

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*

August 2012

Legislation Targeting Asylum Seekers in Israel in 2012

In the past eight months, the Israeli government and Knesset have taken several measures designed to decrease the number of African asylum seekers in Israel. These measures reflect the false claims that the African asylum seekers are not refugees running for their lives and freedom, but rather 'work infiltrators', as repeatedly stated by Israeli government officials. Among these measures are four new legislation initiatives and an old bill from 2006, which the NGOs, together with the Israeli public, managed to block until it passed on January 10, 2012.

While presenting these new legislation initiatives to the government, on July 9, Cabinet Secretary Tzvi Hauser stated once more that: *"According to the evaluation, most infiltrators, the number of which is estimated at 60,000, come to Israel in order to work and to remit funds to relatives who have remained in their countries of origin" and therefore there is a need "to reduce the economic incentives to infiltrate into Israel... and, in the end, lead infiltrators to leave the State of Israel."*

The Anti-Infiltration Law Detains Asylum Seekers for Three Years without Trial, or Indefinitely if They are Citizens of "Enemy" States Such as Sudan

The Anti-Infiltration Bill passed into law on January 10, 2012. The purpose of the law is to deter asylum seekers from entering Israel. In violation of the Refugee Convention, under the law, refugees would be held for three years in detention without trial or any charges being brought against them. Refugees from enemy states, such as Sudan, would be kept in indefinite detention, although they have not been convicted of a crime. Minors arriving with family members will be subjected to the same punishment. The amendment does not distinguish between refugees, unauthorized immigrants or "infiltrators" with intention to harm Israel's security.

Due to insufficient prison places, the authorities started enforcing this law only on June 3, when 5,400 prison places were already allocated for the purpose of detaining asylum seekers under this law.

Link to [the full position of the Hotline for Migrant Workers regarding this law](#)

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Amendment Criminalizing Employment, Providing Shelter or Renting Accommodation and Transporting Asylum Seekers

These two law amendments to the Anti-Infiltration Law, proposed by MKs Ofir Akunis ([No. 4359](#)) and Miri Regev ([No. 4424](#)), both members of the Prime Minister's Likud party, were merged and passed the First Reading on July 25. As a result of the discussions at the Knesset Ministerial Committee for Legislation, the version that passed First Reading criminalizes only employing asylum seekers and not renting accommodation or transporting them, and states that the law will come into force only once an internment camp for 60,000 asylum seekers is constructed.

The position of the *Hotline for Migrant Workers* regarding the proposed law:

The *Hotline for Migrant Workers*, together with the *Refugee Right Forum* prepared a position paper regarding the proposed amendments and sent it to ministers and MKs. The paper states that the amendment will criminalize any Israeli citizen who assists an 'infiltrator' by providing work, shelter or transportation to them. At the same time, these laws promote the idea among the Israeli public that these are 'illegal work infiltrators' who will go back to their homelands as a result of these laws. The public does not know that the vast majority of these 'infiltrators' would have been recognized as genuine refugees if their requests for asylum had been examined and that their life would be in danger, if they are deported. The public is also unaware of the fact that all asylum seekers stay in Israel legally and possess a conditional release visa issued by the Israeli MOI. Since the deportation of asylum seekers contradicts Israeli and international law, and because the Israeli government offers no financial assistance to asylum seekers, asylum seekers depend on employment in Israel for their subsistence. The *Hotline for Migrant Workers* believes it is wrong to criminalize Israelis who will not be able to look the other way and assist asylum seekers in need.

Amendment Forbidding Asylum Seekers to Send Money Abroad

On July 8, the Israeli government proposed an amendment to the Anti-Infiltration Law that would prohibit the transfer of funds from Israel by asylum seekers. According to the amendment, which passed the First Reading on July 25, an 'infiltrator' who send money abroad will be punished by three months' imprisonment or a NIS 29,200 fine. The punishment for those who assist 'infiltrators' is more severe – one year imprisonment, or a NIS 29,200 fine, or a fine in the sum double of the amount remitted, whichever is higher. Withdrawal of the funds will be possible only upon the departure of the asylum seeker from Israel and even then he will be able to withdraw only half of the minimum wage for every month of stay in Israel.

