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Asylum Seekers and Refugees in Israel: February 2009 Update

Facts and figures: There are currently close to seventeen thousand refugees and asylum seekers in Israel¹. The total number of refugees recognized by Israel since 1951 in accordance with the UN Refugees Convention is 170. Many of these refugees have since left Israel, mainly for Canada, so that the total number of refugees present in Israel today is just 70. Even now the number of asylum seekers reaching Israel is small. UN figures show that the vast majority of refugees and asylum seekers flee to the weakest and poorest countries of the world, which are closest to the conflict zones. For example, the following is the dispersion around the world of refugees from Sudan: 228,836 in Chad; 212,857 in Uganda; 76,646 in Kenya; 13,446 in Egypt; 18,827 in Australia; and 16,363 in the United States.²

Countries of origin of the asylum seekers: Most of the asylum seekers come from Eritrea (approximately 6,500 among them more than 500 minors) and Sudan (approximately 5,000 among them more than 600 minors). The UN High Commissioner for Refugees prohibits deportation to these countries due to the tangible danger facing those who return. An internal report of the Justice Ministry described Eritrea as a country in which "human rights violations and political persecution [...] are widespread, and include the holding of prisoners of conscience without charging or trial, persecution on religious grounds, the disappearance of citizens, and so forth."³

The asylum seekers from Sudan include approximately 1400 survivors from Darfur, a region of Sudan which, according to the United Nations, has seen the worst humanitarian crisis in the world in recent years. In 2005, additional asylum seekers arrived from southern Sudan, a region that has been brutally repressed by the Islamist central government in Khartoum for several decades. In 2005 the government signed a peace agreement with the Christian south, but many asylum seekers complain of ongoing oppression and discrimination by the government.

There are also several hundred asylum seekers in Israel from Congo and the Ivory Coast, countries that are defined as "crisis countries" and whose citizens are entitled to temporary collective protection in Israel. The civil war in Congo is not yet over and asylum seekers from that country continue to enjoy temporary protection. The Ivory Coast has been declared a safe country by the United Nations, and its citizens have been asked to leave Israel by the end of 2008. Those who did not leave are being arrested and deported these days.

How and why did the asylum seekers come to Israel? Almost all the asylum seekers crossed the border from Egypt to Israel. Since April 2007, there has been an increase in the number of asylum seekers arriving; most of them claim that their lives will be in danger if they are deported. The act of crossing the border is dangerous in itself; the media keep

¹ According to UNHCR Israel at the end of 2008 there were 16,403 asylum seekers in Israel.

² <http://www.unhcr.org/cgi-bin/texis/vtx/home/openssl.pdf?id=478ce34a2&tbl=STATISTICS> – Table 5 at p. 28.

³ Internal report of the Israeli Justice Ministry, Desk for Struggle against Human Trafficking, dated 7 October 2007.

on reporting cases in which asylum seekers have been shot and killed by Egyptian soldiers, and in one case asylum seekers were murdered after they were apprehended.⁴ Egypt grants minimum protection to refugees in its territory, refraining from deporting them to their country of origin, although even this protection is not always forthcoming in practice. During 2008 Egypt deported more than a thousand asylum seekers to Eritrea and Sudan. Israel, too, fails to meet its obligations to asylum seekers and refugees in accordance with the UN convention, thus jeopardizing their lives and liberty. Refugees who are arrested in Egypt are held in extremely harsh conditions tantamount to inhuman punishment and treatment, in violation of international human rights conventions.⁵

The location and the physical and mental condition of asylum seekers: Approximately 1,500 asylum seekers are currently being held in detention at various imprisonment facilities around Israel; 1,000 of these are being held at Ketsiot Prison. Approximately 10,000 asylum seekers are concentrated in Tel Aviv, Eilat, and Arad, while the remainder is dispersed in moshavim, kibbutzim, and cities. The majority of asylum seekers are healthy young men, since otherwise they would find it difficult to survive the protracted and harsh journey they have endured. However, the population of asylum seekers also includes several hundred women and more than 1000 children and minors. Although their physical condition is fair, many of the asylum seekers suffer from trauma as the result of the severe experiences they have undergone.

