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## Mobilizing Migrant Workers' Rights in "Non-immigration" Countries: The Politics of Resonance and Migrants' Rights Activism in Israel and Singapore

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How are the rights of migrant workers mobilized in non-immigration regimes? Drawing on an ethnography of human rights NGOs in Israel and Singapore, two countries that share similar ethnic policies but differ in their political regime, this study contributes to scholarship on migrants' rights mobilization by expanding cross-national analysis beyond the United States and West Europe and diverting its focus from legal institutions to the places where rights are produced. Findings show that differences in the political regime influence the channels for mobilizing claims but not the cultural politics of resonance that NGOs use when dealing with the tensions between restrictive ethnic policies and the expansion of labor migration. While restraints in authoritarian Singapore operate mainly outside the activists' circle, in the Israeli ethno-democracy they operate through self-disciplining processes that neutralize their potential challenge to hegemonic understandings of citizenship. Paradoxically, success in advancing rights for migrants through resonance often results in reinforcing the non-immigration regime.

Recent comparative studies on migrant workers' rights<sup>1</sup> shed light on how national fields of power shape and are shaped by legal mobilizations (Bloemraad 2006; Bloemraad and Provine 2013; Kawar 2011a, 2012). Bridging the comparative migration studies' interest in national settings and sociolegal mobilization perspectives, this scholarship underscores the complex dynamics of rights making when activists engage in settings with varying institutional configurations and cultural repertoires. Despite its interest in legal pluralism, much of the cross-national scholarship

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<sup>1</sup> We use the terms "migrant workers" and migrants instead of the official term "foreign workers."

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still focuses on the mobilization of migrants' rights in the cultural contexts of North America and Western Europe, where liberal understandings of citizenship and institutional legacies of previous labor migrations prevail. Moreover, despite the recognition that legal mobilization might take place in a variety of sites, the comparative literature tends to privilege the analysis of the politics of rights of legal elites and institutions rather than the politics of rights where they take place (Kawar and Massoud 2012).

However, the globalization of labor migration and the expansion of rights-based discourses mean that the mobilization of migrants' rights takes place in a variety of national contexts with less established institutional legacies for the advocacy for migrants, and where strong ethnic and racial definitions of the nation compromise the notion of migrants' rights. In this article, we present a comparative ethnography of the making of migrant workers' rights by NGOs in Israel and Singapore. Paying particular attention to the institutional relations and cultural constructions that inform the mobilization of rights "from below," we seek to expand the typological scope of comparative scholarship to include two countries that are explicitly committed to selecting migrants "by origin" (Joppke 2007) and preventing the settlement of nonethnics, but differ from each other in their political regimes.

Looking at similarities and differences in how NGOs mobilize rights for migrants in the context of self-defined "non-immigration ethnic regimes," we ask three sets of questions. First, what types of institutional relations, daily routines and strategic compromises inform the NGOs' legal claims and practices? Second, what are the ethical frames and cultural practices that Israeli and Singaporean NGOs draw upon throughout the mobilization of migrant workers' rights? Third, in what ways do overt differences in political regimes impact the mobilization of rights and the ability of activists to challenge official policies?

Based on our fieldwork, we advance two related arguments. First, we maintain that differences in political regime influence the channels through which NGOs can advance their claims about migrants' rights but not the cultural strategies underlying their mobilization or the power relations between activists and state actors. We show that NGOs in both countries use a politics of resonance to deal with the tensions between restrictive ethnic policies and the expansion of labor migration. Paradoxically, success in advancing rights for migrants through resonance often results in reinforcing the non-immigration regime.

Second, we argue that while restraints in authoritarian Singapore operate mainly outside the activists' circle, in the Israeli ethno-democracy they operate mainly from within through the

activists' strategic choices that favor achieving public consensus and the outsourcing of politically edgy claims and positions. Thus, although activists in Israel have greater political space for waging public struggles over core issues of non-immigration policies, they utilize a set of self-disciplining processes that neutralize their potential challenge of hegemonic understandings of citizenship.

The Mobilization of Migrants' Rights in Cross-National Analysis section of the article offers a theoretical overview of sociolegal research on rights mobilization and comparative cross-national analyses in the field of migration. After introducing background information on migrants' rights activism in Israel and Singapore (Comparing Labor Migration in Israel and Singapore section) and describing our methodology (Methodology section), we present two empirical sections. Making Migrants' Rights in Non-immigration Settings: Power Maneuvering in Adhocratic Settings section describes the institutional settings in which the NGOs operate. Despite cross-national difference, we show that activists in both settings engage with similar ad-hocratic and fragmented institutional fields and institutional ambivalence towards human rights (HR) NGOs by maneuvering between formal and informal means of interaction and multi-scalar hierarchies of power. The Cultural Production of Migrants' Rights section analyzes the cultural strategies that NGOs use to mediate rights for migrants in the areas of labor, healthcare and reproductive rights. In the end of the section, we examine how differences between Israel and Singapore's political regimes impact the ability of activists to challenge non-immigration policies in the realm of migrants' rights to family life. We sample children's legalization struggles in Israel, showing that even when the political space is open to contentious collective action, topics that challenge the nature of the ethnic regime are neutralized through self-disciplining mechanisms. We conclude by highlighting the contribution of a comparative cross-national analysis that goes beyond the North American and Western European settings, to the literature on culture, power and rights-based social movements.

### **The Mobilization of Migrants' Rights in Cross-National Analysis**

Comparative migration studies have documented how differences in countries' laws, policies, social institutions and national ideologies affect migrants' access to various types of rights (Bloemraad 2013: 33). Notwithstanding similarities in the challenges that migration poses for contemporary nation-states, cross-

national studies emphasize the need to consider the persistence of national contexts for understanding how particular “migration regimes” address migrants and their rights (Aleinikoff and Kluesmeyer 2000; Joppke 2007). However, by focusing on the enabling or constraining impact that national structures exert on migrants’ incorporation, this literature tends to overlook migrants’ and civil society’s agency or consider it secondary to their research agenda (Bloemraad 2013). Conversely, relationships between rights and social mobilizations from below have been a central concern of sociolegal studies (Scheingold 2004). Studies on the mobilization of migrants’ rights, mainly in the U.S. context, highlight the contextual and organizational factors that advocates for migrants must consider (see Gleeson 2009). Factors such as the available protective laws and institutions for adjudicating disputes over rights or enforcing them (*ibid*); support structures in the form of grassroots movements, labor unions (Milkman 2000; Lyons 2007) and a variety of “social helpers” (Bloemraad 2006); or alliances with cross-sector, regional and transnational networks (Piper and Uhlin 2002) can foster or deter pro-migrants’ legal activism and ultimately shape its impact (De Graauw, Gleeson, and Bloemraad 2013).

Legal ethnographies dealing with the meaning-making processes that underlie the production of rights in national and transnational contexts also stress the importance of sociolegal mobilizations (Coutin 2000; Cowan 2006; Merry 2006). Influenced by a pragmatic approach to culture, these studies view legal activists as cultural mediators, operating in an environment of multiple and at times competing ethical regimes (Ong 2006), and maneuvering between institutionalized notions of rights and vernacular languages through an array of meaning-making strategies (Merry et al. 2010).

Both lines of inquiry into the organizational and cultural dimensions of rights-based mobilizations yield key insights for our analysis of the Israeli and Singaporean cases. Nevertheless, much of this scholarship focuses either on particular domestic settings or transnational spheres, overlooking cross-national comparisons. To address the missing link between the comparative analysis of migration regimes and sociolegal mobilization studies, we rely on an emergent body of research that brings a cross-national perspective to the institutional and cultural analysis of migrants’ rights. The comparative works of Bloemraad and Provine (2013) and Kavar (2011a, 2012) stand out because they outline an explicit agenda for comparing migrants’ rights mobilization in “the terrain of the state” (Kavar 2011a). These studies focus specifically on how national fields of migration policy and law interact with legal mobilizations, paying particular

attention to two factors: the structure of the national legal field and ideological constructions of the boundaries between citizens and noncitizens.

