



'Do Not Send Us So We Can Become Refugees Again'

From 'nationals of a hostile state' to deportees: South Sudanese in Israel

African Refugee Development Center and Hotline for Migrant Workers
February 2013



Kingdom of the Netherlands



ARDC
המרכז לפידום פליטים אפריקאים
African Refugee Development Center

מוקד סיוע לעובדים זרים
Hotline for Migrant Workers

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Funded by the European Union and the Netherlands Embassy in Israel.

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Cover image: Yotam Ronen / Activestills.org

The African Refugee Development Center:

The African Refugee Development Center (ARDC) is a non-profit organization founded in 2004 by refugees and Israeli citizens to assist, support and empower refugees and asylum seekers in Israel.

ARDC seeks to ensure access to basic social services for refugees and asylum seekers in Israel and to facilitate integration and self-sufficiency. It campaigns for the rights of refugees and asylum seekers and for a humane and fair Israeli asylum policy. ARDC divides its work between individual counseling, humanitarian aid, education, community development, awareness-raising and policy initiatives.

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The Hotline for Migrant Workers:

The Hotline for Migrant Workers (HMW) is a non-partisan, non-profit association, which works to protect the rights of migrant workers and to eradicate the trafficking of human beings in Israel, in order to establish a just, equitable and democratic Israeli society which promotes tolerance and protects the weak.

Hotline activities focus on providing information on rights, counseling and legal representation, as well as raising public awareness and changing government policy in order to prevent conditions of modern slavery in Israel. Its work is made possible by the efforts of volunteers, and the generous support of individual donors and funding bodies.

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Table of Contents

Preface

List of abbreviations

Part One: A Forced Return to a Newborn State

- 1.1 The search for refuge
- 1.2 'Nationals of a hostile state'
- 1.3 Return to a fragile state
- 1.4 Voluntary return or deportation?

Part Two: The Asylum Regime in Israel

- 2.1 'We will make the lives of infiltrators miserable until they leave.'
- 2.2 An asylum procedure without recognised refugees
- 2.3 Temporary Protection in other regions
- 2.4 Collective non-removal in Israel
- 2.5 Chronology of the non-removal policy in Israel
- 2.6 A case study: status of the South(ern) Sudanese in Israel
- 2.7 An end to the collective non-removal policy for South Sudanese

Part Three: The Legal Consequences of the Removal Order for the South Sudanese

- 3.1 Chronology of the removal order
- 3.2 Arrest and detention
- 3.3 Individual claims for protection
- 3.4 The Refugee Status Determination process
- 3.5 'You are not a refugee'
- 3.6 Treatment of asylum requests
- 3.7 Mixed couples
- 3.8 Re-defining Africa's Borders: "You are from South Sudan"

Part Four :Summary and Recommendations

Preface

The focus of this report is the collective non-removal policy towards asylum seekers in Israel. This policy, the terms of which have never been clearly defined by the Israeli authorities, applies to most of the 55,000 African asylum seekers¹ in the country. In examining the case of the South Sudanese, most who were deported after the Israeli government ended its policy of collective non-removal toward them; this report also considers the general failure to protect the rights of refugees and asylum seekers within Israel's asylum system. By comparing systems of temporary protection in other countries with that of collective non-removal in Israel, the report shows that Israel's policy falls below standards of temporary and humanitarian protection applied in other countries and constitutes a breach of customary refugee and human rights.

The report places the state's decision to end application of the non-removal policy toward the South Sudanese in the context of the current political and social atmosphere in Israel. In the run up to the elections in January 2013, Prime Minister Binyamin Netanyahu announced that with the construction of a security fence along the border with Sinai successfully blocking the entry of "hundreds of thousands of migrants", his party is "now moving on to the second stage, that of repatriating the infiltrators who are already here." Netanyahu added by saying: "just as the blocking was possible, so too the repatriation is possible and we will achieve this goal."² Although these announcements have no legal grounding and the great majority of asylum seekers in Israel cannot be deported to their home countries due to different reasons described in this report, they have a great influence on the asylum seekers communities in Israel. The proposed policies demonstrate that the non-removal policy and the decision to cease applying it toward the South Sudanese responded not only to events in South Sudan but to political and state agendas in Israel which are inimical to asylum seekers and which continue to shape the lives of those who remain here.

'Do Not Send Us So We Can Become Refugees Again' is based on work by the African Refugee Development Center (ARDC) and the Hotline for Migrant Workers (HMW) in Tel Aviv. It also draws on interviews with nationals of South Sudan, lawyers, and human rights activists in Israel, as well as on phone interviews with returnees to South Sudan. At the core of this report is a petition filed by Attorney Anat Ben Dor of the Refugee Rights Clinic, Tel Aviv University, on behalf of several human rights organizations in Israel, and legal documentation concerning not only nationals of South Sudan but also those of North Sudan wrongly identified as South Sudanese.

List of Abbreviations

ACRI	Association for Civil Rights in Israel
ARDC	African Refugee Development Center
ASSAF	Aid Organization for Refugees and Asylum Seekers in Israel
COI	Country of Origin Information
EU	European Union
HMW	Hotline for Migrant Workers
IA	Immigration Authority
IFA	Internal Flight Alternative
IPS	Israeli Prison Authorities
IOM	International Organization for Migration
MoFA	Ministry of Foreign Affairs
Mol	Ministry of Interior
PIBA	Population, Immigration, and Border Authority
RRC	Refugee Rights Clinic
RSD	Refugee Status Determination
TP	Temporary Protection
UNHCR	United Nations High Commissioner for Refugees

Part One: A forced return to a newborn state

Suitcases, televisions sets, tents and other belongings are piled high on the fourth floor at Tel Aviv's Central Bus Station. A bus waits to take dozens of South Sudanese to the airport from where they will fly to South Sudan. Women weep as they say goodbye to relatives and friends. Young boys and girls say farewell to friends who will start the new school year in classrooms where many chairs stand empty.

Immigration officials check the names of deportees. One man who has wound up his affairs in Israel in order to return to South Sudan does not appear on their list. He is forcibly removed from the bus. An Israeli passer-by mumbles 'Go home!' and makes racist comments. An argument breaks out.

Israeli human rights activists hold up signs that say 'The people demand an end to deportations' and 'Here are people deported to danger and hunger - South Sudan'. Yet some returnees are relieved to be leaving. They do not know what the future holds, but would rather face insecurity in South Sudan than a continuation of their situation in Israel.

On 17 June 2012, a plane carrying over 120 South Sudan nationals left Tel Aviv for Juba, the capital city of the new state of South Sudan. Ten days earlier, the Jerusalem District Court had rejected an appeal against the Israeli government's decision to end its policy of collective non-removal of persons from South Sudan. The policy had been in place since 2004 when a group of eleven Sudanese nationals was deported to Egypt, which in turn attempted to send them back to Sudan.

This was the first flight in what the Israeli government called 'Operation Returning Home'. In the months that followed, a further six flights would airlift 1038³ South Sudanese to Juba, South Sudan. Throughout the period of these flights, mass arrests and detention of South Sudanese nationals took place across Israel.

On 31 January 2012, the Population, Immigration and Border Authority (PIBA), led by Israel's Interior Minister Eli Yishai, had published 'A Call for the People of South Sudan'⁴:

'[N]ow that South Sudan has become an independent state, it is time for you to return to your homeland. While this is not a simple move, the State of Israel is committed to helping those who wish to return voluntarily in the near future.'

According to the call, voluntary returnees would each receive a lump sum of Euro 1,000. The call, published in Arabic and English, noted that enforcement action, including arrest and deportation, would be implemented against nationals of South Sudan who had not left Israel voluntarily by 31 March 2012.

At the time of Minister of Interior Yishai's announcement, some 55,000 asylum seekers from various African countries were living in Israel. NGOs and governmental bodies estimated the number of South Sudanese to be between 700 and 3,000. Representatives of the South Sudanese community put the number at around 1,100⁵. More than half were children, many of whom had been born in Egypt or Israel. Since 2009, several hundred Southern Sudanese who had strong personal reasons for return used the opportunity for return offered by a private NGO known as 'Operation Blessing' and returned to Southern Sudan of their own volition.

Today only a few dozen South Sudanese remain in Israel. Some are in ongoing RSD processes or are permitted to stay temporarily on medical grounds⁶. Few South Sudanese are held in detention facilities in the country⁷. For those South Sudanese who, for various reasons, were allowed to stay in Israel in the months after the 'voluntary deportations'⁸ to South Sudan, life became extremely difficult. Many individuals and their families were not able to find work and could no longer afford their rent. They remain dependent on food donations and the support of concerned Israelis, foreigners and NGOs.

In the past few months, there have been reports from returnees to South Sudan alleging that a number of people died shortly after their return to South Sudan. Among the reported deaths was that of a woman and a child said both to have died from malaria and typhoid. One man who left Israel was unwell at the time and is said subsequently to have died owing to lack of access to appropriate medical treatment in South Sudan. It is difficult to confirm such reports, but their persistence and frequency suggests a need for further investigation of the situation for returnees.

1.1 The search for refuge

The history of Southern Sudan is one of war and armed conflict. Since Sudan's independence from the United Kingdom in 1956, the state has seen barely a decade of peace⁹. The civil war in Sudan, which lasted nearly thirty years and ended with the signing of a peace agreement in 2005, led to over two million deaths in Southern Sudan and displaced many more to neighbouring countries and beyond¹⁰.

One of the destinations 'beyond' has been Israel. Most Southern Sudanese¹¹ arriving in Israel between 2005 and 2007 did so via Egypt, where many had lived before risking the illegal border crossing through the Northern Sinai, where Egypt enforces a shoot-to-kill policy at its border with Israel¹².

Although most Southern Sudanese were recognised as refugees by the United Nations High Commissioner for Refugees (UNHCR) in Cairo¹³, they had no access to work, education, or health care and were subjected to harsh living conditions, racism, and violence¹⁴. Many Southern Sudanese refugees in Egypt cited the incidents of September to December 2005 in Mostafa Mahmoud Square¹⁵ as their incentive to leave: a peaceful demonstration by refugees demanding protection from the Egyptian authorities and the UNHCR resulted in the deaths of dozens of refugees at the hands of the Egyptian security services¹⁶.

Between 2004 and 2006, more than 200 Sudanese nationals, among them Darfurians and Southern Sudanese, arrived in Israel from Egypt¹⁷. In subsequent years, just over 15,000 Sudanese (26 percent of all African asylum seekers in the country) made their way to Israel¹⁸. Among them were individuals from the Nuba Mountains and South Kordofan¹⁹. Once on the Israeli side of the border, most Sudanese arriving from Egypt deliberately sought arrest by army patrols²⁰.

1.2 'Nationals of a hostile state'

Israel regards Sudan as a hostile state. As a result, upon their arrival, all Sudanese nationals, including those from Southern Sudan, were termed hostile nationals until South Sudan became an independent state. The situation of hostility still persists between the northern state of Sudan and Israel.

These first arrivals were initially detained under the Entry to Israel Law (1952)²¹ which provides for release of detainees after sixty days. Sudanese detainees, however, were considered a threat to Israeli security.