The legal status of asylum seekers and refugees in Israel: Refugees recognized in accordance with the 1951 UN Refugees Convention are protracted against deportation, at least until the situation in their home country changes sufficiently to permit their safe return. In Israel, refugees hold A5-type temporary residence status, renewed once every two years. This status is subject to re-examination; if it is found that the situation in their country permits safe return, they are liable to face a demand to leave Israel. Despite official recognition of their status as refugees, they are not entitled to any assistance in order to enable them to integrate in society; unlike other countries, Israel has no procedure for naturalization. As noted before, Israel has recognized just 170 refugees since 1951. Since 2002, an advisory committee to the interior minister (NSGB – National Status Granting Body) is authorized to recommend the acceptance or rejection of asylum requests. Since the committee commenced its operations, there has been no increase in the number of asylum seekers whose request has been approved. In 2008, this committee met once and only reviewed 12 requests. Applications of Sudanese and Eritreans are not being considered at this time at all.

The legal status of asylum seekers in accordance with the Refugees Convention: Asylum requests are examined on an individual basis; pending the completion of the discussion of their request, asylum seekers are protected against deportation. If their application is rejected, they are entitled to appeal and may remain pending the hearing in their appeal. Asylum seekers do not receive work permits until they have undergone an in-depth interview at the UN High Commissioner for Refugees. Due to the heavy workload facing the staff at the High Commissioner's Office, asylum seekers are often obliged to wait more than a year for this interview, during which time they are forced to work illegally in order to provide for themselves. After the initial interview, provided it is decided that the clarification of their application will continue, some asylum seekers receive a protection document from the UN High Commissioner for Refugees. For reasons that remain unclear, some asylum seekers do not receive the protection document. Even those fortunate enough to receive a work permit are not eligible for health or other social services. The asylum application procedure ends with the decision of the interior minister, on the basis of the recommendation of the advisory committee (NSGB). As noted, the

⁴ Channel 10 news, 2 August 2007: <http://news.walla.co.il/?w=3850/1147976>.

⁵ See the report of the US State Department on this subject: <http://www.state.gov/g/drl/hrrpt/2006/78851.htm>

pressure of work on the Commissioner's Office leads to substantial delays in its work, and many asylum seekers have been waiting for years while their request is processed.

“Humanitarian” refugees: In addition to asylum seekers whose requests are examined on an individual basis, some asylum seekers enjoy collective and temporary protection. This protection is granted in accordance with the recommendations of the UN High Commissioner for Refugees, and is based on the fundamental principle that a person must not be sent to a place in which he or she will face mortal danger. In the past, such protection has been afforded to the citizens of Sierra Leone, Liberia, the Ivory Coast, and Congo – all countries ravaged by civil war. As the situation in Sierra Leone and Liberia stabilized, the citizens of these countries were asked to leave Israel. Those who failed to do so by the set date were deported. At the end of 2008 citizens of the Ivory Coast were also required to leave. “Humanitarian” refugees hold B1-type work visas, which must be renewed every six months. They are not eligible for social assistance, including health insurance, despite the fact that they have been in Israel for many years. Such protection leaves the refugees in a state of uncertainty and impairs their ability to rehabilitate their shattered lives.

Recommendations

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, and to elaborate policy that respects its obligations under this convention.

All asylum seekers who reach Israel must enjoy access to a fair procedure for examining their asylum request, regardless of their country of origin.

The illegal “hot return” procedure must be abolished; this policy prevents asylum seekers from realizing their rights and endangers their lives.

Asylum seekers should not be detained.

The freedom of movement of asylum seekers must be respected and must not be restricted.

Temporary civilian transit centers should be established for asylum seekers who cannot yet support themselves in a dignified manner.

All asylum seekers should receive work permits pending a decision regarding their status, in order to ensure that they can support themselves in a dignified manner.

