

## **Submission by the United Nations High Commissioner for Refugees**

### **For the Office of the High Commissioner for Human Rights' Compilation Report -**

#### **Universal Periodic Review:**

### **ISRAEL**

#### **I. BACKGROUND INFORMATION**

Israel acceded to the *1951 Convention relating to the Status of Refugees* in 1954 and to its *1967 Protocol* in 1968 (jointly, the *1951 Convention*). However, UNHCR would like to note that currently there is no national legal framework for the protection for refugees and asylum-seekers. Furthermore, Israel ratified the *1954 Convention on the Status of Stateless Persons (1954 Convention)*, and has signed, but not ratified the *1961 Convention on the Reduction of Statelessness (1961 Convention)*.

At present, Israel hosts over 60,000 refugees and asylum-seekers, of which the majority is Eritrean (approximately 40,000) and Sudanese (approximately 10,000).<sup>1</sup> These two groups and a lesser number of other mostly Africans are part of the ongoing influx of asylum-seekers that continue to arrive in Israel by way of the southern border with Egypt. The average number of new arrivals in 2011 was over 1,100 individuals per month, and during the first half of 2012, the influx continues at around 1,500 per month.

Until June 2012, individuals identified as Sudanese and Eritrean citizens have been receiving *de facto* “group protection” in Israel, directly registered with the Government and were released from detention. They received renewable four-month “conditional release from detention” visas, allowing them to legally and temporarily reside in the country. In June 2012, the Ministry of Interior has started to implement the amended 1954 Prevention of Infiltration Law, which imposes long term detention for all individuals who enter Israel irregularly as they are considered “infiltrators” under the law, including asylum-seekers. All persons who arrived after 13 June 2012, are being detained under the new law for a period of three years or until their deportation.

Asylum-seekers outside of detention and in the asylum procedure are provided a three-month “conditional release” visa while their refugee claim is being reviewed. Asylum-seekers do not receive a visa once their claims for refugee status have been rejected by the Government, even if they appeal to court. Many others remain for long periods of time without a visa, as the visa renewal system is not efficient. The “conditional release” visa does not allow holders’ access to basic services, healthcare or to lawful employment.

A large number of asylum-seekers are subjected to abuse and torture, including rape, at the hands of smugglers and traffickers during their journey to Israel. Since August 2011, UNHCR interviewed more than 300 men and women and unaccompanied minors who were held hostage in the Sinai en route to Israel and subjected to abuse and torture at the hands of

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<sup>1</sup> All statistics in this report are best estimates as the Government of Israel does not systematically share information with UNHCR.

traffickers/smugglers to extort money from their families. All men and women interviewed bore visible scars, wounds and injuries attesting to the physical abuse that required medical intervention. Most of these victims were identified during monitoring visits to the main detention facility in Israel for irregular migrants and asylum-seekers who enter from the Sinai border. Not all victims of trafficking and human smuggling are identified by UNHCR. Except for individuals identified in need of emergency treatment, UNHCR is particularly concerned at the lack of adequate screening procedures in detention to access health care, including the required medical attention for children and pregnant women.

In July 2009, the Ministry of Interior assumed from UNHCR primary responsibility over the registration of asylum-seekers and the process of Refugee Status Determination (RSD). In 2010, the National Status Granting Body (NSGB) reviewed 3,366 asylum applications and recognized only six asylum-seekers as refugees (a recognition rate of 0.17 per cent).<sup>2</sup> UNHCR was informed that over 3,700 cases were reviewed by the Ministry of Interior in 2011, and of these, eight asylum-seekers were recommended for refugee status to the NSGB.

While Israel continues to receive and accept asylum-seekers, measures aimed at deterring new arrivals have been implemented. The new “Anti-Infiltration” Law enforces long-term detention of persons who enter Israel irregularly. This law largely applies to individuals from Africa crossing from Egypt seeking asylum. At the same time, the construction of a barrier along the southern border with Egypt continues and is expected to be completed by the end of 2012. Additionally, the start of construction of a larger detention facility specifically for Africans entering Israel from the southern border and the Government plan to enforce heavy fines against employers that hire asylum-seekers, is evidence of the publicly described deterrence policy for all migrants/asylum-seekers who are considered “infiltrators.” Recently, the Knesset approved in a preliminary reading an “infiltrator bill”, which stipulates that any Israeli employer who employs, accommodates or transports illegal infiltrators will face a punishment of up to five years in prison or a NIS 500,000 fine.