According to Attorney Yonatan Berman, of the Migrant Rights Clinic, Academic Center of Law and Business, Ramat Gan, the Government of Israel had believed that there was a realistic prospect of deporting Sudanese nationals to Egypt and tried to make an agreement with Egypt to do so (Conversation with Attorney Yonatan Berman, Migrants Rights Clinic, Academic Center of Law and Business, Ramat Gan, Israel, July 8, 2012). No agreement with Egypt could be made, however, particularly after an incident in 2004 when a group of eleven Sudanese nationals was returned there. UNHCR and the Israeli Ministry of the Interior (Mol) provided assurances that the return to Egypt had been coordinated with the authorities there and the well-being of returnees assured. However, according to Attorney Anat Ben Dor, RRC, Tel Aviv University, deportation from Egypt to Sudan was stopped only after Egyptian human rights lawyers and the UNHCR office in Cairo intervened. UNHCR subsequently asked the Israeli Mol to refrain from returning asylum seekers to Egypt (Conversation with Attorney Anat Ben Dor, Refugee Rights Clinic, Tel Aviv University, Tel Aviv, Israel, August 9, 2012). Since that time, no Sudanese individuals who have entered Israel have been sent back to Egypt, except for those who have been immediately returned at the border under a policy known as "Hot Return"²². Instead these individuals have been protected by a policy of collective non-removal based on their nationality.

As noted above, the first cases of Sudanese nationals entering Israel were handled by the Mol and Immigration Authority (IA). Sudanese asylum seekers were detained in IA detention facilities under the Entry to Israel Law (1952), as are all undocumented migrants. Since the Sudanese asylum seekers could not be deported, the UNHCR in Israel, the Refugee Rights Clinic (RRC) at Tel Aviv University and the Hotline for Migrant Workers (HMW) arranged for release for some into the custody of various *kibbutzim* (collective farms). This was done on a case by case basis through agreement with the Mol. Later, when the Mol began to reject applications for release from detention, HMW and RRC successfully petitioned the Administrative Tribunal. In this way, thirty asylum seekers were released to *kibbutzim* by the end of 2005.

In early 2006, the State began to deny Sudanese asylum seekers the rights to which undocumented migrants are entitled and instead held them under an emergency law enacted in 1954, the Anti Infiltration Law (1954)²³. This law

allows for unlimited detention without judicial review of a person who is a national of one of the countries named in the law or who has passed through one of the named countries. Sudan is not among countries listed. However, Egypt, though officially at peace with Israel, is listed in the law. Because the Sudanese asylum seekers entered Israel via Egypt, they could be detained as infiltrators. Thus, the first Sudanese arrivals were held incommunicado for over a year in army bases along the border and in detention facilities²⁴.

Hotline for Migrant Workers and the RRC filed petitions to the High Court against application of the Anti-Infiltration Law in four cases. In a hearing on 8 May 2006, Justice Bienish of the High Court ordered the State of Israel to provide, within thirty days, a procedure for judicial review during the detention of these Sudanese individuals. Following this ruling, the Ministry of Defence assigned a special advisor to oversee these cases. The Ministry promised the Supreme Court that the advisor would meet each refugee within fourteen days of his arrest. In August 2006, the advisor met the four asylum seekers from the cases at issue and they were released under this new arrangement. However, only new arrivals were interviewed subsequently and none was approved for release.

In protest, forty-seven detained Sudanese asylum seekers launched a hunger strike at Ketsiot, a high security prison in the Negev desert, which had been partly reorganised as a detention facility with special sections for asylum seekers (hereafter referred to as Ketsiot). On 27 November 2006, HMW and RRC again petitioned the Supreme Court. They requested a temporary injunction ordering the State to provide the asylum seekers with judicial review. In December 2006, the special advisor started visiting Ketsiot and granting release to detainees for whom HMW had identified placements in kibbutzim and moshavim (farming co-operatives). During the first three months of 2007, several dozen Sudanese were released.

During the first months of 2007, HMW activists kept on bringing evidence and testimonies to the Administrative Tribunal to prove that most Sudanese released in this way had suffered financial exploitation. They received the same salaries as the Thai agricultural labourers (at approximately NIS14 per hour, way below the Israeli minimum wage). The Advisor agreed to release the Sudanese into alternative custody in Eilat where they could work in hotels at the minimum wage (22 NIS per hour). After six months these restrictions were removed as well.

The first arrivals had been single men. When families arrived, they were separated, with women and children released by the IDF and collected by the HMW to a privately run shelter near Haifa and with single men and fathers kept in detention. In March 2007, following the arrival in Israel of more Sudanese, detention facilities began to fill and individuals to be more frequently released. Between March to July 2007, all new arrivals were released by the IDF to the streets of Beer Sheva and collected by volunteers who formed a new NGO – ASSAF. This created a situation whereby, despite having been categorised by the government as 'hostile nationals', some Sudanese were detained and others released. The arbitrary nature of the procedure, coupled with an overall lack of authoritative policy may have brought about a realization by the Israeli government that imprisonment was not a viable option in the long term.

The framing of asylum seekers and refugees as hostile nationals contravenes the 1951 Convention Relating to the Status of Refugees (hereafter referred as the 1951 Convention). However, the Government of Israel prohibited persons from Sudan - regardless of where they were from in Sudan - from applying for asylum by treating them as hostile nationals. In doing so, Israel did not take into account individual claims and whether such individuals had a well-founded fear of persecution. Sudanese asylum seekers were instead subject to a policy of non-removal based on the hostility between the two countries and the lack of diplomatic relations which make it impossible for Israel to return individuals to Sudan against their will. With the independence of South Sudan in July 2011, Israel was among the first countries to recognise the new state, a decision which made possible the return of South Sudanese asylum seekers in Israel.

1.3 Return to a fragile state

*'I have been on the run since I was born. I was born in 1983 when the war broke out. My mother was killed in the war, my father was a general in the SPLA, and he lost his life as well. I ran to Khartoum, from there to Egypt and finally arrived in Israel.'*²⁵

South Sudanese will eventually return to a new state and a new political entity. All returnees to South Sudan would find themselves in a country that did not exist when they fled Sudan years before. Some of them, asylum seekers since birth, have never set foot there. Most who would return to their new homeland would find themselves having to build a home from scratch.

According to Orit Marom as well as Orit Rubin, Advocacy Coordinator and Psycho-social Program Manager, respectively, for the Aid Organization for Refugees and Asylum seekers in Israel (ASSAF), many Southern Sudanese in Israel were second or third generation asylum seekers and refugees. They brought with them to Israel a legacy of trauma and displacement, with their children born and families formed during the search for refuge. They had hoped to find stability and security in Israel, but under Israeli asylum policies, which granted them few rights and regarded them as illegal 'infiltrators', they were unable to rebuild their lives. All the same, Israel's policy of non-removal meant that they were not forced to return to Sudan until the state of Israel decided to cancel their protection. (Conversation with Orit Marom and Orit Rubin Aid Organization for Refugees and Asylum seekers in Israel, Tel Aviv, Israel, 6 August 2012).

Following the declaration of independence for South Sudan on 9 July 2011, nationals from South Sudan in Israel had, for the first time in many years, a country to which they might return. Nevertheless, the still volatile situation in South Sudan meant that many wished to remain in Israel until the situation had stabilised. In a letter to UNHCR, representatives of the South Sudanese community wrote:

*'Only seven months have passed since our homeland, South Sudan, declared independence, and the young country is facing great difficulties. The humanitarian situation borders on disaster. Millions of residents in South Sudan are dependent on humanitarian aid to get water and food and are suffering from the lack of basic infrastructure that can lead to basic survival and existence conditions. In addition, in the last few months, South Sudan has been plagued by inter-communal violence that has caused thousands of deaths and hundreds thousands of displaced people. The tense situation with the north and the bombings of Sudan's army on civil society make the stabilization of the country very difficult. [...] Have mercy on us and on our families. We are facing real danger by returning to South Sudan, due to the violent situation in the country. Do not send us to live in the streets of Juba and be dependent on the food distribution of the aid organizations. Please prevent our deportation to a place where our life is in danger. It is not enough for our homeland to declare independence in order to promise the well-being and health of our children.'*²⁶

In the months since independence, there has been a rapidly growing population of displaced people and South Sudanese deported or returning from Sudan and other neighbouring countries²⁷. The continuing conflict in South Kordofan and Blue Nile state, as well as in Darfur, saw an increase in the number of refugees from those regions fleeing to South Sudan²⁸.

Following years of war, South Sudan lacked basic infrastructure and services. It has yet to create a stable government and is capable neither of providing protection for its citizens nor of supplying basic needs or elementary living conditions²⁹.

In February 2012, the World Food Program (WFP) warned of extreme hunger which will impact approximately half the population³⁰. A UN report predicts that in 2012 approximately five million South Sudanese (half the population) are expected to suffer famine³¹. The South Sudanese community in Israel facing return included many children as young as two or three months, while at the same time infant and child mortality rates in South Sudan were among the highest in the world (71.8 deaths/1,000 live births)³². A year after independence, the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator (OCHA) characterized the humanitarian situation in South Sudan as 'extremely precarious' and called on states hosting refugees to ensure that every return was voluntary³³.

In a letter to the MoI and the Ministry of Foreign Affairs (MoFA), community representatives stated that the South Sudanese were ready to return under three conditions:

- *The situation in South Sudan becomes safe and stable*
- *South Sudan has a diplomatic presence in Israel and we can apply with dignity for South Sudanese citizenship*
- *Israel has a fair refugee law in place and has fair refugee procedures. Individuals still wanting to apply for refugee status on an individual basis even after a change in the situation in South Sudan should be able to do so, in a fair way that meets international standards.*

They urged the Israeli government not to carry out forced return and to extend its protection until these conditions were met³⁴.

1.4 Voluntary return or deportation?

Voluntary return can only be considered voluntary if certain conditions are met. One of these conditions is freedom of movement; another is the right to sustain oneself³⁵. Both were missing at the end of the collective non-removal policy which was undertaken by Israel.

Following the decision by the Israeli courts to reject extension of the non-removal policy, South Sudanese nationals were left with three choices: they could apply for asylum, but with no real prospect of having their applications processed; they could register for 'voluntary return'; or they could face detention. Those already in detention could either sign up for 'voluntary return' or remain in detention.

Each 'choice' defied the notion of voluntary return. South Sudanese nationals lost their status in Israel and were unable to renew licenses for months on end. They lost their working places and were not able to find an alternative source of income. Ongoing uncertainty about status and the fear of detention pushed many to sign up for departure. Interviews the ARDC conducted with South Sudanese in Israel revealed that living conditions, violence towards asylum seekers, and the rhetoric of Members of the Knesset (the Israeli Parliament) made most South Sudanese decide to register for voluntary return out of fear and uncertainty.

