

הפורום לזכויות פליטים  
المنتدى لحقوق اللاجئين  
Refugees' Rights Forum



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Position Paper  
**African Asylum Seekers Arriving in Israel  
via the Sinai Desert**

**Data:** In recent years, Israel has witnessed a sharp increase in the arrival of new asylum seekers. By March 2012, at least 58,088 asylum seekers had entered Israel, originating mainly in Sudan (25.91%) and Eritrea (56.46%).<sup>1</sup> The asylum seekers enter Israel by crossing the Sinai desert and the Egyptian border.

**Recognition rate:** The average recognition rate of Eritrean asylum seekers around the world is 83.9%. The average recognition rate of Sudanese is 63.9%.<sup>2</sup> Israel has recognized only 157 asylum seekers as refugees according to the Refugee Convention since signing it in 1951 and has not found permanent solution for those few it recognized, as required by the convention.<sup>3</sup>

**Torture camps in Sinai:** Since 2009, smugglers in the Sinai have imprisoned refugees (mainly Eritreans) en route to Israel in harsh conditions, which include severe torture, sexual assault and rape, demanding increasing sums of money for their release.<sup>4</sup> Testimonies of over 1,000<sup>5</sup> survivors recorded at PHR-Israel's Open Clinic since 2010<sup>6</sup> revealed that 59% of the interviewees described being subjected to torture<sup>7</sup> by smugglers who threatened them at gunpoint while they were chained.

**Access to RSD:** Israeli authorities have denied Sudanese and Eritrean asylum-seekers access to RSD – the individual procedures for refugee recognition. After their identification as Sudanese and Eritreans, the asylum seekers are conditionally released from detention with a deportation order pending against them and a stamp "This stay permit is not a work permit" in their identification document. The conditional

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1 Israeli Ministry of Interior, March 2012 (Hebrew),

<http://piba.gov.il/PublicationAndTender/ForeignWorkersStat/Documents/mer2012.pdf>

<sup>2</sup> UNHCR Statistical Yearbook, 2009 <http://www.unhcr.org/4ce532ff9.html>, table 11.

<sup>3</sup> Based on data given by the MOI to the media every year and processed by the HMW.

<sup>4</sup> Hotline for Migrant Workers, "The Dead of the Wilderness":

[http://www.hotline.org.il/english/pdf/Testimonies\\_from\\_sinay\\_122010.pdf](http://www.hotline.org.il/english/pdf/Testimonies_from_sinay_122010.pdf)

<sup>5</sup> Of the 1000 approximately 682 have already been analyzed.

<sup>6</sup> PHR-Israel: *Hostages, Torture, and Rape in the Desert: Findings from 284 Asylum Seekers about Atrocities in the Sinai*: <http://www.phr.org.il/default.asp?PageID=183&ItemID=915> Most of the data is based on interviews held between October 2010 and October 2011, 100% are based on received responses, not all respondents replied to all questions.

<sup>7</sup> Beating, whipping, burning/branding, electric shock, burying in the sand/soil, suspension by the limbs, exposure to sun, sexual abuse, threat of execution, shooting, threats of organs removal.

release status bars asylum seekers from access to basic social and healthcare services.

**The Anti-Infiltration Law:** The Israeli Knesset recently passed a new Prevention of Infiltration Law (enacted on January 18, 2012). Under the law, asylum seekers are automatically detained for three years without trial, or indefinite detention if they come from “enemy states” such as Sudan.

The law stands in contrast to Israel’s obligations according to international law and does not provide for individualized assessment of asylum-seekers. The law does not distinguish between refugees, illegal migrants and 'infiltrators' who enter Israel with intention to harm the country’s security. The explicit purpose of the law is deterrence. According to Amnesty International, automatic and prolonged detention under the new law violates international standards, which demand that state authorities demonstrate that immigration detention is “necessary and proportionate” and based on detailed individual assessments.

**Detention facility:** In order to implement the new law, the government of Israel has begun to expand its current migrant detention system to over 12,400 places. In late 2010, the Israeli government announced plans to build a mass-detention facility for so-called “infiltrators” to be run by the Israel Prison Service (IPS) under the responsibility of the Ministry of Defense. In March 2012, despite legal challenges, final construction plans were formally approved by a Ministerial Committee.<sup>8</sup>

Conditions in existing detention facilities of asylum seekers are substandard and access to judicial, social and medical services is restricted due to overcrowding and understaffing.

## **Recommendations to the Israeli authorities**

- Israel has every right to protect its borders, but it also bears an obligation to respect the Refugees Convention, to which it is a signatory, and to maintain policies that are in accordance with its obligations under this Convention:
- Israel should adopt domestic legislation and earmark sufficient resources to ensure that all asylum seekers who reach Israel have access to a fair procedure for examining their asylum requests, regardless of their country of origin.
- Israel should refrain from using retrogressive legislation in the form of the Anti-Infiltration Law and make sure the internationally-recognized rights of asylum seekers to a fair process will be safeguarded.
- Israel should not detain asylum seekers for a longer period than the one required to determine their identity and confirm that they do not pose a threat to society. Children and unaccompanied minors should not be detained at all and should be referred to the welfare system.

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<sup>8</sup> High Court Ruling 973/12, 12 March 2012 (Hebrew), <http://elyon1.court.gov.il/files/12/730/009/t04/12009730.t04.htm>

- All asylum seekers should receive work permits pending a decision regarding their status to ensure that they can support themselves in a dignified manner.
- Open temporary civilian transit centers should be established for asylum seekers who cannot yet support themselves in a dignified manner in accordance to International standards.
- Israel should strengthen its victim identification system and ensure rehabilitation services for victims of torture in accordance with the EU Guidelines on Torture, as well as providing access to basic services in detention and in the community.
- Israel should continue to refrain from using the “coordinated return” procedure that prevents asylum seekers from realizing their rights and endangers their lives.
- Israel should respect the freedom of movement of asylum seekers within the country.
- Israel should grant asylum seekers with "social residency" status that will enable immediate access to the health and welfare services.
- Asylum seekers who are determined to be eligible for refugee status must be granted this status in accordance with the UN Refugees Convention.