Regarding the first factor, Kawar (2011a) underscores how the relative authority of private and public juridical actors in the United States and France has structured the organizational templates and litigation repertoires adopted by immigrant rights lawyers in each country as more private or state centered, respectively. Kawar's analysis shows that the symbolic and material resources available to activist networks depend on the structure of national legal fields, yet the links between both are not unidirectional. Thus, she highlights the role of legal networks in the judicial constructions of immigrants as "racial minorities" protected by anti-discrimination laws in the United States and as "workers" deserving social rights in France (2012). These cultural framings are conditioned by the legacies of previous struggles for rights, but they also catalyzed the transformation of immigration politics in both countries.

The second factor that cross-national studies emphasize relates to the ideological and historical constructions of the nation shaping the very notion of migrants' rights and the path of the struggles over them. Bloemraad and Provine (2013) show that differences in the construction of the boundaries between citizens and immigrants in United States and Canada have conditioned the legal mobilization of migrants' rights and the broader politics of migration in each context. Whereas in the United States, immigration policy is both a product and producer of political divisions about issues of sovereignty (Ibid: 57–60), in Canada there is greater political consensus over the economic and demographic benefits of immigration (Ibid: 60–62), and political discourse centers on the integration of migrants. Nevertheless, in both cases, the boundaries between citizens and immigrants (non-citizens) are legally and normatively permeable and draw on the political traditions of pluralist, immigrant-settler societies. Thus, the exclusionary nature of the American civil rights regime toward immigrants is mitigated by the relative ease of becoming a citizen (ibid: 58), and the politics of migrants' rights draws on the political and symbolic support of established immigrant groups and the legacies of past struggles (Gurowitz 2000).

We contribute to this emerging cross-national literature in three ways.

First, we analyze rights-based mobilizations in two countries with strong ethnic understandings of citizenship. As mentioned, comparative scholarship tends to focus on countries that are closer to the liberal end of the citizenship continuum. While migrant workers are also wanted as workers but unwelcome as

migrants in more liberal and traditional immigrant societies (Castles and Miller 2003), what distinguishes our cases are explicit tensions between ethnic politics and the extension of rights to nonethnic migrant workers.

These configurations make Israel and Singapore ideal sites for examining the generalizability of the liberal assumption underlining cross-national studies that boundaries between citizens and immigrants, however stringent, are nonetheless permeable. Singapore and Israel exemplify a national imagery where the main ideological boundaries are drawn between ethnic and nonethnic members of the polity rather than between citizens and immigrants; access to citizenship by nonethnic immigrants is practically impossible in the case of Israel and extremely difficult in Singapore; and recognizing them as “immigrants” is perceived as undermining the defining core of the nation. In ethnic regimes, “making rights” for migrant workers entails not only changing the location of categorical boundaries between insiders/outsideers, but also changing the meaning of those boundaries. Thus, as we shall see, as they seek to achieve public resonance and simultaneously keep their principled position of migrants’ rights, activists must adopt creative cultural mediation strategies. We detected four types of strategies,<sup>2</sup> three of which have been already documented in legal ethnographies elsewhere:

*Mirroring*: when NGOs adopt the institutional discourses and logics of argumentation of their addressees and leverage them according to their relative position in the power structure. Mirroring implies the constant “deconstruction” of the power structure to its constituent parts and the adaptation of struggles accordingly (Coutin 2000).

*Bootstrapping*: when activists draw on principles whose application to migrant workers enjoys a greater degree of social recognition to legitimize counter-hegemonic claims (Basok 2009). While mirroring is defined primarily by the open use and maneuvering of “legitimate” discourses, bootstrapping “sneaks in” controversial principles under the cloak of legitimate ones.

*Global-local translations*: a cognitive and strategic process of meaning-making that connects global and local social justice ideologies in ways appropriate to a local setting and within a specific organizational context (Merry et al. 2010). According to Merry (2006: 41), translation processes work upward and downward depending on the relevant hierarchy of power, as when NGOs align their claims with the agendas of powerful international actors

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<sup>2</sup> The strategies are suggested as analytical tools; in practice they can overlap or imply each other.

or choose to vernacularize global discourses in ways that resonate with local constituencies, respectively.

*Outsourcing radical activism*: both a discursive and organizational practice that we identified during fieldwork. It enables NGOs to frame their claims in alignment with consensual views to achieve public support, while at the same time collaborating with activists considered "radical" and enjoying the benefits of their "radical" actions and messages.

Second, we extend our analysis to the politics of rights in the variety of sites in which it operates beyond juridical institutions. Looking at a context where courts are not always available (Singapore) or are perceived as limited and limiting for the mobilization of migrants' rights (Israel), we examine the variety of institutional and power relations that affect the making of rights within the *broader field of migration policy*, not solely or primarily in the juridical arena.

Finally, we compare ethnic regimes that differ in the political space they afford for civil society organizations to raise claims and develop rights for nonethnic migrants. Israeli ethno-democracy within the 1967 boundaries guarantees political space, in contrast to Singapore's authoritarian regime that openly restricts civil society organizations (Gomez and Lyons 2005). While the bulk of cross-national analysis assumes the existence of a political space for social mobilization, our comparison examines whether differences in political regimes affect the ability of NGOs to raise counter-claims when mobilizing rights for nonethnic migrants, and if so, in which ways.

## Comparing Labor Migration in Israel and Singapore

Both Israel and Singapore exemplify the geography of labor migration in new industrialized countries in the Middle East and East Asia that rely on low-skilled migrants while simultaneously running exclusive immigration and citizenship regimes designed to control the ethnic composition of the population (Kemp 2010; Yeoh 2007). Both countries have experienced rapid economic growth and moved toward a knowledge-based economy, leading to a massive recruitment of mainly low-skilled migrant workers who make up approximately 8 percent and 28 percent of the local labor market, respectively.

Since the beginning of the 1990s, Israel has recruited foreign migrant workers to work in care services (mainly women from the Philippines, India, Sri Lanka, and Eastern Europe), agriculture (Thailand) and construction (China, Romania and Bulgaria). Undocumented migrants comprise 60 percent of the inflows

(Kemp 2010). Migrant workers were initially recruited to replace Palestinian commuters from the occupied territories who had been working in the secondary labor market since 1967. Following the deterioration in the security situation and the signing of the Oslo agreements in the 1990s, policies prevented their legal entry into Israel to work (Kemp and Rajjman 2008).

Labor migration to Singapore has been a major source of unskilled workers since the 1970s. Migrant workers from India, Bangladesh, and China work in the construction and marine industries; those from Thailand and the Philippines in services; and women from Sri Lanka, the Philippines and Indonesia in domestic work (IOM 2003: 96). The state's strict enforcement of unauthorized migration results in a presumed relatively small number of migrants without permits (Lyons 2005: 216).

Both countries actively manage labor migration flows, setting permit quotas, restrictions on migrants' length of stay to ensure regular rotation, and deportations. Based on the assumption that these are temporary workers, policies aim at preventing claims for permanent status, banning the formation of families and revoking the work permits of migrant women who become pregnant or deporting them (Kemp 2010; Yeoh, Huang, and Gonzalez 1999).

Stringent control policies are coupled with limited schemes of rights and little intervention in their enforcement (Kemp 2010; Ong 2006: 185). In Singapore, labor laws exclude female migrants from working in the domestic sector, and male migrants have limited access to labor courts. Israeli labor laws and parts of the National Social Insurance scheme protect both male and female migrants as well as undocumented migrant workers. However, as in Singapore, the lack of enforcement and legal arrangements that indenture workers to their employers compromise migrants' labor rights severely. In both countries, migrant workers are not included in the national healthcare scheme (except for emergency cases) nor have access to public welfare services.

While governmental offices retain the locus of control over permits, the de-facto incorporation of migrant workers is subcontracted to private actors such as brokers and placement agencies, employers, insurance companies, privatized and semi-privatized enforcement and deportation agencies, and municipalities. The assumption that migrant workers are temporary workers, coupled with neoliberal forms of governance, has contributed in both cases to the creation of a fragmented field of policymaking based mainly on procedures and ad-hoc decisions.

Although labor migration policies in Europe also center on ensuring temporariness, in the 1970s the focus shifted to greater control of inflows and simultaneous incorporation policies



(Castles and Miller 2003). Conversely, in Israel and Singapore there are no integration policies or discourses, and the idea of incorporating migrants who do not belong to the dominant ethnic or racial groups is perceived as a threat to the defining core of the nation (Kemp and Rajzman 2008; Yeoh, Huang, and Gonzalez 1999: 182). Therefore, the possibility of moving from non-resident "foreign worker" to "resident" or "citizen" is conditioned not only by legality, class, and skills, but also by the ethnic politics of the receiving state and society.