In a letter to the Mol and the MoFA, community leaders asked:

*'Does a person who cannot renew their visa and who was then fired from their job, all following the Israeli government decision, really make a voluntary choice? If this person truly had access to a fair refugee system in Israel, would they make the 'choice' to 'voluntarily' leave Israel for South Sudan?'*³⁶

The current political atmosphere (briefly outlined in Part Two) suggests that domestic interest is driving the policy-making agenda toward asylum seekers, rather than compliance with international norms. In Israel, therefore, voluntary return can be seen as a means of decreasing the "demographic threat" and placating an increasingly anti-foreigner public opinion. Interviews conducted by the ARDC with South Sudanese indicated that the absence of a procedure for the regime of collective non-removal and the lack of transparency and information upon the cessation of the non-removal regime greatly influenced the daily lives of South Sudanese in Israel. The announcement in February 2012, which stated that South Sudanese must return home and that Israeli employers could be penalized, resulted in immediate dismissal from work for many, leaving South Sudanese communities in Eilat and Arad almost entirely without employment prospects, which forced the community to have to live off meagre savings. Unable to pay their rent and utility bills, they began to fear they would wind up homeless.

Even though a week had been allowed for asylum seekers from South Sudan to sign up for voluntary return after rejection of the petition challenging the deportation,(see Section 3.1), arrests began almost immediately in Eilat and Tel Aviv. Sudden arrests in the streets left many afraid to leave their homes and unable to prepare for their return to South Sudan (see Section 2.2).

Initially, the South Sudanese community had responded with disbelief to the decision to end the policy of non-removal. Many had been refugees for over twenty years. South Sudanese had developed survival skills and self-sufficiency in Israel. Their status, though uncertain, had never before been the subject of political machinations, as the community understood their rights as enshrined in international law and norms. The decision now returned them to a state of fear and powerlessness, with very little room to seek redress.

Part Two: The asylum regime in Israel

The newly independent State of Israel actively participated in drafting the 1951 Convention Relating to the Status of Refugees, which defines who is a refugee, what their rights are, and the legal obligations of states toward them. Israel is a state party to the 1951 Convention and its 1967 Protocol relating to the Status of Refugees. However, it failed to enact domestic legislation incorporating the Convention into Israeli law and instead a series of war-time laws intended to keep enemies at bay have filled the vacuum³⁷.

The arrival of non-Jewish immigrants to the State of Israel is a relatively new phenomenon. Asylum seekers from countries such as Sierra Leone, Liberia, and the Democratic Republic of Congo began arriving during the 1990s. As noted in the previous section, from mid 2000 onwards the country saw an increase in arrivals from Sudan and Eritrea. Not until 2002, however, did Israel initiate a procedure for the determination of refugee applications³⁸. By the end of June 2012, Israel had approximately 57,000 asylum seekers. Most had come from Eritrea (35,895 persons or 63 percent) and Sudan (15,210 persons or 26 percent). Since then the number of new asylum seekers entering Israel has fallen significantly, from 938 in June 2012 to 54 in October 2012 and 33 in November 2012³⁹.

According to Attorney Anat Ben Dor, RRC, Tel Aviv University, the asylum system in Israel is an extension of an immigration and citizenship regime within which non-Jewish asylum seekers are excluded and termed 'infiltrators'. An 'infiltrator', in the context of the relevant laws, is one who has illegally entered the country in order to perform a hostile act and who has violated the law (Conversation with Attorney Anat Ben Dor, Refugee Rights Clinic, Tel Aviv University, Tel Aviv, Israel, 9 August 2012). Since their arrival in Israel, African asylum seekers have been termed 'infiltrators' and dealt with under the Anti-Infiltration Law (1954). They have been characterised as a threat to the existence, demography and character of the Jewish state⁴⁰. The term 'infiltrator' has been applied to asylum seekers from countries such as Eritrea and Sudan, who are recognised globally as refugees.

Until 2008 asylum procedures in Israel were drawn up by UNHCR and asylum decisions made by the MoI's National Status Granting Body (NSGB). In 2008, a Questioning and Identification Unit and in 2009 a Refugee Status Determination Unit were established at the MoI⁴¹. The latest unit took over responsibility from UNHCR for refugee status determination, using procedures drawn up by the ministry itself⁴². Rather than seeking to provide refugees with protection under the terms of the Convention and other international law, the state sought, in forming this policing unit, to organize a larger force to detain or deport refugees⁴³. As with any country, the State of Israel might not have been prepared at the beginning for an influx of asylum seekers, but as time has passed, the state has shown a lack of willingness to be prepared and deal with the arrival of additional asylum seekers to its country. The fact that asylum seekers from countries such as Eritrea and Sudan, who are recognised around the world as refugees, are called "infiltrators" and systematically denied access to a proper refugee process in Israel reveals a misinterpretation and circumvention of the responsibilities under the 1951 Convention. This situation was borne and has persisted directly as a result of Israel's domestic political atmosphere.

2.1 'We will make the lives of infiltrators miserable until they leave'

*'We are currently witnessing an unprecedented demonization of the refugee communities in Israel.'*⁴⁴

The 'voluntary' deportation of South Sudanese nationals was part of a wider policy of deterrence and expulsion. One month after the seventh plane had airlifted South Sudanese nationals from Israel, on 28 August 2012, Interior Minister Eli Yishai stated publicly that from 15 October 2012, mass detention of North Sudanese nationals in Israel would take place. Yishai issued this announcement without coordination or authorization of a government authority.

Yishai had earlier declared that he would "make the lives of infiltrators miserable"⁴⁵ and that the detention and eventual deportation of the North Sudanese would be "another step in the progress from talk to action in terms of the infiltrators issue."⁴⁶ Quite apart from the fact that such a decision would violate Israel's obligations under international law, returning its nationals to Sudan would be impossible. As noted earlier, Israel has no diplomatic relations with Sudan, a country which it regards as a hostile state. Several Sudanese asylum seekers who actively opposed the regime in Khartoum while in Israel and who returned to their country of their own volition, are said, by members of the community currently living in Israel, to have disappeared or been imprisoned, and one returnee is reported to have

been killed in the second half of the year 2012. Sudanese media has spread a story which suggests a wide-conspiracy against returnees, suggesting that the Israeli government trained these people as Mossad (Israeli Spy Agency) agents to destabilize Sudan. Following the publication of pictures of Sudanese individuals in this series of articles, some began to fear for their own lives and those of their families still in Sudan.⁴⁷

As a result of a legal petition filed by Israeli Human Rights organizations in the Jerusalem District Court, the State Attorney announced that the declaration by Eli Yishai did not reflect current government policy and that the Mol had no authority to detain under the Anti Infiltration Law. This attorney declared that this authority was reserved to the Minister of Defence. The decree, however, had by this time created distress among thousands of people, including refugees and victims of genocide and torture, women, children and infants.⁴⁸

At the time of writing, work is coming to an end on a 240 km fence along Israel's border with Egypt. According to Sigal Rozen, by the end of 2012, the Saharonim Detention Facility in the Negev desert (hereafter referred to as Saharonim) and additional tent camps are expected to be built for up to 5,400 people (Conversation with Sigal Rozen, Public Policy Coordinator, Hotline for Migrant Workers, Tel Aviv, Israel, 12 December 2012). Once this facility is prepared, the government is committed to imposing heavy fines on employers who hire asylum seekers.⁴⁹ Confusion about who may and who may not be employed has resulted in many asylum seekers losing their jobs, and increased the difficulty for those looking for work.

In January 2012, the Knesset passed temporary legislation to replace the 1954 emergency Anti Infiltration Law. The new Anti-Infiltration Bill (2012) mandated automatic detention of asylum seekers and allows for those who enter Israel without permission through the Egypt-Israel border to be held without charge or trial for three years. People from countries considered hostile to Israel, including asylum seekers from Darfur and Sudan, can be detained indefinitely.

Interior Minister Yishai has also stated that he would use all the tools to expel all Africans and claimed that Israel "belongs to the white man."⁵⁰ Likud Member of Knesset Miri Regev referred to African asylum seekers as a 'cancer in the body of Israel'.⁵¹ Prime Minister Benjamin Netanyahu said that the presence of Africans threatened the "social fabric of Israeli society, national security and national identity".⁵²

Other legislation under discussion in the Knesset proposed criminalising the employment of, as well as provision of shelter, rental accommodation and transport for asylum seekers. Asylum seekers who send money abroad could also be punished with three months' detention or a NIS 29,200 fine (Euro 5,875).

Among the other major developments, which reveal the recent transformation of the asylum policy in Israel is a new government regulation that enables the indefinite incarceration of asylum seekers suspected of committing a crime without trial. According to Attorney Asaf Weitzen, Legal Advisor, Hotline for Migrant Workers, the law enables indefinite detention of suspected individuals even if there is not enough evidence to indict them. (Conversation with Attorney Asaf Weitzen, Legal Advisor, Hotline for Migrant Workers, Tel Aviv, Israel, December 14, 2012).

All of these restrictions suggest that the State of Israel, through the Mol, is using the situation of asylum seekers already present in Israel as a deterrent to others outside. The non-removal policy intentionally seems to cut the rights of those under this regime, so that other people will not come. The Minister of Interior has called asylum seekers a threat to Israel on a par with that of Iran⁵³. Africans in Israel have been criminalized and dehumanized by politicians in front of the wider population. A constant emphasis on perceived threats and danger has created a high level of mistrust and fear of asylum seekers among Israelis. For their part, African asylum seekers are constantly confronted by uncertainty and the temporary nature of their residence in Israel. Insecurity coupled with a lack of transparency by government characterizes the non-removal policy.

2.2 An asylum procedure without recognised refugees

As discussed earlier, asylum seekers entering Israel via its southern border with Egypt are considered illegal entrants and designated 'infiltrators'. On arrival in Israel, those seeking asylum are issued with a deportation order under the Anti Infiltration Law (1954). From the border the asylum seekers are transferred by the Israeli Defence Force (IDF) to a military base then to a detention facility, normally Saharonim, where they are brought before a judge. While they are in detention, the Mol carries out a brief identity check.

Until June 2012, individuals from Sudan (any region), Eritrea and Congo, were all covered by the policy of non-removal. A renewable 2(A)(5) license enabled nationals of these countries to reside temporarily in Israel. The deportation order remained in force but the licence holder was released from detention on condition that he or she cooperated with deportation proceedings when they became possible. It was this condition that made possible the deportation of South Sudanese asylum seekers without further legal process in 2012.

Asylum seekers from countries other than Sudan, Eritrea or Congo might, in theory, seek recognition of their refugee status via the RSD process.⁵⁴ Since the founding of the State of Israel, however, fewer than two hundred individuals have ever been recognised as refugees.⁵⁵ To date, less than 1 percent of those permitted to make an application for asylum in Israel has been successful. In comparison, in 2010 Canada recognised 37.9 percent of claimants, USA 27.1 percent and UK 19.4 percent.⁵⁶

Those covered by the policy of non-removal are not permitted to access the RSD process. As most asylum seekers in Israel (over 80 percent) have come from Eritrea or Sudan, the result is that the vast majority of asylum seekers in Israel are, de facto, denied access to its asylum system and to recognition of their status as refugees.⁵⁷

Lack of access to healthcare, welfare and lawful employment adds to the psychological pressure on individuals in constant fear of detention and deportation if a suspended removal order is activated. The temporary 2(A)(5) license and its equivalent for those in the RSD process states that it is not a work permit and does not entitle the holder to social services such as health insurance or housing subsidies.⁵⁸ License holders remain in legal limbo, not knowing how long they may stay in Israel, unable to plan a future and often unaware of their rights.

