

# Hotline for Migrant Workers

"You shall not wrong a stranger or oppress him, for you were strangers in the land of Egypt" - *Exodus 22:20*

May, 2011

## Employing of Asylum Seekers in Israel – Regulations and Problems

As of January 2011, asylum seekers in Israel hold three types of residence permits. With these permits, they may work at any job anywhere in the country, with no need for additional licenses. The three types of residence permits are:

1. **A/5 temporary residence permits:** Individuals with these permits can be employed at any job. Their legal standing, regarding their rights and obligations, is the same as that of any Israeli employee. About 500 Darfuris and less than 100 recognized refugees hold this status.
2. **B/1 unlimited work and residence permits:** Whoever has this permit can hold any job. About 1000 Eritreans and several hundred asylum seekers who are eligible for collective protection hold this status.
3. **Residence permits in accordance with article 2(A)(5) of the 1952 Entry Into Israel Law,** printed on the back of the "conditional release" document issued by the Ministry of Interior: Employers can hire asylum seekers with this permit to hold any job, and no legal action will be taken against the employers. This is the most common permit, given to anyone residing in Israel who holds no other permit and is not in detention, including those recognized as Sudanese or Eritrean. Most asylum seekers in Israel hold this permit. In a ruling handed down on January 19, 2011 (HJC 6312/10), the High Court of Justice determined that until a November 18, 2010 government decision on opening a "residence center for infiltrators" on the Egyptian border is implemented, no legal action will be taken against individuals who employ asylum seekers, regardless of their country of citizenship. As a result of the High Court decision, an individual who employs someone with a permit in accordance with article 2(A)(5) will not be fined, and legal proceedings will not be conducted, even in cases in which the employee's permit includes the the conditional release document which states that, "This temporary permit does not constitute a work permit." More than 30,000 asylum seekers hold this status.

Essentially the 2(A)(5) visa gives its holders no legal or social rights, and the sentence that the Interior Ministry added to the visa - "This temporary permit does not constitute a work permit" bars some 30,000 people from working, even though the court determined explicitly that no legal action be taken against individuals employing asylum seekers. Despite the court ruling, immigration officers threaten to take action against employers who hire asylum seekers. According to the ruling, fines will not be given until the new prison, planned to be built near Ketsiot, will be operational. According to Israeli authorities, the new prison will start operating in September 2011. One must take into account the fact that the new prison is planned to hold up to 8,000 people, while there are currently (mid-2011) 35,000 asylum seekers in Israel. Every month, approximately 1,000 new asylum seekers enter the country through the Egyptian border. The immigration officers' threats further weaken asylum seekers and leave them vulnerable to exploitation, because if they complain about their employers and involve humanitarian aid workers or authorities, their employers will no longer want to employ them.

According to Dr. Yuval Livnat, an attorney at the Refugee Law Clinic at Tel Aviv University, the state is trying to make a distinction between those eligible for collective protection (whose

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employers will not be fined) and asylum seekers who hold 2(A)(5) visas (whose employers can be fined), though in practice employers have not been fined.

According to the information gathered by The Hotline for Migrant Workers and Kav LaOved, numerous asylum seekers in Israel complain that they have been fired because of the conditional release clause on their permits, or because their bosses fear that they will be fined for employing them. Once informed of the legal specifics, employers realize that they can hire asylum seekers without legal or financial repercussions, but many are not aware of the facts. At present there is no data on the number of asylum seekers fired as a result of the conditional release statement on their permits, but there are many such cases.

Humanitarian aid workers dealing with this issue state that employers who already employ asylum seekers are quicker to understand that they will not face consequences for employing them, and therefore those most adversely affected by the conditional release statement are asylum seekers who were not employed before the clause specifying that the permit is not a work permit was added to the visas. It is nearly impossible for the asylum seekers to find work, particularly if they do not speak English or Hebrew, or if they are physically weaker (women, the elderly), as it is harder to market themselves.

Those who continue to work, who have an income and who are supposedly better off than those who are unemployed, have been weakened. The workers are concerned that if they lose their jobs they will not be able to find new employment opportunities, and find themselves bound to their employers, regardless of whether their employers abide by the Israeli labor laws that the asylum seekers are entitled to. People have been willing to accept horrible work conditions because they fear being fired at being left without a job. Under such conditions, refugees cannot stand up for their rights, and they remain weak and vulnerable. Humanitarian organizations are currently trying to raise workers' awareness of their rights, but no real change can come about if asylum seekers believe they have no other option but to work under existing conditions.

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