This does not mean that Israel and Singapore are homogeneous societies or do not accept immigrants. Israeli society is largely made up of a heterogeneous Jewish majority of immigrants or their descendants and a large indigenous minority of Arab citizens. Jewish immigration is ideologically constructed as a "return" to the homeland and conceived as a natural right of Jews of which the state is only its "trustee" (Shachar 1999: 241). The Law of Return (1950) is the legal embodiment of this idea, creating a legal definition of the right of return to Jews and their relatives (up to the third generation) and granting Israeli citizenship immediately upon immigration. At the same time, the Israeli regime is highly exclusionary of non-Jewish immigrants.

As in Israel, the dominant principle of citizenship in Singapore is *jus sanguinis*, combined with some exceptions of *jus soli* (Attorney-General's Chambers 2007). The ethnic composition of the population reflects its long history of immigration: 74.3 percent of its citizens are ethnic Chinese, 13.3 percent Malay, 9.1 percent Indians and 3.3 percent are "others" (Department of Statistics 2015: 4). Preserving this demographic balance as well as finding a common ground as a unified nation is a high priority for the government and is formulated in a multi-cultural model of "separate but equal" called CMIO. Despite official discourse against racial chauvinism, in practice, the CMIO stratifies Singaporean society across racial lines, favoring the Chinese majority group (Bar and Low 2005). This policy is also reflected in Singapore's preference for skilled ethnic Chinese migrant workers, as part of recent efforts to attract skilled migrants from Western and Asian countries to its "knowledge economy" (Ong 2006: 16). In sum, ethnic and racial understandings of the nation and politics together with an absence of institutional structures for incorporating nonethnic migrant workers shape the context in which mobilizing for their rights takes place.

Nevertheless, Israel and Singapore also differ in terms of the political space available for the mobilization of civil society and in their political cultures. The development of civil societies in both countries was originally linked to the project of nation building. More recently they have aligned with neoliberal models involving

professional NGOs (Ben-Eliezer 1999; Lyons 2005). However, the venues for mobilizations and their nature in Singapore are far more restricted than in Israel. NGOs cannot engage with policy makers directly through the courts, parliamentary lobbying and other public channels that can prove critical for the production of rights and their extension to noncitizens.

In Israel, since the late 1980s political and economic liberalization have led to an “associational revolution” around a variety of topics (Ben-Eliezer 1999) and more recently, to massive waves of protest. Unlike Singapore, Israeli NGOs have wide access to a variety of public venues for mobilizing their claims in courts, public campaigns, or through multi-sector governance frameworks. This does not mean that political and civil involvement of citizens goes unnoticed by authorities, especially regarding activities defined as “security concerns,” mostly regarding the Palestinian-Israeli conflict, or in times of war.

## Methodology

Studying NGOs’ daily forms of legal mobilization cross-nationally requires defining the unit of analysis clearly and gaining access to the respective fields. Therefore, our first step was to map the NGOs that define themselves as advocating for migrant workers’ rights in each national setting and finding entry points. In Israel, access was relatively easy given Kemp’s previous acquaintance and collaboration with HR organizations. Kfir carried out fieldwork in Singapore as part of her doctoral dissertation.

Fieldwork in Israel took place between August 2008 and August 2010. In Singapore it was divided into two periods: October 2008 and August to October 2009. Fieldwork included participant observations, interviews with the NGOs’ staff and informal conversations with activists. In both cases, we complemented the fieldwork with an analysis of media publications, NGOs’ reports, and official policy documents. The Israeli data also included participant observations in the Israeli parliamentary (Knesset) committees and an analysis of proceedings, court petitions and rulings. All sources were documented and analyzed thematically using the Atlas software program.

We drew from critical ethnography approaches that integrate fieldwork and theoretical critique with activism. Although not homogeneous, the NGOs under study comprise lawyers, hired staff and volunteers, most of whom are highly educated and well informed on the situation of migrant workers in each context and globally. To address the structured inequality of the research

situation, throughout the study we consulted with them, participated in their various activities, and made sure to provide assistance if and when required.

The organizations that took part in the study in Israel were Hotline for Migrant Workers (HMW), KavLa'oved (KLO), the Association for Civil Rights (ACRI), Physicians for Human Rights (PHR), and Israeli Children (IC). These are the key NGOs engaged in principled and individual struggles over migrant workers' rights and often work in concert. Established in 1999, HMW defines its cause as promoting the "HR of migrant workers and refugees" and deals mostly with migrants who have lost their legal status or are in detention. KLO was established in 1991 to advocate for the rights of under-privileged and unprotected workers, initially focusing on Palestinian noncitizens and later on migrant workers as well as Israeli workers. Established in 1972, ACRI is the largest umbrella HR organization in Israel. It focuses on judicial action and public advocacy, and since the 1990s has dealt with issues related to migrant workers' legal status. PHR was established in 1988; it lobbies for the right to healthcare for all populations under Israeli civil and military control and runs an open clinic for migrant workers and refugees. Finally, IC was created as a network movement in 2009 during the anti-deportation struggle and involves Israeli and migrant worker participants.

Participant observations began in regular volunteer activity in the offices of HMW at the public policy department and included daily tasks, volunteer meetings, visiting detention centers and participation in public events. Finally, fieldwork included 14 recorded interviews, each between 1 and 2 hours long, which took place in different locations: the organizations' offices, cafés and public places; three interviews were carried on the phone, and one at the interviewee's home. Most interviews were conducted with NGOs' staff members, most of whom are lawyers, and some with Israeli and migrants activists and a journalist who covers migrant issues.

Fieldwork in Singapore took place at two organizations—HOME and TWC2— and included interviews and meetings with people working at UNIFEM-Singapore, Aidha, as well as with people who work in the media. Registered in 2004, TWC2 and HOME define their work as migrant rights' advocacy and are part of a coalition called Solidarity for Migrant Workers. While TWC2 advocates for "equal (or fair) treatment" and a more "enlightened policy framework," mainly for documented female domestic workers, HOME focuses on male workers who have lost their legal status, with the goal of caring for the "welfare of migrant workers in Singapore," welcoming them and

acknowledging their contribution as well as promoting their “HR and human dignity.” Recently, TWC2 has added individual assistance through its hotline as well as community work, while HOME specializes in legal protection and public advocacy. UNIFEM-Singapore operates “empowerment and gender equality” programs and serves as a base from which the UN agency can work in other countries in the region. The local branch focuses on public education about the issues of domestic workers and trafficking of women and children. The organization works in cooperation with local companies and the Singaporean government. Established in 2006, Aidha deals with economic empowerment for migrant women by providing them with education and skills in the fields of finance and business, helping them return to their home country and become economically independent.

Fieldwork in Singapore began in introduction visits and meetings at the offices of HOME in the Little India neighborhood, where large numbers of male migrant workers from south Asia seek assistance, and at the offices of TWC2, which is a major meeting point for migrants. Since official volunteering was not possible due to the logistics of the visit, Kfir agreed with both organizations that she would regularly visit the office and join various activities, assisting with whatever she could. She also attended public events organized by the organizations, and spontaneous visits with staff members in the Little India and Geylang neighborhoods and various meeting points. Finally, fieldwork included 11 interviews of 1–2 hours long with staff members, volunteers and board members and also with a foreign activist and a former law student. The interviews were conducted in the organizations’ offices as well as in public places.

### **Making Migrants’ Rights in Non-immigration Settings: Power Maneuvering in Ad-hocratic Settings**

In their daily advocacy for migrants’ rights, NGOs in Israel and Singapore tactically promote “rights in the form of procedures,” meaning that they advocate according to the system’s arbitrary nature and its preference for ad-hoc procedures and individual solutions over legislation or coherent policies. Reflecting on this frustrating situation, Nair<sup>3</sup> from HOME explained: “None of the staff members is a legal practitioner; we simply learn the procedures’ booklet very well, it is the first thing I did when I started working here.”<sup>4</sup> Similarly, Alon, one of

<sup>3</sup> We use pseudonyms.

<sup>4</sup> Interview with Nair, HOME, 31 August 2009.

