

NGO RESPONSE TO

**'LIST OF ISSUES TO BE TAKEN UP IN CONNECTION WITH THE
CONSIDERATION OF THE THIRD PERIODIC REPORTS OF
ISRAEL CONCERNING ARTICLES 1 TO 15 OF THE
INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL
RIGHTS (E/C.12/ISR/3)'**

Submitted to the Committee on Economic, Social and Cultural Rights

By the African Refugee Development Center

1 September 2011

Article 7 - The right to just and favourable conditions of work

14. Please provide information on the number and nature of complaints received by the Ombudswoman for the Complaints of Foreign Workers, on a yearly basis, as well as action taken after referral to the Ministry of Industry, Trade and Labor.

The African Refugee Development Center (ARDC) does not have records of the complaints received by the Ombudswoman, however, draws the Committee's attention to a public report produced by Kav LaOved that provides information about the inquiries that the organization received during 2010. This link contains the report: http://www.kavlaoved.org.il/media-view_eng.asp?id=3167.

Article 7 - The right to just and favourable conditions of work

15. Please provide information on the wage levels by occupation, disaggregated by population group, in particular Jews and Arab Israelis.

As described in greater detail on page 5, asylum seekers now receive a “conditional release” visa on which is written, “This visa is not a working permit.” Despite the Israeli government's statements that employers will not yet be fined for hiring individuals with “conditional release” visas, many employers are today overly cautious of hiring individuals with this visa.

Researchers Rebecca Furst-Nichols and Karen Jacobsen report that asylum seekers are often unable to find formal work and, consequently, must take informal and unregulated jobs with dangerous working conditions.¹ The contradictory actions of the Israeli government—tolerating the employment of asylum seekers while explicitly printing on “conditional release” visas that these are not work permits—result in a situation in which asylum seekers receive salaries far beneath the legal minimum wage and frequently work for no salary at all. Asylum seekers often struggle to collect their earned wages and must seek assistance from non-governmental agencies to claim their due pay. There are numerous cases in which

¹ Rebecca Furst-Nichols and Karen Jacobson, African Migration to Israel: Debt, Employment and Remittances, January 2011. Available at < <https://wikis.uit.tufts.edu/confluence/display/FIC/African+Migration+to+Israel> >

workers receive a fraction or none of their agreed wage from their employer. Regrettably, very few receive official pay slips, employment contracts or written documentation about their negotiated wages. Employers appear to assume that the asylum seekers will be unable to enforce the terms of their agreement, taking advantage of a highly vulnerable population. To counteract these conditions, ARDC together with a number of other NGOs in Israel supporting asylum seekers, distributes a letter in Hebrew and English setting out the current government policy regarding the employment of asylum seekers and the obligations of employers towards their asylum seeker employees. It is intended as an explanation for asylum seekers to present to employers.²

Article 10 - Protection of the family, mothers and children

21. Please indicate whether the State party is planning to revoke the Citizenship and Entry into Israel Law (Temporary Provision) 5763-2003 and take alternative measures that would guarantee and facilitate family reunification for all citizens and permanent residents. In addition, please provide information on the number of requests for entry into Israel received on a yearly basis since 2003, and specify the number of those that have been denied entry and the reasons why.

While none of ARDC's clients are citizens or permanent residents of the State of Israel, many aim to reunite with their families and request assistance in doing so from ARDC. ARDC is familiar with the cases of numerous asylum seekers who have unsuccessfully applied for family reunification. As far as we understand, the Israeli Ministry of Interior (MoI) has facilitated very few family reunifications and only does so where an individual has been formally granted refugee status and holds an A5 Temporary Residence permit.³

Furthermore, the MoI assesses asylum seekers as individuals, not as members of families, when these individuals submit applications for temporary group protection or refugee status. In other words, family unity is not a recognized consideration in the asylum process in Israel. Thus, one member of the family may receive a "conditional release" visa, granting him or her protection from deportation, while other members of his or her family may be denied the same protection and become susceptible to deportation. This situation most typically occurs where a couple is made up of an Eritrean and Ethiopian. As the policy currently stands, the Eritrean individual will be granted temporary group protection (a "conditional release" visa) and be protected from deportation while this same status will not be granted to the Ethiopian spouse. The MoI does not take into account that domestic laws in Eritrea and

² A copy of the document can be found at <http://www.ardc-israel.org/en/refugees>.

