrants – especially low-skilled labor migrants – which would not be permissible in most OECD countries due to the non-discriminatory application of labor law and to the framework of family and individual rights prevailing in OECD countries.

The principal incompatibility lies in the extended duration of work permits during which no family reunification is allowed, and the exclusion of permanent residence for long-time foreign workers. Singapore, for example, limits low-skilled workers to temporary stay exceeding a decade for some categories, with no family reunification allowed, and for some categories of workers, restrictions are placed on marriage with residents, and pregnancy leads to expulsion (International Migration Outlook, 2012).

At the beginning of the 1990s, the Israeli government introduced employment arrangements regarding the hiring of foreign workers that were highly restrictive (Dahan, 2001; Fischer, 1996;): Firstly, the maximum period of residence was set at 27 months, after which workers would be required to leave the country. Secondly, foreign workers were forbidden to bring family members with them during their period of residence. Thirdly, the hiring of foreign workers was subject to sector-specific quotas applicable only to sectors with manpower shortages – construction, agriculture, manufacturing, and nursing care – with no possibility of switching from one sector to another. Fourthly, foreign workers were permitted to work only for specific employers who received permits to hire them (Here and after: the binding arrangement). The practical significance of this latter arrangement from the workers' perspective was that if the worker left the permit-holding employer for any reason, even to work for another employer in the same sector, the worker would lose the legal right to live and work in Israel. A worker in this situation, if caught, could expect to be detained, usually for a few days, and then deportation to the country of origin. The main additional risk which they had undertaken was the loss of money they had paid for the Israeli working license in their home country, a relatively high sum, which was usually paid for by loans which workers were obligated to return when coming back to their home country.

Although the risk described above, the number of foreign workers in Israel that left their legal employers increased significantly during the following years<sup>1</sup>. Surprisingly, a considerable number of those who left did not wait until their legal period of employment was ending, but rather left very close to the beginning of their period of employment (Bar Zuri, 2005). This fact, which seemingly testifies to irrational behavior, brings up questions about why this was happening, and raises the conjecture that job leaving was actually a possible reaction by the workers to inferior working conditions provided by the employers with permits who were exploiting the unbalanced power relations created by the "binding arrangement" (Kemp and Reichman, 2003).

In February 2002 human rights organizations petitioned Israel's High Court of Justice<sup>2</sup> (HCJ 4542/02) against the restrictive employer arrangement policy, arguing that it was unreasonable in the extreme. The policy, so they argued, led to a serious violation of foreign workers' human rights. In April 2002 Israel's Minister of Finance appointed an inter-ministerial team to formulate principles for a new employment arrangement in the foreign-worker sphere (Inter-Ministerial Committee to Assess Foreign Worker Employment Arrangements in Israel, 2004). The team recommended basing foreign worker employment in Israel on a new model, one of licensed manpower corporations (hereinafter: the corporations' arrangement). According to this model, which was recommended for implementation only in the construction and agricultural sectors<sup>3</sup>, employment permits would not be given to employers at the individual level. Rather, workers would be employed by a limited number of corporations licensed to employ foreign workers in a specific sector; each corporation would be authorized to employ only a limited number of workers under a tight government regulation of wages and conditions of employment. The maximum period of legal employment was extended from 27 to 63 months.

The implementation of these recommendations, combined with a policy of limiting the number of foreign worker employment permits, were expected to lower the number of foreign workers employed in Israel's construction and agricultural sectors, and to increase the number of Israelis employed in these sectors.

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<sup>1</sup> According to the Ministry of Labor in Israel, between the years 2001-2002, over a 100,000 legal foreign workers worked in Israel (45% in construction, 33% in agriculture and 22% in nursing care). The number of illegal workers estimated was 120,000-140,000. Large part of them left employers with permits for employers without a permit. (Bar-Zuri, 2009).

<sup>2</sup> The petitioners: Adva Institution, Kav La'Oved, Hotline for Migrant Workers, The Association for Civil Rights in Israel, Physicians for Human Rights, Commitment for Peace and Social Justice; versus: the State of Israel, Minister of the Interior, Minister of Labor and Welfare, the Association of Contractors and Builders, the Association of Flower Growers and the Union of Communal Agriculture, Inc.

