**Bilateral Agreements on Migration**

**Analysis of the bilateral agreements signed by Israel**

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7. **Background**

In the early 1990s, Israel officially began recruiting migrant workers for specific low-skilled economic sectors with growing demands for additional workers.[[1]](#footnote-1) Since then, the management of temporary migration for the purpose of labor has become a key policy issue.

According to data from the Israeli Population and Immigration Authority (PIBA), in June 2019 there were 117,798 migrant workers in Israel; of whom 100,987 were regular and 16,811 were irregular (but who initially entered with a permit). Approximately 86% of the total number of migrant workers had work permits and were employed in caregiving (57%), agriculture (21%) and construction (14%) (PIBA, 2019a).[[2]](#footnote-2) The Israeli government decides upon a maximum quota of migrant workers in the construction and agriculture sectors. In the caregiving sector however there is no pre-set quota; the number is determined by the number of caregivers needed in Israel.

Labor migration in Israel has had significant impact on Israel’s workforce composition, economy and society in the last decades.[[3]](#footnote-3) By the end of 2018, the proportion of regular and irregular migrant workers out of the total civilian workforce - estimated at 4.117 million (The Central Bureau of Statistics, 2019) - was approximately 2.8%.[[4]](#footnote-4)

Up until the establishment of bilateral agreements with migrant workers' sending countries (hereafter BLAs), their recruitment has been carried out by private agencies in Israel and in the country of origin. Although a maximum legal recruitment fee has been set for collection from potential migrant workers (approximately 1,000USD),[[5]](#footnote-5) private companies in the countries of origin and in Israel collected exorbitant illegal fees from migrants who desired to work in Israel, reaching a cost of dozens of thousands of USD for an individual migrant (Raijman and Kushnirovich, 2012). This created an industry of profit-driven-recruitment (a "revolving door" encouraging the entrance of migrants regardless of the need or actual match with employer), irregular entrance and stay of migrants and a convenient ground for trafficking and modern slavery.

Against this background, the rationale of a government decision first taken in 2005 about signing BLAs[[6]](#footnote-6) was to put an end to the exploitation of migrant workers and eliminate the profit incentive in the recruitment process. This was done by restricting the recruitment process to governments, public agencies and non-profit NGOs only.

BLAs were signed initially with Thailand (agriculture) in 2010[[7]](#footnote-7) (implemented in 2012), then in the construction sector with Bulgaria (2011), Moldova (2012), Romania (2014),[[8]](#footnote-8) Ukraine (2016, implemented in 2018), and China (2017).[[9]](#footnote-9) In addition, beginning in 2010, seasonal agricultural workers from Sri Lanka arrived in Israel as part of a BLA.[[10]](#footnote-10) In the caregiving sector special pilot agreements were signed and implemented with Nepal (2015) and Sri Lanka (2016).[[11]](#footnote-11) In September 2018 the first full BLA in the caregiving sector has been signed with the Philippines, the main sending country in the sector in Israel. The agreement was ratified and awaits implementation, meanwhile the recruitment of migrant workers from several sending countries continues in the existing path, carried out by private recruitment companies.

*Migrant workers arriving as part of the BLAs by the end of 2018: sectors and countries of origin (CIMI and PIBA, 2019)[[12]](#footnote-12)[[13]](#footnote-13)*

1. **Objective of BLAs**

The official main objectives of the agreements are: 1. to ensure fairness and transparency in the recruitment process; 2. to do away with the of exorbitant agency fees through government supervision and control of the process of labor migration in the country of origin and in Israel; and 3. to bring to Israel skilled and professional workers who are aware of their obligations and rights (Raijman and Kushnirovich, 2019, 7; PIBA, 2017: p. 2).

# The agreements also serve as an effective instrument in regulating and managing inflows of migrant workers while reducing their vulnerability. As indicated in the previous section, when the incentive of making profit from the arrival of new migrants is eliminated, it is easier for the government to reduce entrance of migrants who are not needed or matched with a specific employer as well as to reduce the illegal stay of migrants. When migrants no longer need to pay back large debts they are also not pressured to overstay in Israel and work even after their permit is expired. The numbers of migrant workers who overstay is significantly higher in the caregiving sector, which is still not under a BLA (PIBA, 2019a).