³ The state of Israel is very reluctant to grant refugee status and since its establishment in 1948, only 147 individuals have been recognised as refugees under the Refugee Convention.

Ethiopia prevent the couple from residing in either country. ARDC is familiar with numerous cases in which families have been divided due this policy.

By way of example, ARDC was involved in a case in which a Filipino woman and a Sudanese man who were married and had a child had to undergo a harrowing process to remain together in the face of deportation. The couple had met in Lebanon and had a child there. The family returned to the husband's native Sudan but, due to the violence, sought refuge in Israel soon after. The MoI granted the husband group protection status, which was then extended to the son. However, the wife was given no such protection and remains at risk of deportation.

Article 11 - The right to an adequate standard of living

22. Please provide up-to-date information on the number of households that live below the national poverty line, in the State party, including in the Occupied Palestinian Territories, disaggregated by population group. Please also provide detailed information on public expenditure to fight poverty in particular for the most marginalized and disadvantaged groups in society, and indicate its effect on reducing the extent and depth of poverty.

ARDC conservatively estimates that more than 60 percent of the asylum seeker community lives below the national poverty line in Israel. There are no state initiatives to alleviate this situation, and asylum seekers continue to be denied access to social services, health care and absorption programs to facilitate their integration. As a result, this population of nearly 40,000 individuals constitutes one of the largest marginalized and disadvantages groups in Israel today. This situation is likely to perpetuate; many children of asylum seekers have limited access to the education and job training necessary for socio-economic mobilization.

For example, in early August 2011, Eilat's administrative court decided that it would continue to deny Sudanese children the opportunity to integrate into the local education system.⁴

ARDC also draws the Committee's attention to the dramatic rise in physical racial attacks on asylum seekers, significant impacting on the populations standard of living. Throughout 2010 and into 2011, across the country refugees and asylum seekers have been subject to random acts of violence. The 2010 U.S. State Department report on human rights in Israel and the Palestinian Territories, released on April 8, 2011 revealed numerous cases where refugees were targeted and attacked by groups of assailants. Among the more disturbing

⁴ Michael Omer-Man, *Sudanese children to remain separate*, (*Jerusalem Post*), 19 August 2011. Available at <<http://www.jpost.com/Metro/Features/Article.aspx?id=234535>>

cases ranks the incident on December 18, 2010 in the coastal city of Ashdod when an attacker set a burning tire at the door of an apartment inhabited by a group of Sudanese asylum seekers. They were able to escape through the window of the apartment and were treated for minor injuries. Residents of the community claim that the group was targeted due to their Sudanese origins.

Also on December 18, 2010, three teenage daughters of African refugees were severely beaten by a group of approximately 20 assailants. The attack occurred in the HaTikvah neighborhood of Tel Aviv, an area with a large number of refugees and asylum seekers. The victims did not file a report with the police or seek legal consultation due to the fear of retribution by the attackers and their supporters.

In 2011, ARDC began documenting cases of violent acts directed towards the refugee population. To date, the database contains more than a dozen cases of Eritrean asylum seekers being targeted within the Tel Aviv area. These incidents left the victims in serious conditions, almost always requiring hospitalization.

Article 12 - The right to physical and mental health

31. Please indicate which measures the State party has taken to protect asylum-seekers with “conditional release” visas from dangerous working conditions as well as to ensure their access to basic medical assistance. Please also explain the medical insurance coverage provided for by the Foreign Workers Law to migrant workers.

Dangerous working conditions

A significant majority of the estimated 40,000 asylum seekers in Israel today hold a “conditional release” visa in accordance with article 2(A)(5) of the 1952 Entry Into Israel Law. In late November 2010, the Ministry of Interior (MoI) began to mark such visas with the statement, “This visa is not a working permit.” While the government will not take steps to enforce this policy or fine employers hiring asylum seekers holding such visas until the establishment of the proposed detention facility in the Negev, confusion prevails as the visa neither explicitly denies nor permits asylum seekers to work.⁵ As a result, not only are fewer asylum seekers in fact able to secure work, but they are more vulnerable to exploitation, and employers are less likely to respect legal obligations regarding medical and national insurance for these workers.

