

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 asylum seekers. By March 2012, at least 58,088 asylum seekers had entered Israel, originating mainly from Sudan (25.91%) and Eritrea (56.46%).¹ The asylum seekers enter Israel by crossing the Sinai desert and the Egyptian border.

Recognition rate: The average recognition rate in the world of asylum seekers from Eritrea and Sudan is 84.5% and 74.4%, respectively.² By contrast, Israel's recognition rate is less than 1 percent: since signing the Refugee Convention in 1951, Israel has recognized only 157 asylum seekers as refugees according to the Convention and has not found permanent solutions for the few it recognized.³

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, and demands for large sums of money for their release.⁴ Testimonies of over 1,300⁵ survivors recorded at PHR-Israel's Open Clinic since 2010⁶ revealed that 59% of the interviewees described being subjected to torture⁷ by smugglers who threatened them at gunpoint while they were chained.

Access to Refugee Status Determination Procedures: Israeli authorities systematically deny asylum-seekers from Sudan and Eritrea access to RSD – the individual procedures used to determine qualification for refugee recognition. After their identification as Sudanese or Eritreans, asylum seekers are conditionally released from detention with a deportation order

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

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

² UNHCR Statistical Yearbook, 2011 <http://www.unhcr.org/globaltrends/2011-GlobalTrends-annex-tables.zip>, table 11.

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

⁴ Hotline for Migrant Workers, "The Dead of the Wilderness":

http://www.hotline.org.il/english/pdf/Testimonies_from_sinay_122010.pdf

⁵ Of the 1000 approximately 682 have already been analyzed.

⁶ 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.

⁷ 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.

pending against them and a stamp stating "This is a temporary permit and not a work permit". . Since June 2012, asylum seekers have not been released from detention (see below explanation).

Access to health and welfare services:

The conditional release status bars asylum seekers from access to basic social services such as healthcare and welfare services except for emergency medical care, which is not provided free of charge. Following a request by PHR-Israel to grant asylum seekers "social residency"⁸ - a status that would guarantee them health and welfare benefits through the public system irrespective of legal status - an Inter-Ministerial Committee was formed to address provision of health and welfare services to non-residents. The Committee was due to issue its official recommendations in 2011. As of April 2012, it had not published its recommendations regarding medical treatment for asylum seekers and refugees.

Over 82% of asylum seekers in Israel are denied access to the Israeli asylum system. Less than 1% of asylum seekers who are allowed to submit asylum applications are recognized as refugees.

Legislation targeting asylum seekers: Since the beginning of 2012, the Israeli government has taken several measures designed to deter the additional arrival of African asylum seekers in Israel. These measures reflect the false claims that African asylum seekers are not legitimate refugees but rather 'work infiltrators,' as repeatedly stated by Israeli government officials. Among these measures are four new legislative initiatives, a regulation, and an enforcement initiative:

1. Amendment criminalizing employment of, providing shelter or renting accommodation to, and transporting asylum seekers
2. Amendment forbidding asylum seekers to send money abroad
3. Amendment imposing monthly deposits from salaries of 'Infiltrators'
4. Amendment preventing migrants from appealing their deportation and expands Immigration Authority's writ over asylum seekers legally staying in Israel
5. New regulation would bar asylum seekers without passports from filing civil lawsuits in Israeli courts
6. Enforcement of a 20% tax on employers of asylum seekers

The Anti-Infiltration Law: The Israeli Knesset passed amendments to the 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. From June 3, 2012, all asylum seekers who crossed the Israel-Egypt border, including children, torture and rape survivors, are detained under this law.

The new Anti-Infiltration Law is in stark contrast to Israel's obligations according to international law. It does not provide for individualized assessment of asylum seekers and does not distinguish between refugees, illegal migrants and 'infiltrators' who enter Israel

⁸ "Social Residency: Decoupling Legal Status and Social Rights", Physicians for Human Rights- Israel, <http://www.phr.org.il/default.asp?PageID=99&ItemID=1006>

with intention to harm the country's security. Its explicit purpose 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.

Violation of the non-refoulement principle: Between 2004-2011, Israel has occasionally deported asylum seekers back to Egypt shortly after their entry into Israel, in violation of the *non-refoulement* principle: the prohibition against the expulsion or return of a person to a place in which he is expected to suffer persecution. This principle, formalized in Article 33 of the Refugees Convention, is the cornerstone of the protection of refugees, and has long been considered a binding principle in international customary law. Following a petition by Israeli human rights organizations to Israel's High Court, the State informed the Court that it has stopped carrying out "hot return" deportations as of March 2011. In June 2012, Israeli human rights groups received testimonies of IDF soldiers and asylum seekers, stating that the asylum seekers arriving through Sinai were physically prevented by the IDF *before* they could cross the border.

Detention Facilities: In order to implement the Anti-Infiltration Law, the Israeli government 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. As of August 2012, there were 5,400 places in *Saharonim* prison in the southern desert of Israel and government statements to the media speak of plans to detain 20,000 under the Anti-Infiltration Law.⁹

Conditions in existing detention facilities are substandard and access to judicial, social and medical services is restricted due to overcrowding and understaffing. The Israeli Public Defender has described the conditions in detention facilities of asylum seekers, especially *Saharonim* prison, as substandard, crowded and unsanitary.¹⁷ Access to judicial, social and medical services is restricted due to overcrowding and understaffing. *PHR-Israel* reported a lack of gynecological services, despite the fact that many asylum seekers enter Israel after undergoing sexual abuse and rape. A shortage of social welfare staff equipped with the skills and resources to care for a detainee population of 1,900 was also recorded.¹⁸

Since July 2012, the *Hotline for Migrant Workers*, the only NGO permitted over the last 14 years to the prisons and meet asylum seekers, was banned the entry to *Saharonim* prison by the IPS.

Recommendations to the Israeli Authorities

- Israel has the right to protect its borders, but it also bears an obligation to respect the Refugees Convention, to which it is a signatory, and to enact policies 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.

⁹ High Court Ruling 973/12, 12 March 2012 (Hebrew), <http://elyon1.court.gov.il/files/12/730/009/t04/12009730.t04.htm>

- Israel should refrain from using retrogressive legislation such as the Anti-Infiltration Law; it should ensure that internationally-recognized rights of asylum seekers to a fair process are safeguarded.
- Israel should not detain asylum seekers for a longer period than the one required for determination of their identity and confirmation 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. Israel should allow the NGOs protecting the rights of asylum seekers access to detention facilities.
- Pending a government decision regarding their status, all asylum seekers should receive work permits to ensure that they can support themselves in a dignified manner. If it denies them the right to work, the government should provide asylum seekers with housing and other basic needs outside the framework of detention until it decides their final status.
- 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 not return asylum seekers to Egypt via the “coordinated return” procedure which 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 to enable their immediate access to basic 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.

The "Refugees' Rights Forum" consists of the nine human rights organizations active in promoting the rights of refugees and asylum seekers in Israel: [ACRI](#) - The Association for Civil Rights in Israel, [The Hotline for Migrant Workers](#), [Physicians for Human Rights-Israel \(PHR-IL\)](#), [The Refugee Rights Clinic](#), [Amnesty International Israel](#), [ASSAF](#) – Aid Organization for refugees and asylum seekers, [ARDC](#) - The African Refugee Development Center, [Kav LaOved](#) (Worker's Hotline), [IRAC](#) - Israel Religious Action Center