1. **The structure and elements of BLAs**

The recruitment in the framework of the BLA is carried out solely by government, and public or non-governmental agencies (hereafter "implementing partner") with no involvement of private agencies in the country of origin; and with limited and monitored involvement of authorized private agencies in Israel- mainly responsible for placement of workers. One exception is the agreement that was signed with China for the arrival of construction workers- see below in *"Examples of common institutional set-up*."

*The logistical process*

The implementing partner in the sending country organizes the logistics of advertisement, professional exams and medical tests, as well as pre-departure orientation and the booking of flights. In the beginning of the process the implementing partner advertises work in Israel, along with the work conditions, rights and obligations of workers (the content must be officially approved by the Israeli government). The workers that apply and meet the criteria, and pass the screening process are then randomly selected in a lottery. The Israeli employers are not involved in contacting candidates but participate in setting the professional requirements for the screening of workers before arrival and specifically in construction in the testing of workers.[[14]](#footnote-14)

Workers who are selected in the lottery pay only the permitted fees by Israeli law (maximum of approximately 1,000$) to the public/non-governmental agency for the recruitment process in the country of origin[[15]](#footnote-15) and in addition, depending on sector and set up of implementing partner, the costs of: medical tests and professional exams, issuing of passport and visa; and a flight ticket.

The matching with the employer through PIBA takes place before the workers leave to Israel, and they have a contract signed by the employer expecting them at the airport in Israel. Having the contract signed prior to their arrival ensures that they will have legal employment immediately upon arrival and prevents incentives to recruit migrant through illegal channels for the purpose of profit from illegal fees.

Finally, all workers participate in the pre-departure orientation run by the implementing partner and receive handouts with information that will assist them while they stay in Israel.

*Follow up on the condition of workers and intervention*

In July 2012 as part of the BLAs, the Center for International Migration and Integration (CIMI), in collaboration with PIBA, founded a telephone *call center* for migrant workers in Israel providing a resource for workers in their native languages. This call center is operated by CIMI; calls to the center are registered as inquires or complaints and transferred to PIBA. PIBA then refers the inquiry or complaint to the relevant unit(s) in the authorized government ministries. The call data is compiled by a computerized system that directs the calls to their appropriate destinations; this system also allows for the systematic collection of call data and its analysis. The data is published annually and is found effective in building capacity of authorities to handling complaints, in bringing issues to their awareness as well as communicating the condition of workers who arrive as part of the BLAs with various stake holders and researchers.

Finally, a vital component of the BLAs is the systematic *monitoring and evaluation of the condition of workers*. Since the first agreement with Thailand has been signed, CIMI in collaboration with PIBA has been executing a follow-up study, interviewing samples from each targeted group of migrants about the costs of arrival, working and living conditions and their life in Israel in general. The findings are published once in two years in English as well and distributed among all concerting government offices as well as other stakeholders. The report published is also discussed in a roundtable, actively involving officials and encouraging an ongoing constructive but critical examination of the implementation and impact of the agreements.

*Setting up the operation and financing*

Once an agreement is signed, the next step in the implementation is setting up the operation which takes about a year. The setting up phase includes contacting and carefully screening local partners for implementation, finding an existing infrastructure or setting up a new one, needs assessment of the costs, recruiting call center representative in the language of sending county and covering the new group of migrants in the planning of bi-annual assessments of workers' condition. Once the operation sets in motion, time resources are invested mostly in the frequent communication with the implementing partner, periodic meetings between governments and partners, assessment of numbers of workers who enter, call center activity and data management.

In terms of budgeting and financial costs, up until now it is mostly the Israeli government that covers the costs of human and material resources needed for the operation and management of the arrival of workers as well as the call center.[[16]](#footnote-16) The costs include: managerial staff, venue and logistics of professional exams, office equipment, service providers and periodic visits of the sites the operation. The expenses of the evaluation follow-up study are covered partly by Israeli government and partly by CIMI.

