



## Africa: Israel/Africa - Denying Refugee Rights

25 JUNE 2012

Last week Israel began deportation of South Sudanese and Ivorian asylum seekers. Other asylum seekers, primarily from Sudan and Eritrea, remain in an indefinite limbo, with no procedure established for individual evaluation of their claims to refugee status and no rights to work or social welfare.

Meanwhile, government officials, including Interior Minister Eli Yishai and Prime Minister Benjamin Netanyahu, have made inflammatory speeches which have helped fuel attacks against African asylum seekers and immigrants.

In recent months this situation has attracted significant international attention, including news reports and critiques from both Israeli and international human rights organizations.

*This AfricaFocus Bulletin includes:*

*(1) A petition to U.S. officials on the issue, initiated by the Priority Africa Network, the National Network for Immigrant & Refugee Rights, and other groups. To sign the petition, go to:*

*<https://www.change.org/petitions/stop-the-persecution-of-african-refugees-in-israel>,*

*(2) a report from Human Rights Watch, and (3) a report from the Refugees' Rights Forum in Tel Aviv.*

*Additional sources include:*

*African Refugee Development Center <http://www.ardc-israel.org/>*

*"Rights Groups Protest Israeli Arrests of African Migrants," by Scott Bobb Voice of America, June 11, 2012 <http://www.voanews.com/articleprintview/1205978.html>*

*"Should Israel be responsible for immigrants?" Al Jazeera, Inside Story, May 29, 2012*

*<http://www.aljazeera.com/programmes/insidestory/2012/05/20125291044273790.html>*

*"Immigration in Israel: African outcasts in the promised land," Independent, June 25, 2012*

*<http://tinyurl.com/73s9ocb>*

*U.S. Department of State Country report on Human Rights Practices - section on Israel (see section on Protection of Refugees) <http://tinyurl.com/7ttDalh>*

*For previous AfricaFocus Bulletins on migration issues, visit <http://www.africafocus.org/migexp.php>*

### **Update - Petition to Reject "Terrorist" Designation for Boko Haram**

The U.S. government on June 21 officially listed three leaders of Boko Haram in Nigeria as "terrorists." <http://tinyurl.com/6o3pfsp>

There is continued pressure from Republican members of Congress and from securocrats in the administration to list the group as such as a "Foreign Terrorist Organization," a step which would be a hard-to-reverse mistake with farreaching negative consequences for Americans and Nigerians.

The petition initiated by AfricaFocus Bulletin last week is addressed not only to administration officials to also to key members of Congress. They need to hear from you. Sign now!

<http://www.signon.org/sign/reject-terrorist-designation>

A report for the Congressional Research Service in 2003 detailed the numerous consequences of listing as a "Foreign Terrorist Organization," putting U.S. policy into a rigid "counterterrorist" framework rather than dealing with the specifics of a particular national situation. See:

<http://www.fas.org/irp/crs/RL32120.pdf>

For more background go to <http://www.africafocus.org/docs12/bh1206.php> - - **Editor's Note**

### **Stop the Persecution of African Refugees in Israel**

*Petition initiated June 19 by Priority Africa Network and other groups*

*To sign the petition, go to: <https://www.change.org/petitions/stop-the-persecution-of-african-refugees-in-israel>*

We, the undersigned organizations and individuals, are deeply disturbed by recent reports of the persecution of African refugees and asylum seekers in Israel.

Israel is one of the strongest allies of the United States and receives more economic aid and military funding than any other country in the world.

We strongly urge President Obama, Secretary of State Clinton, and the Bureau of Population, Refugees and Migration of the US State Department to send a clear message to the State of Israel condemning recent policies and actions that persecute African immigrants and refugees on the basis of their race, and that fail to protect them as mandated by international law.

In the past year and half, we have witnessed and received reports of violence against African migrants and asylum seekers. Racist language inciting violence is used not only by right-wing organizations and politicians, but also by government officials. There have been alarming increases in daily harassment, beating, torching of houses as well as the denial of housing, employment and health to thousands of innocent African migrants who are simply trying to live and survive. These abuses have been noted by the news media, independent human rights groups, and by the U.S. Department of State in its Country Reports on Human Rights Practices for 2011.