The ban will not apply in special humanitarian cases or to those recognized as refugees or those possessing a work permit (about 1,500 out of the 60,000 asylum seekers currently residing in Israel).

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The position of the Hotline for Migrant Workers regarding the proposed law:

Asylum seekers send their earning not just to provide for their families in Africa and especially in refugee camps. About 20% - 30% of the asylum seekers are being kidnapped en route to Israel, from refugee camps in Ethiopia and Sudan, by smugglers who bring them to Sinai and then extort large sums of money from them in exchange for releasing them near the Israeli border. These asylum seekers, who could not afford this journey, find themselves owing sums of \$10,000 to \$60,000 to their relatives around the world who collected money to save their lives from the hands of their torturers in Sinai. We believe that as a result of the new law, asylum seekers will use illegal channels to pay back their relatives and continue supporting their families in Africa. These illegal channels will probably be the same ones bringing them into the country, the same ones that are allegedly tied to terror organizations. Therefore, as a result of this law, the smuggling and torture networks in Sinai will gain further power and wealth.

In addition, this amendment violates the principle of equality and the right to property, which is enshrined in Israeli law, of the asylum seekers residing in Israel.

Enforcement of Levies on Employers of Asylum Seekers

Until the new law forbidding employment of asylum seekers will pass and come into force, employers of asylum seekers will be additionally taxed, to discourage the employment of 'infiltrators'. According to existing laws, those who employ migrant workers must pay a levy of up to 20% of the cost of employing them. On July 9, the Cabinet Secretary Tzvi Hauser announced that the Tax Authority will step up collection of this levy on those who employ 'infiltrators'.

The position of the Hotline for Migrant Workers regarding the increased taxation of employers of asylum seekers

This controversial tax was intended to discourage Israeli employers from inviting migrant workers and prefer employing Israelis instead. The levying of this special tax resulted in employers illegally deducting it from the salaries of their migrant workers and therefore, the tax does not affect them. Even if this tax had been efficient and served its purpose, it would have been reasonable to use it for employers who bring migrant workers from abroad and can choose not to do so. The asylum seekers, called 'infiltrators' by the decision makers, are in Israel anyway, and since they do not receive any help from the government, their only legal way of supporting themselves is to work. An extra tax on their employers will only further degrade their pay, but it will not increase the cost of employing 'infiltrators' as opposed to Israeli workers.

Amendment Imposing Monthly Deposits from Salaries of 'Infiltrators'

On July 8, the Ministerial Committee on Legislation approved a draft amendment to the law on migrant workers that requires those who employ infiltrators to deposit up to NIS 700 per

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month for each 'infiltrator' they employ. Employers who do not fulfill this requirement will be committing an offense and will be liable to be fined up to NIS 5,000.

The idea behind this amendment is to create an incentive for the 'infiltrators' to leave Israel, since then they will be able to collect the sums that their employers deposited for them each month.

The position of the *Hotline for Migrant workers* regarding the 20% extra tax applied for this amendment as well.

The NIS 700 deposit a month, in addition to an up to 20% monthly levy, place a very heavy burden on Israeli employers and send them a clear message: Do not employ 'infiltrators.' This deposit and levy will make the employment of asylum seekers much more expensive than the employment of an Israeli worker. The likely result will be that asylum seekers will accept lower pay than what they usually receive today, and the payment of the deposit and levy will be made at their expense.

