

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*

September 2010

Treatment of Asylum Seekers in Israel: **The Infiltrator Identification Unit in Lod** **The Refugee Status Determination Unit in South Tel Aviv** **Disputed Nationalities** **Sudanese** **Eritreans** **Somalians** **New Law proposals and Regulations**

The Israeli RSD System - General

The principles of the Israeli asylum system appear in internal Justice Ministry guidelines circulated in 2001. There is no legislation concerning the asylum procedure or the rights granted to asylum seekers and refugees, only regulations that were created in 2001 and amended in August 2010 (see hereunder for the new regulations for the treatment of asylum seekers in Israel).

In April 2008 the Interior Ministry opened a new office in Lod for its newly formed Infiltrator Identification Unit, to interview and screen asylum seekers and determine their identities and nationalities. Since then, all asylum seekers must go to the Interior Ministry's Infiltrator Identification Unit offices in Lod, rather than to the United Nations High Commissioner for Refugees, for the initial screening process.

The guidelines set up a system, which is defined as a hybrid one: Until July 1, 2009, applications for asylum were submitted to UNHCR representatives in Israel; UNHCR interviewed the asylum seekers and handed its recommendations to the National Status Granting Body (NSGB), comprised of representatives of several Israeli ministries. The NSGB then gave its recommendation to the Interior Minister, who decided whether or not asylum would be granted. If granted asylum, refugees receive an A5 – temporary residency status, which they must renew every two years.

Since July 1, 2009, the entire procedure has been conducted by the Interior Ministry: Asylum seekers first address the Infiltrator Identification Unit in Lod. If recognized as Sudanese or Eritrean they receive a 2A5 conditional release document which they have to renew every one or three months. It is not clear why some have to renew their document every month and some every three months. The conditional release document protects its holders from arrest, but it is not a work permit. The deportation order against its holders remains pending. Interior Ministry officials claim that they do not conduct RSD procedures for Eritreans and Sudanese.

Asylum seekers who are from all other countries (aside from Sudan and Eritrea), receive a letter summoning them to the RSD Unit in south Tel Aviv, and have a chance of receiving refugee status at the end of the procedure. The Ministry of Interior's Refugee Status Determination unit refers its recommendations to the NSGB while UNHCR supervises. UNHCR staff conducted RSD interviews through 2008 and then began training Interior Ministry employees on the procedure.

Disputed Nationality

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In 2009, UNHCR documented at least 600 cases of Eritreans and Sudanese whom the Infiltrator Identification Unit found not to be Eritreans and Sudanese. These asylum seekers received no documents at all and very rarely manage to find jobs, as they had no documents. The RSD unit refused to check their requests, claiming that it is not an appeal review and that the request may only be checked if the asylum seeker confesses and reveals his/her true nationality.

Based on UNHCR estimates in September 2010, there were roughly 300 individuals held in detention due to the fact that their nationalities have not yet been determined by the Israeli authorities. Many have been detained for extended periods of time, some exceeding one year. In addition to the 300 detainees, approximately 150 asylum seekers outside detention hold the same "disputed nationality" status. UNHCR believes that the government of Israel is making some effort to identify the nationalities of these individuals. With time, a few such cases are ultimately identified as Sudanese or Eritrean, after which they receive temporary protected status.

For those cases that remain in dispute, UNHCR believes that the crux of the problem lies in the fact that there is no formal procedure in place to identify these individuals' nationalities. Progress on such cases, therefore, remains stagnant, as there exists no recourse to appeal the decisions (or lack thereof) of the government. UNHCR recommends the establishment and implementation of a fair nationality determination procedure, to be conducted by an eligibility officer and reviewed by the NSGB, which will constitute a thorough and credible decision-making process with procedural recourse.

As an example, we would like to present the case of A.R.A.H.H., who arrived in Israel from Darfur, west Sudan, on October 11, 2008. On October 28, A.R.A.H.H was transferred by the IDF to Saaronim prison, where he was brought before a border control officer and stated that he was seeking asylum. The border control officer issued detention and deportation orders against him. On October 30, A.R.A.H.H was brought before an administrative review tribunal, which asked UNHCR to interview A.R.A.H.H and submit its opinion regarding his claims that he is from Darfur.