As the number of African migrants and asylum-seekers has become more visible, UNHCR is concerned by the xenophobic statements made by some public officials in Israel. Statements have been made that “infiltrators” (asylum-seekers) are responsible for crime in Israel. Whereas the Government is seeking to give the domestic debate on asylum-seekers a more moderate character, such statements can quickly lead to highly unfavourable consequences and negatively shape public opinion. Whereas tensions have subsided, practices to deter asylum-seekers from coming to Israel are increasing. Moreover, there is no clear strategy for improving the living conditions of the large numbers of asylum-seekers/migrants, particularly in Tel Aviv.

The relationship between UNHCR and the Government has remained positive, but more coordinated efforts and sharing of information with UNHCR can improve cooperation in our support to address protection needs, particularly for vulnerable asylum-seekers. Systematically sharing demographic information of persons of concern with UNHCR and the application of UNHCR eligibility guidelines will support the increasing challenges Israel faces in providing protection for asylum-seekers in Israel.

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<sup>2</sup> Reply to a petition by Hotline for Migrant Worker’s to Administrative Appeal (Centre) 24177-01-11 (5 May 2011). The six asylum-seekers had been recommended for recognition of refugee status by UNHCR in 2009 prior to the handover of RSD to the Government.

## II. ACHIEVEMENTS AND BEST PRACTICES

UNHCR welcomes the Government's achievements in the following areas:

1. The hosting of large numbers of asylum-seekers and migrants on its territory, and the positive spirit of the Government with which a number of critical protection challenges have been resolved in recent years, UNHCR acknowledges the challenges faced by the Government in addressing the increasing influx of a mixed migration flow and has offered its continued support to the Government to find appropriate solutions to ensure that legitimate security and border control measures do not prevent those seeking asylum from accessing protection in Israel.
2. The efforts made to create a new Asylum Regulation for the review of asylum claims in Israel, which was implemented in January 2011. However, UNHCR would like to note that the Regulation does not fully meet international standards.

## III. CHALLENGES AND RECOMMENDATIONS

### **Issue 1: Lack of a national legal framework addressing the rights of asylum-seekers, refugees and migrants**

UNHCR is also concerned regarding the current functioning of the asylum system in Israel. With a recognition rate below 1%, eligibility practices appear to be too restrictive. While it is welcomed that the Ministry of Interior assumed responsibility for Refugee Status Determination (RSD) in 2009, and the pledges made at the 2011 Ministerial Conference on Refugee and Stateless Persons to enhance refugee protection<sup>3</sup> on enhancing strengthening UNHCR Ministerial Conference, it is clear that further efforts are required to develop capacity and to consolidate the procedural framework guiding this important process. The lack of adequate capacity makes it difficult, for example, to promptly and fairly process asylum claims. A significant number of applicants have to wait several months or longer, some while in detention, to have their claims reviewed. Moreover, the accelerated processing model in use in Israel lacks necessary procedural safeguards, including adequate access to the appeal process. In UNHCR's opinion, such deficiencies are likely to impact the quality and fairness of decisions rendered for such claims. Moreover, under current eligibility practices, the gender dimension of persecution was normally found to fall outside the ambit of the 1951 Convention. As reflected in the UNHCR Guidelines on gender-related persecution<sup>4</sup> (and endorsed by the General Assembly) the refugee definition should be interpreted with an awareness of possible gender dimensions in order to determine accurately claims to refugee status.

**Recommendation:** Adopt national refugee legislation, which, *inter alia*, would provide the necessary procedural rules and regulations to govern the Israeli asylum procedure, including the incorporation of the principle of *non-refoulement*, which is not codified in the existing

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<sup>3</sup> See further <http://www.unhcr.org/commemorations/Pledges2011-preview-compilation-analysis.pdf>, page 85, excerpts from national statement made at the Ministerial Conference.

<sup>4</sup> UN High Commissioner for Refugees, *Guidelines on International Protection No. 1: Gender-Related Persecution Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees*, 7 May 2002, HCR/GIP/02/01, available at: <http://www.unhcr.org/refworld/docid/3d36f1c64.html>

domestic legislation of Israel,<sup>5</sup> and the inclusion of gender-based persecution as a ground for refugee status, as outlined in UNHCR Guidelines on International Protection relating to gender-related persecution.