Additionally, this action not only minimized the opportunity to secure employment but

⁵ On 20 January 2011, the Israeli High Court ruled that until the opening of a “residence center for infiltrators” in the Negev desert near the Egyptian border, there will be no enforcement against, or prosecution of, employers of asylum seekers.

further exposed asylum seekers to the dangerous working conditions involved in informal and unregulated employment. ARDC's observations confirm findings by a consultant working with the UNHCR in June/July 2011 that workplace injuries are becoming more common among asylum seekers.⁶ Due to the heightened difficulty in securing employment, asylum seekers are more reluctant to ask for instructions, while employers do not always provide directions due to translation difficulties and general negligence. The consultant documented how this has led to numerous cases in which asylum seekers have been injured in the workplace.

One such case is that of an individual who severed the tips of two fingers when he did not ask, or was not instructed, how to operate a lawnmower on this first day of work. Another individual slipped while running across a wet bakery floor on his first day of work to demonstrate how industrious he was and now experiences major shoulder and arm problems. In one other case, a man severely burned his feet when he dropped a pot of boiling oil. These cases strongly suggest that many employers fail to equip their asylum seeker employees with proper protective material.

In addition to the examples of the injuries described above, asylum seekers are also frequently denied the legal minimum wage (further explored under Issue 15 below), standard employee benefits and legal recourse when injured in the work place. A working asylum seeker is entitled to various protections and payments under National Insurance (NI) when able to prove that the injury occurred in the workplace and led to the employee's absence for at least one day. Frequently, however, injured asylum seekers only access their rights under NI following the intervention of NGOs such as Kav LaOved on their behalf. The UNHCR consultant reported the following:

According to [Kav LaOved], employers often deny ever having known or employed the injured worker... Even if a claim is approved by NI the injured worker must manage to address a number of other problems, including periodically proving his or her legal status in Israel and opening a bank account to receive NI payments. Finally, injured workers experience great difficulties (and a fair amount of maltreatment) when trying to access prescribed rehabilitative care.⁷

Access to basic medical assistance

In addition the increasingly dangerous and exploitative conditions in the workplace, ARDC takes this opportunity to describe a general lack of access to adequate care and of attention for a range of medical conditions and situations for asylum seekers

6 Joanna Mantello and Liv Halperin, "Slipping through the cracks: Disabled and chronically ill asylum seekers and refugees in Israel", July 2011, p. 18. This unpublished research paper completed by Ms Mantello during her internship with UNHCR and as part of her post-graduate studies.

7 Mantello and Halperin, p. 18.

Medical emergencies - The state is obligated to provide medical treatment in life threatening situations yet, in ARDC's experience, this obligation is sometimes interpreted strictly in the case of asylum seekers. By way of example, in mid-2010, a Sudanese man arrived in a taxi to our office, catheter bags in hand, just hours after major surgery to remove five bullets from his abdomen (sustained while crossing the Egyptian-Israeli border). While the individual had received emergency medical care in Be'er Sheva, he received minimal post-op care from the hospital, was highly disorientated and distressed and was dependent upon the care and assistance of NGOs and friends during his recovery. As noted by the UNHCR consultant, the man was put forward by the UNHCR for resettlement after seven months of trying unsuccessfully to access medical and rehabilitative care. The applicant's primary criteria for resettlement was listed as "legal and physical protection needs", and his secondary criteria was listed as "medical needs". The case was reportedly the first submitted by UNHCR Israel involving a medical situation categorized as "emergency."⁸

Additionally, the US Human Rights Report for 2010 contains statements from ARDC and our partner organizations including the following statement by Physicians for Human Rights:

... [About] one-third of families with children who are not legal residents were able to purchase medical insurance. Although the law provides for emergency medical care for every resident, 16 migrant workers and asylum seekers reportedly stated that they were denied access to emergency medical treatment in hospitals between September 2009 and September [2010] due to lack of health insurance and inability to pay the required fees.⁹