ACRI's lawyers told us: "Procedures are supposed to be at the bottom of the normative pyramid ... but [in Israel] everything works the other way around."<sup>5</sup>

Internal procedures instead of laws, ad-hoc decisions, fragmented and subcontracted responsibilities, and institutional ambivalence toward HR organizations, is part of the institutional setting that NGOs face in both contexts. The result is activist pragmatism and ongoing attempts by NGOs to establish informal channels of communication and interaction with officials, enforcement agents, or private actors and searching for new venues to advance their claims.

For example, NGOs in Singapore must negotiate patiently with the authorities to get migrants' complaints to court. Legal recourse applies only to male migrant workers after the Ministry of Manpower (MOM) decides whether the complaint will go to the Labor Relations Court (LRC). NGOs have no access or standing in courts, but they assist migrants by filing a complaint against their employer with the MOM. The office then replies and decides whether the complaint will go to the LRC. Decisions are reached through a mediation procedure in which the MOM, the employer and the migrant alone take part. Under this procedure, it is very hard for migrants to put forward their claims. Usually they need to rely on English translators, not knowing if their translation is accurate (see also Coutin 2000). In the absence of NGO representatives, lawyers and judges, it is unclear how decisions are made or how to prepare migrants for the mediation. Most complaints end at the mediation stage.

To appeal the MOM's decisions, NGOs must follow several official procedures over which they have no influence. Thus, HOME staff choose informal means of "communication" such as using the old template of the forms so that MOM officials can recognize the source of the filed complaint and let them know that they are being "watched." According to Nair, although the complaint is a fixed procedure, "there is a big difference if the forms are filed through HOME. The MOM knows they can't ignore claims channeled through the organization's watchful eyes."<sup>6</sup>

Duality between formal procedures and informal means of interaction also underlies Israeli NGOs' activities in the custody courts that are the judicial authority in charge of detention. Custody courts rely mainly on administrative procedures. Besides appearing in court, NGO lawyers maintain daily working

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<sup>5</sup> Interview with Alon, ACRI, 15 January 2009.

<sup>6</sup> Interview with Nair, HOME, 31 August 2009.

relations with the court officers to receive the minutes of the proceedings. Over time, lawyers and judges get to know each other, allowing them to map their mutual preferences, and make determinations about their personal characteristics and how they influence their work. However, familiarity also helps activists monitor the judges' rulings and behavior, resulting in information that can be used when necessary, for example, by making it public through the media. Sometimes tensions between activists and judges result in open conflict. For example, saying that he "had had enough" of the NGOs' "attitude" in court, an Israeli judge sanctioned them by not sending them the court's records. Confrontations of this nature make NGOs hesitant about whether it is most effective to advocate for a case through the courts, the media or the intervention of officials in office.<sup>7</sup>

Interactions with private employers exemplify the shift between formal and informal strategies and venues for advocacy but also the fragmented nature of the broader migration policy field that privatizes the enforcement of rights. Ensuring the effective implementation of migrants' labor rights in both countries involves intense interactions with private employers. Unlike male workers, domestic female workers in Singapore are not covered by labor laws and must conduct their labor negotiations with the employer in the private sphere. TWC2 receives phone calls from domestic workers, who come to them through word of mouth. Complaints are mostly about abusive employers. Due to the extensive control that employers exert over live-in workers, activists and migrants make great efforts to maintain an open channel of communication with abusive employers. In the employers' homes, domestic workers can influence their situation mainly through "methods of resistance" or "negotiation" (Huang and Yeoh 2003) with their employer. As two domestic workers from the Philippines explained in a spontaneous conversation at Aidha's offices, the key to controlling their situation is "choosing the employer carefully on our own or being matched by friends."<sup>8</sup> They negotiate all issues in advance because after they start working they are almost entirely in the hands of the employer.

However, domestic workers' control over their own situation through negotiation is not always possible and in emergency cases TWC2 sends staff to the employers' home to "free" workers and bring them to HOME shelters. As Maggie from TWC2 tells: "In case of emergency, we can get a worker out of the house and

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<sup>7</sup> Fieldwork notes on 6 June 2009 and e-mail correspondence with HMW on 25 October 2009.

<sup>8</sup> Conversation with Marcy and her friend, 28 September 2009.

send her to HOME shelter ... Depending on the situation. People would also call saying 'I'm not getting enough to eat,' it depends what kind of a relationship you have with the employer... Other times when a girl calls and just wants to leave we say 'if you want to run away we'll help you' but we explain her that there are consequences, if she doesn't have a case she can prove."<sup>9</sup>

Uncertain rules and privatized forms of enforcement lead to the ongoing mapping of the actors who can be most influential in advancing rights at the international level as well. The U.S. State Department's annual reports on Trafficking in Persons (TIP), for example, were critical in advancing novel right claims about human trafficking for purposes of labor in both countries. Nevertheless, NGOs must strike a delicate balance between mobilizing international bodies and maintaining their domestic relationships. Indeed, while it is often portrayed as a means for circumventing reluctant local governments (Keck and Sikkink 1999), international "venue shopping" can be a double-edged sword that can create coalitions with influential allies, but also de-legitimize the NGOs, shutting them out of policy-making deliberations.

In a committee meeting at the Israeli Knesset (Knesset Committee on the Problem of Foreign Workers 2009), HMW participated in a heated discussion about how the authorities, including legislators, the police, the state attorney and judges, should understand the anti-trafficking law and implement it. The dynamics of the discussion exemplified Kawar's (2011b) argument about the indeterminacy of HR law as an enabling factor for their internalization. However, indeterminacy also reveals conflict. The meeting exposed the tensions between the chairman of the committee, who denied the problem of trafficking in labor and said he was not concerned with what the "Americans" were saying, the police who argued that there are few cases that meet the definition of TIP, the state's attorney whose representatives said that the lack of rulings on the matter delay the broader understanding of TIP offenses, and the NGOs who claimed the problem still exists and the reason for the small number of charges is that it is interpreted very narrowly. NGO representatives said they felt betrayed by the police who they had regarded as a reliable ally in that, in the absence of legislative progress, they worked in full coordination with NGOs in trying to achieve progress on the prosecution of traffickers through procedures. Ultimately, the committee chair relied on the police findings to support his stand, whereas the NGOs and the state's attorney

<sup>9</sup> Interview with Maggie, TWC2, 14 September 2008.

took a stand together, creating two major alliances that cut across the lines between the activists and the government.

The institutional preference for procedures and fragmented responsibilities relies largely on the view of migrants as “temporary workers” (Miller 1986). However, an additional factor shaping NGOs activities in both contexts is how institutions relate to HR organizations like those we study. Singaporean activists find it harder to mobilize migrants’ rights than their Israeli counterparts. Officially, NGOs are not permitted to take part in political activity including lobbying and demonstrations (Piper 2006), and governmental supervision also extends to public campaigns and the media (Lee 2002). Critics maintain that the government often presents HR as a “form of Western imperialism” that stands in opposition to a local set of ethics of “Asian values” (Dallmayr 2002; Eldridge 2002: 32).<sup>10</sup> In practice, however, the government demarcates the limits of political involvement through “gestural politics,” encouraging civic involvement while simultaneously activating self-censorship regarding sensitive political issues that are “out-of-bounds markers” (OB markers). The result is activist pragmatism on the part of Singaporean NGOs at the expense of ideological challenge (Chua 2012).

For example, NGOs working with domestic migrant workers are very careful about the choice of issues on which they advocate publicly as well as on their framing. Their staff asked us explicitly not to expand on their positions regarding volatile issues like the protection of migrant women’s reproductive rights.<sup>11</sup> Similarly, they avoid overusing international conventions like CEDAW (see also Gomez and Lyons 2005).<sup>12</sup> In both cases, activists mentioned that these choices are driven by practical considerations but they also alluded to the possibility of governmental repercussions.

Conversely, in Israel, a liberal version of HR has been incorporated into the Basic Laws (the proxy for a constitution) and NGOs openly use the HR language in their litigation strategies and public campaigns. However, liberal HR and the judicial activism that came along with them, have become part of long-standing socio-political struggles between secular and religious groups rooted in the tension between the “Jewish” and the “democratic” character of the state and in sectorial politics of identity (Mautner 2011). Moreover, in public views, NGOs like KLO, ACRI, and PHR that advocate for migrant workers, are associated primarily with their advocacy for Palestinian noncitizens under occupation. Thus, despite their efforts to avoid

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<sup>10</sup> “Asian values” refer to a combination of moral principles such as strong leadership, stability, law and order, social harmony, public benefit and sanctity of family.