All asylum seekers and refugees must be granted social rights.

All persons who are determined to be eligible for refugee status must be granted this status in accordance with the UN Refugees Convention.

The State of Israel was established by and for refugees. Israel must not ignore the distress of asylum seekers who arrive in the country.

Significant Changes in Israeli policy toward asylum seekers

2002: A procedure was developed for processing asylum seekers and refugees. However, the procedure did not permit the granting of even temporary asylum in Israel to persons defined as “subjects of enemy states,” such as citizens of Sudan. Subjects of enemy states who requested asylum were held in detention for many years. Through 2004, the UN High Commissioner for Refugees located countries willing to absorb 55 of these asylum seekers.

2005: Several dozen asylum seekers from Sudan (mainly from Darfur) entered Israel. They were arrested under the Entry to Israel Law. After being held in detention for over a year with no purpose, the Immigration Administrative Tribunal began to approve alternatives to detention, usually in kibbutzim. These places were located by the UN High Commissioner for Refugees or by volunteers from the Hotline for Migrant Workers.

December 2005: A demonstration by thousands of Sudanese refugees outside the UN offices in Cairo, Egypt was dispersed by the Egyptian police by violent means. It is known that 27 people were killed, hundreds wounded, and thousands imprisoned. These events led to an increase in the number of Sudanese asylum seekers reaching Israel.

During the 2005 calendar year: According to the UNHCR in Israel, 453 asylum seekers entered Israel.

Early 2006: The authorities revived the Prevention of Infiltration Law, an emergency law from 1952, and began to arrest Sudanese asylum seekers on the basis of this law. Unlike the Entry to Israel Law, the Prevention of Infiltration Law does not include any mechanism for quasi-judicial review. Accordingly, all those arrested under this law have remained in prison (Ketsiot) for extended periods, without their cases being brought for judicial review. NGOs submitted four petitions to the High Court of Justice demanding that the authorities stop using the Prevention of Infiltration Law to arrest asylum seekers⁶.

July 2006: Attorney Elad Azar, a judge in the Immigration Administrative Tribunal, was appointed a special advisor to the Defense Minister. He was charged with the task of meeting detainees within 14 days from the time of their arrest, and with recommending whether they should be released to an alternative to detention. The advisor recommended that the four refugees involved in the petitions should be released, provided that a kibbutz could be found to absorb them in alternative detention conditions. In his recommendation, Attorney Azar wrote: *“With all due caution, I believe that the condition of these infiltrators from Sudan is not substantively different to the fate of tens of thousands of Jews of German origin who fled for their lives from the horrors of the Nazi regime in Germany and arrived in England to gain asylum. At first, it is true, these refugees were treated as the citizens of an enemy country and placed in internment, but the authorities in England soon realized the moral injustice this entailed and the absurdity of such treatment, and completely changed their treatment of the victims of Nazi persecution.”*

December 2006: Despite the undertaking made by the Defense Minister before the High Court of Justice, the special advisor did not visit Ketsiot Prison, where some 120 Sudanese asylum seekers were being held. The reason was a dispute between the Justice Ministry and the Defense Ministry regarding the financing of his expenses. As a result, the growing number of asylum seekers were left in detention without quasi-judicial review. Only in December, after numerous requests from the Hotline and the Refugee Rights Program, did the special advisor begin to work at Ketsiot Prison. Through July

⁶ HCJ Petition 3208/06 Hotline for Migrant Workers and others against the Minister of Defense and others: against the usage of the infiltration law in order to arrest asylum seekers arriving from Egypt, served on April 11, 2006

2007, the advisor recommended the release to alternative detention of some 300 Sudanese asylum seekers. The organizations found 151 alternatives to detention in nine kibbutzim and twelve moshavim around Israel. Despite the efforts to protect their rights, some of the asylum seekers placed in alternatives to detention faced inhuman conditions and their wages were not paid as required by law.

During the 2006 calendar year: According to the UNHCR in Israel, 1,204 asylum seekers entered Israel.

