

היאם ישראל

HIAS

Xenophobic Violence against Asylum Seekers in Israel

Background and FAQs / June 25, 2012

Background

From April through June 2012 a wave of xenophobia, fear and violence targeted at African migrants washed over much of Israel. This was not the first wave of anti-foreigner sentiment ever experienced in the country, but it was certainly the largest one in scope and severity. At the time of writing, it is not yet clear whether this wave is quite over.

There are approximately 60,000 unauthorized migrants in Israel, who have entered the country through its southern border with Egypt (these migrants are officially referred to by the Israeli government as "infiltrators" and most come from African countries).¹ Each month about 2000 more migrants enter the country in this fashion. The majority reside in south Tel Aviv. As a means of curbing the flow of unauthorized migration, Israel has declared a line of protective and deterrent steps, such as the erection of a physical barrier along the southern border, the establishment of a large detention center for migrants and an enforcement of the prohibition on employing unauthorized migrants.

As the numbers of migrants in city concentrations continue to rise and employment opportunities become scarce (either due to the government's steps or as a result of natural job market saturation), these neighborhoods become a fertile ground for violence and xenophobia. The current wave of violence seems to have been triggered by reports of alleged rape of a 15-year-old girl by African migrants in south Tel Aviv. Similar reports involving rape, robbery and other crimes soon followed, together with an alleged statistic that shocked the public: "infiltrators" are involved in 40% of the crime in Tel Aviv. The Israeli residents of south Tel Aviv complained they no longer felt safe to stroll the streets or to let their children play as they used to. Politicians joined the outcry of the south Tel Aviv residents and called for immediate action against "infiltrators."

¹ This figure is based on data published by the Population, Immigration and Border Authority for the month of April 2012. Besides "infiltrators" there are approximately 110,000 unauthorized migrants in the country (mainly tourists and migrant workers who have entered Israel legally but "overstayed" their visa).

In April 2012 four firebombs ("molotov cocktails") were thrown at the apartments of African migrants in the Shapira neighborhood of south Tel Aviv. One of them hit a daycare center for children of migrants. No one was injured but property was damaged.

On May 23, 2012 residents of south Tel Aviv organized a rally to protest the high concentration of African migrants in Tel Aviv and the government's lack of response to the situation. Several politicians addressed the crowd: MK Miri Regev compared the unauthorized migrants to a "cancer" in Israel's body (she later published an apology, claiming she hadn't compared the migrants as human beings to cancer, but rather the ever-growing phenomenon of infiltration into Israel). MKs Danny Danon and Michael Ben Ari also spoke out against African migrants and called upon the government to act immediately by detaining and deporting all "infiltrators." Violence was quick to break out, as some members of the crowd smashed the windows of shops run by African migrants, pillaging and destroying goods. Several migrants were also physically attacked by protesters. In the following month the violence spread to Jerusalem, as fire was set to an apartment rented by African migrants and the words "get out of the neighborhood" were spray-painted on the building. Four migrants were injured in this attack. By the end of May, 11 Israeli youths had been indicted for assaults on Sudanese and Eritrean migrants.

In response to these events, Prime Minister Netanyahu publically condemned the violent acts and expressions at the rally, but at the same time stated he would "solve the infiltrator problem" by taking steps to "return all infiltrators to their countries of origin."

Can Israel be doing more to fight this quickly-spreading xenophobia?

Frequently Asked Questions

Who are "infiltrators"?

Colloquially, "infiltrators" is a term used by the Israeli public to refer to African migrants who cross the Sinai desert and enter Israel from its southern border with Egypt. Legally, this term is defined in the Prevention of Infiltration Law, 1954 (as amended in 2012), as "anyone who is not a resident..., who entered Israel not via one of the recognized border stations." The term does not address the individual's reason for entering Israel and hence does not distinguish between economic migrants, refugees and individuals with criminal or terroristic intent. The majority of "infiltrators" are asylum seekers from African countries who have come to Israel to seek a better life.