## **Issue 2: The approval of the Law for the Prevention of Infiltration**

UNHCR has expressed serious concern prior to and with the approval of the Law for the Prevention of Infiltration. Applied to asylum-seekers, it could constitute a breach of the rights and obligations of the Government, as stipulated in the *1951 Convention*, of which Israel was a founding signatory. Of particular concern is the long term detention to which asylum-seekers are subjected; a minimum of 3 years according to the law. The application of the law could be considered discriminatory, in contravention of other international obligations under the ICCPR and ICERD<sup>6</sup>, as it will apply almost solely to persons of African descent in practice. Additionally, UNHCR is concerned that the law also applies to children and other persons with specific protection needs.

**Recommendation:** The recently approved Legislation for the Prevention of Infiltration should specifically exclude its application to persons seeking asylum.

## **Issue 3: Limited rights of asylum-seekers with “conditional release” visas**

The absence of a legal framework causes major difficulties for asylum-seekers in Israel. Until recently, Sudanese and Eritrean citizens received de facto “group protection” in Israel (similar to *prima facie*<sup>7</sup>). The legal status provided to most asylum-seekers is a “conditional release” visa that limits individuals from exercising economic, social and cultural rights and forces individuals to live in a state of uncertainty, often for many years, as there is no permanent residency right for refugees. The “conditional release” visas for those provided

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<sup>5</sup> This was also noted by the Committee against Torture in its concluding observations and recommendations on Israel at its 42<sup>nd</sup> session: “While the Committee is aware of the fact that Israel hosts increasing numbers of asylum-seekers and refugees on its territory, and whereas the principle of non-refoulement under article 3 of the Convention has been recognized by the High Court as a binding principle, the Committee regrets that this principle has not been formally incorporated into domestic law, policy, practices or procedure. (...) **The principle of non-refoulement should be incorporated into the domestic legislation of the State party, so that the asylum procedure includes a thorough examination of the merits of each individual case under article 3 of the Convention. An adequate mechanism for the review of the decision to remove a person should also be in place.**” (paragraph 22), see further below in the Annex, page 10.

<sup>6</sup> The Committee on the Elimination of Racial Discrimination has also expressed concern about the impact of the Prevention of Infiltration Law on persons in need of international protection in its concluding observations and recommendations on Israel at its 80<sup>th</sup> session, available at:

<http://www2.ohchr.org/english/bodies/cerd/docs/CERD.C.ISR.CO.14-16.pdf> (paragraph 22)

(...) The Committee is, however, concerned at the stigmatization of migrant workers on the basis of their country of origin, as suggested by the enactment of the 2012 Law to Prevent Infiltration, pursuant to which irregular asylum seekers can be imprisoned for at least three years upon entry into Israel and asylum-seekers from enemy states can serve life sentences (Articles 2 and 5(d) (iii) of the Convention). **Recalling its General Recommendation 30 (2004) on discrimination against non-citizens, the Committee urges the State party to amend the Law to Prevent Infiltration and any other legislation aimed at discriminating against asylum-seekers or denying refugees, on the basis of their national origin, the protection guaranteed under the 1951 Geneva Convention relating to the Status of Refugees.**

<sup>7</sup> A person who meets the criteria of the UNHCR Statute qualifies for the protection of the United Nations provided by the High Commissioner for Refugees, regardless of whether or not the person is in a country that is a party to the 1951 Convention or the 1967 Protocol or whether or not the person has been recognized by the host country as a refugee under either of these instruments. Such refugees, being within the High Commissioner's mandate, are usually referred to as “mandate refugees”.

“group protection” must be renewed every four months, and for some individuals, they are required to report to the MOI on a weekly basis. The visa does not formally allow their holders to work, although work is informally tolerated. As a result, asylum-seekers are often forced to work in conditions that would be deemed unlawful for Israeli citizens, as their employers may fail to adhere to the laws regarding minimum wage or mandatory rest periods.

Often medical insurance is not provided and causes an unbearably large financial burden on asylum-seekers in need of medical treatment. Moreover, asylum-seekers are not included under the National Medical Insurance Law. Instead, they are insured by an inferior private insurance scheme that severely curtails their access to medical treatment. At present, there are over 150 persons in need of HIV treatment, who cannot access the required Anti-Retroviral Treatment due to their status as asylum-seekers or economic migrants.