March 2007: The Hotline for Migrant Workers informed the special advisor of the harsh conditions facing most of the Sudanese asylum seekers in the agricultural sector, and received the advisor's agreement to alternative detention in Eilat. Some 200 Sudanese asylum seekers found work in hotels in the city, out of a total of approximately 340 asylum seekers from Sudan present in Israel at the time.

April-June 2007: The number of asylum seekers arriving in Israel rose sharply; space could not be found for them in prison. The IDF released the asylum seekers at the central bus station in Beersheva. Volunteers from the Asaf organization attended to their immediate needs, and volunteers from the Hotline for Migrant Workers coordinated their transfer to places of work and accommodation. Within three months, 700 Sudanese asylum seekers were placed in Eilat, together with their children, who numbered 200. At the same time, an increase was seen in the number of asylum seekers arriving from Eritrea. The organizations providing assistance encountered difficulties coping with the number of new arrivals. Beersheva Municipality rented a hotel in the city, but since it did not wish to continue to cover the costs of their accommodation and board, it transferred the asylum seekers to the Rose Garden opposite the Knesset in Jerusalem as an act of protest. The African Refugees Development Center rented bomb shelters in Tel Aviv for the asylum seekers.

July 2007: The government decided to expel all the asylum seekers to Egypt. Those caught close to the border on entering Israel would be returned immediately to Egypt. Others would be returned to Egypt in coordination with the UN High Commissioner for Refugees; pending deportation, they would be held at a detention camp next to Ketsiot Prison. The government further decided to grant status to a limited quota of refugees from Darfur, but only if the entry of further asylum seekers ended. A tent camp surrounded by barbed wire was established next to Ketsiot Prison, and some one thousand asylum seekers who have arrived since then have been held in the camp – including, for the first time, more than one hundred children.

August 2007: Following hearings in the petition against the detention of asylum seekers under the Prevention of Infiltration Law, the authorities undertook to transfer the detainees, after a security examination, to a track based on the Entry to Israel Law, which includes a mechanism for release. Since then the state has met its undertaking in most cases.

18 August 2007: The IDF deported 48 asylum seekers, including 18 children, to Egypt in accordance with the "Hot Return" procedure. Most of the asylum seekers were survivors of the massacre in Darfur. Despite promises to this effect, the UN High Commissioner for Refugees has not yet been granted access to the deported asylum seekers by the Egyptian authorities. According to some reports they are being held in detention in Egypt, while other reports claim that some of them have been deported to Sudan. Six human rights organizations submitted a petition against the "Hot Return" deportation procedure. The state was asked to present the details of the procedure and the details of the agreement with Egypt.

17 September 2007: The Israeli government announced that it would grant temporary resident status to 498 asylum seekers from Darfur. In January, the Interior Ministry began to issue A5 visas, and the number of asylum seekers covered by the arrangement was increased to 600.

September – December 2007: Some 3000 more asylum seekers entered Israel, mainly citizens of Sudan, Eritrea, and the Ivory Coast. Most of the new arrivals were detained at Ketsiot Prison and released on restrictive conditions. Others were released unconditionally immediately on arrival due to the lack of prison places. About one thousand of the asylum seekers lived in crowded conditions in the makeshift shelters established in Tel Aviv. After the Trade and Industry Ministry agreed to overlook the violation of foreign labor laws, the Sudanese citizens were able to work as soon as they received documents from the UN; these refugees were the first to leave the shelters and begin to live independently.

During the 2007 calendar year: According to the UNHCR in Israel, 5,703 asylum seekers entered Israel.

January 2008: The Interior Ministry began to issue work visas (B1) to 2000 asylum seekers from Eritrea who entered Israel through 25 December 2007. Asylum seekers from the Ivory Coast did not receive visas and are not permitted to work.

February 2008: The authorities decided to arrest and expel asylum seekers, 300 of whom were arrested each day during the seven-day campaign. The Israel Prison Service was asked to prepare to receive 2100 detainees, and the Foreign Ministry was asked to make preparation for deportation even in the case of countries with which Israel does not have diplomatic relations, such as Sudan. The UN High Commissioner for Refugees in Israel protested against the campaign. The Israeli government decided to push forward the deportation plan and ordered the Foreign Ministry to locate another African country for coordination of deportation.