How many migrants are currently in Israel?

The Population, Immigration and Border Authority estimates that there are approximately 60,000 migrants in Israel who entered the country without authorization (based on data published by PIBA in May 2012).

Where do most migrants come from?

Approximately 85% of all migrants are from Eritrea and Sudan (about 34,000 Eritreans and 15,700 Sudanese, including South Sudanese). The remaining 15% are mostly from other African countries.

Why do migrants come to Israel?

People leave their country of origin for many reasons, for example, to escape genocide, wars, general violence, natural disasters, poverty and persecution, or in order to reunite with family, acquire an education and/or any combination thereof. For example, Eritrea is deemed to be one of the most repressive regimes in the world: some religions are illegal, military service can be endless in abusive conditions, and those who express any objection to government practices risk incarceration, torture and death. Sudanese may be fleeing genocide, ethnic violence and civil war. People also have fled oppression in Ivory Coast, Somalia, Guinea, Liberia, Congo, Colombia, the Far East and other countries.

Are they refugees or economic migrants?

To find out which of the migrants in Israel are refugees in need of protection, the State must conduct Refugee Status Determination (RSD) for individual asylum seekers. Currently, the state is only conducting RSD for about 15% of all migrants in Israel—only for those who have not come from Sudan, Eritrea, or the Democratic Republic of Congo. Israel is not processing the asylum claims of Sudanese and Eritreans because it defines them as "non-removable": Israel cannot deport them to Sudan because Sudan is considered an enemy state of Israel and has no diplomatic relations with it. Israel does have diplomatic relations with Eritrea, but states that it cannot deport asylum seekers there because its international obligations prevent it from doing so. By granting temporary group protection to Eritrean asylum seekers, Israel is adhering to the guidelines published by UNHCR, which recommend against returning asylum seekers to Eritrea in light of the danger there. In the Knesset's committee meeting on migrant workers in October 2011, Deputy Minister of Foreign Affairs Danny Ayalon stated that Israel does not deport Eritreans because "Eritrea is known in the international community as a country that does not safeguard human rights, and anyone who returns there is in danger, including danger to life." The approval rate of the asylum applications of Eritreans in the United States is over 85%, higher than for any other nationality.

What is the acceptance rate of refugee claims in Israel?

Less than 1%. According to the UNHCR, during 2011 there were 4,603 new asylum applications; the government rejected 3,692 and approved one. When considering the low acceptance rate, one must take into account that since Israel does not evaluate the asylum applications of Sudanese and Eritreans, they cannot be recognized as refugees (these asylum seekers are awarded temporary group protection that protects them from deportation but does not grant them the rights of recognized refugees, such as the right to work). Therefore, the acceptance rate of asylum applications in Israel refers only to the 15% of migrants whose applications are being evaluated. For comparison sake, other countries similarly sized to Israel have a much higher acceptance rate of asylum applications.

What is the general attitude of the Israeli government towards migrants?

The government's attitude, as reflected in public statements and in Knesset committee meetings, is generally a negative one. For example, on numerous occasions Minister of the Interior Eli Yishai stated that African migrants are a threat to Israel's character as a Jewish state, that they spread disease and, more recently, that they are "all criminals." Minister Yishai has recently appointed a special task force in charge of solving the "infiltrator problem" and declared its purpose is "for Israel to be without infiltrators." MK Danny Danon called several times for the detention and mass-deportation from Israel of all infiltrators, stating that "an 'infiltrator' enemy state has been established inside Israel." MK Miri Regev compared African migrants to cancer and MK Arye Eldad of the National Union party suggested that the IDF start shooting infiltrators at the border.