Pregnancy and victims of gender based violence – ARDC operates a transitional shelter in Tel Aviv for homeless, pregnant women in the refugee community. These women receive almost no support from governmental institutions when they are released from detention. Yet, an estimated 80 to 90 percent of the women who enter our facility carry unwanted pregnancies as a result of rape by smugglers in Bedouin holding camps in the Egyptian Sinai desert during their flight to Israel. While being held for the purpose of ransom (which can reach up to USD\$20,000), all women are tortured and systematically abused and raped. In one of the worst cases ARDC has encountered, a Nigerian woman presently in our transitional shelter was held captive and repeatedly raped and tortured for a period of 15 months.

All people who are unauthorized to enter Israel such as asylum seekers are considered by the state as "infiltrators," detained for an indefinite period of time and subject to deportation. In detention, asylum seekers are medically screened and their nationality is determined. When the identification procedure is completed, they are released from detention and allowed to stay in Israel under a special "Temporary Protection Status" (today nationals of Sudan, Eritrea, Cote D'Ivoire and the DRC are under this status). However, while in detention there

⁸ Mantello and Halperin, p. 29.

⁹ US Bureau of Democracy, Human rights and Labor, *2010 Human Rights Report: Israel and the occupied territories*, 8 April 2011. Available at <<http://www.state.gov/g/drl/rls/hrrpt/2010/nea/154463.htm>>

is an inadequate identification and referral process and insufficient treatment of victims of rape. Additionally, there is limited access to women's health services and urgent treatment is reportedly delayed. Medical specialists such as gynecologists are not based in the detention centers, thus individuals must be referred to regional medical centers for all specialized services, which usually takes some time and requires special arrangements with the Israeli Prison Service.

As conditions in the Sinai for asylum seekers have deteriorated considerably over the past year, the state's systems to accommodate the changing nature and increasing severity of the victims' medical and psychological needs have not been correspondingly improved. For instance, while some women are released from the detention center shortly following confirmation of their pregnancies, a few women were released at a later stage which was found to be too late to terminate an unwanted pregnancy resulting from rape. This situation intensifies the women's emotional and psychological distress. In cases in which a woman has fled to Israel with her husband or partner, the pregnancy may lead to domestic violence, placing the women in physical danger and jeopardizing the welfare of the infant. In June 2011, an Eritrean asylum seeker reportedly murdered his wife and her baby and then committed suicide after he could no longer tolerate seeing the child who had been fathered by one of the smugglers.¹⁰

When the Israeli Prison Service releases women, it drops these women off in the center of Tel Aviv without any further support. The refugee women face homelessness and further exposure to sexual assault on the streets. Additionally, many of these women must provide for their children without the assistance of husbands, communities and family members who remain in detention or have been lost or distanced during the women's journeys to Israel or remain in detention.

Nevertheless, asylum seeker women receive some pre- and post-natal services from municipal institutions. For instance, Tipat-Halav is a nurse-run clinic funded by the Tel Aviv municipality that provides some pregnancy and infant-care services. Additionally, the Liss (Ichilov) Women's Hospital and Wolfson Hospital care for women though only during emergencies, abortions and labor. Asylum seeker women are charged approximately 5,000 NIS (US\$1,400) to deliver in hospital. However, ARDC has observed that in practice hospitals typically do not pursue unpaid bills from these asylum seeker mothers.

ARDC also draws the Committee's attention to the US Human Rights Report for 2010, which stated that "[a]uthorities detained over 200 women and children in the Saharonim prison in cloth tents, with limited education services provided to the children for the detention period and insufficient health and medical treatment..."¹¹

HIV/AIDS – The consultant working with the UNHCR estimates that there are 300

10 Minna Rozen, *Some women are born refugees: Remember your Eritrean sisters* (+972), 23 June 2011. Available at <<http://972mag.com/remember-your-eritrean-sisters-some-women-are-born-refugees/>>

11 US Bureau of Democracy, Human rights and Labor, *2010 Human Rights Report: Israel and the occupied territories*, 8 April 2011. Available at <<http://www.state.gov/g/drl/rls/hrrpt/2010/nea/154463.htm>>.

refugees and asylum seekers with HIV and AIDS currently living in Israel.¹² Yet, the State of Israel does not provide these individuals with any treatment. Upon being diagnosed with HIV, an individual must do CD4 and viral load tests every three months to track the progression of the virus. However, such tests are neither practically nor financially accessible to asylum seekers due to prohibitive costs and numerous administrative challenges. As a result, the majority of HIV positive individuals are not being regularly tested or treated.