March 2008: The Interior Ministry provided 600 more work visas for citizens of Eritrea who arrived in Israel in 2008. At the same time, the authorities began to demand that detained asylum seekers sign conditions of release restricting their movement and preventing them from continuing to live in the center of Israel (between Hadera in the north and Gedera in the south). The health minister demanded NIS 7 million from the Finance Ministry to cover the costs of urgent medical treatment for asylum seekers following the closure of the clinic run by Physicians for Human Rights – Israel. The clinic was closed in protest at the ongoing failure by the State of Israel to accept its responsibility for the health of the asylum seekers. The clinic is the only institution in Israel that provides free health services for migrant workers and asylum seekers. The number of patients seen at the clinic rose from an average of 18 a day in 2006 to 100 a day in 2008.

May 2008: The Knesset passes the Prevention of Infiltration Law at its first reading. The law formalizes the “Hot Return” procedure and permits the deportation of refugees to Egypt; it also permits the prosecution of refugees and the imposition of sentences of 5-7 years imprisonment.

July 2008: The visa which was granted on January 2008 to the first 2000 Eritreans who entered Israel expired. The UNHCR claimed it will be renewed but the Ministry of Interior’s clerks refused to renew it. Many of the Eritreans loses their working places.

4 August 2008: The Ministry of Interior takes upon itself the first screening procedures of asylum seekers and opens a new office in Lod. The 2000 Eritreans start receiving a one month work permit. Despite being recognized as Eritreans by the UNHCR officers, the clerks of the ministry of interior choose to confiscate the documents of more than 1000 of

the Eritreans claiming that they are actually Ethiopians. The Immigration police start arresting and detaining asylum seekers found in the center of the country breaching their release conditions. The Immigration Administrative Tribunal conditions their release in conducting medical check ups to make sure that they are not infected with contagious diseases.

23 August 2008: The Israeli authorities ignore their prior commitment to the Supreme Court not to return any person to Egypt before receiving adequate assurances that Egypt would not return (refoul) the person to danger and would allow access to fair asylum procedures. The IDF deports within a week at least 91 asylum seekers back to Egypt in accordance with the "Hot Return" procedure, without even questioning them regarding potential risks they might face if returned. The Human Rights organizations address the Supreme Court again. The State Attorneys defined the four reported incidents of summary deportations that week as a "local dysfunction" and declares that the deportations will continue, but that the forces were instructed to question every person prior to his/her's deportation. Soldiers calling from the border report that the deportation continues.

7 October 2008: In the petition against Usage of the Infiltration Law: The government committed itself that each infiltrator caught by the Israeli forces will be transferred to Ktsiot prison within 48 hours or 72 hours on weekends. The detainee will be able to present his claims to a Border Control Officer within 10 days and before the Administrative Deportees' Tribunal within 14 days. The governments' commitment is the HC verdict and the petition was erased⁷.

In the petition against The "Hot Return Procedure" of asylum seekers from Israel to Egypt: The government is requested to submit a complimentary update to the court until November 11, 2008. In this update, the government will present the details of the procedure and how they intend to qualify those who will question the asylum seekers on the border. The government representative claimed that they return to Egypt only those who are being caught at a certain border strip of 20 KM, in which there are solid agreements with the Egyptians in charge on the other side. She refused to reveal the details of the agreement and the Judges did not ask her to⁸.

November 10, 2008: International media published claims made by a Darfur human rights organization according to which Egyptian authorities deported 23 Sudanese from Darfur region back to their home country after they were arrested near Al Arish in the Sinai Peninsula. The deportees were tortured prior to their deportation.

About 200 asylum seekers are still detained (many since August 2008) due to a dispute between the Ministry of Health and the Prison authorities regarding which body will fund medical tests required by the Deportees Tribunal prior to release from detention.