With the passing of new legislation by the Knesset in January 2012, the situation changed significantly. According to Sigal Rozen and Attorney Asaf Weitzen, HMW, as of 3 June 2012, those crossing into Israel via the land border with Egypt are held under new anti-infiltration measures which stipulate that such individuals can be held without trial for three years or indefinitely if considered to be enemy nationals. Since the end of June 2012, only a small number of asylum seekers who crossed the Egypt-Israel border have been released from detention (Conversation with Sigal Rozen, Public Policy Coordinator and Adv. Asaf Weitzen, Legal Advisor-Asylum-seekers, HMW, Tel Aviv, Israel, 8 July 2012).

2.3 Temporary Protection in other regions

Temporary Protection (TP) does not appear in the 1951 Convention. TP was documented for the first time in the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa (1969) and adopted during large-scale movements of persons from Southeast Asia and during the civil wars in Central America in the 1980s.⁵⁹ TP in Africa is granted when countries of asylum are obliged to host a neighbouring population until conflict is over. It is effectively a means of sharing rather than limiting responsibility towards refugees.⁶⁰

TP was used in the European Union (EU) in the 1990s in response to large-scale forced migration following wars such as those in Bosnia and Kosovo.⁶¹ According to Attorney Yonatan Berman, of the Migrant Rights Clinic at the Academic Law and Business Center, these crises led to large numbers of Kosovan refugees being granted TP on the assumption that, if made, individual claims for asylum would have been successful. TP provided protection and fulfilled economic and social rights without overwhelming national asylum processes (Conversation with Attorney Yonatan Berman, Migrants Rights Clinic, Academic Center of Law and Business, Ramat Gan, Israel, 8 July 2012).

In the EU, Temporary Protection is defined as 'a procedure of exceptional character to provide, in the event of a mass influx or imminent mass influx of displaced persons from third countries who are unable to return to their country of origin.'⁶² TP in the EU is granted for one year. Individuals must be given a document clearly setting out relevant provisions in a language they are likely to understand. EU member states provide residence permits for the duration of the period of TP. Under EU policy, individuals must have: access to employment; education opportunities both for persons under eighteen years of age and for adults; suitable accommodation or the means to obtain housing; social welfare, a means of subsistence, and medical care.⁶³

In the USA, Temporary Protected Status (TPS) may be granted for political or humanitarian reasons to those who do not meet the legal definition of refugee but who cannot return to their country because of extraordinary conditions, such as a natural or environmental disaster.⁶⁴ TPS provides fewer benefits than refugee status. It is not unusual for an individual to apply for TPS following refusal of a claim for asylum. The United States Secretary of Homeland Security,

in consultation with the Secretary of State, can grant TPS for 6 to 18 months or longer if conditions in the individual's country do not change.

In summary, TP has been used in Africa, the EU and the USA as a means of expediting the processing of a mass influx of refugees, of sharing responsibility for large numbers of persons or of limiting a host state's obligations. The category has not previously, as it currently is in Israel, been used to bar the granting of social and economic rights and asylum.

2.4 Collective non-removal in Israel

The Israeli government has referred in recent years to 'temporary group protection', 'collective protection', as well as a 'delay in removal' for those for whom refoulement or return is not possible. However, the Israeli government has published no criteria to determine who is entitled to non-removal in Israel, how it is granted or on what terms. Israel has defined neither the rights nor obligations of individuals covered by a de facto policy termed in this report 'collective non-removal'. In practice, Israel applies its version of Temporary Protection, to two categories of persons:

- individuals who are part of a group which cannot be returned home because of threats to its safety
- individuals who are part of a mass influx in which it is assumed that the majority would be Convention refugees

However, according to Attorney Anat Ben Dor, if one looks at the report published by the Knesset Information and Research Center on 4 March 2012, Israel published no regulations on non-removal (Conversation with Attorney Anat Ben Dor, Refugee Rights Clinic, Tel Aviv University, Tel Aviv, Israel, August 9, 2012 and conversation with Attorney Yonatan Berman, Migrants Rights Clinic, Academic Center of Law and Business, Ramat Gan, Israel, 8 July 2012). Israel has established no process or code to end the non-removal procedures and has not explained how a decision to return those previously eligible for TP is made. The non-removal policy is a reflection of the asylum regime in Israel which can be characterized as a non-transparent compromise of sorts.

Internationally, TP is used pending a durable solution for asylum seekers.⁶⁵ However, in Israel, non-removal appears to be without time limit: it is simply assumed that an asylum seeker will return home once the MoI has decided it is safe to do so. Non-removal in Israel may last long years, yet the asylum seeker is required to renew his or her temporary license every one to four months in a complex and difficult to manage cycle that hardly reflects the character of TP as employed by other states responding to emergencies.

This arrangement falls short of requirements under international law, particularly the right to seek asylum, and Israel's obligation to reach durable solutions concerning persons with 'Temporary Protection'. At present, Israel's "policy" and implementation of refugee regulations has become a permanent non-solution, at the cost of the rights of refugees.

2.5 Chronology of the non-removal policy in Israel

The first groups covered by Israel's non-removal policy were individuals from Sierra Leone (2001), Ivory Coast (2002), Liberia (2003), and DRC (2003). These first groups were not necessarily Convention refugees, but were unable to return to their country of origin because of ongoing conflict or civil war and therefore were granted protection for complementary protection reasons. The UNHCR in Israel played an important role in advising the MoI not to return or detain nationals of these countries. After several years, individuals from Sierra Leone, Ivory Coast and DRC were granted B1 work-permits that allowed for their legal employment. These four communities have always been small in number ranging from dozens to hundreds and were informed about the time frame for the end of their protection.

Sierra Leone

Individuals from Sierra Leone, some of whom came to Israel before the civil war broke out, received collective protection in 2001 following a petition served by ACRI. The MoI first issued them with B1 working permits. These were valid for six months, renewable at the end of each period. Over ninety persons from Sierra Leone were granted temporary protection under the non-removal policy.

In July 2005, following the end of the war in Sierra Leone, the UNHCR announced that Sierra Leoneans could safely return home. The MoI announced an end to non-removal for this group in 2007. Individuals were then given an opportunity for an individual assessment of their claim.⁶⁶

Ivory Coast

In the case of individuals from Ivory Coast, the Mol also followed recommendations by UNHCR and announced protection of temporary duration under a non-removal policy. Approximately one thousand individuals in Israel in 2002 received renewable B1 working permits.

In 2007, a peace agreement between warring factions was signed in Ivory Coast. It was due to be followed by elections. The UNHCR advised the Mol to end protection for Ivorian nationals at the end of December 2008, but Ivorians in Israel asked the government to postpone this deadline because they feared violence would again erupt after the elections.

The government decision was amended to enable persons from high risk regions to remain temporarily in Israel. However, the decision was not published. Ivorians in Israel were unaware that they could continue to seek protection here.

After the elections in Ivory Coast, violence again broke out. The Mol was forced to postpone the end of protection until 31 January 2012. In the months that followed its decision, a number of individuals from Ivory Coast applied for RSD. Nevertheless, from June to September 2012, the Israeli immigration police arrested, detained and deported Ivorian nationals.

Liberia

The Mol also granted temporary protection under a non-removal policy to individuals from Liberia in 2003 following an appeal made to the UNHCR. Approximately eighty-six persons were granted protection.⁶⁷ In 2007, temporary protection ended and individuals had an opportunity for an individual assessment of their claims, before they were deported to their homeland.

Eritrea

When Sudanese and Eritrean nationals began arriving in larger numbers, the non-removal policy changed. On January 2008, Eritreans who had arrived before the end of December 2007 were granted B1 working permits permitting them to work.

According to Sharon Harel, Israel representative to the United Nations High Commissioner for Refugees (UNHCR), when Eritreans began arriving in still greater numbers, the Mol stopped issuing B1 working permits and instead granted them temporary licenses called a 2(A)(5) (Conversation with Sharon Harel, Israel representative to the UNHCR, Tel Aviv, Israel, 10 July 2012). This 2(A)(5) licence gives holders no legal or social rights. The sentence, "This temporary license does not constitute a work permit," appears on the license and bars asylum seekers from working legally.

Mol officials have said that the Refugee Status Determination Unit⁶⁸, in the Infiltrators and Asylum Seekers Department, does not review individual claims for asylum from either Eritreans or Sudanese because they are under 'Temporary Protection'.⁶⁹

Sudan

A person who crosses the border into Israel is considered a law-breaker in the Republic of Sudan and may be punished by imprisonment, torture, and death. Because Sudan and Israel consider one another hostile states, there is no diplomatic relationship between the two countries. Israel is, therefore, unable to deport Sudanese to their country of origin. For this reason they have been subject to a non-removal policy in Israel. However, the Sudanese were not granted B1 working permits, perhaps because they are nationals of a hostile state. Yet, about 500 Sudanese from Darfur were granted A5 temporary residency at the beginning of 2008.

Democratic Republic of Congo (DRC)

Until now, approximately 300 nationals of the DRC have been subject to a non-removal policy and received B1 working permits. Gradually, these permits have been taken away and replaced with 2(A)(5) temporary licenses.

2.6 A Case Study: status of South(ern) Sudanese in Israel

Until recently, asylum seekers from South Sudan – before independence considered Sudanese – were granted protection under the policy of collective non-removal. Their residence was legal but their individual claims for asylum were not examined in accordance with the 1951 Convention to which Israel is a signatory.

Hence, although many Southern Sudanese coming to Israel held a UNHCR refugee registration card issued in Egypt⁷⁰, Israel did not recognise them as refugees, and their need for protection under the Convention was never officially acknowledged.

As noted earlier, there are no diplomatic relations between Israel and Sudan. Sudanese passports read 'Allowed to enter all countries except for Israel.' Nevertheless, and despite the fact that persons in Israel from Southern Sudan were covered by the policy of collective non-removal, each continued to have an individual removal order against him or her pending.

As discussed earlier, at the time the Southern Sudanese first arrived in Israel UNHCR had been responsible for interviews, identification and determining the status of asylum seekers. Protection letters issued by UNHCR functioned as temporary work permits. Sharon Harel, Israeli representative to the United Nations High Commissioner for Refugees (UNHCR) stated that a letter from the Ministry of Labour explained to employers that persons in possession of this UNHCR letter were permitted to work, despite not having a legal work permit (Conversation with Sharon Harel, representative, United Nations High Commissioner for Refugees (UNHCR), Tel Aviv, Israel, July 10, 2012)

In January 2008, almost 500 Darfuris received A5 temporary residence permits and approximately 2,000 Eritreans received B1 permits permitting them to work. This followed a long campaign by Israeli NGOs for legal status for asylum seekers, particularly those from Darfur.

With the establishment in 2008 of a Questioning and Identification Unit within the Mol, the government itself took on the role, previously held by UNHCR, of receiving and registering asylum claims. In February 2008, the Mol started to issue restricted 2(A)(5) licences, which allowed holders to reside only north of Hadera or south of Gedera.