The committee decided that this kind of arrangement is unsuitable for the nursing sector. <sup>3</sup>

The petitioners were not satisfied with the new employment arrangement because, in their view, the arrangement would give rise to a new form of restrictive employment, as the foreign worker would be bound to a manpower corporation rather than to his actual employer. The alternative to the corporations arrangement proposed by the petitioners to the High Court of Justice was that of employing foreign workers in the framework of a quota by sector, with the workers free to switch employers within the sector. This position was not accepted by the court, and starting in May 2005, the new arrangement was applied only in the construction sector: 43 corporations that had competed in a tender framework were granted licenses and permits to serve as manpower contractors for the employment of foreign workers in the construction sector. From that time on, manpower companies provide construction-industry employers desiring to hire foreign workers the sole possible means of doing so. In addition, enforcement of laws against illegal workers and their employers was increased.

This study will first discuss the question of the need for the "binding arrangement", and will then consider the effects of its partial cancellation through the "corporations' arrangement", on: (a) the power relations between employers and workers; (b) the measure of advisability of employing foreign workers in Israel; and (c) the rights of foreign workers as workers and as human beings. In order to examine these question, this research develops a model which examines the decision making process of the workers in transferring to illegal employment. In addition, data were gathered from 160 foreign workers, the great majority of whom were working in construction, while they were in a detention camp for foreign workers at Ma'asiyahu Prison, waiting to be deported to their countries of origin. (Bar Zuri, 2005)

Research contribution: Most developed countries deal with problems and negative effects resulting from legal and illegal employment of foreign workers. Some of them, like Singapore and Malaysia, have already imposed severe restrictions on foreign workers in order to encourage employment of local workers (International Migration Outlook, 2012) and others may consider similar policy in the future. This study, which examines the consequences of a restrictive arrangement on foreign workers' employment in Israel, provides relevant information on the possible negative implications of such policy and suggests an alternative employment arrangement

## 2. The Model

The model describes the decision making process which is faced by a foreign worker, deciding if and at what stage of his stay in Israel to transfer to illegal employment. Two possible cases will be investigated:

**Case 1:** A worker who chooses to remain with the employer who has a permit for the full period of his employment

The sum of the profit for the worker who stays for the complete period with the employer who has a permit is represented by Equation No.1:

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

when

$G_i^L$  – The total net present value income in legal employment for worker  $i$ .

$Y_t$  – The net monthly income in legal employment– total monetary receipts less all of the monthly receipts the worker would have received from employment in his country of origin.

$C_0$  – The cost of a working license in Israel – a one-time sum paid in period 0.

$r$  – The rate of discount according to which receipts and future costs are capitalized.

$N$  – The maximum permitted period of employment.

**Case 2:** A worker who chooses to leave the employer with the permit during the period of his employment

In order to create the model, we will define two periods of employment:

$K$  – The period of work for the employer with the permit – a variable which receives the values  $0 < K < N$ .

$M$  – The entire period of stay in Israel desired by the worker, of which the worker stays for  $K$ , his legal period of employment, and the remainder of the period in illegal employment.

During the period of stay without a permit, two possible situations may exist:

**Situation 1** - Not being caught until period  $t$  and being caught during the period  $t$ .

The probability of this situation is presented by Equation No. 2:

$$2) \prod_{j=K+1}^{t-1} (1 - p_j) p_t$$

**Situation 2** - Not being caught until period  $t$  and not being caught in period  $t$ . The probability of this situation is presented by Equation No. 3:

$$3) \prod_{j=K+1}^{t-1} (1 - p_j) (1 - p_t)$$

The probability of not being caught until period  $t - 1$  will be noted as  $-P_t$  :

$$4) P_t = \prod_{j=K+1}^{t-1} (1 - p_j)$$

The expected net present value income is presented by Equation No. 5:

$$5) G_i^{IL} = \sum_{t=1}^K \frac{Y_t}{(1+r)^{t-1}} - C_0 + \sum_{t=K+1}^M \frac{P_t \cdot X_t - P_t \cdot p_t \cdot F_t}{(1+r)^{t-1}}$$

When

$G_i^{IL}$  - The expected net present value income in illegal employment for worker  $i$ .