The country of Israel was built by immigrants and refugees, and its citizens know better than most about racial and religious persecution. These recent acts of violence against African migrants should be condemned by the international community. The government of Netanyahu and organs of the state have not only failed to protect African migrants and asylum seekers as they are mandated; they have enabled an atmosphere of racism, hate, and persecution.

There are approximately 60,000 African asylum seekers in Israel at this time. This is a small number in comparison to the over 1.6 million Israeli Jews born in other countries. These asylum seekers pose no threat to the economic or political security to the country. They are not "work infiltrators" as the government calls them but refugees whose claims for asylum have yet to be heard. Recent Israeli policy towards African refugees has given us deep concern and prompted us to write this urgent letter.

In particular, we draw attention to the following:

- Measures to detain African refugees for up to three years without due process. This "anti-infiltration law" as it is known is not only immoral and violates international convention, but goes against the stated nature of a "democratic state";

- Mass deportations of African refugees that result in the return of countless individuals to countries they fled due to fear for their lives; we have ascertained in many cases where they face long term imprisonment or even death.
- The current enlargement of Saharonim Detention facility in Negev and the building of a 'tent city' as a temporary detention camp for refugees and their families in South Israel. Such practices are inhumane as temperatures in the area are known to exceed 120°F and will undoubtedly be unbearable especially for young children. (International research has found that immigration detention is harmful to the health and wellbeing of those detained, both in the short and long term. Children are particularly at risk; the potential for negative psychological, emotional and physical impact on children has been well documented. Furthermore, although detention is extremely expensive for states, there is no evidence that detention actually deters irregular migrants.
- Detainees will also be deliberately segregated from others on the basis of race and will be deprived of basic human rights and access to adequate housing, health care and education.

Israel does provide full citizenship of Ethiopian and other Jews of African descent. It has affirmed itself as a democratic state that does not discriminate on the basis of race. Yet, Interior Minister Eli Yishai recently stated that Israel "belongs to the White Man" and is taking measures to deport and detain thousands of refugees from Sub Saharan Africa because they supposedly 'threaten the Jewish identity of the Israeli state'.

We know that security concerns have driven Israeli policy in past decades where extreme measures have been used as justification for violations of the human rights of Palestinians and other citizens. We do not deny that Israel has the right to exist and to protect its borders and citizens. But we strongly object that these concerns are used to segregate, oppress, and even kill others.

We therefore call on the government of the United States to send a clear message to Israel to institute immediate measures to protect the lives of thousands of recent refugees especially from Eritrea and Sudan but also from other Sub-Saharan African countries. As asylum seekers with solid presumptive claims to refugee status, they have civil and human rights which they are entitled to as mandated by international conventions to which Israel is a signatory.

### ***Signatory organizations***

*National Network for Immigrant & Refugee Rights (NNIRR) Priority Africa Network (PAN) The Black Immigration Network (BIN) Black Alliance for Just Immigration (BAJI) AfricaFocus Bulletin International Detention Coalition (IDC) International Commission on Eritrean Refugees (ICER) African Refugee Development Center*

### **Israel: Amend 'Anti-Infiltration' Law**

*Measure Denies Asylum Seekers Protections of Refugee Convention*

*June 10, 2012*

*Human Rights Watch <http://www.hrw.org>*

(Jerusalem) - The Israeli parliament should immediately repeal or amend a newly revised law that punishes asylum seekers for irregularly crossing into Israel, in violation of their basic rights, Human Rights Watch said today. Until the law is amended, Israeli officials should not enforce provisions that violate international refugee standards, Human Rights Watch said.

The new Prevention of Infiltration Law treats all irregular border-crossers as "infiltrators." Against a backdrop of anti-immigrant speeches by senior Israel politicians and rising violence against sub-Saharan

Africans in Tel Aviv, Jerusalem, and Eilat, Israeli Interior Minister Eli Yishai announced on June 3, 2012, that the ministry would begin enforcing the law.

"Israeli officials are not only adding rhetorical fuel to the xenophobic fire, but they now have a new law that punishes refugees in violation of international law," said Bill Frelick, Refugee Program director at Human Rights Watch. "The law should be amended immediately, and not enforced until necessary revisions are made."

On January 10 the Knesset amended the 1954 Prevention of Infiltration Law to define all irregular border-crossers as "infiltrators." The law permits Israeli authorities to detain all irregular border-crossers, including asylum seekers and their children, for three years or more before their deportation. The law also allows officials to detain some people indefinitely, even if border control officials recognize they might face persecution if returned to their country.