The underlying principle that seems to be governing the actions of the government with relation to migrants is one of deterrence. In addition to the physical barrier and the detention facilities under construction, the Israeli Knesset amended the Prevention of Infiltration Law of 1954 such that "infiltrators" may be detained for three years. The explanatory note to this law states that the purpose of prolonging the detention period is to deter others from entering the county. On June 10, 2012, the Knesset's Ministerial Committee on Legislative Affairs approved a bill significantly exacerbating punishment for those aiding illegal aliens and imposing tougher punishments on employers. The bill was criticized by the Deputy Attorney General, who stated that there is "a mish-mash" of laws which are wholly unrelated. The lack of cohesive legislation that deals with the employment of asylum seekers and with migration in general contributes to the confusion and instability surrounding this issue and leaves much room for a negative public sentiment to thrive.

What are the crime rates among migrants?

In April and May 2012 there was an increase in reports of crimes allegedly committed by African migrants, including robbery and rape. Police officials were quoted stating that migrants are involved in 40% of the crimes in the Tel Aviv District. This figure is not supported by any published statistics. According to police data presented to the Knesset Committee on Migrant Workers on March 19, 2012, the crime rate among foreigners in Israel stood at 2.24 percent in 2011 (1,223 criminal cases out of a total of 54,497 foreigners). The crime rate among the general population in Israel stood at 4.99 percent in 2010.

In a Knesset discussion on crime in south Tel Aviv, senior police officials attributed the increased crime among migrants to the fact they are prohibited from working, calling some of these acts "crimes of survival." Police Chief Yohanan Danino has encouraged enabling asylum seekers to work as a means of reducing the crime rate.

What steps has the Israeli government taken to deal with the outbreaks of violence?

Prime Minister Netanyahu has publically condemned the violence and the government posted border guard officers in the streets of south Tel Aviv to maintain order. In his public statement, PM Netanyahu stated that the government will not condone acts and expressions of violence. President Peres urged the citizens of Israel to refrain from expressions of racism and incitement.

What should Israeli leaders do to prevent the spread of xenophobic violence?

Statements of condemnation like the one given by PM Netanyahu, although a vital step in conveying that the government will not condone violence, do not appear to effectively deal with the issue. As long as PM Netanyahu, Eli Yishai and other public officials continue to present African migrants as "infiltrators," "criminals," a "demographic threat" and "an enemy within," it is likely that other citizens will perceive violence towards migrants as legitimate or even feel compelled to take the law into their own hands.

Furthermore, PM Netanyahu's condemnation does not appear to measure up to the international standards set by UNHCR with regards to preventing xenophobia (See UNHCR's *Combating Racism Racial Discrimination, Xenophobia and Related Intolerance Through A Strategic Approach*, which delineates how states ought to deal with xenophobic violence.)

PM Netanyahu, it seems, has fallen short of at least one major approach described by the UNHCR in these guidelines. A major source of influence, when dealing with refugee issues, is control of media coverage, public opinion and political rhetoric, which can play an important role in the advancing—or impeding—of a favorable protection environment. One way of

monitoring the media is by ensuring that media reports and political dialogue do not incite violence or misinform the public.

Israeli leaders should explain to the Israeli public that many of the African migrants who come to Israel have escaped from persecutory situations in their home countries—situations that are not much different than those fled by the older generations in so many Israeli families. The government must instruct its officials to cease the use of insidious language. Public statements about the need to rid the country of a negative phenomenon, the reference to African migrants as a "threat" and the criminalization of all African migrants as "infiltrators" all have had a significant impact on increasing the flames of an already flaming reality and spreading xenophobia.

As a country built by Jewish refugees and governed by Jewish and democratic values, Israel should strive to set a more positive tone towards African migrants. Israel would do well to remember that some of these asylum seekers are fleeing from the very same enemies that Israel faces today and from the same persecution that Jews have fled from throughout history.