$X_t$  - The net monthly income in illegal employment – total monetary receipts less all of the monthly receipts the worker would have received from employment in his country of origin.

$Y_t$  - The net monthly income in legal employment – total monetary receipts less all of the monthly receipts the worker would have received from employment in his country of origin.

$C_0$  - The cost of a working license in Israel – a one-time sum paid in period 0.

$r$  - The discount rate.

$F_t$  - The cost to a worker who is caught. This refers to the cost of time loss, arrest, possessions left behind, the balance of wages which he is owed and which he is forced to give up, and more.

## 2.1. Maximization

In order to maximize, we will assume that the variables  $Y_t, X_t, p, r, N, F_t$  as well as the total time of stay  $M$  are given and fixed for the worker. At optimum, the worker will convert to illegal employment at a point in time ( $K$ ) at which the expected income from illegal employment in the balance of period of stay (until period  $M$ ) is greater, to the extent possible, than the income in the legal employment until period  $N$ .

The optimal value of  $K$ , the value which brings the difference between the expected income in the illegal employment and the income in the legal employment to a maximum, is expressed in Equation 6:

$$6) \max_K \left[ \sum_{t=1}^K \frac{Y_t}{(1+r)^{t-1}} - C_0 + \sum_{t=K+1}^M \frac{P_t X_t - P_t p_t F_t}{(1+r)^{t-1}} \right] - \left[ \sum_{t=1}^N \frac{Y_t}{(1+r)^{t-1}} - C_0 \right]$$

$$= \max_K \left[ \sum_{t=K+1}^M \frac{P_t X_t - P_t p_t F_t - Y_t}{(1+r)^{t-1}} \right]$$

S.t

$$0 \leq K \leq N$$

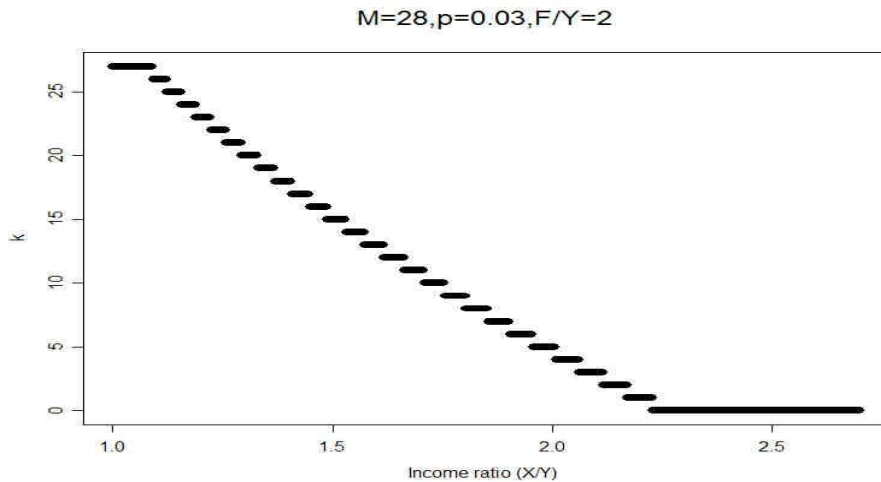
$$0 \leq M \leq \bar{M}$$

Equation 7 is an alternative method of presenting Equation 6:

$$7) \max_K \left[ \sum_{t=K+1}^M \frac{(P_t X_t - P_t p_t F_t - Y_t)}{(1+r)^{t-1}} \right] = \max_K \left[ \sum_{t=K+1}^M \frac{\left( P_t \left( \frac{X_t}{Y_t} - p_t \frac{F_t}{Y_t} \right) - 1 \right)}{(1+r)^{t-1}} \right]$$