Cancer – The consultant working with the UNHCR reports that asylum seekers are not entitled to cancer treatments (by private insurance as well as standard insurance) such as chemotherapy or radiation (except for emergency cases) and that the vast majority of cases remain untreated.¹³

Mental disabilities – There is a wide range of mental health disorders in the asylum seeker community including schizophrenia, severe depression and post-traumatic stress disorder. Many of these disorders may have been caused or exacerbated by abuse experienced in the Sinai, or by persecution or other experiences they faced in their country of origin. The UNHCR consultant observes that, in contrast to individuals with *physical* emergencies, individuals who experience *mental* emergencies do not necessarily receive the required medical treatment or hospitalization when they arrive to an emergency room. The consultant reports a number of cases in which asylum seekers experiencing a severe psychotic episode have been refused admittance, had their hospital stay prematurely shortened or have been released without adequate follow up treatment or observation.¹⁴ These cases may have resulted from language difficulties and the lack of proper interpretation at the receiving medical centers. In any case, these conditions further endanger the patient and the general public.

Article 15 - Cultural rights

39. Please provide information on measures taken to guarantee the protection of the cultural heritage of the various population groups in the State party. Please also provide information on how the cultural heritage is reflected in the school curriculum as well as in the cultural events and activities in the State party.

The cultural heritage of the various asylum seeker populations found in Israel is not

12 Mantello and Halperin, p. 15

13 Mantello and Halperin, p. 16

14 Mantello and Halperin, p. 19

reflected in national guidelines for school curriculum or cultural events and activities in Israel. Moreover, Israeli authorities have taken actions recently to undermine the cultural events and activities of asylum seeker populations. The South Sudanese Community in Israel planned to hold an event on July 9, 2011 to celebrate South Sudan's declaration of independence. South Sudanese Community members and a representative from the UNHCR office in Israel visited the local police office to apply for a permit to hold the event. The police office withheld a decision regarding the permit for two weeks.

On July 2, the South Sudanese Community was finally granted the permit. However, the police revoked this permit the following day and told the Community members that they would not be able to access another permit unless they met certain provisions, which would cost around 4,000 NIS. The Community could not cover these costs and was forced to move the event to a private venue just days before it was set to take place.

This incident occurred just weeks after the police revoked a permit that was granted for the World Refugee Day celebrations scheduled for June 24, 2011. The World Refugee Day event would have showcased musical performances and cultural education stalls from Congolese, Sudanese, Eritrean, and Ivorian asylum seekers. For months leading up to the event, organizers, including representatives from the ARDC, discussed plans with the Tel Aviv police authority. During these discussions, the representatives were told that they would *not* be required to hire a security engineer to assess the safety of the intended venue. The organizers welcomed this news but were not surprised by it since other events had taken place in the same space within the past year, including an event with around 1,500 attendees, which did not require monitoring by a security engineer. However, less than 48 hours before the event, the Tel Aviv police authority informed the organizers that they could not hold the event as planned without this engineer, which would cost the organizers around 4,000 NIS. Not only were the organizers unable to meet this demand financially, it also would have been extremely difficult to arrange this service at such short notice.

The organizers' appeal to a legal body associated with Israel's Supreme Court was rejected. Both the legal body and the Tel Aviv police continuously reiterated that the decision was based on "security concerns." However, these "security claims" were never raised previously or demonstrated as concerns during previous events at the same location. The timing and inconsistency of the decision suggest that the ongoing security dynamic of the venue was not the true cause behind the decision to disrupt the event. The ARDC staff believes that the police may have been acting on the same attitudes that have historically prompted police officers to treat asylum seekers and refugees in an unwarranted and aggressive manner.

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