Amendment that Prevents Migrants from Appealing their Deportation and Expands Authority of Immigration Police over Asylum Seekers Legally Staying in Israel

According to the law proposal issued by the Ministry of Interior on July 22, migrants who arrived in Israel and whose entry was denied, will be able to appeal their only after leaving Israel. The amendment excludes those whose entry was denied and claim that their lives will be endangered or that they will be subjected to torture if deported to where they came from. Yet, if a Border Control Officer determines that the claim is unfounded, the person will not be able to appeal the finding and will be deported.

This amendment to the Entry to Israeli Law, which is still in the preliminary stages of legislation, also expands the authority of the Immigration Police, and allows them to use force against asylum seekers who are staying in Israel legally. The amendment allows officers of the Immigration Authority, as well as policemen, to detain asylum seekers whose visa is valid for whatever purpose. Once an asylum seeker is detained, the law allows the officers to change the conditions of release of the asylum seeker, "if there is a change in circumstances since the release order was made." This would allow the state to re-detain asylum seekers who are inside Israel under the Anti-Infiltration Law, which calls for the administrative detention of asylum seekers without trial for a minimum of three years.

The position of the *Hotline for Migrant Workers* regarding the amendment proposal:

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The amendment violates the right of migrants to appeal to the court system against the decision of the authorities to deny their entry. The proposed article that is supposed to protect refugees from deportation will not do so fully in practice, since the Border Control Officer who is authorized to grant or deny the migrant access to the legal system has no qualifications to make that determination.

Expanding the power of officers of the Immigration Authority will enable them to arbitrarily re-detain asylum seekers living in Israel for years without their refugee claim being seriously examined, and place them in custody under the Anti-Infiltration Law, in violation of the Refugee Convention. In addition, allowing the Immigration officers to exercise force in order to implement the law, will result in greater violence toward the migrants. Many migrants and asylum seekers have already complained to the *Hotline for Migrant Workers* about the violence of the immigration officers. Considering that Israeli authorities usually ignore complaints about use of excessive force, allowing the officers to exercise force will only increase the number of migrants subjected to violence.

The explanatory note of the proposed amendment confirms our fear that the population affected by the law is that of the African asylum seekers in Israel. The explanatory notes states: "... we are witnessing an increase in an unprecedented phenomenon of infiltration through the Egyptian border, whereby there are now over 60,000 infiltrators living in Israel. These days, the Minister of Interior, in coordination with the other relevant arms of government, is making an effort to find large-scale solutions to the problem of infiltrators and to increase the enforcement against them."

New Regulation Would Bar Asylum Seekers from Filing Lawsuits in Israeli Courts

On August 6, Minister of Justice Yaacov Neeman signed a new regulation that would bar asylum seekers, stateless people and many Palestinians from filing lawsuits in civilian Israeli courts by requiring all plaintiffs to provide an Israeli ID number or a foreign passport number. Many asylum seekers and all stateless people in Israel do not possess those identification documents, and would therefore be prevented from appealing to the aid of the Israeli civilian justice system.

The position of the *Hotline for Migrant Workers* regarding the new regulation:

Asylum seekers are one of the weakest groups in Israel, and are often forced to turn to the help of the justice system. Preventing their access to the civilian justice system violates the Refugees Convention and Israeli law, which states that all are entitled to seek recourse in the court system.

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Conclusion:

One can clearly see that all these measures are intended to reduce the attractiveness of 'infiltrators' over Israeli workers, to make 'infiltrators' life in Israel as difficult as possible and to give them incentive to leave Israel. These measures ignore the fact that the life of the majority of these asylum seekers would be in danger if they dare to return to their homelands, and therefore, these measures will not convince them to go back. It will only violate their human rights to a greater extent and criminalize those Israelis who would still be willing to assist them.

Israel has every right to protect its borders, but it also bears an obligation to respect the international Refugees Convention, to which it is a signatory. The measures mentioned in this report fail to do so. The *Hotline for Migrant Workers* calls on the Israeli decision-makers and legislators to refrain from promoting and implementing these measures and to put forward a policy that respects Israel's obligations under the Refugees Convention.

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