<sup>11</sup> Conversation, HOME, 20 August 2008.

<sup>12</sup> Interview, TWC2, 1 October 2008.



making explicit links that could feed into perceptions of foreigners as a "security" issue, or perceptions of Palestinians as "foreigners," they are still perceived as "left" organizations that "threaten" the Zionist and Jewish character of the state (Scheidlin 2015).

Therefore, Israeli HR NGOs face situations in which winning in courts or leading successful public campaigns result in institutional and political backlash. For example, while lobbying in the Knesset Committee on Foreign Workers is usually an effective channel for NGOs to form beneficial alliances, in the days of the 2009 anti-deportation campaign the new chair of the Committee did not hide his lack of sympathy with the struggle against the deportation of migrant workers' children born in Israel. In the first meeting upon taking office, he refused to discuss the issues the NGOs tried to raise, giving their representatives a first indication of the upcoming crisis. The relationship continued to deteriorate when, in response to a public letter from the chair of the committee, an activist wrote that since he had been appointed "the meetings had become a demonstration of hatred, and the head of the committee had turned from the person dealing with the problem to the problem itself" (Backyard Notes blog 2010). Ever since, activists have refrained from participating in the meetings and continued their advocacy through their allies on the committee.

On another occasion, the head of the immigration police unit declared that HR NGOs wanted to "destroy the state of Israel" (Shlezinger 2009). This statement led to a series of mutual accusations covered by the media (Rosen 2009). Meanwhile, public debates about HR organizations heated up, with the former Minister of Interior saying, "Migrant aid organizations undermine the Zionist project" (Datz and Wolf 2009). These de-legitimizing mechanisms were joined by recent proposals to limit the political space for HR NGOs to act by investigating sources of external funding and outlawing assistance to asylum seekers.

Summarizing, while NGOs in Singapore and Israel aim to achieve the reform of migration policies through strategic public interventions, their daily struggles often resemble small-scale, Gramscian "wars of position" conditioned by a privatized and "ad-hocratic" (Miller 1986) field of policy and official perceptions of HR discourses as potentially threatening. Within this power setting, NGOs engage in the cultural production of rights by steering between their principled positions on rights and achieving public resonance.

### **The Cultural Production of Migrants' Rights**

*"We are not an organization advocating for migrants but for workers"* (personal conversation, October 2002).

The quotation above, from the director and founder of a prominent Israeli NGO advocating for migrant workers' rights, hints at a powerful symbolic and ideological boundary shaping the mobilization of rights for nonethnic migrant workers. This section deals with the modes in which NGOs in Singapore and Israel negotiate the tensions between ethno-national boundaries and the expansion of migrants' rights through cultural production strategies that depend on their ability to craft resonant ethical arguments according to the topic of struggle, the relevant addressees, and the venues through which claims can be best mobilized. We focus on four central areas: healthcare rights, labor rights, reproductive rights, and legalization struggles. We chose several examples that illustrate different patterns of rights mediation that are representative of the more general dynamics of the production of rights in both contexts.

### **Health Rights: Mirroring Discursive and Institutional Frameworks**

The mobilization of healthcare rights is often patterned through mirroring, the adoption of the institutional discourses and logics of the actors perceived as most relevant for advancing or enforcing most effectively the rights of migrants. According to NGOs in Israel and Singapore, the privatization of medical insurance for migrants and the delegation of the legal responsibility for purchasing it to the employer form the backbone of the violation of migrant workers' healthcare rights. Under the current system, most of the power in determining migrants' healthcare rights in daily situations is vested in the employer, the insurance company and the healthcare professionals who work with them.

This is indeed the case in Singapore, where advocacy for healthcare rights for migrants relies heavily on appeals to the logic of the market, because those with whom the NGOs negotiate are usually employers and insurance companies. As mentioned, legal recourse on the matter of migrants' labor rights applies only to male migrants but complaints rarely reach the courts because they are solved through the MOM's "mediation." As NGOs have no access or standing in either case, they focus mainly on persuading employers to comply with labor laws and provide more inclusive medical insurance to migrants. In this context, most of their claims rely on cost-benefit arguments about migrant workers' economic contribution.

For example, one main problem centers on employers who do not insure the safe transportation of migrants to construction sites, leading to cases of injury and death. Directing their claims to the employer, NGOs say that they are aware of the costs of safe transportation, but employers have to consider them in

relation to the costs of treating injuries and loss of the workforce (TWC2 2009). NGOs are conflicted with regard to targeting their claims to employers. During our fieldwork, activists expressed their satisfaction with the government's statement about increasing the required coverage of health insurance, saying that, "a high level of coverage will protect the employer from costs in the case of hospitalization" (MOM 2009). Yet, they also expressed frustration with the fact that government representatives still direct their arguments to serving the employer's interests rather than promoting a rights' oriented approach.

In Israel, the cost-benefit framing has become central to claims making about healthcare rights. Unlike in Singapore, these claims are directed at the government, highlighting the losses incurred to the public health system due to the exclusion of migrant workers from it. Publicly, NGOs like PHR repeatedly argue that the exclusion of migrant workers from social rights is "morally wrong," and impedes their basic rights to healthcare and wellbeing, and that the state cannot forsake its responsibilities (see e.g., Physicians for Human Rights-Israel 2008). However, as Neve, the director of the migrant workers' division in PHR, explained to us: "We learned that the moral rationale is not enough and there is a real economic issue here." For example, a major struggle of PHR has been to include migrants' children, most of whom are undocumented, in the national healthcare system (Kemp and Raijman 2008). This resulted in the state agreeing to subsidize partly the children's private insurance through one of the Health Maintenance Organizations (HMOs) but refusing to include them in the national insurance. As a result, explained Neve, "Hospitals are required to treat children under the Patients' Rights Law but they do not receive payment for services rendered, which can amount to hundreds of thousands of shekels. These debts cause real damage to the healthcare system. It could be prevented if these children had access to proper healthcare."<sup>13</sup>

Cost-benefit claims are used to incentivize the government to include adult migrant workers in the national health insurance as well. According to the National Health Insurance Law, the Health Minister is authorized to regulate the provision of healthcare to migrant workers via the public healthcare system. However, officials in power have chosen not to do so, instead enacting an order that regulates the healthcare provided by private insurance companies, a move that still evades their obligations. Supported by representatives of the HMOs and the Israeli Medical

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<sup>13</sup> Interview with Neve, PHR, 25 November 2008.

Association, PHR launched a campaign for transferring migrant workers' health insurance to public providers, which led eventually to the creation of an interministerial committee to provide recommendations about the matter.

When presenting the campaign at a Knesset meeting, the PHR representatives explained that the suggested reform "is a "win-win" solution. [It] offers the HMOs potentially major gains due to the relatively young and healthy population of migrant workers and also provides advantages for the workers, the employers and taxpayers" (<http://www.phr.org.il/default.asp?PageID=100&ItemID=1362>).

Activists also tried to maximize the discretionary power afforded by the law, taking into consideration how far they could push their claims for reform without jeopardizing the proposed changes. For example, the reform is part of a broader campaign for "social residency" that PHR launched in 2008 to grant access to public health and welfare services to various categories of non-residents. "While 'Social Residency Status' does not entitle the recipient to political and civil rights," states the webpage explaining the rationale of the campaign, "it enables documented individuals to access state-run services like healthcare and welfare regardless of citizenship" (<http://www.phr.org.il/default.asp?PageID=100&ItemID=1823>).

### **Labor Rights: Global-Local Translations**

NGOs in both countries make similar demands about reducing the dependency on foreign labor and making labor rights equal for migrant workers (Israel: Tel-Aviv University et al. 2009; and Singapore: Gee 2010; TWC2 2010a). When available, local labor laws are the primary source mobilized in and out of courts. This is ostensibly the case in Israel where, despite difficulties in accessing the legal system, thousands of migrant workers visit KLO each year to pursue their labor rights, and numerous court decisions filed by migrant workers have been granted (<http://www.kavlaoved.org.il/en/>).

