

## **Asylum Seekers from Sudan and Eritrea - Situational Report, October 2020**

**“No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.”**

Article 33 in the International Convention Relating to the Status of Refugees

According to the [data of the Population and Immigration Authority](#) there are currently 28,000 asylum seekers from Eritrea and Sudan residing in Israel (23,100 from Eritrea and 6,400 from Sudan). **Israel recognizes that the lives of these refugees will be in danger if they are refouled to their countries of origin, and therefore has refrained from deporting them.** Their residency in Israel is legal and regulated. They hold type 2A5 visas, which they must renew annually or every six months. **Approximately 14,000 of the asylum seekers reside in south Tel Aviv.** The rest (in considerably lower numbers) reside primarily in the cities: Ashdod, Eilat, Bnei Brak, Petah Tikva, Jerusalem and Beersheba.

Despite having lived in Israel for nearly a decade (and some for more than this period) and despite the recognition that the asylum seekers would be in danger should they be deported to their countries of origin, **Israel denies them recognition as refugees, and applications for asylum that have been submitted fail to be reviewed.** As of May 2019, over 15,000 applications for asylum submitted by asylum seekers from Eritrea and Sudan remain pending, and some of these applications have been awaiting resolution for many long years.<sup>1</sup>

Throughout the world, asylum seekers from Eritrea and Sudan are recognized as refugees. Conversely, the percentage of asylum seekers that are recognized as refugees in Israel is very low in comparison to other places in the world: **to date only 13 asylum applications from Eritreans and only one asylum application from a Sudanese have been granted (less than half a percent)**; 600 Sudanese from the Darfur region received refugee status (A/5) as a result of the Minister of Interior's 2007 decision, without examining their asylum applications, and approximately 800 asylum seekers from the Darfur region, Nova region and the Blue Nile received temporary residency (A/5) for humanitarian reasons. These A/5 visas enabled them to procure work permits, health insurance and access to social services, however, this also took place without Israel having examined their asylum applications. The lack of recognition of these asylum seekers as refugees is not a mistake, [it is an intentional policy.](#)

In Europe, : approximately 70% of Eritrean asylum seekers receive recognition of their status as refugees. If we add to this the number of people who receive supplementary protection (which includes health and welfare services, social security, work permits and assistance with employment

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<sup>1</sup> The data was received as part of the case presented in the Supreme Court Gresgahar and Others Vs. the Knesset and Others, reply of the State from 26/6/2019

and adapting to a foreign language), their percentage reaches approximately 90%. 50% of asylum seekers from Sudan receive recognition of their refugee status in Europe, and if we add to this the number of Sudanese receiving supplementary protection, the percentage reaches 60%.

#### **The situation in Eritrea:**

Eritrea is a repressive dictatorship, second only to North Korea, restricting the basic freedoms of its citizens and instituting compulsory military service for an indefinite period. Military service in Eritrea involves hard labor, exploitation, corporal punishment and even sexual exploitation. The recently signed and welcome peace agreement between Ethiopia and Eritrea may mark the beginning of change for both countries and for East Africa as a whole. So far, however, [the human rights situation in Eritrea](#) has remained as harmful as ever. The UN High Commissioner for Refugees has recently reiterated its [explicit statement](#) that **in view of the ongoing human rights violations in Eritrea, the vast majority of Eritreans in Israel cannot return safely to their country.**

#### **The situation in Sudan:**

On April 11, 2019, President Omar al-Bashir was ousted following widespread popular protest, and the military seized power. Senior members of the military council are military personnel and militia commanders who bear direct responsibility for the genocide in Darfur and ethnic cleansing and human rights violations in the Nova Mountains, the Blue Nile region and other areas. Since April, the military regime has carried out violent attacks on civilians across the country in which hundreds of people have been injured and murdered, and masses have been brutally raped. In July 2019, the formation of a transitional government was declared and elections were scheduled for November 2022, but since then, [additional violent incidents](#) have continued to occur, leading to the displacement of tens of thousands from their homes.