As a sovereign country, Israel has an undisputed right to control and protect its borders but it also has an obligation to treat those within the country in a fair and humane way. It is not enough that the leaders of this country recognize these legal and moral obligations—their words and statements must reflect this recognition. By granting temporary group protection to Sudanese and Eritrean migrants (85% of all migrants), Israel recognizes that they are in need of protection. However, by conveying through the media that "only few are real refugees" and that the majority are economic migrants, Israeli officials create a dangerous double standard. This practice is not only flawed logically, but it holds a large population in a state of legal limbo, giving them no legal means to support themselves, misleading the public to think that they are not real refugees and leaving them vulnerable to incitement and racism.

How do other countries deal with an influx of migration?

Israel is in a unique situation in the sense that it is the only democratic country with a land border with Africa. But Israel is certainly not the only country that attracts thousands of unauthorized migrants into its territory. Many western countries share this challenge and they have learned that the only way to deal with it effectively is through a coherent immigration policy and a fair, professional and efficient asylum system that does not allow large backlogs of asylum claims to accumulate.

Israel is a small country. Is there a limit to the number of refugees that Israel can accept?

Under international law and the 1951 *Convention Relating to the Status of Refugees* and its 1967 Protocol, a country may not *refoule* a person to his country of origin or last habitual

residence if he or she has a well-founded fear of persecution based on political opinion, race, religion, nationality or membership in a particular social group. While such refugees do not need to be given the right to remain in the country forever, they are entitled to remain in the country and be afforded the same rights as other non-citizens until it is safe to return to their country or origin. A government may not *refouler* a refugee, regardless of how many refugees it hosts, but it may return them when they can be returned in safety and in dignity.

Why can't Israel just send the migrants back to Egypt?

Some argue that since the majority of African migrants come to Israel through Egypt, they are not "genuine" refugees and, even if they were refugees, then Egypt is a safe third country so Israel can legally return them there. This argument is wrong: Israel cannot return asylum seekers to Egypt because the 1951 Refugee Convention, to which Israel is a party, forbids returning an individual to a territory where his or her life or liberty would be at risk for one of the Convention grounds. The Convention Against Torture, to which Israel is also a party, further forbids returning an individual to a place where he or she would be at risk of torture. The risk from which these international instruments strive to protect asylum seekers includes the risk of being deported by Egypt to the asylum seeker's country of origin.

What about South Sudan? Shouldn't the Israelis take advantage of the new relationship and return South Sudanese to the newly independent South Sudan?

In recent years, inter-tribal violence in South Sudan has become even more intense than it has been in Darfur and conflicts have become heated in the areas disputed with Sudan proper. However, South Sudanese migrants who have lived outside of the country for years or even decades in Egypt and then Israel know so little about their own country that they cannot articulate the basis for an asylum claim. Thus, they are not likely to pass even the most generous and fair of asylum systems. At the same time, however, there are humanitarian reasons not to force South Sudanese to go back to Sudan, which is having difficulties absorbing even voluntary returnees. In the United States, the US Government has addressed this concern by granting Temporary Protected Status (TPS), which protects the South Sudanese from being deported and allows them to work legally while TPS is in place. Israel should do the same for the 1,000-1,500 South Sudanese within Israel for humanitarian reasons, and also to ensure strong relations between the Government of South Sudan and Israel, which likely will be stronger if South Sudanese are not being forcibly deported by the Israeli government to return to a situation that is not tenable.

What can the Jewish diaspora do?

The Jewish diaspora and US Government officials should remind Israeli government officials that their treatment of and rhetoric concerning African migrants and asylum seekers could have a negative impact on relations between Jews and other ethnic groups around the world and will undermine support for Israel among non-Jewish groups throughout the world, particularly among the African nations. Israeli leaders also should be urged to think how Jewish communities around the world would react if governments spoke of “Jews” the way Israeli government officials are now speaking of “Africans” and “infiltrators.” Israeli leaders must publicly recognize that some are legitimate asylum seekers who will promptly be protected as long as is necessary, and must resource a fair system that seeks to do just that, so Israel no longer holds the distinction of having the lowest (or second or third lowest) asylum approval rate in the developed world.

Words matter and the words being used by some Israeli leaders are electrifying an already charged atmosphere.