



התכנית לחינוך משפטי קליני ע"ש אלגה צגלה
The Elga Cegla Clinical Law Program
برنامج التعليم القانوني الإكلينيكي على اسم ألغا تسغلا

הקליניקה לזכויות עובדים
The Workers Rights Clinic
برنامج حقوق العمال



European Research Council
Established by the European Commission



LAST UPDATE: 9/8/18

GLOBAL CLASS ROOM – TAU-NALSAR

CARE WORKERS' MIGRATION

TOWARDS AN INDIA AND ISRAEL BILATERAL AGREEMENT ON CARE WORKERS' MIGRATION

LABOR MIGRATION AND TRAFFICKING CLINIC (NALSAR)

WORKERS' RIGHTS LEGAL CLINIC (TAU)

Instructors: Vasanthi Nimushakavi, Neta Ziv, Hila Shamir and Idit Zimmerman

Summer-Fall 2018-2019

Venue in Hyderabad: TBD

Venue in Tel Aviv: Room 307

TEL AVIV UNIVERSITY FACULTY OF LAW AND NALSAR LAW SCHOOL, HYDERABAD

Overview of the course

Women's work migration is on the rise around the globe. Work migration can be an empowering experience in which migrants get to travel, learn about the world and about themselves and earn well enough to provide for their family and improve significantly their economic status. However, migrants may also be vulnerable to severe forms of labor and other forms of exploitation for various structural and individual reasons.

The structure of migration regimes often entail various restrictions on migrant workers' labor market participation, freedom to change employers and work, as well as limits on their ability to build a family, establish a community, and participate politically and otherwise in the receiving countries' society. These limitations are characteristic of the *migration of domestic and care workers*. Care workers are particularly vulnerable to exploitation due to high recruitment fees paid in the country of origin and/or country of destination and restrictions of their freedom because of their work in households, away from the public eye, in a liminal state between the private household, and the more public labor market. In some cases migrant workers' vulnerabilities are exploited to an extent that can be characterized as human trafficking and forced labor. Often migratory experiences are complex and include both the positive and the negative aspects of migration.

Scholarship and study of the global care chain mostly focuses on care workers' work and life in the destination country or (and less so) on their situation in the sending country, focusing on the push and pull factors that lead individuals to migration.

One seemingly promising avenue to improve migrant care workers rights and bargaining position in their migration process is the introduction of bilateral agreements on Migration. Bilateral agreements between migrant-sending and migrant-receiving countries are increasingly used to restructure recruitment practices, and worker rights enforcement in order to uproot the conditions that create vulnerability to trafficking. One such agreement, for example, innovations such as a 2010 Israel-Thailand bilateral agreement under which the International Organization of Migration (IOM) serves as a labor recruiter in Thailand. This is a first of its kind bilateral agreement in which an international organization steps in as a recruiter in an attempt to ensure the workers are not burdened with excessive debt and thus are not de-facto bound to their employer and are able to "exit" exploitative employment relationships. Other developments in bilateral agreements around the world include government agencies stepping in as recruiters, thus eliminating the involvement of private actors, and preventing governmental corruption through allocation of visas through a lottery, as well enhanced involvement of civil society and actors in migration.

Following a long legal battle by NGOs, the Israeli government made a commitment to move to a bilateral agreement model in all labor sectors for which it invites guest workers. This gradually happened in relation to agriculture and construction but still did not develop in relation to care work. There is currently a pilot of two bilateral agreements (with Nepal and Sri Lanka), as part of which a miniscule number of workers came to work in Israel in 2017 (77, and 13 migrant care workers respectively). India is a side to several bilateral agreements on migration, but there is no such agreement between Israel and India.

In this Global classroom, TAU and NALSAR law schools will collaborate in a unique and first of its kind attempt to research, document, understand and reform existing regulation and policies around care workers migration. The project will focus on documenting the current state of care workers migration along the India-Middle East migration corridor, and create a blue-print for a bilateral agreement for care workers between India and Israel.

Program

Students in Hyderabad and in Tel Aviv, in collaboration with local NGOs in each country, will document the state of migrant domestic workers, and analyze the legal and regulatory frameworks that create vulnerability to exploitation and human trafficking. Building on an in-depth understanding of the migration industry, regulatory regime, paths of migration and migratory and work experience of care workers, along this migration corridor, students will create a blueprint for a bilateral agreement between India and Israel. The project will also provide direct legal assistance, such as dissemination of information and rights education, as well as legal consultation to men and women before (in Hyderabad) and after (in Tel Aviv) they migrate.

Co- taught by Vasanthi Nimushakavi at NALSAR and Neta Ziv, Hila Shamir and Idit Zimmerman at TAU, law students will both work in their own country context and conduct collaborative research with students from the other side of the migration corridor to study the migratory process and to devise an optimal bilateral agreement between the two countries.