Conversely, lack of local legislation regarding domestic female workers drives Singaporean NGOs to discursive "venue shopping" (Keck and Sikkink 1999) from international conventions. Despite conscious efforts to stay away from regional and international networks (Gomez and Lyons 2005), activists at HOME drew on the CEDAW (2000) to discuss Singapore's commitment to eliminating discrimination against domestic workers as workers and women. This is the context in which the translation of global discourses into vernacular languages takes place.

For example, in the submission they made to the UN CEDAW committee, with the Global Alliance against Trafficking in Women, NGOs challenged the exclusion of domestic workers from coverage by the Employment Act and urged the government to "uphold the right to 'Work with Dignity' for migrant women domestic workers" (HOME president on International Women's Day, 8 March 2010). However, "vernacularization" works only if global principles are "value added" expansions of existing cultural frameworks (Merry et al. 2010: 108). As a TWC2 staff member explained: "We need to make the public understand that these [abuses of domestic workers by employers] are not private cases, but it is the responsibility of all of us as a society to put an end to it."<sup>14</sup> Thus, while their lobbying efforts center on the inclusion of domestic workers in the Employment Act (TWC2 2010b),<sup>15</sup> as prescribed by international norms, most of the daily advocacy addresses employers in a very personal way. For example, in a leaflet titled "Try Walking in Their Shoes," TWC2 calls for their empathy, asking: "If you had to work for you, would you give yourself leftovers?" or "Would you withhold your own salary?"<sup>16</sup>

Translation processes can work upward and downward the global-local continuum (Merry 2006). Sometimes, activists seek to "globalize" local grievances in ways that align with international agendas and then use them back in the local settings. Upward and downward translations have played a role in struggles in Israel and Singapore to abolish the "binding" arrangement that indentures workers to particular employers. Binding is a prevalent form of migrant workers' control in Asian and Middle Eastern countries (Calandrucio 2005) and involves serious violations of migrant workers' rights such as the confiscation of passports, nonpayment of salaries, and abuse. Such procedures also create a pool of "illegalized" workers or "run outs" in the employers' jargon. Furthermore, due to the collection of illegal mediation fees, binding results in what organizations in Israel and Singapore frame as new forms of modern slavery.

In Israel, binding is anchored in the 1952 Law of Entry. While the binding clause applied previously to regulate the entry and work conditions of Palestinian workers from the West Bank and Gaza, it was not implemented on the ground. Until 1991, the military administration granted Palestinians working in Israel

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<sup>14</sup> Interview on 1 October 2008.

<sup>15</sup> TWC2, 25 May 2010. Singapore's Employment Agencies Act and Rules, Proposals for Amendment.

<sup>16</sup> TWC2 leaflet, collected in 2008.

a collective entry permit that allowed them to commute daily or weekly without the need to show for whom they were working and could change their employers without facing deportation (Kemp and Rajzman 2008). Thus, binding became an object of legal struggles effectively only after the arrival of non-Palestinian migrant workers, and NGOs found themselves struggling in a terrain without precedents to draw on.

After years of futile struggles to abolish the binding system, in 2002 six Israeli organizations appealed to the High Court of Justice (HCJ), arguing that binding constitutes “modern slavery [...] in contrast with the recognition of the worker as an autonomous entity who is entitled to dignity...” (*KLO and Others v. the Government* 2002: Article 61). In a 2006 landmark ruling, the Israeli HCJ accepted the claims of the petition framing binding as unconstitutional and instructed the government to devise a new employment system (*KLO and Others v. the Government* 2006).

Victory in court, however, had less impact on the daily struggles to ensure the full abolishment of the binding system. It led instead to softer versions of indenture in some sectors and to the contempt of the HCJ ruling in others (Kemp 2010). Moreover, practices such as turning a blind eye to the high and illegal recruitment fees charged by private broker agencies or the persistent reluctance to engage in bilateral agreements with the migrants’ countries of origin kept on feeding the system of trafficking that the NGOs contend are “the source of evil.” Thus, the landmark ruling showed the limited power of Israeli courts in intervening in the wider politics of migration, a lesson that led activists to diversify both the venues and strategies of their struggles against binding.

NGOs like HMW were crucial in mobilizing the new venue opened by the U.S. TIP’s annual reports and in bringing about the penalization of trafficking, in women first and later in labor, by Israeli law. Since the involvement of powerful international actors such as the U.S. State Department, local struggles against binding have merged with international anti-trafficking campaigns, opening new opportunities for HMW to work on issues that have international appeal and funding (see <http://hotline.org.il/en/about-us/our-donors/>) and to cooperate with governmental agencies in charge of the issue. However, as ongoing reports of HMW on anti-trafficking campaigns show, most of their activities now focus on criminal traffickers or ensuring the protection and rehabilitation of victims, diluting the original critique against binding as a state control mechanism that enables enslavement and bonded labor (see <http://hotline.org.il/en/human-trafficking-en/trends-in-human-trafficking-in-israel/>).

Singaporean NGOs face a similar situation. When presenting cases of trafficking in labor, activists must use the 2010 local Penal Code (Attorney General's Chambers 2013) that focuses on the prosecution of traffickers but not on other violations incurred by the binding arrangement. Steve from TWC2 said that, "the local definition of trafficking is so narrow, that it was difficult to find any cases that meet the criteria. In practice, most trafficking offences are of migrants who arrive on their free will but are not aware of what they were brought to do in the country and once they get caught they are being punished instead of traffickers."<sup>17</sup>

### **Reproductive Rights: Bootstrapping**

Official law structures the types of claims that can be made and limits their scope (Scheingold 2004). However, NGOs have some latitude to re-assemble particular aspects of the law (Merry et al. 2010). When legal channels are not available, they can re-assemble ethical principles endowed with the moral authority of "law" (Ong 2006). Bootstrapping takes place when activists mobilize principles whose application to migrant workers enjoys a greater degree of recognition to legitimize claims that challenge the status-quo (Basok 2009).

One example of bootstrapping is legal claims on behalf of female care-workers' reproductive rights in Israel and a petition contesting the Pregnant Foreign Workers Directive (PFWD) (Ministry of Interior (MOI) 2009), part of a no-family policy that seeks to prevent migrant workers' settlement. According to it, if a woman gives birth, she must either send the baby away or leave the country with the newborn and return alone to regain her visa (Ben-Israel and Feller 2006). Israel recognizes the right to family life as a constitutional right, but the extent to which it has to be realized in Israel was debated in the courts throughout the 1990s. NGOs' previous demands for the legalization of migrant workers' families on grounds of constitutional rights, their economic contribution, and their long term residence did not find a positive response in the courts, which saw them as interfering with national prerogatives over migration policies. As Alon from ACRI, explained: "Years of struggle behind closed doors bore little fruit with regard to the recognition of migrant workers' families and proved to be very frustrating."<sup>18</sup>

Thus, in crafting the appeal against the PFWD, Yoav from KLO that led the case, told us that "this time we were careful to ground it also in arguments about the care-workers being

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<sup>17</sup> Interview with Steve, TWC2, 27 August 2009.

<sup>18</sup> Phone interview with Alon, ACRI, 15 November 2008.

lawfully employed, and the violations of the 1998 Equal Opportunity in Employment Law, claiming that their labor rights had been violated.” According to him, this framing enabled them to make the case for documented care-workers’ rights to keep both their jobs and their newborn children.<sup>19</sup>

In April 2011, the HCJ annulled the PFWD, asserting that it is: “first and foremost, a violation of the foreign workers’ right to parenthood.”<sup>20</sup> However, while the case was won in court, the no-family principle remained. The court instructed the MOI to design a new procedure that would ensure that the care-worker leaves the country with her baby upon the termination of her work and made the renewal of the work permit contingent upon her proven ability to combine the care of her child with the care of the employer (KLO Report 2013).

In Singapore, NGOs cannot invoke labor laws to legitimize counter-hegemonic rights in the courts, because, in addition to no having standing in courts, domestic workers are not protected by labor laws. Although there are no documented figures about the phenomenon, activists report that the majority of migrant women who give birth are deported to their countries of origin. According to the HOME staff, control policies along with the traditional background from which migrant women come have led to child abandonment and trafficking in babies (HOME 2008). Apart from general statements, NGOs staff say that this is a “very sensitive issue” to be publicly discussed.