Furthermore, in a few locations, segregated schooling and different standards of treatment are being applied to non-citizen in elementary schools. Human rights NGOs have submitted a petition to the Administrative Court in Beer Sheva requesting to integrate the children of asylum-seekers, refugees and migrants who are residents of Eilat.

**Recommendation:** Modify existing regulations and legislation with a view to facilitate access for asylum-seekers and refugees to economic, social and cultural rights, in particular to ensure access to legal employment, effective access to the social welfare services and to healthcare.

#### **Issue 4: Absence of an effective framework to address statelessness and ensure the protection of stateless persons**

**4.1:** While Israel has ratified the *1954 Convention* and has signed (but not ratified) the *1961 Convention*, it has thus far not adequately addressed the issue of statelessness in its domestic legal framework, although it has recognized the need to do so. As such, stateless persons currently do not enjoy the full range of civil, social, economic and cultural rights. By ratifying the *1954 Convention*, Israel has demonstrated its commitment to upholding international standards regarding the treatment and protection of stateless persons. To ensure that stateless persons can enjoy the rights guaranteed in the 1954 Convention, however, the State party must establish procedures that allow for the recognition of individuals as stateless, within the meaning of Article 1(1) of the 1954 Convention—so that they may be identified and protected accordingly.

The State has made progress by establishing certain procedures related to stateless individuals, but these require further development to ensure their fundamental human rights are protected. For instance, a procedure exists for detained persons without proof of nationality to allow for individuals to identify their nationality without risk of deportation. However, this procedure does not guarantee the acquisition of temporary or permanent legal status, and has left many individuals without a solution.<sup>8</sup> In practice, disputed nationalities and persons whose nationality cannot be determined or who originate from States with which Israel does not have diplomatic relations, remain in detention for long periods of time. There are over 250 persons whose nationality is in dispute, some of whom have been in detention for over six years, and many without having the opportunity to fully present their identity and

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<sup>8</sup> See Israeli Stateless Procedure, *The Application of the Israeli Procedure for Handling an Alien who claims that there is no country to which he can be deported*, modified on 7 July 2004.

in some cases, their refugee claim. A large number of individuals remain outside of detention without any status in Israel.<sup>9</sup>

UNHCR notes with concern that where stateless persons lack the ability to maintain a legal presence in their country of habitual residence, they become particularly vulnerable to indefinite detention on immigration grounds, especially as they have no other country of nationality to which they can be removed. In clarifying the right against arbitrary detention enshrined in Article 9(1) of the International Covenant on Civil and Political Rights (ICCPR), to which Israel is also a State party, the Human Rights Committee has indicated that indefinite detention is a *per se* violation of international law.<sup>10</sup> Likewise, the UN Working Group on Arbitrary Detention has voiced concern over the situation in which persons face indefinite incarceration because their expulsion cannot be executed for practical reasons.<sup>11</sup> UNHCR's Executive Committee has therefore called on States "not to detain stateless persons on the sole basis of their being stateless and to treat them in accordance with international human rights law."<sup>12</sup> UNHCR's *Guidelines on Applicable Criteria and Standards Relating to the Detention of Asylum Seekers* further note that a stateless person's inability to secure a travel document or be accepted by another State should not lead to indefinite detention.<sup>13</sup>

**Recommendation:** Incorporate into domestic law the definition of a "stateless person", as established by Article 1(1) of the 1954 Convention, and establish corresponding procedures to identify individuals who are stateless so as to ensure their protection in line with the Convention's provisions. Efforts to determine whether an individual is stateless are especially relevant when persons whose nationality is in question are subject to detention or deportation for infractions related to lawful entry and presence. Israel is therefore respectfully encouraged to adopt policies clarifying that, once an individual is identified as stateless, s/he should not be subject to prolonged detention on immigration grounds, nor detained for the purpose of expulsion where this cannot reasonably be expected to occur due to the absence of a country of nationality to which the individual can be removed.

**4.2:** Israel has further demonstrated its commitment to human rights principles by ratifying the Convention on the Rights of the Child (CRC), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on the Elimination of All Forms of Racial Discrimination (CERD), and the International Covenant on the Elimination of All Forms of Discrimination Against Women (CEDAW). These instruments carry multiple provisions that protect the right to a nationality, and collectively establish that all persons have the right to a nationality; that all children in the territory of a State party and subject to its jurisdiction must be registered immediately after birth; and that rights to nationality must be free from discrimination, *inter alia*, on the basis of race, colour, sex, religion, ethnicity, national or social origin or other status.

