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Israel: Deportations of asylum-seekers must stop

In the light of new information emerging over the last week on the extent of the Israeli government's deportation of asylum-seekers, in violation of international law, Amnesty International urges the Israeli government to end all removals of asylum-seekers to their home or third countries

The new information, which was revealed by the State Prosecutor's Office in the context of a High Court of Justice hearing, on 2 June 2013, of a petition challenging the legality of the Prevention of Infiltration Law, 2012, shed light on the numbers of Eritrean and Sudanese asylum-seekers deported in violation of the international law principle of *non-refoulement*, as well as new plans to deport Eritrean asylum-seekers to an unspecified third country.

International law, including the 1951 Convention relating to the Status of Refugees, which Israel has ratified, prohibits states from returning anyone to a country where they would be at real risk of persecution or other serious human rights violations or abuses, or to a country where they would not be protected against such return (the principle of *non-refoulement*). The prohibition on *refoulement* covers all forms of forced return, including legal or other measures such as extradition, deportation, returns at the border and collective expulsion.

Although Israeli government officials have frequently spoken of plans to deport asylum-seekers and other foreign nationals to third countries, at the court hearing on 2 June 2013 the state representative claimed for the first time that the government had already reached an agreement with one such country to receive Eritrean nationals, and possibly nationals of other countries, currently detained under the Prevention of Infiltration Law, 2012. The State Prosecutor's representative also told the High Court of Justice that additional agreements for two other countries to receive Eritrean nationals had almost been completed. She stated that as the information was sensitive, she could not reveal the names of the countries involved. Later that day, Israel's Ministry of Foreign Affairs denied knowledge of any such agreements. The High Court of Justice ordered the state to submit an affidavit within a week providing information on these agreements.

Amnesty International emphasizes that agreements with third countries on the transfer of asylum-seekers are not sufficient to satisfy Israel's obligation of *non-refoulement*. Deportations in violation of the principle of *non-refoulement* are unlawful, whether or not they are conducted under such agreements.

During the same hearing, the State Prosecutor's representative also noted that in recent days the Minister of Interior had rejected the asylum claims of three Eritrean nationals and indicated that Israel is likely to reject almost all the remaining asylum applications by Eritreans. These decisions are reportedly based on the state's assumption that Eritreans fleeing forced conscription would not suffer persecution or other serious human rights violations upon return to Eritrea and thus would not qualify for refugee status.

National service conscription in Eritrea is mandatory for all adults, and though the policy provides for 18 months of conscription, in practice conscription is extended indefinitely in the majority of cases. Conscripts receive minimal pay and have no choice in their assigned role. The system of indefinite, involuntary conscription amounts to forced labour. The system also provides a context in which other human rights violations take place. Anyone caught evading or

deserting from national service is arrested and arbitrarily detained – without charge, trial or access to a lawyer. Many thousands of draft evaders and deserters have been detained without charge or trial since national service began in 1995. Amnesty International has also received information of cases in which people were arrested on the suspicion that they were intending to desert.

Anyone within the active national service age bracket of 18 to 40 years old who is forcibly returned to Eritrea will be suspected of national service evasion. Furthermore, the Eritrean government considers any request for asylum in other countries to be an act of treason. Other failed asylum-seekers, as well as suspected opponents of the government and adherents of a religion other than the four recognized by the state, face a significant risk of being subjected to detention without charge, trial or access to a lawyer, torture and other ill-treatment upon return to Eritrea.

Amnesty International thus opposes all returns of Eritrean nationals to Eritrea, or to third countries where they would not be protected against such return.

In a brief submitted by the State Prosecutor's Office to the High Court of Justice, the Israeli government also revealed that 534 Sudanese nationals detained under the Prevention of Infiltration Law, 2012, had been deported from Israel to Sudan via a third country since the law took effect one year ago. Although these individuals signed forms consenting to deportation, Amnesty International believes that these deportations cannot be considered voluntary. As Sudanese nationals, the individuals in question could be detained indefinitely under the Prevention of Infiltration Law, since Israel considers Sudan an "enemy state". In recent months Amnesty International has received numerous reports that Sudanese and Eritrean detainees were pressured to sign such forms and told by Israeli officials that "consenting" to deportation was their only way out of indefinite detention. New reports of Population and Immigration Authority officials pressuring detainees to sign forms consenting to "voluntary" deportation emerged this week.