The RSD Unit⁷¹ in the government's newly formed Population, Immigration and Border Authority (PIBA) began conducting interviews and assessing asylum claims in 2009.⁷² However, it issued no official document to inform the Southern Sudanese about changes in policy. Since UNHCR had given them their letter of protection, the Southern Sudanese believed that they remained under UNHCR protection and that decisions about their status were in UNHCR's hands.

2.7 An end to the collective non-removal policy for South Sudanese

In January 2011, in accordance with the provisions of the 2005 Peace Agreement, almost four million Southern Sudanese voters took part in a referendum in South Sudan. An overwhelming majority, some 98 percent, voted for separation from North Sudan and for the establishment of an independent state. On 9 July 2011 South Sudan gained its independence and became a member of the United Nations. However, its independence was accompanied by internal and border conflicts as well as a humanitarian crisis.⁷³

According to Sharon Harel, Israeli representative to the UNHCR, in 2007 and 2008 Israel allowed asylum seekers from Liberia and Sierra Leone one year in which to organise their return to their country of origin (Conversation with Sharon Harel, representative, United Nations High Commissioner for Refugees (UNHCR), Tel Aviv, Israel, 10 July 2012). However, in January 2012, Israel allowed Ivorians only one month and South Sudanese two months to prepare to leave Israel. The reason for this policy is unknown though the absence of regulations and procedures and Israeli public opinion are generally thought to have been key factors.

What is certain is that the government failed to take into account the troubled situation in the newly independent country before it ended its protection of South Sudanese nationals in Israel. Its decision contravened the principle of *non-refoulement*,⁷⁴ which applies not only to Convention refugees, but also to circumstances in which a person's life or liberty would be threatened if he or she is returned. This principle is fundamental both in customary international law⁷⁵ and domestic law and therefore should have been more carefully regarded.

The government of Israel did not provide any details as to how the decision to end the non-removal policy for South Sudanese was made and did not elaborate on the considerations taken into account. It appears as if the announcement of the independence of the State of South Sudan was the only consideration taken into account. As set forth by the Israeli Government in its Call to the People of South Sudan: "Now that South Sudan has become an independent state, it is time for you to return to your homeland."⁷⁶ At that time, the State of Israel refrained from examining the updated situation in South Sudan before ending the protection for South Sudanese. Israel did not inquire as to whether the situation there allows for safe return. This is an error in consideration of the basic rights of life for those who are being returned. This decision contravenes the principle of *non-refoulement* and the principles, which are related to the termination of non-removal policy.⁷⁷

The 1951 Convention should not be the sole reason to end this collective non-removal policy for South Sudanese in Israel. The option given by the MoI, that all South Sudanese would be granted access to the RSD procedure, does not take into account the low recognition rate or the absence of other forms of complimentary protection. Moreover many South Sudanese do not owe a well-founded fear of being persecuted to race, religion, nationality, membership of a particular social group, or political opinion, and therefore do not fall under the 1951 Convention. On the other hand, the principal of *non-refoulement* is not only limited to the 1951 Convention, but also applies to other situations in which return to a place where a person's life or liberty is threatened. This has been mentioned both in customary international law and domestic law.⁷⁸ However these are not mentioned in the procedure for handling asylum-seekers and were therefore not taken into consideration when the collective non-removal policy ended. In the following part we will look at the problematic RSD process that South Sudanese had access to for the first time since their arrival to Israel and the legal consequences of this access.

Part Three: The legal consequences of the removal order for the South Sudanese

'The government has not fulfilled its basic responsibilities as required for ceasing temporary protection and therefore ending such protection at this time is likely to endanger the lives and well-being of those returned. [...] We request that the Israeli government grant additional time to the South Sudanese in Israel until it is ensured that the situation in the new country is stable, that renewed armed conflicts do not break out, and that current conflicts come under control. In addition, the organizations request that the Israeli government will follow the building of infrastructure in the young country, including democratic institutions, the security of human rights and the basic existence of citizens. During this time, potential citizens of South Sudan can submit, in an organized fashion, applications for South Sudanese citizenship without the Israeli government deporting individuals before their applications are positively answered. Likewise, the Israeli government must inform asylum seekers about their rights to request asylum or status due to humanitarian reasons and conduct individualized assessments of their applications.'⁷⁹

3.1 Chronology of the removal order

At the end of January 2012, the Mol announced an end to the collective non-removal of South Sudanese nationals as of 31 March 2012. The Mol asked the South Sudanese in Israel to prepare for departure on pain of arrest or detention.

Temporary licenses were not renewed. Leaflets were distributed asking nationals of South Sudan to leave Israel by 1 April 2012. Their Israeli employers were asked to refrain from employing nationals of South Sudan and many employers responded by immediately terminating job contracts.

A number of NGOs⁸⁰ appealed this decision by Interior Minister Yishai. A petition⁸¹ and a request for a temporary order enjoining enforcement of the decision were submitted on 29 March 2012.

The Interior Minister was due to respond to the petitions on 15 April 2012. He asked the court for an extension. Pending review of the situation in South Sudan by the Ministry of Foreign Affairs, a second extension was granted on 6 May 2012.

Adv. Anat Ben Dor asked the court to change the intermediary order because temporary licenses had not been renewed, many South Sudanese asylum seekers had lost their jobs and were finding it hard to support themselves and their families.

The court stated that there could be no ruling on the intermediary order until the substantive issue of removal had been decided. It issued a temporary order suspending the cessation of collective non-removal and gave the state a week to respond. An intermediary order was issued to prevent deportation, but with no renewal of licenses for asylum seekers.

The government again requested an extension, which was granted until 13 May 2012. Though the judge did not renew the 2(A)(5) temporary licenses, he did issue a statement making clear that the state would not enforce the ban on employment of South Sudanese without a license.

The state responded on 30 May, asking the court to annul the temporary order and reject the petition. The Interior Minister stated that, on the basis of advice received from MoFA, he saw no obstacle to removing South Sudanese nationals. On 7 June 2012 the Court ruled in favour of the Mol. South Sudanese were given one week to register for voluntary return.

Despite the time-frame issued by the court, arrests began two days after the ruling. Those arrested included some who had already signed up for voluntary return. Arrest was legally permissible because, as noted in Section 1.2 removal orders had been issued to South Sudanese nationals upon their arrival in Israel. The first flight of Operation Returning Home left Israel on 17 June 2012. By 8 August 2012 seven flights had removed a total of 1038 persons.⁸²

3.2 Arrest and detention

*'Our people should not live like criminals. Why are South Sudanese in prison? Why do you treat us like animals if we already decided to leave?'*⁸³

Two days after the announcement that South Sudanese nationals had one week to register for voluntary return, early on the morning of 10 June 2012 immigration police in the Eilat area arrested eleven South Sudanese and a national of North Sudan on their way to work. The next day, 105 South Sudanese, the majority living in Eilat, were arrested. On 12 June 2012 PIBA arrested seventy-three African asylum seekers – not all South Sudanese - in south Tel Aviv, Eilat and other cities. In the three weeks that followed, numerous South Sudanese were arrested and detained. According to one report by HMW, South Sudanese detainees, including women and children, were shackled by their feet.⁸⁴

Families were split up, with women and children detained at Saharonim and Ketsiot and men at Givon, a high risk prison centre with a detention section for asylum seekers in Ramle (hereafter referred to as Givon). It was not clear if family members would be put on the same flight out of the country. Two mothers complained that their sons, both minors, had been taken away and were being held separately from their families. They were neither told where their sons were held nor permitted to meet them for over a week.

While those who had registered for voluntary return after detention in Tel Aviv were released in a few hours, detainees in Eilat remained in custody. Even those who had registered for voluntary return before being detained were not spared arrest: some were escorted home by PIBA officials long enough to pack their belongings, but most were given no time to collect personal property. Once in detention, they were unable to withdraw money from their bank accounts or close them. They could not collect final salaries and benefits due from hotels and other places of employment where some had worked for years.

Some were released after they registered for 'voluntary' return, others were held until the beginning of July and were only released a week before their deportation to South Sudan. At the beginning of July around 100 South Sudanese were released from detention in Givon and Ketsiot after having been in detention for a month and a half.

In Eilat a woman from South Sudan was arrested while on her way home from the Mol office to collect additional papers. Though carrying medical reports, she was put in detention without her medication. In early August 2012, PIBA arrested three South Sudanese who had asylum applications pending on humanitarian grounds owing to illness.⁸⁵ One individual was reported as suffering from HIV/AIDS, the second for epilepsy and the third for chronic arthritis and liver dysfunction, conditions for which treatment was not available in South Sudan.⁸⁶ According to the Mol's own procedures, no steps should be taken to deport those whose applications are under review.⁸⁷ Two of the three were released following intervention by Physicians for Human Rights (PHR).

The Hotline for Migrant Workers, the only organization which for the past fourteen years has regularly visited migrant workers and asylum seekers in the Israeli detention facilities, documented the South Sudanese arrests. In Ketsiot there were twenty eight detainees; in Saharonim there were around thirty women and children (two North Sudanese women, one with a child, the other with two children, ages nine, seven, and four, respectively). One of these women was arrested in Bersheeva when she approached the Mol to regularize her license. In Givon there were 22 South Sudanese detainees, all of whom signed the documents for 'Voluntary Departure' upon their arrest. The detainees asserted that they were on hunger strike, an assertion denied by the Israeli Prison Authorities (IPS). It may be assumed that there were more detainees who, despite their actual plight, have not been approached.

3.3 Individual claims for protection

Because they had been covered by the policy of collective non-removal, the South Sudanese had not previously been allowed to access the RSD process in Israel. With the ending of non-removal, they were now permitted to do so. However, as noted earlier, fewer than 200 individuals have been recognised as refugees since the establishment of Israel in 1948 and this grim statistic continues to define the situation even for the South Sudanese.⁸⁸

The UNHCR in Israel saw termination of the non-removal policy as unproblematic, provided that Israel allowed individual asylum claims to be assessed. However, neither the change in procedure nor the option of applying for a temporary license on medical or humanitarian grounds was featured in any publication regarding the end of collective

non-removal. Imprisonment of some individuals complicated matters further. How could prisoners either apply for RSD or prepare for return?

The Mol informed the South Sudanese of neither their rights nor the option to submit an individual claim. It was left to ARDC and the Aid Organization for Refugees and Asylum seekers in Israel (ASSAF) to organise workshops explaining RSD and the right to access it.

Mistrust in the Mol's handling of individual claims made many reluctant to ask for RSD, even though in court the state said it was committed to an RSD process. The Mol already had 3,000 refugee claims pending, so delays in processing fresh claims could be expected. It was likely that nationals of South Sudan would have their claims rejected out of hand. When they arrived in Israel, the majority had had a clear case against the Sudanese government in Khartoum. However, when non-removal ended, the prospect of a national of South Sudan getting asylum on the basis of the 1951 Convention appeared almost non-existent.

One man explained his frustration:

'When I arrived to Israel after having fled Abyei at the age of three with my family, being persecuted in Khartoum and Egypt, no one asked me why I came to Israel. Now that I have a country to return to, and I am no longer a refugee, they want to check if I have a refugee claim. They should have done that five years ago when I was still a refugee.'