3.1 Examples of the institutional set-up of BLAs[[17]](#footnote-17)

*Agriculture*

By the end of 2017, all Thai workers in agriculture arrived as part of the BLA. The BLA with Thailand on the arrival of agricultural workers is implemented by the TIC project (Thailand-Israel Cooperation on the Placement of Workers) run by PIBA and the Thai Ministry of Labor, also supported by the International Organization for Migration (IOM) in Thailand and by CIMI in Israel. A limited number of authorized Israeli manpower agencies are responsible for the placement of workers after their arrival (that is in case they wish to change employers during their stay in Israel. As in all other BLAs, the matching with the employer – the individual farmer- at destination is pre-determined before arrival), and are permitted to collect a predetermined fixed fee for this service and additional services such as translation.[[18]](#footnote-18)

*Construction*

Migrant workers in the construction sector are mainly recruited from Moldova and China. A limited number of corporations are the official employers of the workers and are responsible for their work and living conditions while in Israel but as in the agriculture sector, are not allowed to contact candidates prior to their arrival to Israel. By mid-2018, 14,291 migrants were employed in construction in Israel (PIBAc, 2018), out of which 12,810 arrived under a BLA (Raijman and Kushnirovich, 2019, 35).

The BLAs with Moldova and the Ukraine on the arrival of construction workers are implemented in a very similar manner by a governmental public agency (the Ministry of Labour in Moldova and the Employment Services in the Ukraine), and a non-governmental organizations in the source country; and by PIBA and CIMI in Israel.

Since there is no government employment service in China that deals with the recruitment of workers to Israel, the Chinese Ministry of Commerce authorized the China International Contractors Association - CHINCA to carry out the agreement with PIBA. CHINCA advertises the recruitment announcement.[[19]](#footnote-19) Additionally, several authorized Chinese manpower companies locate the candidates and refers them to apply on the CHINCA website. From there on the process is the same as in other agreements.

*Caregiving*

The model of the small scale pilot agreements with Nepal and Sri Lanka made changes in the recruitment process: the recruitment was the responsibility of PIBA and the departments of labor and employment in Nepal and in Sri Lanka- manpower companies in Israel were forbidden to contact the applicants prior to their arrival in Israel. PIBA sent the anonymous videotaped interviews with the applicants to the Israeli manpower companies and if they find them suitable they need to complete the forms and submit them to PIBA.

The pilot agreements with Nepal and Sri Lanka however, were not defined as an exclusive system and the recruitment continued by manpower companies. In the end of 2018, 55,425 migrant workers with a permit in the caregiving sector were living in Israel, and 11,434 without a valid permit. Approximately 60% are from Southeast Asia (the Philippines, India and Sri Lanka) and 40% arrived from Eastern Europe (Moldova, Uzbekistan and Ukraine) (Raijman and Kushnirovich, 2019, 59). The high number of migrants who lost their legal status is associated with the absence of a BLA: individual migrants pay thousands of USD for coming to work in Israel and need to pay back debts, even if it means they work in other jobs or overstay their visa.

As mentioned in the beginning of the section, BLA with the Philippines, the country from which the largest number of migrant workers come to Israel, still awaits implementation.

1. **Strengths and challenges of cooperation based on BLAs**

The strengthens of how the implementation of the BLAs is designed are mainly related to: not involving profit considerations; benefiting from various points of view of multi-level partnerships; enjoying good climate of international relations; and allowing to closely monitor the conditions of workers. However, as the next paragraphs will demonstrate these very advantages also set the challenges that need to be met and overcome by the governments and implementing partners.

*Keeping the private sector out of the picture*

The exclusion of profit oriented actors is not an easy process and experience shows it required a commitment and an uncompromising approach by governments as well as constant monitoring of what is taking place on the ground. There is also the complexity of finding a reliable and stable non-governmental partner on the sending end. The BLAs are never completely secured and the implementing partners need to be able to overcome various direct and indirect private sector pressures.[[20]](#footnote-20) Finally, as the government is the main implementing actor, in the current design, it needs to bear most the costs of the process.

However, as long as the BLAs are resistant to these pressures their design allows to closely monitor the payments and costs for working in Israel and this is grounded in systematic research (see the following section of the outcomes of the BLAs). In addition, separating profit oriented actors from the process of the professional examination enables the government to control and keep the professional standard satisfactory and reliable.