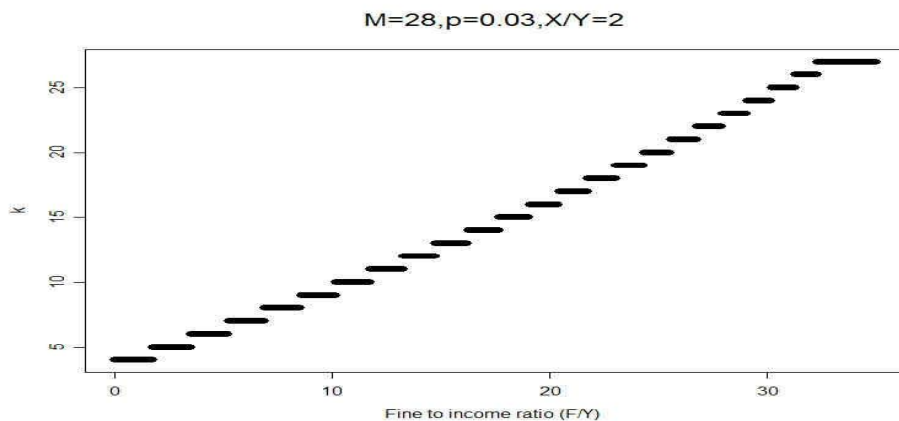
**2.2. Simulation**

Maximization using a simulation was performed. In this simulation, we have assumed a maximal period of stay (*N*) in the legal employment of 27 months. Regarding rate of interest (*r*), as it was found that changes in the rate of interest had no effect on the period of optimal stay in the legal employment (*K*), an annual interest rate of four percent has been arbitrarily determined (0.33% monthly). Regarding other parameters which were investigated, in each simulation, parameters were determined excluding one which the simulation presents for each of its values, the optimal period of stay in the legal employment.



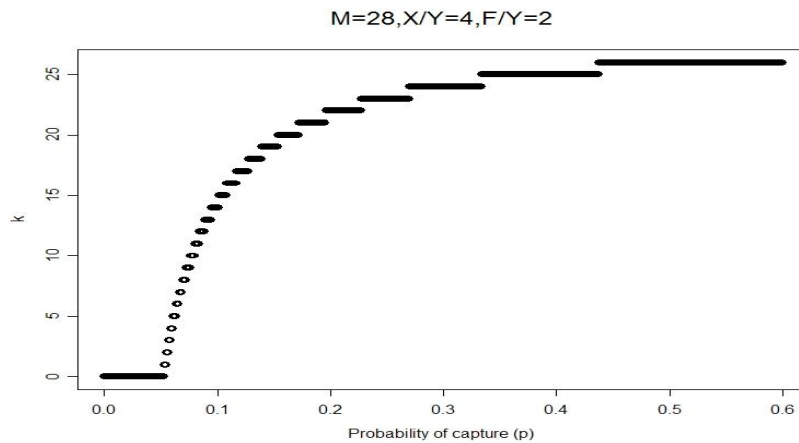
**Simulation I: The Connection between Length of Stay in the Legal Employment and the Income Ratio**

From Simulation I, it can be seen that the higher the ratio  $\frac{X_t}{Y_t}$ , the shorter the time the worker will remain in legal employment.



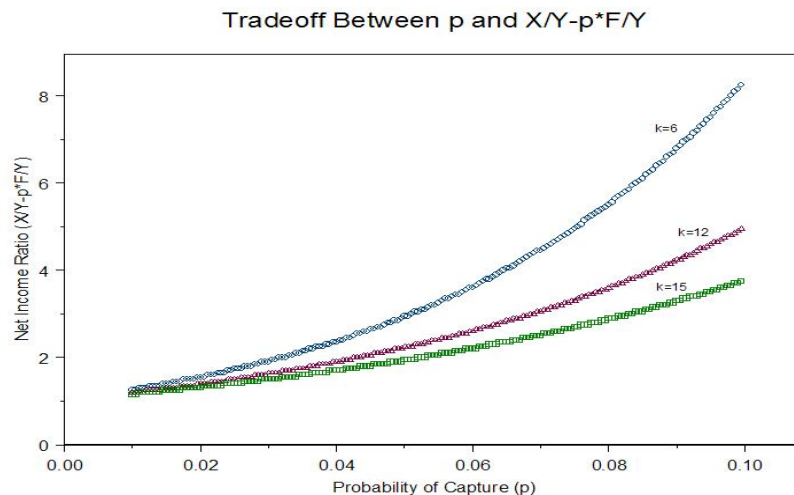
**Simulation II: The Connection between the Length of the Stay in Legal Employment and the Fine Charged to the Worker Who is Caught**

In Simulation II it can be seen that the higher the fine, the longer the worker will stay in the legal employment.