In October 2020, the establishment of a diplomatic agreement between Israel and Sudan was announced. It is important to note that this does not allow the deportation of asylum seekers to Sudan. **Israel must examine asylum applications according to the Refugee Convention and grant status to those who are entitled to it, regardless of diplomatic relations with the country from which they fled.** Many countries in the world have diplomatic relations with Sudan, and have [Sudanese diplomatic representation](#), and yet they still host Sudanese refugees in their territory due to the rising violence in the region and the dangers that await the refugees upon their return. Currently the situation in Sudan is far from offering a safe solution for refugees and displaced persons. In response to the current situation, [Israel's Minister of the Interior informed the Supreme Court](#) that despite the state's commitment, the examination of asylum applications by Sudanese people will be halted altogether, at least until the regime stabilizes in their country. **Israel admits that asylum seekers cannot be returned to Sudan due to a tangible fear for their lives and freedom - but at the same time refuses to fulfill its duty and grant them refugee status.**

**Employment:** The 2A5 type visa held by asylum seekers does not grant them a work permit, but as early as 2011 Israel committed (before the Supreme Court) to refrain from enforcing punitive actions against their employers. This is a vague non-enforcement arrangement which is incomprehensible to

the public and which fails to serve as a substitute for an orderly policy. It leads to the exploitation of employees, impairs their ability to earn a decent living and creates difficulties for their employers.

**Deposit Law:** In May 2017, the Deposit Law came into force, according to which employers are required to deduct 20% of the salary of employees who are asylum seekers and deposit this amount in a designated deposit fund that is supposed to be handed over to them when they leave Israel. This has led to a significant deterioration in the socio-economic situation of asylum seekers. On April 23, 20, [a ruling was given by the Supreme Court](#) regarding the Deposit Law for Asylum Seekers, in a petition filed in 2017 by asylum seekers and a number of organizations. The Supreme Court, by a majority of six judges, decided **to repeal the provision requiring the employer to deduct 20% of the salaries of asylum seekers, and demanded that employers return the funds deposited so far.** The president of the Supreme Court, Esther Hayut, ruled that "the use of economic incentives is a legitimate means of implementing immigration policy, but the measure chosen in our case - denying one-fifth of the employee's salary until he leaves Israel - clearly violates the infiltrator employee's right to property."

**The Deposit Law Qualified Delinquent Employers:** Many employers deducted 20 percent from the salary of asylum seekers each month, however, they failed to deposit the deducted amount in the deposit fund and in fact pocketed the money themselves. **According to the [Calcalist survey](#), approximately 72% of the deposits that employers were supposed to transfer to the Immigration and Population Authority for asylum seekers under the Deposit Law were not actually transferred.** These amounts total more than NIS 700 million. Now that the law has been repealed, Israel must enforce and oversee the return of the money which was stolen from asylum seekers.

### **Health: A Policy Endangering the Well-Being and Lives of Asylum Seekers**

Israel does not apply the National Health Insurance Law to asylum seekers and as a result they have no access to public health services except in life-threatening emergencies. In order to receive treatment, asylum seekers are forced to wait for their condition to deteriorate, since only then will they receive treatment in the hospital emergency room. Moreover, once their condition stabilizes, they are released to their homes without further treatment, follow-up or medication. [In a 2014 report](#), the State Comptroller notes that the existing limited access to health services for asylum seekers is inconsistent with the provisions of the Basic Law: Human Dignity and Liberty, and with the conditions of the International Covenant of Economic, Social and Cultural Rights. The Ministry of Health admits that the services currently provided do not meet all the medical needs of asylum seekers. **The Ministry claims that it has already formulated a subsidized insurance arrangement plan for asylum seekers, which was even presented to the Ministry's Director General, however promotion of the program was halted for political reasons.**

### **Social Services: Limited Access by the Majority of Vulnerable Populations**

Following [the State Comptroller's report from 2014](#) and [a petition which was submitted to the Supreme Court](#), social services for asylum seekers were partially expanded, however, their access to these services remains very limited. In general, asylum seekers are ineligible to receive community

social services, except for minors at risk. Women who are victims of domestic violence are entitled to placement in a shelter and according to the policy of the Ministry of Labour, Social Affairs and Social Services, people with disabilities and homeless people in extreme conditions are entitled to placement in an institution. In addition, anyone who has been recognized by the Israel Police as a victim of trafficking or of being held under conditions of slavery is entitled to support services. The responses for the most vulnerable and needy asylum seekers are very limited, and it is often impossible to take advantage of the few services that are seemingly accessible to them due to various barriers, such as the lack of insurance.