Nevertheless, migrants’ maternity is publicly discussed, but under covers other than “legal rights.” For example, in a special issue for the International Migrant Day, HOME’s newsletter drew on a mix of religious and “natural rights” claims: “How can babies be protected and given the right to life when their mothers have sold their rights to motherhood?...we are committed to the protection of migrant babies, for they are the precious gifts of God” (HOME special issue on International Migrant Day). When HOME addresses wider audiences, however, the legitimation of talking about migrants’ reproductive lives draws on a mix of “good labor relations” and the moral imperative to monitor sexual health and social risks: “A climate of openness would build trust and understanding in the employer-employee relationship and would allow the opportunity to speak on sexual health and social risks” (HOME President; see also Suhaimi 2009). This assemblage provides a language that can be shared by employers,

<sup>19</sup> E-mail correspondence with Yuval, KLO, 14 June 2010; and with Uri, HMW, 15 June 2010.

<sup>20</sup> <http://elyon1.court.gov.il/files/05/370/114/r27/05114370.r27.htm>).



migrant workers and authorities while mitigating the effect of raising "taboo" issues.

### **Struggles to Legalize Migrant Children: Outsourcing Radical Messages**

The key issue in the refusal to recognize the right of migrant workers to family life is that it undermines the *raison d'être* of ethnic regimes in preserving the ethnic core (Israel) or balance (Singapore) of the nation.

Following the ratification of CEDAW (2000), Singaporean NGOs were encouraged to publicly engage with the issue, claiming that maternity is "the basic right of every woman." This contention triggered public debate (Channel NewsAsia 2008), but NGOs generally refrain from raising the issue publicly. Restrictions on political expression and governmental intervention in defining the "OB markers" might be a self-evident explanation of why it is nearly impossible to challenge this situation overtly (Gomez and Lyons 2005). Nevertheless, the harshness of the authoritarian regime only partially explains why so little is known about the creation of families among migrants. According to Lyons (2007), despite strong association between TWC2 and AWARE, the most prominent Singaporean feminist network, both have refrained from linking their critique of the pro-natalist policies controlling Singaporean women that encourage the influx of domestic foreign care-workers and the intrusive monitoring of the migrant workers' reproductive life. This reluctance results partly from the activists' recognition that the latter would gain little governmental and societal support, but is also reflective of deeper constructions of migrant women as "other" that shape feminist activism in Singapore (Ibid: 13).

But what about Israel, where NGOs can openly contest governmental policies in the public sphere and where migrants' families have become part of public debates? Unlike their fellow activists in Singapore, Israeli NGOs launched two legalization campaigns in 2005 and 2009 that resulted in governmental decisions (Government-Israel 2005, 2010) granting legal status to some of the children and their families.<sup>21</sup> Nevertheless, while the availability of political space is a necessary condition for activism in politically charged issues, it does not mandate counter-hegemonic challenges.

Based on ethnographic materials collected throughout the legalization campaign in 2009, we identified a cultural and organizational

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<sup>21</sup> In 2005, 562 of the 862 requests were accepted. In 2010, of the 700 families who applied to stay, 221 were allowed.

strategy that allows NGOs to create public consensus on politically charged issues while simultaneously collaborating with activists considered “radical” and benefiting from the effects of their “radical” actions and messages. In summer 2009, Israeli NGOs decided to launch an anti-deportation campaign following official declarations on the imminent deportation of migrants with families. Unlike previous principled litigation on the right of adult migrants and Palestinians from the occupied territories to a family life,<sup>22</sup> activists realized that the legal and social situation of migrants’ children had broader public support. This realization proved strategic when the anti-deportation campaign of 2009 turned into a wider social movement for the legalization of migrant workers’ children.

Among the most vigorous organizers of the campaign was Israeli Children (IC), an activist network composed of Israelis and migrants, whose name embodies the two central elements of the whole campaign: children and a national notion of socio-cultural belonging. They led the anti-deportation coalition together with NGOs like ACRI and HMW. Numerous protest events took place throughout the summer with extensive media coverage. Alongside Israeli citizens, migrant mothers and their children stood in the front lines holding signs in English, Hebrew and Spanish saying: “Let our children be ‘or’ No child is illegal.”

From the outset, activists debated about the wisdom of challenging the principles of the no-family policy or whether they should strive to garner wide public consensus by focusing on the plight of children. Ultimately, the latter prevailed. Seeking support across political and ideological affiliations, demands for naturalization were not framed as “rights” but as a form of recognition based on various justificatory rationales. IC, backed by ACRI and HMW, grounded the demand for legalizing children in the argument that deportation would drive them into “cultural exile,” and stressed the fact that the children were born in Israel and were Israeli. Another common justification referred to the history of the Jewish people and the lessons learned from the Holocaust (Israeli Children 2009). Shifting from “rights” to resonant, nonpartisan language in the Jewish Israeli public provided a strong basis for consensus.

The campaign was supported by public figures from different political persuasions and endorsed by professional and civic

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<sup>22</sup> Two salient examples are the appeal against the 1996 provision requiring aliens who married Israeli citizens to leave the country until the MOI declared the marriage to be authentic (*Stamka Yisrael v. Ministry of Interior 1999*) and against the Citizenship and Entry into Israel Law (Israel 2003) that curtailed the MOI’s power to grant rights of residency and citizenship to Palestinians from the Gaza Strip and the West Bank who marry Israeli citizens (*Adallah v. Ministry of Interior 2006*).

associations such as The Israeli Association of Pediatricians, The Students' Association, and the Center for Holocaust Survivors Organizations (Barnovsky 2009). They focused on the need to protect children and their cultural belonging, as well as the Jewish tradition of the humane treatment of foreigners, justice and charity, and the biblical command that Israel serves as "a light unto the nations." Placards held by demonstrators read: "Our parents too came here as refugees" or "We are all immigrants." As the threat of deportation grew closer, Israeli families volunteered to host families of migrants in their homes. The main message conveyed by these actions was that Israelis and migrants vouched for each other.

The activists' work behind the scenes included recruiting local politicians from the political mainstream and having them show their support. As one of the IC activists, Inbar, said, "The politicians were not only from the radical left. . . I 'marked' two other figures right at the beginning of the struggle. . . the Minister of Education and the President, both are 'consensus' figures."<sup>23</sup> Michal, an HMW member, said that since supporting the struggle did not mean that the politicians would have to take a more principled stand on non-Jewish migration issues or pay an electoral price, they were encouraged to gradually take a stand against the deportation and win public acclamation: "It turned into a consensus and no one wanted to be left out," she explained.<sup>24</sup>

IC also organized visits to a school in south Tel-Aviv attended mainly by migrant workers' children. One such visit resulted in an emotional letter sent by then President Shimon Peres to the Minister of the Interior and staunch opponent of legalization, Eli Yishai. The letter, which Inbar from IC attributed directly to their lobbying efforts, reflected the language of the campaign quite well: "I heard Hebrew ring naturally from their mouths. I felt their connection and their love for Israel and their desire to live in it, to serve in its army and to help to strengthen it . . . Who if not a people who suffered embitterment in the lands of exile should be sensitive to their fellow man living amongst them?" (Ynet 2009).

Reaching out to the mainstream led to disagreements among activists. The campaign showed a division between "consensus builders," mainly NGOs' staff and IC organizers, and members of the field-teams that identified with more "radical" messages and forms of action associated with left-leaning activists. Fearing that a radical line of protest against the government would cause more

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<sup>23</sup> Interview with Inbar, IC, 9 December 2009.

<sup>24</sup> Conversation with Michal, HMW, August 2010.

harm than good to the children and their families, Inbar explained: “From the beginning I made it clear that we are not a radical left-wing organization, that although this is a political question about policy issues, it is not partisan... the radical left automatically creates antagonism.”

However, rather than disrupting the campaign, tensions were leveraged to create a “division of labor” whereby militant activists could engage in more radical actions that the NGOs and organizers were unable or unwilling to perform such as monitoring the inspectors from the immigration police, reporting to the media, naming and shaming those involved in deportation, and warning migrants about imminent raids (Kaufman 2009). Neta, an activist who took part in the struggle, described this type of activity in one of the protest events: “[Immigration police] would come with cars... we would warn people... this is a practice we borrowed from HR organizations in the Occupied Territories, of ‘whether you’re looking or not, this shouldn’t be happening.’ I came to disrupt this activity... they’ve wasted a lot of time on us.” On some occasions, activists were arrested (Ma’ariv 2009).