In addition, the law gives the authorities the discretion to prosecute irregular border-crossers for unlawful entry, which it defines as the crime of "infiltration." Punishing asylum seekers for unlawful entry is a violation of international refugee law. The law states that the detention of irregular border-crossers falls under an administrative procedure that does not guarantee them access to a lawyer to challenge their detention. Subjecting irregular bordercrossers to potential indefinite detention without charge or access to legal representation would violate the prohibition against arbitrary detention under international human rights law, Human Rights Watch said. In recent weeks unidentified assailants have committed at least seven serious assaults throughout Israel, most against sub-Saharan Africans, including firebombs thrown into residences, an arson attack against a preschool, smashing of car windows, and the beating of a hotel employee. On June 4, unknown assailants set fire to an apartment in Jerusalem where seven Eritrean and Ethiopian migrants were living, according to police and Human Rights Watch interviews with the residents.

Israeli government officials have recently made statements against the African migrant population that have contributed to an anti-migrant atmosphere, Human Rights Watch said. On May 16, Interior Minister Eli Yishai told Israeli Army Radio that most African migrants were involved in criminal activities and should be jailed, the newspaper Haaretz reported.

At a demonstration on May 24 where Israeli residents called for the eviction of African asylum seekers from southern Tel Aviv, Miri Regev, a member of parliament, said that, "The Sudanese are a cancer in our body." Another parliamentarian who addressed the demonstrators, Danny Danon, said that "an enemy state of infiltrators was established in Israel, and its capital is south Tel Aviv," according to his Facebook page. Following these and other speeches, some demonstrators attacked African migrants and their property in the vicinity.

Prime Minister Benjamin Netanyahu denounced the violence, and Israeli police say they have made dozens of arrests related to anti-migrant attacks, according to news reports. Yishai also criticized the violence, but continued to make derogatory statements about migrants. On May 31, according to The Guardian, Yishai stated in an interview that "southern Tel Aviv has become the country's garbage can," and claimed that "there are a lot of women in Tel Aviv who have been raped [by African migrants] but are afraid to complain so that they don't get stigmatized as AIDS carriers." On June 3, Yishai told the newspaper Maariv that, "Muslims that arrive here do not even believe this country belongs to us, to the white man," and that he would use "all the tools to expel the foreigners, until not one infiltrator remains."

As of June 6, the webpage of the Shas party, which Yishai leads, published an open letter to "the Sudanese" that described African migrants as "a society personifying a social time bomb of robbery, violence, sodomy, as well as assimilation alongside the destruction of the institute of marriage and the proper family unit."

The government and the United Nations High Commissioner for Refugees (UNHCR) estimate that since 2005, around 60,000 Africans have entered Israel somewhere along the 240-kilometer border with Egypt after passing through the Sinai desert. Many of the migrants and asylum seekers fall victim to abusive human traffickers en route to Israel, particularly in the Sinai [7].

The only official border crossing is at Taba, at the southern-most tip of the Israeli-Egypt border. No bordercrossers have claimed asylum at Taba, probably due to their fear of arrest by Egyptian authorities. Egyptian border police have refused to allow asylum seekers to travel to Israel and have fatally shot scores and arrested hundreds of people over the past few years.

Israel is building a fence along the border to prevent irregular crossings and expanding a detention facility for irregular border-crossers from 2,000 beds to around 5,400, according to Israeli refugee rights groups.

The Prevention of Infiltration Law was originally enacted in 1954 in response to cross-border attacks against Israel by armed groups from nearby countries. It limited the definition of "infiltrators" to Palestinians and nationals of Arab countries with which Israel was at war. The 1954 law could be applied only during a "State of Emergency," which Israel has declared anew each year since 1948. As amended, the law will apply to all foreign nationals and its harsh penalties, including potential indefinite detention without access to legal counsel, will remain in effect even if Israel cancels the state of emergency.

The new law's explanatory notes state that it is intended to penalize irregular border-crossers as "infiltrators":

In recent years, the State of Israel has faced a drastic increase in the scope of infiltration across the border with Egypt - in 2010 alone 14,000 infiltrators were caught. The infiltrators into Israel come from various countries, including countries that are hostile to Israel. Currently, the infiltrators are placed in detention but they are released after a relatively short period of time. In practice, this creates a situation in which there is an incentive for a wave of increasing infiltration.