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<sup>9</sup> Jerusalem Post, 24 May 2009, Egyptians in Israel battle for rights, over 4000 in Israel living illegally without visas.

<sup>10</sup> *C v. Australia*, HRC Communication No. 900/00, 13 November 2002.

<sup>11</sup> UN-WGAD, 13th Session of the UN Human Rights Council, UN Doc. A/HRC/13/30, 15 January 2010, para. 59.

<sup>12</sup> UNHCR, Conclusion on Identification, Prevention and Reduction of Statelessness and Protection of Stateless Persons, 6 October 2006, No. 106 (LVII) – 2006, paragraph (w).

<sup>13</sup> UNHCR's Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers, February 1999, at: <http://www.unhcr.org/refworld/pdfid/3c2b3f844.pdf>.

**Recommendation:** Several measures are needed to enhance implementation of these human rights treaties, in particular with respect to provisions that address the right to a nationality. The CERD Committee recommended adopting measures “to ensure that access to public services is ensured to all without discrimination, whether direct or indirect, based on race, colour, descent, or national or ethnic origin.”<sup>14</sup> The CERD has also noted its concern that laws governing entry and residence penalize arrivals from so-called “enemy States.”<sup>15</sup> In line with these concerns, the Human Rights Committee has likewise requested that the “State party should ensure that any changes to citizenship legislation are in conformity with article 24 of the Covenant”, which establishes, *inter alia*, that the right to nationality must be free from discrimination.<sup>16</sup>

**4.3** The principle of citizenship by descent (*jus sanguinis*) and recognition as being Jewish has been given priority over granting nationality based on birth on the territory (*jus soli*) or residence<sup>17</sup> without adequate safeguards against statelessness, leading to or perpetuating the statelessness of unrecognized villagers, migrants and asylum-seekers who have remained in Israel for long periods of time with no solution. In addition, UNHCR would like to note that nationality legislation and practice currently contains gaps that may lead to statelessness in individual cases. For instance:

a) The Law of Return (1950) of the State of Israel permits persons of Jewish origins to acquire Israeli citizenship.<sup>18</sup> However, should evidence furnished to support the Jewish origins of the applicant be found by the authorities to be forged, the applicants are deprived of their Israeli citizenship without being required to produce proof of acquisition of any other nationality, leading to statelessness among such persons residing in Israel. This particularly remains a problem for a large number of persons from the Former Soviet Union who attempted to acquire citizenship in Israel. Deprivation of citizenship under these grounds raises concerns regarding the creation of statelessness. As a general rule, individuals must not be deprived of their nationality if they would be rendered stateless. International standards (article 8, *1961 Convention*) provide for an exception to this rule where nationality was obtained by misrepresentation or fraud, but as an exception to a general rule this must be interpreted narrowly and observe the principle of proportionality.

b) Israel Nationality Law Part 1-3 (A) grants Israeli citizenship to “persons who remained in Israel from the establishment of the State in 1948 until the enactment of the Nationality Law of 1952, and who were registered under the 1949 Registration of Inhabitants Ordinance, and became Israeli citizens by residence or by return.” Following multiple wars and displacements, representatives of Azazma Bedouins living in the Negev Desert of Israel, who fulfilled the aforementioned conditions of the Nationality Law, were given Israeli citizenship. However, some members of this group, as well as other groups, have not been able to prove their residency on Israeli territory prior to 1948 and thus, have remained stateless.

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<sup>14</sup> CERD/C/ISR/CO/13, 14 June 2007.

<sup>15</sup> *Id.*

<sup>16</sup> CCPR/CO/78/ISR, 21 August 2003.

<sup>17</sup> On the one hand the Nationality Law 5712-1952 stipulates that the acquisition of Israeli citizenship may be acquired by birth, the law of return, residence or naturalization and on the other hand it reserves the acquisition of nationality by residence and naturalization to a series of legal dispositions and the Ministry of Interior’s approval.