When we asked Neta about the reaction of the NGOs to the field-team operations, she responded: “No one objects to our activity. But you [as an organization] cannot be identified with it. The NGOs help when they can. I can’t walk around as an ACRI member and block a bus. Today when I think about it, it was pretty chaotic, everyone did what they thought was right. Because we didn’t want to tell people, ‘Come stop the cars with your body’... let’s say we told them ‘If you do that, we’ll take care of legal representation’.”

Nir, a member of the field-team, added: “When I spoke with [one of the HMW staff], she kept telling me how much she’s afraid of these activists and the things they might do. I tried telling her the worst they can do is block a car. As far as I’m concerned, even blocking a car is scary, personally. But it does demonstrate the NGO’s feeling of ‘these activists, what will they do next, I do not want anything to do with them...’ On the other hand, despite these fears, I didn’t have any problem with cooperation, I didn’t experience a moment when they said ‘that’s enough, this is you, this is us – let’s separate.’”

## Conclusions

Cross-national studies of migrants’ rights demonstrate that institutional and ideological fields of power at the national level shape and are shaped by legal mobilizations in civil society. Based mostly on the North American and European experience,

comparative scholarship shows that notions of "rights" and "migration" and the ability to advocate for them are mediated by institutionalized repertoires of legal action (Kawar 2011a), organizational templates of the juridical field (*ibid*), and ideological constructions of boundaries between citizens and immigrants drawn from legacies of previous rights struggles (Bloemraad and Provine 2013; Kawar 2012). All of these factors lock legal mobilizations in the present, affecting the range of available strategies for struggle, and at times their outcomes as well (*Ibid*: 63).

However, the added value of looking comparatively at the structures of meaning and power that operate in the "terrain of the state" is in revealing the complex ways in which they are linked with the material and symbolic resources available to activists when they seek to protect new social groups or create novel rights to expand the law (Kawar and Massoud 2012). Drawing on a comparative ethnography of Israel and Singapore, we analyzed the different ways in which the globalization of labor migration links to the construction of rights-based discourses in settings beyond the North American and European contexts. Our analysis of two self-defined "ethnic non-immigration" regimes that rely nonetheless on labor migrations contributes to comparative studies in several ways.

First, we reveal different articulations between rights, migration and boundaries than those prevailing in countries that are closer to the liberal end of the citizenship continuum. In contrast with the liberal regimes studied by previous scholarship, in Singapore and Israel liberal notions of rights conflict with strong ethnic notions of the polity and are the subject of ongoing ideological struggles. Categorical boundaries dividing ethnics and nonethnics are regarded as impermeable, and extending rights to nonethnic migrants is seen as potentially undermining the core definition of the nation and the ethnic regime.

These deep structures of meaning create powerful ideological barriers shaping the scope and types of claims that activists can mobilize in Israel and Singapore. Activists encounter these barriers not only when openly challenging migration policies but also in their daily dealings with officials, public servants, employers, legal institutions, and even potential allies in civil society. Ideological barriers can be grounded in exclusionary laws and procedures such as those that exclude female domestic migrants from labor laws in Singapore, or the procedure prohibiting their pregnancy in both Israel and Singapore. But often ideological boundaries are embodied in the institutional ambivalence towards HR discourses and hostility toward their carriers.

Activists take these obstacles into account when they contend over the content of rights, their ethical justifications, and the

framework in which they are to be decided and enforced. These efforts result in what we call a cultural politics of resonance that relies on the constant search for public resonance while simultaneously keeping a principled position on rights. We identify four major strategies of cultural production—mirroring the institutional and discursive logics of their addressees; translating rights discourses upward and downward along the global-local scale; mobilizing legitimate principles while “bootstrapping” counter-hegemonic ones; and creating consensus and frame alignment through the active outsourcing of radical claims and forms of action.

The effective use of these strategies depends on their pragmatic adaptation according to the topic of struggle, the relevant addressees, and the venues through which they can be most effectively advanced. The cultural politics of resonance raises a crucial paradox for NGOs seeking sociolegal reform: ensuring effectiveness might not achieve change (Merry 2014). Mediating rights through resonant framings and adapting them to the institutional and ideological context often results in the effective protection of migrants, or the introduction of new protections like we discussed in the realm of trafficking. Mirroring the cost-benefit logics of employers in Singapore is more persuasive than claiming migrants’ basic rights to healthcare and ultimately ensures healthcare coverage. Bootstrapping counter-hegemonic arguments about female migrant workers’ basic rights to maternity through gender equality in employment laws eliminated discriminatory procedures like the PFWD in Israel. Well-orchestrated anti-deportation campaigns of Israeli activist networks resulted in the naturalization of migrants’ children and their families. However, such advances may actually reinforce the prevailing cultural and political definitions that regard migrant workers in terms of their utility as workers or as humanitarian exceptions to the rule of non-immigration.

Second, we broadened the analytical scope from the politics of rights in courts to the various sites where it takes place. Despite the recognition that migrants’ rights can be mobilized within and without legal institutions, comparative studies on North America and Western Europe tend to emphasize legal settings and planned litigation strategies (Kawar and Massoud 2012). This focus reflects the central position that legal activists in those contexts attribute to juridical institutions and knowledge as a social arena for waging their struggles over migrants’ rights (Kawar 2011a).

The institutional settings in Israel and Singapore call into question the centrality of juridical institutions and practices for advancing migrants’ rights. They are more akin to the “ad-

hocratic" policy settings that European countries developed in the earlier stages of the post-WWII "guestworker" programs than to those documented by Kawar's (2011a, 2012) work on cause lawyering networks in France and the United States. These are settings in which (mostly unpublished) procedures and discretionary power replace clear laws; ad-hoc decisions replace long-term policies; committees operating behind doors adjudicate rights in ways that cannot be contested; and the enforcement of migrants' rights in areas such as labor and healthcare is privatized.

Within these fields of power, NGOs do not see the courts as the leading venue for making claims for migrants, certainly not in Singapore where NGOs do not have access or standing in courts. But also in Israel, where HR NGOs achieved landmark rulings against binding and the PFWD, but the courts proved to have limited value for expanding migrants' rights or making them effective. Hence, notwithstanding NGOs' aspirations to achieve systemic changes, most of their daily struggles involve maneuvering around procedures and the multiple power hierarchies of the fragmented policy field in ways that reinforce the indeterminacies of the system.

Finally, we examined how differences in the political regimes of Singapore and Israel impact the ability of activists to mobilize rights and challenge policies. The existence of a political space for mobilizing claims has been taken for granted in comparative analysis. The transformative power attached to social mobilizations in democratic regimes relies on the assumption that these are voluntary and operate in an autonomous and noncoercive space. Our analysis of the production of rights through resonance calls into question the presumed dichotomy between autonomy and coercion and their automatic conflation with the political regime.

Writing on the lack of autonomy of civil society in "authoritarian" Singapore, Lee (2002) argues that the government deploys a "gestural politics" that encourages civic involvement while activating self-censorship regarding "out of bounds" issues (Ibid: 110). However, a similar dynamics of simultaneous involvement and self-restraint also underlies the search for resonance among Israeli NGOs, despite the lack of official restrictions and the existence of an open space for mobilizing dissent. These dynamics resurface most strongly when the claims mobilized touch upon the very nature of the ethnic boundaries of the nation. As we showed through the children' legalization campaign in Israel, the availability of autonomous spaces for mobilization does not guarantee the ideological autonomy of activists from hegemonic notions of the polity or their readiness to challenge them. Thus, while in Singapore activists' self-censorship is

mediated by governmental policies, in Israel it works through society based forms of hegemony.

Based on our findings, we conclude that the ideological and institutional similarities underlying the policy of “non-immigration” in Israel and Singapore are more significant for explaining the mobilization of migrants’ rights than the differences in the political openness of the regimes. In both cases, mobilization results in a cultural politics of rights in which the pragmatic search for resonance trumps ideological challenges. This conclusion raises the hypothesis that, paradoxically, making rights for migrant workers in ethnic settings reinforces the ethnic boundaries of citizenship.

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