On January 1, 2009, a representative of the Infiltrator Identification Unit interviewed A.R.A.H.H and stated that he claims to be from the Barko tribe, in north Darfur. He stated that A.R.A.H.H can not show where Darfur is on the map of Sudan and that his Arabic is not good, despite the fact that the two previous interviews were conducted in Arabic. The Infiltrator Identification Unit representative concluded that A.R.A.H.H was not identified as a Sudanese.

During the next year, the administrative review tribunal met A.R.A.H.H six more times, despite the fact that the tribunal has to review detainees every 30 days.

During that time, UNHCR conducted two in-depth interviews with A.R.A.H.H and found him to be Sudanese, from the Barko tribe and familiar with villages in northern Darfur, his area of residence.

Attorney Yonatan Berman from the Hotline for Migrant Workers made extreme efforts to locate the documents based on which the Interior Ministry decided that A.R.A.H.H is not Sudanese, but has thus far failed in doing so. He demanded that A.R.A.H.H be interviewed by the RSD unit or be given temporary protection like all other Sudanese.

On February 16, 2010, the head of the Infiltrator Identification Unit responded to Berman, stating that A.R.A.H.H must address the RSD unit in order to try and clarify his status. On the next day, February 17, 2010, the RSD unit told Berman that, "We cannot interview A.R.A.H.H until his identity is determined by the Infiltrator Identification Unit."

Inefficiency at the MOI Office in Lod

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Many refugees and asylum seekers who visited the Lod office have complained of inefficiency and of waiting for ten hours, only to be told that they must return in two weeks time. Others have complained of unkind and racist treatment from senior officials in the office and have stated that officials refuse to renew papers, that employees have lost their documents, and that clerks do not return papers, even if the asylum seekers may be arrested if they don't have them.

RSD Procedure

Asylum seekers might spend more than a decade in the procedure

Since March 2010, Hotline for Migrant Workers has attempted to assist a group of 69 asylum seekers from Eritrea and Ethiopia, all residing in Israel for 10-16 years. During these years they were waiting for the RSD procedure, carrying B1 work visas issued by the Interior Ministry and renewing it every six months. Since the RSD Unit was opened in July 2009, these asylum seekers were sent to Lod together with recently arrived asylum seekers. In Lod, some received summons to the RSD unit for July 2010, leaving them with no possibility of working until then; some received 2A5 conditional release documents while others were told that they are not Eritreans and all of their documents were taken away from them.

No RSD procedure for Sudanese – see new regulations for the treatment of asylum seekers in Israel

The exclusion of enemy nationals from the asylum process can be regarded as discrimination against Sudanese asylum seekers, who cannot be recognized as refugees in Israel since their applications are not being considered at all and their files are not being submitted to the inter-ministerial committee according to Article No. 6 in the 2001 procedure and according to Article No. 10 in the new 2010 procedure.

No RSD procedure for Eritreans

Eritreans' applications for asylum are not being considered either, but for different reasons than those applied to the Sudanese: In the past, UNHCR claimed that there were too many Eritrean applications for it to conduct RSD procedures for them, and since the acceptance rate is estimated to be near 100%, it recommended granting humanitarian protection to the entire group. Israel, however, is reluctant to provide any official status to Eritreans, in part due to economic and political interests, as stated, for example, by Simona Halperin from the Foreign Ministry's International Organizations and Human Rights section on August 28, 2007: "It's important to remember that Eritrea and Israel have not only diplomatic relations, but we also have an embassy there, we have long lasting relationships, including programs of cooperation, Israeli assistance to projects in Eritrea, ambassadors and therefore high sensitivity. Just to clarify to all present: There is high sensitivity as regards any decision pertaining to categorization or any kind of declaration regarding one state or another occurring in the country [Eritrea]"¹ Once every few months the media publishes declarations made by Israeli decision makers or parliament members, according to which there is a need to remove the Eritreans from Israel or there are concrete plans to do so. On June 21, 2010, the head of the Knesset Committee on Foreign Workers, MK Yaakov Katz, conducted a meeting with the Deputy Minister of Foreign Affairs, Danny Ayalon, demanding that he explain why Eritreans

1 Protocol of the Knesset Foreign Workers Committee, 28 August 2007, p. 12.

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are not being returned to their homeland despite the good relation Israel has with their government.² After that meeting, Katz published a message to the media calling to build a fence along the Egypt-Israel border immediately, to increase the number of beds in Saaronim prison by several thousands and to alter the law so that it will allow the detention of "infiltrators" for extended periods of time so that they will not encourage their friends to come to Israel. Katz also called on the Immigration Authority to enforce the law pertaining to those employing refugees.³