<sup>18</sup> The Law of Return gives the right to migrate, to settle in Israel and to apply for citizenship to those who “were born of a Jewish mother or has become converted to Judaism and who is not a member of another religion”, 5710-1950, National Legislative Bodies.

See <http://www.unhcr.org/refworld/category,LEGAL,,,ISR,3ae6b4ea1b,0.html>.

### **Recommendations:**

- Ratify the *1961 Convention* and review nationality legislation and existing procedures to ensure compliance with international standards.
- Adopt flexible policies that allow persons to submit multiple and alternate forms of proof to demonstrate their legal eligibility for nationality, both under the Law of Return (1950) and the Israel Nationality Law (1952). This will ensure that qualifying individuals can secure the nationality to which they are entitled under the law, while also diminishing pressures for eligible individuals to resort to the use of forged documents.

### **Issue 5: Racism and xenophobia**

UNHCR and our implementing partners report rising xenophobia in the Israeli public towards, among others, migrants and asylum-seekers. There are signs that public awareness is on the increase; unfortunately this heightened awareness is often characterized by negative attitudes towards African asylum-seekers. In the past year, UNHCR has become aware of several violent attacks on asylum-seekers from Africa. At least ten asylum-seekers, mainly from Eritrea, have been severely beaten or stabbed during 2011 and through the first half of 2012 three incidents of asylum-seeker apartments firebombed have been confirmed.

UNHCR is concerned by the xenophobic statements made by some public officials and journalists in Israel, who often using regular news broadcasts and media to target and stigmatize asylum-seekers, rather than countering such negative attitudes.

**Recommendation:** Ensure that adequate protection against hate speech and racial violence is provided and promote respect for the principle of non-discrimination, particularly for Africans seeking asylum in Israel.

### **Issue 6: Lack of permanent residence status for long-term asylum-seekers, migrants and refugees**

There are a large number of migrants, asylum-seekers and recognized refugees who have been residing in Israel for more than five years, but have not been granted permanent residency status. They remain without the possibility for naturalization, equal treatment or access to government services. Additionally, many of these non-citizens, mainly asylum-seekers, have children born in Israel, but the children are left without access to basic social welfare services.<sup>19</sup> According to the NGO Physicians for Human Rights, one of a few organizations providing pre and postnatal care to mothers who cannot access Israeli health services, their clinic treated 371 infants born to asylum-seeker and migrant mothers from 2009 to 2011. With an increasing number of female asylum-seekers (now approximately 15% of the total asylum-seeker population) and migrants over the past year, the birth rate amongst this group is rising. Further, some recognized refugees have been living in Israel for over ten years without permanent residency status.

Residency permission for recognized refugees is subject to review every one to three years. A group of Darfuri refugees has been in Israel since 2005 and have their visa status reviewed every six months. There are more than 250 Ivorian and more than 200 South Sudanese

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<sup>19</sup> This issue is currently on appeal to the Supreme Court.



asylum-seekers who have been in Israel for more than five years, and more than 50 Ivorians have been living in Israel for ten years. At present the Government is reviewing refugee claims of persons from Côte d'Ivoire and South Sudan with the intention to return them to their countries of origin. Although the majority is indeed no longer at risk of persecution upon return to their countries of origin at this time, many have children whose first language is Hebrew and have successfully integrated in Israel.

UNHCR strongly discourages the regular review of the status of refugees, in view of Article 34 of the 1951 Convention, which urges States "as far as possible [to] facilitate the assimilation and naturalization of refugees." UNHCR is concerned that regular reviews will result in a state of uncertainty for many refugees, which would not be in the spirit of the Convention. While cessation of refugee status is permitted by the 1951 Convention, UNHCR would like to emphasize the need for the country of origin to have undergone "fundamental, stable and durable changes", requiring an assessment of the general human rights situation and the particular cause of fear of persecution; and that proper procedures for exemption from cessation are in place.<sup>20</sup> Where the cessation clauses are applied on an individual basis, it should not be done for the purposes of a re-hearing *de novo*. In addition, in Conclusion No. 69, the Executive Committee recommended that States consider "appropriate arrangements" for persons "who cannot be expected to leave the country of asylum, due to a long stay in that country resulting in strong family, social and economic links."

A State's responsibility to provide permanency for refugees also acts as a burden-sharing mechanism for Convention members. States parties often grant permanent residence status to refugees in their territories after several years, eventually leading to their integration and naturalization. Given the large number of asylum-seekers coming from Africa to Europe over the past ten years, many countries, including for example Spain, Italy, Greece and France have provided permanent residence to thousands of refugees.