November 24, 2008: Asylum seekers living and working in Eilat, who attempted to renew their visas with the Ministry of Interior were surprised to discover that they were no longer permitted to reside or work in Eilat.

November 26, 2008: Following several letters and near submission of a legal petition by Physicians for Human Rights and the Hotline for Migrant Workers, the prison authorities

⁷ HCJ Petition 3208/06 Hotline for Migrant Workers and others against the Minister of Defense and others: against the usage of the infiltration law in order to arrest asylum seekers arriving from Egypt, served on April 11, 2006.

⁸ HCJ petition 7302/07 Hotline for Migrant Workers and others against the Minister of Defense and others: against "Hot Returns" of refugees and asylum seekers from Israel to Egypt, served on August 28, 2007 by 6 NGOs: The Refugee Right Program at TA University, The Hotline for Migrant Workers, The Association for Civil Rights in Israel, The Israel Religious Action Center, Physicians for Human Rights, Assaf – Aid Organization for Refugees and Asylum Seekers.

began conducting the medical tests for asylum seekers in Ketziot. A new section was added to Ketziot prison.

Early December, 2008: Some 75 women and children seeking asylum underwent medical tests and were released from Ketziot prison.

December 10, 2008: In a Supreme Court hearing regarding the petition for medical testing, the judges request that the authorities develop a procedure ensuring that asylum seekers will not remain in prison solely because they are waiting for tests. Nine human rights organizations petition the Supreme Court against the deportation of asylum seekers from Eilat⁹.

December 16, 2008: The Israeli Eritrean Committee organizes a demonstration in front of the government offices in Tel Aviv. Some 900 refugees who attended demanded access to the Refugee Status Determination procedure. The Ministry of Interior claimed in response that Eritreans are not officially recognized as refugees.

December 25, 2008: The High Court responded to a petition filed by nine human rights NGOs. They ordered the placement of temporary restriction on enforcement agencies (The Immigration Authority and the Ministry of Industry, Trade and Labor's Enforcement Unit) in actions against asylum seekers and their employers in Eilat. This decision is valid until further decision.

During the 2008 calendar year: According to the UNHCR in Israel, 7,681 asylum seekers entered Israel.

January 8, 2009: the International organization "Human Rights Watch" reported "*Since mid-December, the Egyptian authorities have detained dozens of Eritreans in the Nakhil detention center...In December, two Eritrean rights defenders contacted four detainees, who said that all 98 persons then detained at Nakhil had tried to enter Israel and were forcibly returned by the Israeli army to Egypt... at least 45 were deported. Detainees reported that Egyptian prison guards badly beat several persons, including a woman who was four months pregnant, who refused to be transferred from Nakhil, believing she would be deported.*"¹⁰

February 3, 2009: The Prime Minister and other officials "discussed how to manage the phenomenon of infiltration at the Egyptian border." They decided to establish an inter-ministerial committee headed by the Director of the Population Registry and the Immigration Authority at the Ministry of Interior - Yaacov Ganot. This committee "was tasked with creating policy which would outline the areas where infiltrators can reside until they are able to be deported from Israel"¹¹.

⁹ HC petition 10463/08, ARDC and others against the Ministry of Interior and Others, asking to cancel the Ministry of Interior's decision not to allow asylum seekers to reside in Eilat, served on December 10, 2008 by 9 NGOs: ARDC – African Refugees Development Center, The Refugee Right Program at TA University, The Hotline for Migrant Workers, The Association for Civil Rights in Israel, Bnai Darfur, The Israel Religious Action Center, Rabbis for Human Rights, Physicians for Human Rights, Assaf – Aid Organization for Refugees and Asylum Seekers

¹⁰ <http://www.hrw.org/en/news/2009/01/08/egypt-stop-deporting-eritrean-asylum-seekers>

¹¹ The quotation is taken from the State Attorney's updating message to court on February 5, 2009: HC 10463/08 ARDC and others against the Ministry of Interior and Others, served on December 10, 2008.