**The Covid-19 crisis has caused the situation of asylum seekers to deteriorate.** Since the outbreak of the crisis, there has been an increase in the number of asylum seekers applying to aid organizations for food and basic supplies, and the fear has increased of not being able to pay rent and becoming homeless. The ongoing situation of not responding to the basic needs of asylum seekers in Israel harms not only the population of asylum seekers themselves, but also the residents of the neighborhoods in which they live. **A proper welfare and health policy for asylum seekers is not only our legal and moral duty - it would also enable the dispersal of asylum seekers across the country, would facilitate their optimal integration into society, and would reduce the poverty and congestion in the neighborhoods in which they live.**

**Israel's Detention Policy and the Infiltration Prevention Law:** The stated purpose of the Infiltration Prevention Law was to reduce the concentrations of asylum seekers in cities, especially in south Tel Aviv, and use the curbing of their as a tool to exert pressure on them to leave Israel. In its initial wording, which was consequently rejected by the Supreme Court, the law determined that asylum seekers from Sudan and Eritrea were to be indefinitely imprisoned without trial in a closed detention center. After the Supreme Court intervened, several amendments were made to the law. A maximum limit of 12 months was set at the "Holot" detention center, which opened towards the end of 2013. **The construction of the Holot facility and its subsequent operation for four years cost the taxpayer in Israel over a billion and a quarter shekels. If this same sum had been invested in the absorption of asylum seekers and their dispersal throughout the country it would have solved the issue of the burden on the neighborhoods of south Tel Aviv.** In March 2018, the government decided to close the "Holot" facility. During its four years of operation, more than 13,000 asylum seekers - all Eritrean and Sudanese men - stayed at the facility for various periods of time. During the last election, as part of the promotion of the "override clause" [which allows the Knesset to pass laws that violate the rights protected by this basic law] the Prime Minister pledged to re-enact the Infiltration Prevention Law in its extreme version, thus allowing the indefinite imprisonment of asylum seekers in a cruel and unconstitutional manner.

**Plan for Deportation to Third-Party Countries in Africa:** In November 2017, Israel announced the deportation plan for asylum seekers to Rwanda and Uganda, claiming the existence of secret agreements that permit this, and even began imprisoning asylum seekers in preparation for deportation. However, it later became apparent that both Uganda and Rwanda refused to recognize the existence of these so-called agreements, and [the deportation plan collapsed](#).

**Outline of the UN High Commissioner for Refugees** - On April 2, 2018, the Prime Minister and the Minister of the Interior held a press conference in which it was conclusively declared that Rwanda does not recognize the agreement and that it is not possible to forcibly deport asylum seekers from Israel to Rwanda. Instead, they announced and [signed an agreement](#) between Israel and the United Nations High Commissioner for Refugees, to resolve the "refugee crisis" in Israel. According to the outline, some 16,500 Eritrean and Sudanese refugees will be resettled in Western countries, while another 16,500 will receive temporary humanitarian status, allowing them to work and receive social rights. Less than a day after the announcement of the plan, which had clear benefits for Israel, the Prime Minister announced the [cancellation of the agreement](#), due to pressure from right-wing elements. The cancellation of of the UN outline means that all asylum seekers remaining in Israel are deprived of basic rights, and that the hundreds of millions of shekels that had been designated for the rehabilitation of the neighborhoods of south Tel Aviv were also canceled. The UN High Commissioner for Refugees in Israel [announced last December](#) that the outline was and remains the best way to proceed. But instead of ensuring a fair and worthy plan for their voluntary dispersal and the integration of asylum seekers, **the State of Israel has chosen to continue to neglect them as well as neglecting the rehabilitation of the South Tel Aviv neighbourhoods that the refugees were driven into from the time that they arrived in Israel more than a decade ago.**

**Instead of exploiting asylum seekers as a divisive means, instead of taking advantage of the real distress of the residents of southern Tel Aviv as a means to confront the Supreme Court, instead of promoting division and incitement - it is time to adopt [existing solutions](#) which are humane, practical and worthy.**

**The forum for Organizations for Refugees and Asylum Seekers in Israel** includes six human rights organizations, working in cooperation to promote recognition of the rights of asylum seekers and refugees in Israel; to mend the deficiencies in Government policy, and to establish an asylum policy that is befits Israel's legal and moral obligations. Members of the Forum: ASSAF - Organization of Assistance to Refugees and Asylum Seekers in Israel; The Center for Refugees and Immigrants; Kav L'Oved; The Association for Civil Rights in Israel; ARDC - Center for the Advancement of African Refugees; Physicians for Human Rights.