*Integrative process of several partners at different levels and locations*

One more advantage to the structure of BLAs is that they integrate the experience and input of several partners from the governmental and non-governmental sectors. The variety of sources and the exchange of knowledge contribute to finding solutions and constantly improving the components of the implementation process. Nevertheless, the strength of incorporating several points of view at times requires closely coordinating the work of governmental and non-governmental agencies at local and international levels. In addition, as the government of the receiving country often depends on remote factors it cannot entirely control such as: effective local media for advertisement, or difficult flight logistics which can slow down the arrival of workers and harm the trust of employers in the process.

B*LAs and international relations*

Since the BLAs are signed between governments, and while the wider context of international relations between sending and receiving governments can strengthen the commitment to and effectiveness of the implementation, changes in foreign relations can potentially also negatively affect the agreements. The government depends on a limited number of sending countries and this requires the ability to foresee changes, maintain flexibility and constantly be prepared for alternatives.

*Commitment to migrant workers' populations*

Last but not least, having to run the processes of arrival of dozens of thousands of workers requires earning the trust of the workers throughout long periods of time: the costs of arrival, the conditions in which they live and work in the receiving country, and how the receiving society treats them. This is probably one of the most sensitive parts to the operation of BLAs and mistakes and inattentive approach can negatively affect vulnerable populations as well as the process itself. Protection mechanisms such as phone line for complaints, and close monitoring of living and working conditions as well as any initiative that can improve their wellbeing while in Israel. If the protection nets are carefully kept, the movement of large populations for the purpose of work and financial profit serves not only these individuals but their entire societies.

*Keeping the receiving country as an attractive destination- a factor of BLA success*

Against this background, a clearly important success factor is making sure the receiving country is an attractive destination for workers. For example, Israel was no longer relevant for potential workers from Romania and Bulgaria after they joined the EU. Another factor which can influence the attractiveness of the destination is the working and living conditions. Even when the working conditions are reasonable, high costs of living may negatively impact the motivation to stay and work in the destination as Chinese construction workers reported in the follow-up study (Raijman and Kushnirovich, 2019, 54).

1. **Outcomes and factors influencing negative and positive impact of BLAs**

The BLAs have significantly reduced the collection of illegal recruitment fees and, as a result, the cost of arriving in Israel has dropped from tens of thousands of dollars to several hundred dollars paid legally. As part of the agreements to this day a sum of nearly $297,385,300 has been saved in the sectors covered by the BLAs (agriculture and construction) and/or in the pilot agreement of the caregiving sector.[[21]](#footnote-21) The BLAs have also significantly improved the awareness of workers to their rights and made complaining possible. At the same time, the living and working conditions of the workers have not necessarily improved or are better enforced.

The labor laws in Israel apply for citizens and non-citizens, as long as they work in Israel. However, the situation of employers meeting this legal obligation on the ground is far from being satisfactory. In addition, the BLAs do not incorporate additional legal means of enforcement but rather, there are constant efforts between governmental bodies in charge of enforcement to correct procedures that will improve the ability to protect migrant workers. To make the achievement of the BLAs complete and justified, it is essential to improve enforcement tools and resources.

The follow-up study on the implementation of the BLAs conducted since 2011 (Raijman and Kushnirovich, 2019) so far showed consistent involvement of authorized actors only, a significant decrease in the costs of arrival and in the loans needed to return sums of money. As a result, in the framework of BLAs migrant workers arrive to Israel more free from debts, are more able to focus on understanding their legal rights and obligations, can more easily leave an employer who does not comply with their contract; and can start saving their income a lot earlier. Main findings of the study are the following:

* 100% of the migrant workers that were interviewed arrived only through governmental and non-profit non-governmental agencies (in the case of the BLA with China through the authorized manpower agencies under the supervision of the public agency).
* 100% of the migrant workers that were interviewed did not report illegal payments.
* The costs of arrival after BLAs decreased in 85% in the agriculture sector (Thailand), 93% (China[[22]](#footnote-22)), and 80%-89% under the pilot BLAs in the caregiving sector (Sri Lanka and Nepal respectively).
* Out of the 63 months of permitted stay in Israel, the time it takes to repay the costs of arrival dropped from 17 to 9 months in the agriculture sector (Thailand); from 15 to 1 months in the construction sector (China), and from 27-5/22-8 months under the pilot BLAs in the caregiving sector (Sri Lanka and Nepal respectively).