**Simulation III: The Connection between the Lengths of Time the Worker Stays in Legal Employment and the Probability of Being Caught**

From Simulation III it can be seen that the higher the probability of being caught, the longer the worker will remain in legal employment.



**Simulation IV: The Tradeoff between Probability of being Caught and the Ratio of Net Income**

In Simulation IV, a tradeoff relationship can be seen between the probability of being caught and illegal net income ratio. This tradeoff explains the choice of the optimal stay which is different than zero for the employer with a permit. The simulation demonstrates the tradeoff ratio between expressions and presents their various combinations which lead to a choice of optimal stay with the employer who has a permit.

**3. Results**

Tables I and II below present data gathered from construction workers from China and Romania, captured by Israeli immigration authorities at the beginning of the 2000s.

**Table I: Data for Workers from China**

Std. Deviation	Median	Mean	N		
			Missing	Valid	
.70	3.00	2.80	27	71	Wage per hour (legal)
1.30	4.20	4.30	13	85	Wage per hour (illegal)
.50	.50	.70	25	73	Wage per hour (China)
60.0	230.0	230	29	69	Hours per month (legal)
58.0	240.0	226.0	23	75	Hours per month (illegal)
7.5	5.0	6.0	21	77	Legal employment period
7.0	12.0	13.0	19	79	Illegal employment period
1778.0	10,000.0	10,008.0	2	96	License costs
9.0	24.0	28.0	29	69	Desired total employment period

Source: Ministry of Trade, Industry and Employment, Department of Research, Planning and Economics (2001-2002)

### 3.1 Significance of Findings - Workers from China

A worker from China pays an average of \$10,008 for a license to work in Israel. He works 230 hours per month and is paid a net average monthly wage (deducting wages in country of origin) of \$483. In a foreseeable maximal employment, with a permit for 27 months, the average net present value of the worker's income is \$2567.<sup>4</sup>

A worker who chooses to leave the employer with a permit does this after an average period of six months. In illegal employment, he is paid an average net monthly wage of \$825 for 225 monthly hours, while planning a foreseeable stay of an average of 28 months. At a 0.22% monthly probability of being caught during his illegal employment period, the average expected net present value income for the worker representing six months of legal employment and 21 additional months of illegal employment is \$8,850, a sum which is higher by \$6,283 than in legal employment.<sup>5</sup> In addition, the Chinese workers reported non-payment of wages, payment of a lower wage than promised, postponing payment of wages and a negative attitude on the part of the legal employers as factors which encouraged them to transfer to illegal employment.

**Table II: Data for workers from Romania**

Std. Deviation	Median	Mean	N		
			Missing	Valid	
0.5	2.4	2.4	3	59	Wage per hour (legal)
0.5	3.7	3.7	4	58	Wage per hour (illegal)
0.2	0.5	0.5	8	54	Wage per hour (Romania)
18.0	250.0	255.0	3	59	Hours per month (legal)
39.0	260.0	263.0	4	58	Hours per month (illegal)
9.0	4.0	7.3	7	55	Legal employment period
21.0	20.0	26.7	11	51	Illegal employment period
458.0	825.0	971.0	12	50	License costs

Source: Ministry of Trade, Industry and Employment, Department of Research, Planning and Economics (2001-2002)

### 3.2. Significance of Findings- Workers from Romania

A worker from Romania who chooses to leave the employer with a permit does this after an average of 7.30 months.

<sup>4</sup> Net receipts were discounted according to an interest rate of 4% per year.

<sup>5</sup> The data include the probability of being caught as calculated by dividing the average monthly number of workers caught by the total number of illegal workers. In the relevant period an average of 314 workers per month were apprehended while, according to official estimations, the number of illegal foreigners was about 140,000. Thus, it was found that the monthly probability of being caught was 0.22%.