**Recommendations:**

- Eliminate the bars to permanent residence status and naturalization of all non-Jewish asylum-seekers and refugees and allow for a permanent status for recognized refugees who have been able and willing to locally integrate in Israel.
- Discontinue the practice of periodic reviews of the validity of refugee status and apply cessation clauses in line with the spirit of the 1951 Convention and UNHCR's guidelines.

**Human Rights Liaison Unit**  
**Division of International Protection**  
**UNHCR**  
**July 2012**

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<sup>20</sup> UNHCR, Guidelines on International Protection No. 3: Cessation of Refugee Status, 7 May 2002, para. 19-22, (at <http://www.unhcr.org/refworld/docid/3e50de6b4.html>) and ExCom Conclusion No. 69 (XLIII), Cessation of Status, 1992, at (e), see also: UNHCR, Guidelines on Exemption Procedures in Respect of Cessation Declarations, December 2011 at <http://www.unhcr.org/refworld/docid/4eef5c3a2.html>).

## ANNEX

### Excerpts of Concluding Observations and Recommendations from UN Treaty Bodies - Universal Periodic Review:

#### ISRAEL

We would like to bring your attention to the following excerpts, taken directly from Treaty Body Concluding Observations and Special Procedure reports relating to issues of interest and concern to UNHCR with regards to Israel.

#### **Treaty Body Concluding Observations and Recommendations** **Committee against Torture**

CAT/C/ISR/CO/4, 42<sup>nd</sup> session

23 June 2009

#### **Non-refoulement and risk of torture**

22. While the Committee is aware of the fact that Israel hosts increasing numbers of asylum-seekers and refugees on its territory, and whereas the principle of non-refoulement under article 3 of the Convention has been recognized by the High Court as a binding principle, the Committee regrets that this principle has not been formally incorporated into domestic law, policy, practices or procedure. The responses submitted by the State party all refer only to its obligations under the 1951 Convention Relating to Refugees and its 1967 Protocol, but do not even allude to its distinct obligations under the Convention.

**The principle of non-refoulement should be incorporated into the domestic legislation of the State party, so that the asylum procedure includes a thorough examination of the merits of each individual case under article 3 of the Convention. An adequate mechanism for the review of the decision to remove a person should also be in place.**

23. The Committee notes with concern that, under article 1 of the draft amendment to the 1954 Infiltration to Israel Law (Jurisdiction and Felonies) Act, which was passed on 19 May 2008 in first reading by the Knesset, any person having entered Israel illegally is automatically presumed to constitute a risk to Israel's security and falls within the category of "infiltrator" and can therefore be subjected to this law. The Committee is concerned that article 11 of this draft law allows Israeli Defence Forces (IDF) officers to order the return of an "infiltrator" to the State or area of origin within 72 hours, without any exceptions, procedures or safeguards. The Committee considers that this procedure, void of any provision taking into account the principle of non-refoulement, is not in line with the State party's obligations under article 3 of the Convention. The Israeli Government reported 6,900 "infiltrators" during 2008.

**The Committee notes that the draft amendment to the Infiltration to Israel Law, if adopted, would violate article 3 of the Convention. The Committee strongly recommends that this draft law be brought in line with the Convention and that,**

**at a minimum, a provision be added to ensure an examination into the existence of substantive grounds for the existence of a risk of torture. Proper training of officials dealing with immigrants should be ensured, as well as monitoring and review of those official's decisions to ensure against violations of article 3.**

24. The Committee notes with concern that, on the basis of the “Coordinated Immediate Return Procedure”, established by Israeli Defense Force order 1/3,000, IDF soldiers at the border – whom the State party has not asserted have been trained in legal obligations under the Convention – are authorized to execute summary deportations without any procedural safeguards to prevent refoulement under article 3 of the Convention.