However, there are no consistent or clear evidence that the BLAs improved the living and working conditions of workers and the findings can vary between sectors:

* Minimum wage requirement is not entirely met across all sectors: not all respondents reported getting the minimum wage in agriculture (Thailand); respondents in the construction sector report minimum wage but complain that it is now lower than before the BLA; and respondents who arrived as caregivers as part of the pilot BLA with Nepal and Sri Lanka report proper wage in accordance with minimum wage.
* Days of rest: reasonable situation in the agriculture and construction sectors but respondents in the caregiving sector report irregularities.
* After BLA there is deterioration in overtime and sick leave payment in agriculture (Thailand) and construction (China and Moldova) (this finding can also be attributed to raised awareness).
* Unlike respondents in the caregiving sector that live in the house of the employer, respondents in the agriculture and construction sectors report about problems in their accommodations.
* Safety instructions in agriculture and construction sectors are not clear enough to 48% of and 22% of respondents (respectively).

Another reliable tool of measuring the condition of workers under BLAs is the data collected from the call center (CIMI and PIBA, 2019). It gives a picture of a population of approximately 5,700 workers to date out of the total of 42,000 that actively turned to the call center to make a complaint. It also gives a picture of the status of treatment by enforcement units. In 2018:

* Complaints that contain wage problems make 30% of the total number of complaints followed by 28% of complaints that contain a problem with the treatment of employer.[[23]](#footnote-23)
* Low numbers of complaints about safety issues, 4% of the total number of complaints in 2018, may indicate a low level of awareness rather than low numbers of safety problems. Out of the the total number of complaints on safety, 61% was submitted by workers in the agriculture sector.
* Out of the 2,657 inquiries and complaints submitted to the call center in 2018, 60% were addressed and closed by the call center representatives,25% were addressed and closed by the responsible bodies at PIBA, and 15% were transferred to the Ministry of Labor, Welfare, and Social Services; out of which 60% were being investigated in the beginning of 2019 and 40% were closed. The length of time needed to address the complaint varies in accordance with its contents and circumstances.