In the illegal employment the worker will earn an average net monthly salary of \$843 for 263 monthly hours. The workers from Romania did not define their desired forecasted stay<sup>6</sup> and thus, the calculations were made for an employment period of 27 months. After posting the relevant data, the expected average total net present value income is \$18,365, a sum higher by \$6,882 than the average total income received in legal employment. In addition, the Romanian workers mentioned non-payment of wages, difficult physical labor, bad treatment by the employer and inferior living conditions as factors which influenced their decision to turn to illegal employment.

In summary, an investigation of the data indicates that considering the low probability of being caught, and taking into account the great difference between wages in illegal employment and wages in legal employment, the move to illegal employment is a rational step from the standpoint of the workers. This is especially true for workers from China, as their net wages in legal employment for 27 months totals \$2,567. Even if the employer provides a place to live, health insurance and transportation as the law requires, the worker still has living expenses and various personal expenses which certainly are greater than that sum. These findings demonstrate that, considering the described conditions, it does not pay for these workers to remain with the employer who has a permit, and the data can even explain their short average stay in legal employment.

#### 4. Discussion

As explained above, the "binding arrangement" had two main objectives: a) to prevent foreign workers from permanently staying in Israel; b) to protect (unskilled) local workers from competition which, in the best case, is liable to lead to a worsening of their employment conditions, and in the worst case, might push them out of the labor market.

With regard to the first objective, a factor of interest to policy makers becomes clear from the findings of this study: Most of the Chinese workers have a designated date for returning to their country of origin, either planned or approximated. The total time of the planned stay of a worker in the country is not much longer than the maximum period of the legal permit. Thus, the fear that workers will permanently stay in the country does not seem to be reasonable (Dustman and Kirchkamp, 1999). It would appear that this stems from deep cultural differences which do not enable workers from China to remain in Israel. Regarding other workers, such as, for example, workers from Romania, they may have intentions of remaining in the country, but even for them, it is unclear whether and how the binding arrangement serves to achieve its goal and to prevent an extended stay. There are many who maintain that by its nature, the arrangement leads to disorganized working conditions, and thus, even increases the number of illegal foreign workers and makes it even more difficult to supervise their employment (Dahan, 2001).

Regarding protection of the local unskilled workers from the competition of foreign workers, the findings of the study demonstrate that foreign workers employed legally are paid an average wage of \$3.00 per hour. This level of wages is lower than the minimum determined by law and far lower than the average wage in the Israeli labor market. Almost certainly, the low wages paid to legal foreign workers in the "binding arrangement" has reflected upon this entire market, and has led to a decrease in the general wages of unskilled workers, including local workers, who are forced to accept low wages, or be pushed out into the realm of the unemployed (Gottlieb, 2002). The only ones who have profited from the arrangement are actually the employers who pay lower wages both to foreign and to local workers. In other words, it is logical to assume that the "binding arrangement" harms unskilled workers instead of protecting them.

From the inclusive standpoint, on the country level, the binding arrangement has other negative effects for Israel: It creates a distortion in the allocation of economic resources as the low wages of the foreign workers leads to their employment in low marginal product jobs for employers with permits. If there was competition in the labor market, these workers could be hired by another employer with a higher marginal product and at a higher wage, so that the total benefit to the economy would be greater (Bank of Israel Reports, 1997). In addition, the low wages lead to a decrease in the profitability of using a capital factor of production and also bring about a reduction in the profitability of developmental or technological improvements. The result is that sectors like construction are likely to continue using out of date, labor intensive technologies with low marginal output.

Consequently, labor intensive sectors are maintained, sectors in which Israel does not have a relative advantage. This is liable to harm the production capacity and the competitiveness of the Israeli economy in the long term.

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<sup>6</sup> This is likely to be evidence of a tendency to remain in the country.



