Promotion of Rights for Asylum Seekers in Israel Coping with Disabilities

Background paper (June 2017)

According to Israel’s Population and Immigration Authority, as of the end of 2016, there were 40,274 asylum seekers living in Israel, most of them from Eritrea and Sudan.\(^1\) Israel adopts a policy of non-refoulment, while leaving the asylum-seekers without a permanent legal status and without access to basic rights. The National Health Insurance Law does not apply to them, and therefore they have no access to public health services, except in emergency situations. Similarly, the National Insurance Law excludes asylum-seekers and they enjoy extremely limited access to social services. At-risk minors, victims of human trafficking recognized by the Israeli Police, and victims of domestic violence who are in immediate danger can receive certain welfare services. Additionally, asylum-seekers do not hold official work permits.\(^2\) Although the State of Israel is a signatory to the UN Convention Relating to the Status of Refugees (1951), it has granted only a handful of asylum-seekers refugee status, while depriving unrecognized refugees of basic rights, keeping them in a state of poverty and severe hardship.

This lack of legal status and access to health and welfare services or official employment negatively affects the entire population of asylum-seekers, but is particularly harmful to those coping with disabilities. This paper seeks to shed light on the particular challenges of asylum-seekers living in Israel who are coping with disabilities, and calls for advancing their rights and improving their living conditions in various aspects, including their access to medical and rehabilitative care, social services and occupational rehabilitation. Israel is obligated to provide these rights as a signatory of several international conventions pertaining to this matter, due to its commitment to equal opportunities for persons coping with disabilities, and in accordance with the Israeli Basic Law: Human Dignity and Liberty.

**Barriers, Difficulties, and Challenges**

According to estimates of aid organizations, of the approximately 40,000 asylum-seekers living in Israel, several hundred are coping with physical disabilities. These disabilities are largely the

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1. [https://www.gov.il/BlobFolder/generalpage/foreign_workers_stats/he/foreigners_in_Israel_data_2016_0.pdf](https://www.gov.il/BlobFolder/generalpage/foreign_workers_stats/he/foreigners_in_Israel_data_2016_0.pdf)
2. When it comes to employment, the government maintains a policy of "non-enforcement", based on the 11 December 2011 governmental decision no. 3936
result of hardships they encountered when fleeing their countries of origin, particularly shooting incidents on the Israel-Egypt border or the torture camps in Sinai. Other disabilities are the result of work or traffic accidents in Israel, or various illnesses. Moreover, it is estimated that there are several thousand asylum-seekers in Israel who were kidnapped, held for ransom and tortured by human traffickers in the Sinai Peninsula. These survivors of torture live among us, suffering from mental health disorders, with a high incidence of post-traumatic stress disorder (PTSD), depression and anxiety.³

The lack of permanent legal status in Israel and the challenges of immigration exacerbate the "ordinary" challenges common to all those coping with disabilities. Below are some of the main barriers they face:

**Health Services:** Since the National Health Insurance Law (1994) applies only to Israeli residents, asylum-seekers, including those coping with disabilities, are denied regular access to public health services and are entitled to treatment only in cases of emergency, in accordance with the Law of the Rights of the Patient (1996). Those with disabilities who are still able to work on a regular basis, and whose employers provide their workers with private health insurance, as mandated by the Foreign Workers Law (1991), are still denied many essential health services under these insurance plans, which limit, among other things: treatment for ‘pre-existing conditions’, rehabilitation, and offer coverage for mental health services only in cases of emergency. The lack of access to community health services is particularly harmful for asylum-seekers coping with disabilities that require follow-up treatment, medication, and rehabilitation.

**Social services:** The vast majority of asylum-seekers, including those coping with disabilities, are denied access to social services, as a rule. According to the policy of the Ministry of Social

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³ A study of the state of all asylum-seekers who passed through the Sinai desert on their way to Israel, conducted recently by the University of Haifa in cooperation with Physicians for Human Rights, presents disturbing data. The psychological distress rate among the subjects was unusually high: between 42% - 76% of men and between 35% and 59% of women had symptoms of PTSD (dependent on the diagnostic criteria), including nightmares, intrusive memories, anxiety, fears and dissociation. About 24% of the men and 28% of the women suffer from depression. By comparison, only eight percent of the general population in the United States suffers from post-traumatic symptoms, and about seven percent suffer from depression, and in Israel 7-10% of the general population suffers from PTSD, and about six percent suffer from depression.
Affairs, only children at risk, victims of domestic violence who are in immediate risk, and recognized victims of trafficking receive certain services today. In addition, the National Insurance Law (1995) does not apply to asylum-seekers, and therefore they are unable to receive assistance that they may require and to which Israeli residents are entitled, such as financial assistance, placement into assisted housing, employment partially financed by the government, social rehabilitation, etc. In addition, most asylum seekers live in Israel without a family, and communal support networks are weak. As a result, people coping with disabilities often find themselves without material and emotional support from relatives or friends. The lack of access to welfare services increases the distress of asylum-seekers who need assistance and financial support due to their disabilities.