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1. The escalation of the political and security situation following the 1987 Intifada (the term is in Arabic, referring to the Palestinian uprising) created an acute shortage of workers in these sectors, in which mainly Palestinian workers were employed since the early 1970s (Kemp and Raijman, 2008). [↑](#footnote-ref-1)
2. The remaining percent are employed under the category of "experts" (6%) or the category of "industry and services" which is no longer a sector open for recruitment of foreign citizens (2%, who are without permits). [↑](#footnote-ref-2)
3. In addition to regular and irregular migrant workers, the larger category of officially recruited foreign workforce in Israel includes 67,997 Palestinian and 1,800 Jordanian workers. The total number of migrant workers in Israel from these three populations by the end of 2018 stands on 187,595 (PIBA 2019b). Tourists who overstayed their visas and possibly work without a permit (PIBA, 2019a); as well as 32,604 migrants and asylum seekers ("infiltrators" in legal Israeli terms- PIBA, 2019a) from Eritrea and Sudan, who entered Israel illegally through the border with Egypt, are under group protection and are permitted to work, also participate in the labour market but are not regarded as officially recruited labor force. For further reading on foreign populations in Israel also see: Hercowitz-Amir, 2016; Nathan, 2018. [↑](#footnote-ref-3)
4. When the population of tourists who overstayed their visas is factored in, the percentage of foreign citizens out of the total civilian workforce in 2019 exceeds 5%. For further reading on the percentage of migrant workers in the total civilian workforce in the recent years, see Eckstein (2007) and Kemp (2010). [↑](#footnote-ref-4)
5. See The Employment Service regulations (fees from work applicant for work mediation), 2006 (in Hebrew): <https://www.nevo.co.il/law_html/Law01/999_625.htm>. [↑](#footnote-ref-5)
6. See government decision no. 4024, "Permits to employ foreign workers", article 6: <https://www.gov.il/he/departments/policies/2005_des4024> (in Hebrew). [↑](#footnote-ref-6)
7. Signing the BLA in 2010 was made possible in the context of external and internal events (i.e. the joining of Israel to OECD that required Israel's account on management of labor migration; the US State Department TIP annual report; and pressures by Israeli civil society). For more information and analysis of the context of signing the agreement with Thailand see also Kurlander, 2019. [↑](#footnote-ref-7)
8. The recruitment from Bulgaria and Romania is no longer active. Once these countries joined the EU in 2017, the flows of these groups of workers shifted to patterns of internal EU migration. [↑](#footnote-ref-8)
9. Some elements in the BLA with China are structured differently; see further information in the next section. [↑](#footnote-ref-9)
10. Seasonal workers arrive for a period of 4 to 8 months in order to serve the needs of seasonal work in many crops in the agricultural sector. At the end of the season the worker is supposed to return to his or her country of origin (unlike a permanent worker, for whom the employer must find alternative employment with other farmers at the end of the season). Moreover, in the following year the employer may invite the same workers trained on his farm in the previous year. [↑](#footnote-ref-10)
11. The caregiving sector in Israel, being the largest without a set quota, requires a large scale solution. The recruitment through the pilot agreements from Nepal and Sri Lanka did not meet that need and is currently inactive. [↑](#footnote-ref-11)
12. The data regarding the number of workers arriving as part of the BLAs is cumulative. [↑](#footnote-ref-12)
13. 1,882 entries of Sri Lankan seasonal agricultural workers were registered by the end of 2018. Since in some cases workers enter the country more than once, it is not possible to extrapolate the actual number of Sri Lankan workers in Israel based on this information. Therefore, this data was not included in the graph. [↑](#footnote-ref-13)
14. PIBA 9.7.0003 procedure (in Hebrew, June, 13th, 2017) [↑](#footnote-ref-14)
15. The payment of legal recruitment fees varies across sectors mostly due to their different employment systems as well as the setup of implementing partner, but it should never exceed 1,000USD. [↑](#footnote-ref-15)
16. The TIC project has been an exception due to partnership with IOM- the collection of recruitment fees from workers served as a basis for funding the program componenets and establish best practices for further BLAs that were signed. [↑](#footnote-ref-16)
17. For more information about the structure, procedures of agreements and populations that arrive as part of the agreement in each sector see: Raijman and Kushnirovich, 2019; Hercowitz-Amir, 2016. [↑](#footnote-ref-17)
18. The fee to date is approximately 889$. See The Employment Service regulations (fees from work applicant for work mediation), 2006 (in Hebrew): <https://www.nevo.co.il/law_html/Law01/999_625.htm> [↑](#footnote-ref-18)
19. PIBA, Procedure of inviting and employing foreign workers from China in Israel in the construction sector, number 9.7.003, June 2017 p. 2. <https://www.gov.il/BlobFolder/policy/inviting_chinese_workers_for_constructions_procedure/he/9.7.0003_with_form.pdf> [↑](#footnote-ref-19)
20. Threats to the stability of the BLA can also come from less obvious directions. There are approximately 3,000 trainees with student visas from developing countries working in Israel as part of an agricultural work-study program. They can undertake agricultural work only within the framework of their program but there are evidence that part of them are being exploited and serve as informal labor force for employers (Raijman and Kushnirovich, 2019, 10; Kav Laoved, 2014). [↑](#footnote-ref-20)
21. See estimation of the sums saved in illegal recruitment fees in each of the sectors in: Raijman and Kushnirovich, 2019; 2017. For regulations on the sums that can be legally collected from migrant workers, see regulations on the website of the Israeli Employment Service, <https://www.nevo.co.il/law_html/law01/500_818.htm>. [↑](#footnote-ref-21)
22. There was no information about the costs of recruitment fees in Moldova prior to BLAs. The costs of arrival after BLA stands on 336$ (Kushnirovich and Raijman, 2017). [↑](#footnote-ref-22)
23. the most prominent issue in the calls is request for information, which makes 51% of the total number of inquiries and complaints. [↑](#footnote-ref-23)