**The Committee notes that such safeguards are necessary for each and every case whether or not there is a formal readmission agreement or diplomatic assurances between the State party and the receiving State.**

### **Committee on the Elimination of Discrimination against Women**

CEDAW/C/ISR/CO/5, 48<sup>th</sup> session

5 April 2011

#### **Trafficking and exploitation of prostitution**

30. The Committee underlines the State party's continuous efforts to address the issue of trafficking in women and girls, including the enactment of the Anti-Trafficking Law, which has broadened the definition of trafficking, as well as the adoption of the two National Plans to combat trafficking in persons for purposes of prostitution, and trafficking in persons for purposes of slavery and forced labour. While noting the extensive information provided in the fifth report and the State party's replies to the list of issues, including that there has been a sharp decline in the number of women trafficked to Israel for purposes of prostitution, the Committee remains concerned at the prevalence of trafficking in the State party as a destination country, as well as reports of internal trafficking. In addition, it is concerned at the limited information provided on the existence and implementation of regional and bilateral memorandums of understanding and/or agreements with other countries on trafficking. Furthermore, the Committee is concerned that female asylum seekers and migrants entering Israel through the Sinai desert are at high risk of becoming victims of trafficking.

**31. The Committee urges the State party to fully implement article 6 of the Convention, including through:**

**(a) Effective implementation of its anti-trafficking legislation as well as its two national plans on trafficking, in order to ensure that perpetrators are punished and victims adequately protected and assisted;**

**(b) Strengthening of its efforts at international, regional and bilateral cooperation with countries of origin and transit so as to address more effectively the causes of trafficking, and improve prevention of trafficking through information exchange; and**

**(c) Provision of information and training on the anti-trafficking legislation to the judiciary, law enforcement officials, border guards and social workers in all parts of the country; and**

**(d) Provision of immediate and effective treatment, including medical, psycho-social and legal assistance for women in need of international protection, who are victims of trafficking and sexual slavery, in transit to Israel.**

**Other disadvantaged groups of women**

46. While noting the information provided in the fifth report in respect of women with disabilities and women belonging to ethnic minorities, especially Israeli Arab women, the Committee is concerned at the very limited information provided regarding certain other disadvantaged groups of women and girls, including asylum-seeking women, refugee women, internally displaced women, stateless women and older women. The Committee is also concerned that those women and girls often suffer from multiple forms of discrimination, especially with regard to access to education, employment and health care, protection from violence and access to justice. The Committee is further concerned that gender-based persecution is not recognized by the State party as a ground for refugee status.

**47. The Committee recommends that the State party:**

**(a) Provide, in its next report, comprehensive information, including sex-disaggregated data and trends over time, on the de facto situation of these disadvantaged groups of women and girls in all areas covered by the Convention, as well as on the impact of measures taken and results achieved in the implementation of policies and programmes for these women and girls; and**

**(b) Consider including gender-based persecution as a ground for refugee status, in accordance with the Office of the United Nations High Commissioner for Refugees (UNHCR) Guidelines on International Protection relating to gender-related persecution.**

### **Committee on Economic, Social, and Cultural Rights**

E/C.12/ISR/CO/3, 47<sup>th</sup> session

16 December 2011

#### **Principal subjects of concern and recommendations**

20. The Committee is concerned that the Citizenship and Entry into Israel Law (Temporary Provision) 5763-2003, as amended in 2005 and 2007, imposes severe restrictions on family reunification. (art.10)

**The Committee urges the State party to guarantee and facilitate family reunification for all citizens and permanent residents irrespective of their status or background, and ensure the widest possible protection of, and assistance to, the family.**

21. The Committee is concerned that the State party continues to be a country of destination for trafficking in persons (art.10).

**The Committee calls on the State party to ensure full and effective implementation of its Anti-Trafficking Law and the two national plans to combat trafficking in persons. It urges the State party to take all appropriate measures to ensure that all perpetrators are prosecuted and brought to justice, and that victims have access to adequate protection and assistance.**

31. The Committee is concerned that the National Health Insurance Law excludes persons who are not in possession of a permanent residence permit, denying in practice the access to adequate health care for Palestinians with temporary permits, migrant workers as well as refugees. The Committee is also concerned about the infant and maternal mortality rates among the Arab Israeli and Bedouin population groups (art.12).



**UNHCR**

United Nations High Commissioner for Refugees  
Haut Commissariat des Nations Unies pour les réfugiés

**The Committee recommends that the State party extend the coverage under the National Health Insurance Law to persons not in possession of a permanent residence permit, so as to ensure universal access to affordable primary health care for all. The Committee also urges the State party to intensify its efforts to lower the infant and maternal mortality rates among the Arab Israeli and Bedouin population groups.**