Project output

The main project output will be a co-authored report about care workers migration between India and Israel. The report will have three main parts: first an introductory section detailing the scope of migration, the regulatory framework, the push and pull factors, the realities of recruitment, migration, work in Israel, and return to India. This background section will highlight the challenges and vulnerabilities created by the current framework. The second part will present the tool of bilateral agreements, review the promise and problems with current bilateral agreements, and provide background on bilateral agreements in India and Israel. The third part will be an annotated model bilateral agreement between the two countries.

Detailed Assignments

1. Background: students will draft a description of migration of care workers along the India-Israel migration corridor. TAU students will write a report about the Israeli side

(approx. 5 p., later to be complemented with interviews), and NALSAR students will write about the pre migration and post migration experience in India (approx. 5 p.).

2. Questionnaire:

- a. Draft the questionnaire: students will draft a questionnaire for workers based on existing questionnaires, as well as individual and group research about the migration industry and the migratory experiences of workers along the India-Israel migration corridor. The questionnaire will be available to all students via google drive, and will be discussed in the global classroom's website by the whole group.

Deadline: A first draft of the background and a final questionnaire by Aug. 23.

- b. Conduct Interviews: Israeli students will interview Indian care workers in Israel using the questionnaires, and adding a section to the "background" documents based on the information collected in this interviews.

Deadline for first interviews: Sept. 6

3. Bilateral agreements - background: students will write an introduction about the use of bilateral agreements in migration governance, and the promise and problems with such a tool. TAU students will write a section about the development of bilateral agreements in Israel. NALSAR students will write a section about the development of bilateral agreements in India.

Deadline for first draft: Sept. 6

4. Annotated model bilateral agreement – India-Israel: students will write a model bilateral agreement for the migration of care workers between India and Israel. Each section will include an annotation explaining the choices made in drafting the section.

Deadline for first draft: Sept 6.

The full report will be put together and presented and discussed during our final session in October.

Between session students will use the global classroom platform to discuss and consult about different aspects of the project, meet virtually on Zoom (or skype) to advance collaboration, and work closely with course instructors that will assist, consult and guide the students throughout the process.

Readings

Class readings for each session are detailed below. Additional readings may be prescribed. Class readings will either be available on TAU Moodle (NALSAR students will be provided access details via email), or will be available through electronic databases available to students.

All reading materials (except TIP reports and Palermo protocol – accessible by URL) are available here: <https://drive.google.com/open?id=13otMewWlorzMB0cUCFfN15BQInaDbgpH>

Syllabus

AUGUST-OCTOBER 2018

All session will take place between 6-8pm Hyderabad; 3:30-5:30 Tel Aviv;

1. August 9th – Labor migration and human trafficking in the context of domestic/care work, and the role of bilateral agreements in preventing worker exploitation
2. August 23rd - Care work migration - state of affair in India and Israel
3. September 6th - Initial presentation of work in progress of both parts of the report.
4. October meeting (exact date TBD): Final report presentation

In ** recommended extra reading

AUGUST 9 2018 - LABOR MIGRATION AND HUMAN TRAFFICKING IN THE CONTEXT OF DOMESTIC/CARE WORK, AND THE ROLE OF BILATERAL AGREEMENTS IN PREVENTING WORKER EXPLOITATION

Module 1: Domestic and Care work in a global age: Global Care Chains

1. Mary Romero, Reflections on Globalized Care Chains and Migrant Women Workers, *CRITICAL SOCIOLOGY* 1 (2018) **read pp. 1-10**
2. Fudge, J, Strauss, K (2014). Migrants, unfree labour, and the legal construction of domestic servitude: Migrant domestic workers in the UK. In: Costello, C, Freedland, M (eds) *Migrants at Work*. Oxford: Oxford University Press, **pp. 160–179**

Extra suggested reading:

**Decent Work for Domestic Workers Convention 189 (ILO)

Available at:

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C189

** Helma Lutz, At Your Service Madame! The Globalization of Domestic Service, *70 Feminist Review* 89 (2002)

**RHACEL S. PARRENAS, SERVANTS OF GLOBALIZATION: WOMEN, MIGRATION AND DOMESTIC WORK
Read pp. 150-153, 160-175, 194-196

Module 2: What is Human Trafficking?

1. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, G.A. Res. 25, Annex II, U.N. GAOR, 55th Sess., Supp. No. 49, at 60, U.N. Doc. A/45/49 (Vol. I) (2001). Available at:
<http://www2.ohchr.org/english/law/protocoltraffic.htm>
Read the preamble and Articles 1-11.
2. U.S. Department of State, TRAFFICKING IN PERSONS REPORT (2018).
Read pp. 5, 32-33, 43 available here
<https://www.state.gov/j/tip/rls/tiprpt/2018/>

Module 3: Labor approach to human trafficking: the role of bilateral agreements

1. Hila Shamir, A Labor Paradigm for Human Trafficking, 60 *UCLA Law Review* 76 (2012)
Read pp: 78-93, 98-119.
Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2177914
2. Piyasiri Wickramasekara and International Labor Office, BILATERAL AGREEMENTS AND MEMORANDA OF UNDERSTANDING ON MIGRATION OF LOW SKILLED WORKERS: A REVIEW : REPORT PREPARED FOR THE LABOUR MIGRATION BRANCH. Geneva: ILO, 2015. **Read pp: 37-45**
Available at: http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_385582.pdf
3. Jennifer Gordon, People Are Not Bananas: How Immigration Differs from Trade 1004 *Northwestern University Law Review* 1109 (2010). **Read pp: 1109-1111, 1128-1142**
Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1547153

Assignments to complete between August 9 and August 23:

See 1-2 in detailed assignments above

AUGUST 23RD - CARE WORK MIGRATION - STATE OF AFFAIRS IN INDIA AND ISRAEL

Module 1: Human Trafficking, labor exploitation and Domestic Work

Available here: <https://ccis.ucsd.edu/files/wp116.pdf>

1. HELEN SCHWENKEN, 'DOMESTIC SLAVERY' VERSUS "WORKERS' RIGHTS': POLITICAL MOBILIZATION OF MIGRANT DOMESTIC WORKERS IN THE EUROPEAN UNION, Center for

Comparative Immigration Studies, University of California at San Diego, Working Paper 116 (2005). Read pp. 1-18

Suggested extra reading:

2. ** "I already Bought you" Abuse and Exploitation of Female Migrant Domestic Workers in the United Arab Emirates (Human Rights Watch, 2014) skim table of content and Read pp. 1-10, 18-26, 27-34.
Available at: https://www.hrw.org/sites/default/files/reports/uae1014_forUpload.pdf
3. ** Anderson, B. (2012). Where"s the harm in that? Immigration Enforcement, trafficking, and the protection of migrants" rights. American Behavioral Scientist, 56 (9), read pp. 1241-1257

Module 2: India

1. U.S. Department of State, TRAFFICKING IN PERSONS REPORT (2018).
India: Read pp. 221-225 <https://www.state.gov/j/tip/rls/tiprpt/2018/>
2. Ratna Kapur, Indina, in COLLATERAL DAMAGE: THE IMPACT OF ANTI-TRAFFICKING MEASURES ON HUMAN RIGHTS AROUND THE WORLD (Global Alliance Against Traffic in Women (GAATW), 2007) **Read pp. 114-142**
Available at:
http://www.gaaww.org/Collateral%20Damage_Final/singlefile_CollateralDamagefinal.pdf

Suggested extra reading:

3. ** Neetha, N., &Palriwala, Rajini (2011): " The absence of state law: Domestic workers in India", Canadian Journal of Women and the Law, 23: **97–119**.

Module 2: Israel

1. U.S. Department of State, TRAFFICKING IN PERSONS REPORT (2018).
Israel: 237-239
<https://www.state.gov/j/tip/rls/tiprpt/2018/>
2. Rebeca Rajjman, Adriana Kemp, The Institutionalization of Labor Migration in Israel, a 289 ARBOR Ciencia, Pensamiento y Cultura **1-10** (2016)
Available at:
http://people.socsci.tau.ac.il/mu/adrianakemp/files/2017/03/THE_INSTITUTIONALIZATION_OF_LABOR_MIGRATION.pdf

Suggested extra reading:

3. ** REBECA RAIJMAN AND NONNA KUSHNIROVICH, LABOR MIGRATION RECRUITMENT PRACTICES IN ISRAEL (2012).
Read 60-97. Available [here](#)
4. ** Hila Shamir, Migrant Care-Workers In Israel: Between Family, Market and State, 28 *Israel Studies Review* 192 (2013)
AVAILABLE AT: [HTTPS://PAPERS.SSRN.COM/SOL3/PAPERS.CFM?ABSTRACT_ID=2426164](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2426164)
5. ** CRIM A 6237/12 IBRAHIM AND BASMA GIULANI VS. THE STATE OF ISRAEL (SEPTEMBER 6, 2016) READ PP. 1-3, 13-34
Available here:
<http://www.justice.gov.il/En/Units/Trafficking/MainDocs/giulani%20decision%20-%20English.pdf>

Assignments to complete between August 23 and September 6:

See assignments 3-4 in details assignments above.

SEPTEMBER 6TH – INITIAL PRESENTATION OF WORK PRODUCT

Each team will present the main findings so far, present the outline of the report, and raise questions and challenges that they encounter in this process.

Assignments to complete between September 6 and October:

Complete report with guidance of instructors and Exchange drafts between teams for comments.

OCTOBER MEETING (EXACT DATE TBD) – FINAL REPORT PRESENTATION

Students will present parts they worked on of the final report, the group will provide feedback for each part and discuss possible future work towards bilateral agreement model dissemination.