Somali

There is a small number of refugees from Somalia in Israel (approximately 50 people). Due to the unstable situation in Somalia, during the last two years the UNHCR has recommended that Somali nationals not be deported from Israel and receive temporary protection until the situation in Somalia stabilizes. Israeli authorities should consider UNHCR recommendations in the near future. In a meeting held on December 8, 2009, inter-ministerial committee members agreed that a decision must be made regarding the general situation of Somali citizens, since returning them may result in a violation of Article No. 3 of CAT (Convention against Torture). On May 21 2010, UNHCR published guidelines calling for official temporary protection for citizens of Somalia in Israel.

Until February 2010, when Judge Uri Shtruzman headed the inter-ministerial committee, citizens of Somalia whose cases had been presented to the committee received temporary protection status, 2A5, until a general decision regarding the temporary status of citizens of Somalia in Israel is made.

Since February 2010, when Shtruzman left the committee, and for the last seven months, the committee has not convened. On July 2010 Attorney Avi Himi was appointed committee chairman, but his first meeting was only held on September 12, 2010. During this seven month period, when the inter-ministerial committee had no chairman, applications submitted by Somali citizens were rejected in the "expedited procedure" and they were instructed to leave the country within 30 days.

Hotline for Migrant Workers addressed Himi, the new chairman of the inter-ministerial committee, on August 23, 2010, directing his attention to the situation that Somali citizens find themselves in, asking him to comply with UNHCR recommendations and to adopt a transparent and fair policy overall, particularly in regards to Somali citizens.

In the case of Mr. I.A., UNHCR recommended granting him refugee status. The committee decided on December 20, 2009 to grant him a 2A5 conditional release document until a general decision regarding the status of citizens of Somalia in Israel is held.

In the cases of H.A.J. (File no. 10AS05095) and of H.J.I.M. UNHCR rejected their personal applications for refugee status. The committee decided to reject their applications in the "expedited procedure" and demand that they leave the country within 30 days, which contradicted the committee's general recommendation to discuss the status of Somalis in Israel.

² Protocol of the Knesset Committee on Foreign Workers, 21 June 2010:
<http://www.knesset.gov.il/protocols/data/rtf/zarim/2010-06-21.rtf>

³ Message to the Media by MK Yaakov Katz:
<http://www.knesset.gov.il/spokesman/heb/Result.asp?HodID=8459>

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Adv. Yonatan Berman, from Hotline for Migrant Workers, petitioned the Jerusalem District Court on behalf of M.H., a Somali national (Administrative Petition 42628-05-10) on May 26, 2010. In the petition, Berman demanded access to all documents and information relevant to Mr.H's asylum case, according to the freedom of information law, since the information is unavailable to asylum seekers whose request was rejected.

Mr. H entered Israel in December 2008 and was detained along with other asylum seekers in Saaronim prison. After reviewing his asylum request, UNHCR requested his release from prison on December 27, 2009, a year after his arrival. UNHCR recommended granting Mr. H refugee status based on his personal circumstances, regardless of the general instability in Somalia.

The inter-ministerial committee decided to reject Mr. H's application, despite UNHCR's recommendation, and granted him a 3 month 2A5 status, like other Somalis waiting for the general decision regarding the status of Somali nationals in Israel.

Mr. H would like to petition the decision not to grant him refugee status but he cannot do so efficiently without access to the documents that served UNHCR and the committee in their decision.

Mr. H is still waiting for all of the documents from the MOI in order to appeal the decision to reject his asylum request.

New Laws and regulations for the treatment of asylum seekers in Israel

On July 20, 2010, following a lengthy public campaign by the Refugees Rights Forum against the Anti Infiltration Bill, it was withdrawn by the Israeli government. Yet in a proposal passed on July 18, 2010, the Israeli government decided that a team headed by the Justice Minister and Interior Minister would offer additional solutions to the "infiltrator problem" within 60 days. A new, similar bill is anticipated.

Meanwhile, on August 2010, the Justice Ministry published new regulations for the treatment of asylum seekers. Regrettably the new regulations do not convey a reform of the current system, but rather encapsulate the current system, with all of its flaws.

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