Many in the community were left with the options of entering a failing asylum system, unable to find work or support themselves any longer, having used up their savings in the four months they had been without income, or of returning to South Sudan with some dignity and a little money.

The South Sudanese community expressed its concern and mistrust in a letter to the Mol and MoFA on 21 March 2012:

*'We understand that the Israeli government has promised the UNHCR in Tel Aviv that the South Sudanese can undergo individual asylum checks. We do not trust the Israeli Ministry of Interior, or the Israeli government in general, to carry out these checks. We know from our experience in Israel that basically no one has refugee status. With over 50,000 asylum-seekers in Israel and under 30 recognized refugees since 2005, how are we supposed to trust this system? The whole system is aimed to reject us and humiliate us. We have the experience of the last month with the Ministry of Interior which teaches us that we cannot trust the Ministry of Interior. South Sudanese, and many Sudanese not even from South Sudan, are refused visas when they go to renew their documents. People are given all different kinds of paper and appointment slips. Some are not given any papers at all. The Ministry of Interior offices are full of chaos and it is unclear who is in charge. How are we supposed to trust this system with our lives?'*⁸⁹

3.4 The Refugee Status Determination process

It was at first unclear whether South Sudanese nationals should apply for RSD before non-removal ended on 31 March 2012 or after. The lack of clarity placed additional pressure on individuals unable to make an informed decision. Many simply stopped planning.

Others, however, found themselves caught up in the RSD process without asking, even before non-removal had officially ended. The procedure appeared to have been put in motion following a visit to the Mol but with no explanation from officials there about what RSD was.

Many South Sudanese asylum seekers were now in hardship because their licenses had expired and they had lost their jobs. A number went to the Mol to ask for their licenses to be renewed. Following this, it appeared that a majority had been automatically put into an RSD process.

Those who had gone to the Mol seeking a renewal of their license received licenses valid for between two and six weeks and a letter giving them a date for another appointment. They were asked to complete a form requesting an RSD interview and told to bring this with them on the day of the appointment. Many had no idea what RSD was. Because the form was in English, many were unable to understand it. Mol officials gave no information about the form or its purpose.

Because of this, some South Sudanese decided not to keep the appointment. This resulted in their files being automatically closed, and left many unable to request an individual assessment of their case later. Those who did go to the Mol on the allotted date found themselves waiting the entire day for an interview, only to be handed another appointment paper with a new interview date. This happened on more than one occasion to many of ARDC's clients, according to Annelie de Boer, Refugee Status Determination Coordinator, Asylum Application Assistance Team, African Refugee Development Center. She states that a number of people gave up in frustration after spending more than three days at the Mol without being granted an interview. For many the cost of coming to Tel Aviv from places such as Arad and Eilat made repeat visits impossible. In some cases, those waiting were not permitted to leave the office, instead sitting in a hot, crowded room without food or water (Conversation with Annelie de Boer, Refugee Status Determination Coordinator, Asylum Application Assistance Team, African Refugee Development Center, Tel Aviv, Israel).

More than ninety people came to ARDC to ask for help in making an RSD application or with other issues relating to their status in Israel. ARDC prioritized those who had a strong refugee claim, those in mixed couples (one partner from South and the other from North Sudan), and persons from areas such as Abyei and Jonglei, where thousands had been wounded in the recent conflicts.

Some of those asking for help from the ARDC and other NGOs received licenses and appointment papers for a first hearing; others were interviewed on the spot. Some received appointment papers but not licenses. Others had been given appointments at the Immigration Authority office in Holon. Some were not given the option of applying for RSD but told instead to sign up for voluntary return. Some were told to go to ARDC. The strong impression received was that Mol officials lacked clear instructions on how to deal with the situation and had been overwhelmed. The system could not cope, apparently, despite years of temporary delays ostensibly intended to formulate a workable solution.

3.5 'You are not a refugee'

Even though at the end of the non-removal policy every individual should be granted the opportunity to apply for an individual assessment of their asylum claim, some South Sudanese were denied the possibility to apply at the Mol office. According to Annelie de Boer, RSD Coordinator at the ARDC, a number of South Sudanese nationals were informed by the Mol that they were not refugees and could not enter the RSD process up front. Mol staff, including secretaries and security guards, told them they could register only for voluntary return (Conversation with Annelie de Boer, Refugee Status Determination Coordinator, Asylum Application Assistance Team, African Refugee Development Center, Tel Aviv, Israel). Some signed up for voluntary return because they feared arrest, and in so doing forfeited the opportunity for an RSD interview due to negligent MOI advisement.

Gali Genossar, Technical Claim Volunteer at the ARDC observed that some clients, already in the process of RSD, said that they were repeatedly called by an official from the Mol's Voluntary Return Department and told that if they signed up they would receive 1000 Euro for each child rather than the 500 Euros previously offered. Families claim that they were harassed by phone on several occasions and told to leave the country. When ARDC sought clarification on this issue, the official denied accusations of harassment. The Mol responded that its official had probably not known that those contacted in this way were in RSD (Interview with Gali Genossar, Technical Claim volunteer, African Refugee Development Center).

3.6 Treatment of asylum requests

According to figures of the Mol, 176 South Sudanese applied for a RSD process. Out of 176 application, 52 individual asylum claims submitted by South Sudanese applicants were rejected out of hand on the basis of Section 4 of the 2011 asylum procedure. Section 4 allows for outright rejection if the claims and facts on which the application is based, even if all of them were to be proven, do not constitute any of the elements set out in the 1951 Convention.⁹⁰ Another five claims were rejected after a short interview, through the shortened procedure. As of the beginning of October 2012, five South Sudanese are waiting for a "long interview" in the RSD process. It is unclear what happened with the remaining 114 claims submitted to the Infiltrators and Asylum Seekers Department.

The decision to dismiss an application out of hand was made after a brief interview. Applicants received rejection letters informing them that they must leave the country within seven days.⁹¹ Though the decision could be appealed in an

administrative court, few asylum seekers could afford to instruct a lawyer according to Annelie de Boer, RSD Coordinator at the ARDC (Conversation with Annelie de Boer, RSD coordinator, African Refugee Development Center).

Section 4 of the 2011 procedure allows the outright rejection of an application if “the claims and facts on which the application is based, even if all of them were to be proven, do not constitute any of the elements set out in the refugee convention.”⁹² These decisions to dismiss an application out of hand are made after a short and basic interview instead of a complete personal interview. After a dismissal out of hand, South Sudanese did not have an option to request complementary protection, based on the general situation in South Sudan and more specifically that in conflict areas.⁹³

‘F’ was one of those who applied for assessment of her asylum claim. She was notified by the RSD Unit in writing in June 2012 that she was not eligible for refugee status and was ‘required to leave the State of Israel immediately.’ She was told she might ‘be exposed to arrest and detention’ before being deported. Though advised of her right to appeal, she had little opportunity to approach a lawyer owing to the requirement for immediate departure.

MoFA had asked the Mol to review applications from South Sudanese from conflict areas such as Abyei and Jonglei, and to seek expert advice. However, the Mol outright rejects claims from applicants from these areas. This suggests that the Mol did not take into account the advice given by the MoFA to consider where the person is from in South Sudan. Even for the ones who were rejected outright because they did not have a refugee claim per se, at least they should at least have been considered by the RSD Unit and not only by the Questioning & Registration Unit because they came from conflict areas. A thorough review of their Country of Origin Information (COI) was necessary, to properly check if the Internal Flight Alternative (IFA) was viable. This did not appear to have taken place.

3.7 Mixed couples

The treatment of “north” and South Sudanese couples is yet more compelling proof of the lack of transparency in procedures and preparedness to deal with predictable situations. Starting in June 2012 ARDC and refugee lawyers had been asking that South Sudanese nationals in mixed (North-South Sudanese) marriages be granted ‘derivative status.’ This would ensure that the South Sudanese partner could remain in Israel and that their right and that of their spouse and children to family life would be protected, in accordance with international human rights law and with Israeli law.

In July 2012, the Israeli Supreme Court decided that derivative status could be granted to recognised refugees only. However, the decision granted the petitioner who was covered by the policy of non-removal leave to ask for RSD. If he or she later became a recognised refugee, the petitioner could ask that the spouse be granted derivative status. If his or her application were rejected, the petitioner would retain his right to be protected under the non-removal policy.

Following this decision, the ARDC asked the Mol to allow access to RSD for the person under the collective non-removal policy in the mixed couple. To date there has been no official response. Thus South Sudanese spouses remain illegal residents in Israel and mixed couples as well as their children remain in a legal limbo.

3.8 Re-defining Africa’s Borders: “You are from South Sudan”

Almost sixty Sudanese asylum seekers registered for assistance at the ARDC after they were informed by the Mol that it believed that they were from South Sudan and no longer eligible for temporary licenses, according to Natasha Rowland, Identity Claims Coordinator, Asylum Application Assistance Team, African Refugee Development Center July 2012. The number affected is thought to be far greater and includes many in possession of documentation clearly confirming their Sudanese nationality. These included documents that had not been challenged before during any contact with the Ministry of Interior.

Among those who have seen licenses to remain in Israel revoked are Sudanese nationals from the Nuba Mountains, Darfur, and Khartoum. Cases brought to the ARDC’s attention include those of two Eritreans who were asked to return voluntarily to South Sudan or face removal. Sudanese asylum seekers in Israel have been issued with documents changing their nationality, which provide that they be removed from the country or detained. In September 2012, Sudanese asylum seekers mistakenly identified to be from South Sudanese were arrested, detained and threatened with deportation. At best, Sudanese asylum seekers have been forced to travel from homes in Eilat, Arad or Jerusalem

to Tel Aviv to attempt to remedy the situation. At worst, they have been dismissed from their jobs.

The Mol did not respond to requests from the ARDC and others to explain its rationale. In July 2012, following a strong intervention by the UNHCR and the threat of a petition, Darfurians had their temporary licenses renewed with the mention of Sudan on it. However, license extensions issued to asylum seekers from the Nuba Mountains continue to designate these individuals as South Sudanese, make it hard for them to find work.

The inconsistency of treatment, with different offices handling cases in different ways, was unsettling for asylum seekers and indicative of a seemingly arbitrary approach by the Mol. One official, however, confirmed it was deliberately issuing temporary licenses which designated the holder as South Sudanese while his or her nationality was being checked.

At a court hearing in September 2012, following a petition submitted by ARDC on behalf of fifty-two individuals, a lawyer for the Mol stated that it recognised that persons from the Nuba Mountain were Sudanese nationals and that their status would be rectified.

Those wrongly arrested, were released only after repeating requests by the Hotline for Migrant Workers and after spending weeks in detention, often losing their jobs. However, they received neither an apology nor compensation. For some individuals the costs were too high. 'G', a Darfurian, was ordered by the Administrative Tribunal to pay NIS 5,000 (Euro 1,000) after spending weeks in detention after he was wrongly identified as a South Sudanese. The Tribunal Judge decides if and how much bail has to be paid for a release. The bail ranges from NIS 1,000 to NIS 20,000, but is usually set around 3,000 to 5,000 NIS in these cases. Not everyone has to pay a bail to be released, when the Tribunal Judge decides that a person is not eligible for protection or can be deported in the short term, a bail is often asked and the person released has to sign as part of the conditions of the released. The bail should be returned when a person leaves the country or receives a legal status. Four Sudanese nationals gave up and went to South Sudan after incorrect identity documents issued by the Mol made their life in Israel too difficult. According to ARDC volunteers who are in touch with them, none of them received official status in South Sudan, a direct consequence of Israel's failed policy which has left these individuals with no appeal. The harsh and arbitrary treatment of asylum seekers since March 2012 rings true with the stated aim of Interior Minister Eli Yishai, noted in 2.1 above 'to make their lives miserable until they leave.'