An additional negative external effect stems from the fact that employers do not assume the real costs of employing workers (State Comptroller's Reports, 2002). The low wages of the workers under the binding arrangement leads to a situation in which most of the employed do not reach a level of taxation and there are no tax costs to the employer. These workers consume public products but neither they nor their employers pay for this consumption, which is known as "free riding". It has been found that state citizens unknowingly subsidize some of the not insignificant costs of the employment of foreign workers for their employers. The last negative effect is the contribution of employment of foreign workers to the rise in inequality of income distribution in the economy (Gottlieb, 2002). While local unskilled workers are harmed by the employment of foreign workers due to the decrease in their wages and the increase in their rate of unemployment, another sector of the population, which is more established economically, benefits from the hidden profit gained in employing foreign workers (Borjas, 1999), thanks to their ability to obtain cheaper services provided by the foreigners. The increase in inequality of income distribution deepens the socio-economic gap in the state and constitutes a social time bomb.

Simultaneously, the binding arrangement has created an unfortunate situation for the foreign workers themselves, considering the great power given to their Israeli employers, enabling them to make quick profit at their workers' expense. These negative effects are especially prominent in the case of the Chinese workers, who, the study finds, pay enormous sums of money in terms of their country of origin, for the right to work in Israel. It is not clear how the Chinese workers obtain sums of that order and how this money is divided among companies and agents in China and among Israeli human resources agencies and employers.<sup>7</sup> However, this is accepted practice and not just individual cases.

It appears that these workers often have no choice but to leave the exploitative employer as a natural reaction of those who are interested in maximizing their benefits (Djajic, 1989) but cannot stand up for their rights. Some of the workers were even sent to look for work with a different employer or they were moved in a disorganized way to other employers, since the employers they were assigned to work for did not have work for them and were interested only in receiving his share of the money the workers had paid in China. Other workers reported that they had worked for a long period of time without receiving wages at all or that the wages that they had actually been paid were lower than what had been promised them (State Comptroller's Reports, 2002). The considerations for which they had chosen Israel as a destination for work migration had changed (Kennan and Walker, 2003) and thus, the workers had no choice but to move to an illegal employer who, naturally, paid more. In addition, the workers had often suffered from nasty and disparaging treatment from their legal employer, and they had worked more hours than had been agreed at hard physical labor, and had been furnished with difficult residential and living conditions (Bar Zuri, 1999). These findings raise serious questions about the morality and the justification to continue using the "binding arrangement".

From the model which was developed for this study, it can be understood that the stay time in legal employment is affected by a number of factors: The first is the level of wages in legal employment in relation to the wages in illegal employment. The higher the legal wage, the longer the worker will stay in the legal employment. The second factor is the probability of being apprehended. The higher it is, the lower the attraction of illegal employment will be and the worker will remain for a longer period of time in the legal employment. High cost to the worker who is caught (fines, loss of income or property left behind), will also lengthen the period of stay in the legal employment. The short average period of stay in legal employment both for the Romanians and for the Chinese found in this study is apparently a combination of the relatively low wages in the legal place of employment and the low probability of being caught (Massey et al., 1993). Regarding the cost to a worker who is caught, as there is no monetary fine, but rather individual cost which is impossible to measure, the exact cost cannot be determined, but it is logical to assume that it is relatively small.

As noted above, in 2005 the new "corporations arrangement" was applied in the construction sector<sup>8</sup>. According to this model, a limited number of corporations were licensed to employ a limited number of foreign workers in a specific sector, under a strict government regulation on minimum wage and work conditions. Corporation licensing would be conditional on the payment of a licensing fee to the state treasury.

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<sup>7</sup> It is logical to assume that the profits are divided between the sides which are involved in the workers' employment and this is explicitly prohibited by Israeli law.

<sup>8</sup> This model, which was recommended for implementation in the construction and agricultural sectors, was applied only in the construction sector.

The license period was extended from 27 to 63 months. During this period, workers could move between the corporations every 3 months. The corporation would also be required to make a regular monthly deposit in the worker's name, without deducting that amount from the worker's wages. A foreign worker who decided to leave Israel would be eligible to receive the money deposited in his name. These recommendations, combined with a policy of limiting the number of foreign worker employment permits, and with tight enforcement on illegal workers and their employers were expected to lower the number of foreign workers employed in Israel's construction and agricultural sectors, and to increase the number of Israelis employed in those sectors.