Employment: Under its current policy, the Israeli government does not grant work permits to asylum seekers. However, it also does not enforce the law, thus allowing employers to hire asylum seekers without being subjected to fines. Most asylum seekers are employed in positions and sectors entailing physical labor, and spend long hours at work. This type of work is not suitable for people coping with disabilities, and hence people with disabilities often struggle to find employment and to support themselves. Given the absence of government stipends or other forms of assistance, they find themselves dependent on the generosity of their fellow community members, as well as non-governmental organizations whose resources are stretched thin.

Lack of Information and Difficulties in Realizing Rights: Asylum seekers with disabilities are often unaware of the meager services that are available to them. In addition, they are often not fully aware of the severity of their health issues and the type of services they require. Moreover, asylum seekers are naturally suspicious of the Israeli state, which views them as "infiltrators", and thus they often face fears trying to access the few services to which they are entitled, even if those are provided by state institutions such as the ministry of health or ministry of social services, and not by the Population and Immigration Authority, which leads the charge in persecuting them.

Israel's Obligation to the Advancement and Equal Rights of People Coping with Disabilities Regardless of Civil Status
The State of Israel is obligated to uphold the rights of asylum-seekers coping with disabilities, in accordance with the 1998 Law of Equal Rights for People with Disabilities, which states that "the rights of people with disabilities and the commitment of Israeli society to upholding these rights are based on the recognition of the principle of equality, the worth of human beings created in the image of God, and the principle of human dignity." The purpose of this law is "to protect the dignity and liberty of people with disabilities, and to enshrine their right to equal and active participation in society in all spheres of life, and to respond to their special needs in a way that enables them to live life with maximum independence, in privacy and dignity, while realizing their full potential" (Ibid, Section A).

Additionally, the State of Israel is signatory to international conventions that obligate it to ensure equal treatment for all people dealing with disabilities. For example, according to the International Convention on the Rights of Persons with Disabilities (2006), the State of Israel is obliged to recognize the right of asylum-seekers to equality, including medical treatment, training and rehabilitation (Articles 25 and 26), employment (Article 27) and to an adequate standard of living and social protection (Article 28). The Convention on the Rights of the Child (1989) and in particular articles 22-24 refer to protection of children, including refugees, and those who face physical or mental disabilities. The UN Convention Relating to the Status of Refugees (1951) also obligates states to provide refugees with social security (Article 23), including to those coping with disabilities (Article 24).

In 2014, Israel’s State Comptroller published a comprehensive report lambasting the government’s current policy toward asylum-seekers. The report details the grave consequences of failing to provide asylum-seekers with health and welfare services, and how this policy particularly harms the most vulnerable populations among them, including people with physical disabilities or mental illnesses.

"The Comptroller is concerned that this policy leads to treatment that does not conform with the provisions of the Israeli Basic Law: Human Dignity and Liberty (dignity, physical integrity, basic social security) and the Convention on Social Rights. The Ministry of Social Affairs, in cooperation with the Ministry of Justice and the Ministry of Finance, must make the necessary policy changes to comply with the requirements of the law, including the provision of reasonable resources for this matter. If there are obstacles, it
is incumbent upon the minister of social affairs to present them to the government and, 
if necessary, to raise them again until a solution is found" (p. 67).

Following the State Comptroller’s report and hearings held by the State Control Committee of the Knesset and the Labor, Welfare and Health Committee, a professional team at the Ministry of Social Affairs recently formulated a policy document to address most of the deficiencies raised in the State Comptroller’s report. The policy document, published in March 2017, includes a section entitled, “People with severe disabilities without basic independent functioning,” which includes recommendations such as housing solutions for people coping with physical disabilities and mental illness, a daycare center for people coping with disabilities, and employment partially financed by the State. The new recommended policy of the Ministry of Social Affairs is yet to receive a budget to allow for its implementation. The Ministry of Health also submitted a report concerning deficiencies presented in the State Comptroller’s report, and even recently declared that the ministry is examining comprehensive solutions to the question of access to health services among asylum-seekers. However, although the Ministries of Health and of Social Affairs recognize the harmful consequences of their policies on all asylum-seekers, and particularly the most vulnerable among them, their policies remain the same.

Summary and Recommendations

It is not the role of non-governmental organizations to perform the functions of the State authorities such as the Ministry of Health, the Ministry of Social Affairs and the National Insurance Institute. These bodies must ensure access of people coping with disabilities to health, welfare and public assistance services according to the same standards as those offered to the country’s citizens, to enable them to live in dignity and to provide them with the support, assistance and treatment they deserve.

Asylum-seekers coping with disabilities are in great need for services from State institutions, and these institutions must establish clear procedures as well as divide responsibilities between them. Authorities should:

1. Collect data regarding the number of asylum-seekers coping with disabilities. This data will facilitate the formulation of a clear and effective policy that will benefit them.
2. Apply a comprehensive insurance arrangement subsidized by the State that will allow asylum-seekers, including those who are coping with disabilities, to receive health services.

3. Apply the National Insurance Law to asylum-seekers, including those who cope with disabilities.


5. Make rehabilitation services for mental illness available to asylum-seekers.

6. Ensure access to welfare services, especially for asylum-seekers coping with disabilities.

7. Ensure access to employment adapted for their needs and capacities.