Part Four: Summary and recommendations

Using as a lens the case of South Sudanese, this report considered the legal situation of asylum seekers in Israel.

The report compared temporary protection in other countries with the policy of collective non-removal in Israel. This comparison drew attention to the lack of a procedure, time-frame, economic and social rights in Israel and the fact that the collective non-removal policy does not grant individuals access to individual assessment of a refugee claim.

The report looked at the legal consequences of ending collective non-removal. It outlined how individuals from South Sudan and elsewhere, including some recognised as refugees in other countries, failed to gain access to the RSD process in Israel. It reflected on the lack of consistency, transparency, information and fairness in access to RSD. Not only South Sudanese nationals but also mixed couples and North Sudanese have been affected by the cessation of the non-removal policy, facing insecurity, detention and sometimes deportation.

The report then elaborated on how the end of the collective non-removal policy influenced the South Sudanese community in Israel at a personal level. The State of Israel carried out repatriation without regard to the rights of those expelled, including their rights to liberty, dignity and property.

Violation of the rights of South Sudanese was a direct result of failures by the Mol, which conducted a hasty and aggressive campaign of arrest without consideration of the consequences and human rights. We conclude this report with the following recommendations.

- The Government of Israel, in collaboration with human rights lawyers and other experts, should develop refugee law based on the 1951 Convention and its amendments. Enactment of the Convention into domestic law should be the first step in a system that replaces ad hoc decisions, clerks' initiatives and unplanned responses.
- The State of Israel should develop an asylum policy with a transparent RSD process. Until then there can be no fair individual assessment of asylum claims in a manner, which actually recognises refugees. Until such a policy is established, the policy of collective non-removal should be enhanced to enable collective temporary protection as outlined in paragraph 2.3.
- The Mol should develop a set of standards which define who is responsible for collective temporary protection so that the policy is clear and coherent. The Mol should determine guiding criteria for decisions concerning the initiation, conditions, and termination of the collective non-removal policy or end of protection and compliance with these criteria.
- Whenever a group is granted protection under the collective non-removal policy, individuals should be informed about the decision in a language that they understand.
- The Mol should clearly state what rights collective protection confers.
- The Mol should develop a procedure for the cessation of collective protection that does not depend on a single government or minister, but follows guidelines drawn from existing documents and handbooks for repatriation as used by other states parties to the 1951 Convention and the UNHCR.
- The Mol should examine not only whether individuals are Convention refugees but whether they are eligible for other forms of protection. It should develop a mechanism that tests the need for complementary protection. Individuals should not be removed before such a mechanism is in place and operation.
- The State of Israel should take into consideration the time limit for voluntary return to a country of origin. It should grant a reasonable period of time for returnees to prepare.
- The State of Israel should renew the licenses of groups previously covered by collective non-removal until such time as they return to their country of origin. 'Voluntary repatriation' cannot be viewed as voluntary if people are forced to leave because they have no work. Future deportees should receive licenses with which they are able to support themselves until deportation takes place.

- In case of voluntary return the Mol should collaborate with the Ministry of Labour concerning the work rights of returnees. The State of Israel should determine a system in which problems with employers can be solved and should work in conjunction with the asylum seekers on the process, not against.
- Before arresting and/or detaining asylum seekers the state of Israel should first exhaust the possibility of voluntary repatriation and only then turn it into forcible return.
- Even in the case of detention, deportation or voluntary return, people should be treated humanely and accordance with their rights, taking into account the consequences, for example, of taking children out of schools in the middle of the year; separating families; separating children from the only environment they know with less than a week notice.
- The Government of Israel should take into consideration the situation in a refugee's home country. It should collect information, including expert opinions, which outlines the current situation and future risks. It must review information and implications and take these into consideration when deciding the status of refugees and their possible return home.
- The Government of Israel should provide orientation for returnees to help them re-settle in their home countries.

In line with these recommendations, we propose the following recommendations for NGOs and other groups working with asylum seekers and refugees:

- NGOs and refugee rights advocates should advocate not only for individual assessment of asylum claims and access to RSD process but also for other forms of protection such as complementary protection.
- NGOs should demand basic social and economic rights for asylum seekers and refugees
- Organizations that work with asylum seekers and refugees should ask for an explanation, outline and definition of the asylum policy in place. They should demand clear and transparent procedures and criteria for the implementation and cessation of any form of protection.
- NGOs should demand more time for asylum seekers and refugees to prepare for return. Repatriation should follow procedures outlined and implemented by UNHCR and other state parties to the convention and best practices by organisations such as IOM.
- NGO's should continue to be involved in the process when any form of protection ends, not only in securing RSD or access to other forms of protection, but also with assistance in the return an should demand training.

Endnotes

- 1 The state of Israel and government officials, use the term 'infiltrator' to refer to individuals who illegally cross the Egypt-Israel border, even if they are seeking safety and protection. Throughout the report the term "asylum seeker" will be used, unless we refer to the few individuals who are recognized as refugees by the State of Israel. Although the Israeli recognition rate for refugees in Israel is 0.17%, many who arrive were recognized as refugees by the UNHCR in Ethiopia, Sudan and Egypt. However, the State of Israel does not check the claims of the majority of the African asylum seekers – those under the collective non-removal policy described herein – and therefore their status is best characterized as that of asylum seekers in Israel. The authors of this paper, however, do recognize that among those seeking asylum in Israel, there are people whose claims might not fall under the 1951 Convention Relating to the Status of Refugees.
- 2 Keinon, Herb and Ben Hartman. Netanyahu Ready For 'Stage 2' in Expelling Migrants. Available at: <http://www.jpost.com/NationalNews/Article.aspx?id=297158> [Accessed 25 December 2012].
- 3 Request for figures MoI by ARDC made on August 28, 2012, MoI responded on 25 October 2012. For a live stream of one of the seven flights to South Sudan see: <http://www.youtube.com/watch?v=91dL3RPqiBM>
- 4 See PIBA website for 'A Call for the people of South Sudan' <http://www.piba.gov.il/SpokesmanshipMessages/Documents/2012-2192.pdf>
- 5 This estimate is based on a list produced by representatives of the South Sudanese community in Tel Aviv, Eilat, Arad and Jerusalem and was originally produced in June 2012 for a delegation of four South Sudanese senior officials visiting Israel. NGO's believed that at the time of the cessation of the non-removal policy the South Sudanese were 700 in number, whereas the Population, Immigration, and Border Authority (PIBA) estimated the South Sudanese community at around 3,000.
- 6 According to ASSAF, the Aid Organization for Refugees and Asylum Seekers in Israel, eleven humanitarian claims were filed on behalf of South Sudanese individuals and families. The Ministry of Interior (MoI), however informed the ARDC at the beginning of October 2012 that ten humanitarian claims were filed. ASSAF is aware that seven humanitarian claims were rejected out of hand. For three rejections ASSAF filed an appeal with a lawyer. To their knowledge, one request passed for the first stage and will go for discussion in the committee. Six South Sudanese families passed a committee of Welfare and were recommended for a continuation of treatment. Two of these families mentioned above, also filed a humanitarian claim. Nine South Sudanese applied for a student visa, the ARDC is aware of one South Sudanese student currently studying in one of Israel's higher education facilities. At the beginning of December 2012, William Deng, a South Sudanese student was deported for a second time when with a student visa obtained from the Israeli embassy in Addis Ababa, Ethiopia, he arrived at Ben Gurion airport.
- 7 The Hotline for Migrant Workers is aware of six South Sudanese who are currently held in detention, but believes that there might be several more that their workers did not meet. Several of the South Sudanese currently in detention are completing their sentence for criminal offenses and will soon be deported. One South Sudanese man refuses to return to South Sudan until he is reunited with his child who was taken away by the Israeli Welfare.
- 8 This report argues that the Refugee Status Determination (RSD) process in Israel is flawed and as a result it is not possible to determine if the principle of non-refoulement has been harmed or not.
- 9 Jok, Jok Madut 2012. 201: 3072 Epilogue: The Next Sudan in The Sudan Handbook. John Ryle, et al. eds. Pp. 307-312. London: Rift Valley Institute.
- 10 Arnold, Matthew. 2012 South Sudan: From Revolution to Independence, London: Colombia/Hurst & Co.
- 11 In this document, all references to "Southern Sudanese" refer to residents of the area in the period before independence, whereas we use references to "South Sudanese" to refer to former and current residents of the area in the period after independence.
- 12 Human Rights Watch. 2008 Sinai Perils: Risks to Migrants, Refugees, and Asylum Seekers in Egypt and Israel. London: Human Rights Watch. Pg. 2.
- 13 Ben Dor and Kagan 2006 The Refugee from my Enemy is my Enemy: The detention and exclusion of Sudanese refugees in Israel. Paper presented at the Minerva Center for Human Rights Bi-annual Conference for Human Rights in Israel, Tel Aviv, November 19. Pg. 20.
- 14 Azzam, F. and FMRS Researchers 2006 A Tragedy of Failures and False Expectations: Report on the Events Surrounding the Three-month Sit-in and Forced Removal of Sudanese Refugees in Cairo (September-December, 2005) Cairo: The American University in Cairo. Pp. 12-16.
- 15 Interviews conducted with South Sudanese in Israel by the ARDC.
- 16 Azzam, F. and FMRS Researchers 2006 A Tragedy of Failures and False Expectations: Report on the Events Surrounding the Three-month Sit-in and Forced Removal of Sudanese Refugees in Cairo (September-December, 2005) Cairo: The American University in Cairo. Pp. 12-16.
- 17 Ben Dor and Kagan 2006 The Refugee from my Enemy is my Enemy: The detention and exclusion of Sudanese refugees in Israel. Paper presented at the Minerva Center for Human Rights Bi-annual Conference for Human Rights in Israel, Tel Aviv, November 19.
- 18 According to PIBA figures, in March 2012 there were 15,644 Sudanese in Israel and in June 2012 the numbers of Sudanese were 15,210. <http://www.piba.gov.il/PublicationAndTender/ForeignWorkersStat/Pages/default.aspx>
- 19 Sigal Rozen, 2012, Public Policy Coordinator at the Hotline for Migrant Workers estimates the Sudanese community (at the time of writing) to be around 10,000 in number. Sudanese community representatives put the estimation at 8,000. Rozen, based her estimation on the deportation of 1,000 South Sudanese and estimates that another 4,000 North Sudanese left the country on their own.
- 20 Ben Dor and Kagan 2006 The Refugee from my Enemy is my Enemy: The detention and exclusion of Sudanese refugees in Israel. Paper presented at the Minerva Center for Human Rights Bi-annual Conference for Human Rights in Israel, Tel Aviv, November 19.
- 21 UNHCR Refworld provides an unofficial consolidation of the Entry to Israel Law (1952). 5 September 1952, available at: <http://www.>