Examination of the policy change through legal employment model (equation 1) reveals that the expected rise in wages and the lengthened permitted employment period increases the present value of legal employment in Israel and can make this employment framework worthwhile from the perspective of the employees. From the employers' point of view, the increase in salaries and other employment fees reduce the relative attractiveness of employing foreign workers.

Examination of the policy change on the relative attractiveness of illegal employment through the illegal employment model (equation 5) reveals that two of the factors that changed in the wake of the committee recommendations – the lengthened permitted employment period and the increased probability of being caught due to greater enforcement – work to reduce the profitability of switching to illegal employment, particularly at the earlier stages of the employment period. The rise in financial cost to the worker who switches to illegal employment (forfeiture of the deposit that has accumulated in the worker's account), helps reduce the profitability of switching at the later stages, since the sum that the worker will lose becomes greater with the passage of time. Regarding the fourth factor, the income ratio, the effect is not obvious. On one hand, the legal employment wages should increase due to the reform. On the other hand, the change in illegal wages employment is abstract to two opposing effects; a decrease in demand due to tighten enforcement on employers, acts in the direction of a decrease in illegal wages, But the decrease in supply due to the reduction in employment quotas and tightened enforcement on illegal workers, acts in the direction of an increase in illegal wages.

The conclusion to be drawn is, therefore, that the reform does include elements that work to reduce illegal employment within this worker group. In addition, the greater enforcement also reduces the profitability of employing illegal workers from the employers' point of view. However, it is not possible to determine whether the reform can reduce the attractiveness of illegal employment, at least from the perspective of foreign workers.

### ***5. Summary and Recommendations***

This study clearly demonstrates that the "binding arrangement" for foreign workers, whose stated objectives were to preclude the stay in Israel by foreign workers and to prevent them from taking employment away from local workers, did not make a significant contribution to achieving the objectives for which it was intended. On the other hand, it led to significant harm to the employment conditions of the foreign workers and resulted in difficult cases of exploitation due the unequal power relations which benefited the Israeli employers. On the basis of these findings, the Supreme Court unequivocally decided (High Court of Justice 4542/02, 2006; High Court of Justice 10843/04, 2008) that the state must enact a new employment arrangement which would not include binding a worker to the employer.

At this point the question naturally arises of whether another employment system might not have proven more effective in attaining the goals defined at the policy making stage in this sphere. Considering the options, the alternative proposed by the petitioners was employing foreign workers in the framework of a quota by sector, with the workers free to switch employers within the sector. On the one hand, this system could increase competition on foreign workers' services, and even cause the wages of the foreign workers to rise more significantly. On the other hand, it should be remembered that under this type of employment arrangement, in which the worker is free to move among a large number of employers in the sector, the government is unable, for obvious reasons, to impose strict regulation on the sector, as has been done under the "corporations arrangement" employment system. As a result, this relatively weak population that has trouble exercising its' rights, is exposed to the risk of exploitation and to the potential violation of basic rights. It therefore appears that even if a price is being paid in terms of relatively low competition within the sector, that price is reasonable from a standpoint of safeguarding the rights of all workers in the sector.

On the basis of the above, the first recommendation is to tightly monitor the manpower corporations to prevent the creation of a cartel which will coordinate the work conditions among the corporations and will prevent the limited competition over the foreign workers' services. Otherwise, Exploitation of the workers will continue under a different form. The second recommendation, one requiring more specific and stringent measures, is that of the broker's fees that the foreign workers are required to pay for permits to work in Israel (Committee to Formulate Policy on Non-Israeli Workers, 2007). This situation calls for government intervention in the process by which workers are recruited in their countries of origin, through entities empowered to supervise recruitment activity. In 2011, after a pilot scheme with Sri Lanka in 2010, Israel signed its first bilateral agreements for employment in agriculture with Thailand and Sri Lanka. Bilateral agreements for the employment of foreign workers in the construction sector are being negotiated with Bulgaria, Romania, and Sri Lanka. These agreements are also meant to combat illegal fee-taking by mediation agencies (International Migration Outlook, 2012).

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