The brief also confirmed that more than 1,500 other Sudanese nationals who were not in detention were deported to Sudan via a third country over the last year. Even though these individuals were not in detention when they signed forms authorizing their deportation, Amnesty International has serious concerns that their consent may not have been free and informed, given their lack of access to fair and effective asylum procedures in Israel, the myriad punitive measures against "infiltrators" either passed or pending in the Knesset, racist and xenophobic statements by public officials against asylum-seekers, and the growing number of attacks on individual asylum-seekers and their communities.

Sudanese asylum-seekers are at risk of harassment, detention, torture and other ill-treatment by the Sudanese security services upon return to Sudan from countries in which they have sought asylum. Sudanese nationals who are returned to Sudan from Israel face even greater risks, because Sudanese legislation imposes severe penalties on nationals who enter Israel or have contacts with Israelis.

Amnesty International opposes all returns of Sudanese nationals from Israel to Sudan, including via third countries. Since Sudan and Israel each consider the other an "enemy state," the organization believes that all Sudanese nationals in Israel are at risk of serious human rights violations upon return and are therefore in need of international protection.

The new information revealed by the State Prosecutor's Office appears to contrast with statements made by senior Israeli officials over the last three months indicating that the authorities were suspending deportations of Eritrean and Sudanese detainees. On 4 March 2013 Attorney General Yehuda Weinstein ordered Israel's Population and Immigration Authority to halt deportations of Eritrean nationals in Israeli custody to any destination outside Israel until the relevant legal issues had been clarified. Minister of Justice Tzipi Livni,

responding to an inquiry from Knesset member Dov Khenin on 19 May 2013, said this suspension of deportations also included Sudanese nationals.

Amnesty International urges the Israeli government to change course. The Knesset (Israeli parliament) should repeal the Prevention of Infiltration Law, 2012. Until that happens, the Israeli government should cease to implement the law and grant all asylum-seekers access to fair, effective and transparent asylum proceedings, outside of detention. Those found to be in need of international protection must be granted asylum in Israel.

Background

One year ago, Israel began implementing the Prevention of Infiltration Law, 2012, adopted in January 2012. This law allows for the automatic administrative detention of anyone, including asylum-seekers, entering Israel without permission, and allows detainees to be held without charge or trial for three or more years.

The law was aimed at those entering irregularly from Egypt, who are considered to be “illegal infiltrators” by the Israeli government, regardless of their potential asylum claims and the abuses that many have suffered at the hands of criminal gangs in Sinai and elsewhere.

Amnesty International opposes the Prevention of Infiltration Law, 2012 on the grounds that the automatic and prolonged detention it envisages contravenes international law and that immigration detention should never be used as a punitive or deterrent measure.

About 1,800 people are currently detained under the Law, including numerous victims of trafficking and abuse during the journey to Israel, as well as about a dozen children. The majority of these detainees are Eritreans or Sudanese who entered Israel via the Egyptian border between June and December 2012 and were detained on arrival. About 1,600 of them are held in the Saharonim detention centre in the Negev, many in tents and temporary structures despite the harsh desert conditions.

Amnesty International has long-standing concerns that Israel's asylum system lacks transparency, does not offer asylum-seekers access to fair proceedings, and is ineffective in ensuring protection. The state's brief to the High Court of Justice submitted in May 2013 admitted that it had not finished examining any of the more than 1,400 asylum applications filed by detainees held under the Prevention of Infiltration Law, 2012, despite the fact that under the law, such examinations must be completed within nine months of the asylum claim being filed.

For several years, Israel categorically denied Eritreans and Sudanese access to refugee status determination procedures, in violation of its obligations under the 1951 Refugee Convention, instead granting them temporary collective protection while simultaneously implementing a growing number of punitive measures against “infiltrators” in an effort to pressure them to leave. Although the Israeli authorities have begun to register asylum claims submitted by Eritrean and Sudanese detainees, Israel's ongoing attempts to deport Eritreans and Sudanese or transfer them to a third country prove that their temporary protection status is not enough to protect them from *refoulement*.

Concerns about Israel's asylum procedures are particularly acute for those in detention. Israeli authorities have not consistently informed detainees how they can request asylum, even when detainees have told prison authorities that they face danger if returned to their home countries. Ministry of Interior officials have denied that such declarations mark the beginning of an asylum process and instead demanded that those wishing to claim asylum fill out specific forms which were generally not provided to the detainees.

According to data released by Israel's Ministry of Interior, at the end of March 2013 there were more than 54,700 people in Israel who had irregularly entered via the Egyptian border. Of these, 66 per cent are Eritreans, and 25 per cent are Sudanese.

Further information

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