Israel is a state party to the 1951 Refugee Convention and its 1967 Protocol. The Interior Ministry created a "Refugees and Infiltrators Unit" that took over responsibility for refugee status determination from the UNHCR in July 2009 on the basis of procedures created by the ministry, but Israel does not have specific legislation setting out the rights of asylum seekers and refugees.

### ***Prolonged Detention and Lack of Legal Representation***

Under the new law, if the defense minister or a designated official orders an irregular border-crosser's deportation, the person is to be detained until that happens unless the person is granted a permit to reside in Israel. The law appears to guard against the forcible return of refugees to countries where they face persecution by stating that officials will not deport anyone until they have decided whether or not it is "possible to do so by taking into account the personal circumstances of the infiltrator and the destination country for his deportation." However, the law does not require officials to release anyone believed to be at risk of persecution if deported.

The new law allows border officials and detention tribunals to release detainees "with a monetary guaranty, a bank guaranty, or another suitable guaranty" if their age or physical condition means detention would harm them, if there are other "special humanitarian grounds," if release would "assist in the infiltrator's deportation proceedings," or on other grounds, including if they have been detained for three years.

However, the law obliges Israeli authorities to deny bail in several circumstances, including for people coming from a "state or region" where "activity is being carried out that is liable to endanger the security of the State of Israel or its citizens." This applies even when there is no evidence that the detainee participated in such activity, and even if the person claims to have fled persecution or generalized violence in that state or region. In such cases, officials may keep border-crossers, including asylum seekers, in detention indefinitely.

The law states that Israel's criminal procedure law, which protects rights such as a suspect's right to a lawyer and to be presented before a court, does not apply to those detained under the administrative procedure. Instead, a special Detention Review Tribunal must review the detention decision within 14 days. The Tribunal can order the person held, in which case it must review the case at least every 60 days, or release the detainee on bail. Detainees do not have the right to a lawyer before the tribunal, but may appeal the tribunal's decision to an administrative court.

The International Covenant on Civil and Political Rights (ICCPR) prohibits arbitrary detention. Article 9 of the ICCPR provides that anyone deprived of their liberty has the right to challenge their detention before a court. The right of access to effective legal counsel is widely considered to be an essential component of the right to liberty of person. For instance, the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment provides that, "A detained person shall be entitled to have the assistance of a legal counsel."

Further, in laying out principles to protect detained immigrants, the United Nations Working Group on Arbitrary Detention has stated that any detention term must have a "maximum period" set by law and not be of "unlimited or of excessive length."

### ***Criminalization of Asylum Seekers Who Make Irregular Border Crossings***

Under the new law, Israeli authorities have discretion to prosecute an individual for the crime of "infiltration," even if the person has requested asylum. The crime is punishable with up to five years in prison, which may be increased to seven if the person previously attempted to enter Israel irregularly.

The Refugee Convention prohibits the imposition of penalties on refugees because of their illegal entry or presence, if they present themselves to the authorities without delay after entering the country and have good cause for their illegal entry or presence.

"The Anti-Infiltration Law punishes extremely vulnerable people for their attempts to flee to safety in Israel," Frelick said. "Israel should not treat asylum seekers as criminals or subject them to harsh penalties."

Significant numbers of asylum seekers and other migrants began crossing into Israel from Egypt via the Sinai in 2007. According to the US Department of State, Sudanese and Eritrean asylum seekers, who constituted approximately 85 percent of all asylum seekers in Israel in 2011, were not allowed access to asylum procedures but were given renewable "conditional release" documents that deferred deportation

and had to be renewed every few months; some reported problems such as delays in renewing their documents. The Israeli government reported that 16,000 people entered irregularly in 2011, including Eritreans and Sudanese. According to UNHCR, in 2011 there were 4,603 new asylum applications and the government rejected 3,692 and granted refugee status to one family.

### **African Asylum Seekers Arriving in Israel via the Sinai Desert**

*Position Paper June 2012*

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*[Full text including footnotes available at <http://tinyurl.com/7af74c7>]*

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%). 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%. 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.

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. Testimonies of over 1,000 survivors recorded at PHR-Israel's Open Clinic since 2010 revealed that 59% of the interviewees described being subjected to torture 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 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.

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.

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.