- unhcr.org/refworld/docid/3ae6b4ec0.html [accessed 19 December 2012]
- 22 “Hot return” is not a term common to international refugee parlance, rather it is a phrase used by Israel to describe a quickly arranged immediate return of migrants and asylum seekers to the country from which they first arrived or country of origin or permanent residence. More often referred to as a “coordinated immediate return,” “hot returns” infringe on asylum seekers’ rights as they do not allow for ample time to request refugee protection. Most importantly, “hot returns” violate the principle of non-refoulement, which is a refugee’s right not to be returned to a country where he or she will face persecution.” from The Jacob Blaustein Institute for the Advancement of Human Rights. n.d. African Asylum Seekers in Israel: Frequently Asked Questions, 2. New York. Available at: <http://www.ajc.org/atf/cf/%7B42d75369-d582-4380-8395-d25925b85ea%7D/AFRICANASYLUMFAQS.PDF> [Accessed 24 December 2012].
 - 23 For an English translation of the Anti-Infiltration Law, also referred to as the Prevention of Infiltration Law, see: <http://www.israellawresourcecenter.org/emergencyregs/fulltext/preventioninfiltrationlaw.htm>
 - 24 Ben Dor and Kagan 2006 The Refugee from my Enemy is my Enemy: The detention and exclusion of Sudanese refugees in Israel. Paper presented at the Minerva Center for Human Rights Bi-annual Conference for Human Rights in Israel, Tel Aviv, November 19.
 - 25 Gabriel Kuol, a self-proclaimed spokesperson and senior local leader for the South Sudanese community in Israel in a press release in response to the ruling of the Jerusalem District Court regarding deportation of South Sudanese.
 - 26 Letter to the UNHCR, South Sudanese representatives of the community, 19 February 2012
 - 27 Oleszczuk, Louiza. May 2012 "Thousands Deported from Sudan While Violence Continues" Christian Post Africa. Electronic document, <http://www.christianpost.com/news/thousands-deported-from-sudan-as-violence-continues-74903/>, accessed 20 December 2012.
 - 28 UNHCR website "As rains ebb in South Sudan, refugee flows are expected to rise" News Stories 13 Sept 2012, www.unhcr.org/5051d59d6.html , accessed 20 December 2012.
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 - 30 Food and Agriculture Organization of the UN/World Food Programme 2012, FAO/WFP Crop and Food Security Assessment Mission to South Sudan. Rome: FAO/WFP. Available at: <http://www.fao.org/docrep/015/a1984e/a1984e00.pdf> [accessed 23 December 2012].
 - 31 World Food Programme. 2012 "Race against Time to Reach the Hungry in South Sudan". Available at: <http://www.wfp.org/stories/race-time-hungry-south-sudan>. [Accessed: 23 December 2012].
 - 32 Central Intelligence Agency. 2012 The World Factbook: South Sudan. Available at: <https://www.cia.gov/library/publications/the-world-factbook/geos/od.html> [Accessed 23 December 2012]
 - 33 UN Office for the Coordination of Humanitarian Affairs, South Sudan. 4 February 2012 We Cannot Fail the South Sudanese: UN Humanitarian Chief. Available at <http://www.unocha.org/south-sudan/reports-media/situation-reports> [Accessed 22 December 2012].
 - 34 Letter to the Ministry of Interior and the Ministry of Foreign Affairs, South Sudanese community representatives, 21 March 2012
 - 35 For guidelines see Chapter 2 - The Protection Content of Voluntary Repatriation - 2.1 International Human Rights Instruments and the Right to Return of the UNHCR for Voluntary Repatriation (1996) available at <http://www.unhcr.org/refworld/pdfid/3ae6b3510.pdf> [Accessed 22 December 2012]/
 - 36 Letter to the Ministry of Interior and the Ministry of Foreign Affairs, South Sudanese Representatives of the community, March 21, 2012
 - 37 Ben Dor and Kagan 2006 The Refugee from my Enemy is my Enemy: The detention and exclusion of Sudanese refugees in Israel. Paper presented at the Minerva Center for Human Rights Bi-annual Conference for Human Rights in Israel, Tel Aviv, November 19.
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 - 41 The Questioning and Identification Unit receives asylum applications, registers asylum seekers, and conducts the preliminary identification interviews, and the RSD Unit conducts interviews with asylum seekers and passes its recommendation to the Advisory Committee on Refugees.
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 - 44 Gabriel Kuol, a self-proclaimed spokesperson and senior local leader for the South Sudanese community in Israel in a press release in response to the ruling of the Jerusalem District Court regarding deportation of South Sudanese.
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- 62 Council Directive 2001/55/EC, 2001 O.J. (L 212) 12 (EC).
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- 64 US Citizenship and Immigration Service: Temporary Protected Status, <http://1.usa.gov/xaxyh8>
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- 66 Ben Dor, Petition to the District Court in Jerusalem, 29 March 2012, Clause 79, pg. 28.
- 67 Ben Dor, Petition to the District Court in Jerusalem, 29 March 2012, Clause 80 and 81, pp. 28, 29.
- 68 For an official outline of the process for a request for political asylum at the RSD unit see PIBA website: <http://www.piba.gov.il/AuthorityUnits/Documents/Requests%20for%20political%20asylum%20in%20Israel.pdf>
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- 70 Ben Dor and Kagan 2006: 20 The Refugee from my Enemy is my Enemy: The detention and exclusion of Sudanese refugees in Israel. Paper presented at the Minerva Center for Human Rights Bi-annual Conference for Human Rights in Israel, Tel Aviv, November 19. Pg. 20.
- 71 In 2009 the RSD unit was established and the Infiltration Unit was put under the department for the questioning of infiltrators and refugees. Recently the Infiltration Unit was combined with the RSD Unit.
- 72 Berman, Yonatan. 2012 “Until our hearts are completely hardened: Asylum Procedures in Israel” Hotline for Migrant Workers. Available at: http://hotline.org.il/english/pdf/asylum_procedures_2012_eng.pdf [Accessed 20 December 2012].
- 73 UN. 2012 Interview with Hilde Johnson, the Secretary-General's Special Representative for South Sudan. Available at: <http://www.un.org/apps/news/newsmakers.asp?NewsID=60> [Accessed 24 December 2012].
- 74 Ben Dor, Petition to the District Court in Jerusalem, 29 March 2012, Clause 29, pg. 11.
- 75 Berman, Yonatan. 2012 “Until our hearts are completely hardened: Asylum Procedures in Israel” Hotline for Migrant Workers. Available at: http://hotline.org.il/english/pdf/asylum_procedures_2012_eng.pdf [Accessed 20 December 2012].
- 76 Ben Dor, Petition to the District Court in Jerusalem, 29 March 2012, Clause 28, pg. 11.
- 77 Ben Dor, Petition to the District Court in Jerusalem, 29 March 2012, Clause 29, pg. 11.
- 78 Berman, Yonatan. 2012 “Until our hearts are completely hardened: Asylum Procedures in Israel” Hotline for Migrant Workers. Available at: http://hotline.org.il/english/pdf/asylum_procedures_2012_eng.pdf [Accessed 20 December 2012].
- 79 Letter sent to the MoI by several human rights organizations on 8 March 2012.
- 80 ASSAF (Aid Organization for Refugees and Asylum Seekers in Israel), ACRI (Association for Civil Rights in Israel), PHR-Israel

- (Physicians for Human Rights – Israel), ARDC (African Refugee Development Center), HMW (The Hotline for Migrant Workers)
- 81 The petition asked to cancel the decision from the date 31/1/2012, where the “citizens” of South Sudan were demanded to leave Israel by the April 1, 2012; to extend the issuance of licenses for South Sudanese, present in Israel, as long as stability has not been achieved in South Sudan, which can promise safe return there for these individuals; to determine guiding criteria for making decisions about the initiation, conditions, and termination of temporary protection and/or non-deportation policy and/or completion of protection and compliance with these criteria; to publish the right of every person who has a claim under the decision from Section 1 and under temporary protection to this point, to approach with an individual asylum claim by right of the Refugee Rights Convention 1951.
 - 82 Request for figures MoI by ARDC made on August 28, 2012, MoI responded on October 25, 2012.
 - 83 Gabriel Kuol at a Knesset meeting, migrant workers committee on South Sudan.
 - 84 See "Detention and Deportation of South Sudanese from Israel", Hotline for Migrant Workers 2012. Available at: <http://hotline.org.il/english/pdf/SouthSudaneseInDetention070412Eng.pdf> [Accessed 20 December 2012].
 - 85 Neshet, Talila. 2012 Israel's Immigration Police Detain African Migrants, Despite Pending Visa Appeals. Available at: <http://www.haaretz.com/news/national/israel-s-immigration-police-detain-african-migrants-despite-pending-visa-appeals-1.459097> [Accessed 20 December 2012].
 - 86 Neshet, Talila. 2012 Israel's Immigration Police Detain African Migrants, Despite Pending Visa Appeals. Available at: <http://www.haaretz.com/news/national/israel-s-immigration-police-detain-african-migrants-despite-pending-visa-appeals-1.459097> [Accessed 20 December 2012].
 - 87 Procedure for Handling Political Asylum Seekers in Israel 2011. Available at: <http://piba.gov.il/Regulations/Procedure%20for%20Handling%20Political%20Asylum%20Seekers%20in%20Israel-en.pdf> [Accessed 20 December 2012].
 - 88 ACRI, Position Paper: African Asylum Seekers Arriving in Israel via the Sinai Desert. Available at: <http://www.acri.org.il/en/2012/08/29/rf-position-african-asylum-seekers/> [Accessed 20 December 2012].
 - 89 Letter to the Ministry of Interior and the Ministry of Foreign Affairs, South Sudanese community representatives, 21 March 2012.
 - 90 Section 1(a) Procedure for Handling Political Asylum seekers in Israel, available at: <http://piba.gov.il/Regulations/Procedure%20for%20Handling%20Political%20Asylum%20Seekers%20in%20Israel-en.pdf>
 - 91 For more information on dismissal out of hand see: Berman, Yonatan. 2012 “Until our hearts are completely hardened: Asylum Procedures in Israel” Hotline for Migrant Workers. Available at: http://hotline.org.il/english/pdf/asylum_procedures_2012_eng.pdf [Accessed 20 December 2012].
 - 92 Section 1(a) Procedure for Handling Political Asylum seekers in Israel, available at: <http://piba.gov.il/Regulations/Procedure%20for%20Handling%20Political%20Asylum%20Seekers%20in%20Israel-en.pdf> [Accessed 20 December 2012].
 - 93 For more information on dismissal out of hand see: Berman, Yonatan. 2012 “Until our hearts are completely hardened: Asylum Procedures in Israel” Hotline for Migrant Workers. Available at: http://hotline.org.il/english/pdf/asylum_procedures_2012_eng.pdf [Accessed 20 December 2012].

The African Refugee Development Center:

Website: <http://www.ardc-israel.org/>

The Hotline for Migrant Workers:

<http://www.hotline.org.il>

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