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Israel: Reject indefinite detention of asylum-seekers once and for all

Israeli lawmakers must reject proposed amendments to the country's Prevention of Infiltration Law, which would allow thousands of refugees, asylum-seekers and migrants to be held indefinitely in a remote desert detention centre, Amnesty International urged ahead of a 4 December vote in the Internal Affairs Committee of the Knesset, Israel's parliament.

The Committee has announced that it will bring the bill before the full Knesset for its final readings in the coming days.

According to government reports, the amendments will provide for detaining some 3,300 people indefinitely in a fenced-in facility operated by the Israel Prison Service in the Negev desert, which the government is calling an "open centre". The draft legislation states that the way for them to be released from the "open" centre is by being deported to their countries of origin – mainly Eritrea and Sudan.

"Detaining refugees, asylum-seekers and migrants indefinitely in what is essentially a prison in the desert is a flagrant violation of international human rights law. The Knesset must scrap the proposed amendments and begin a complete overhaul of Israel's asylum procedures to bring them in line with Israel's international obligations," said Philip Luther, Director for Middle East and North Africa at Amnesty International.

If passed, the amendments to the Prevention of Infiltration Law would contradict a 16 September 2013 ruling by Israel's High Court of Justice. A panel of nine judges unanimously overturned the amendments to the Law passed by the Knesset in January 2012, which had allowed for refugees, asylum-seekers and migrants to be detained for three or more years. The judges struck down the measure, deeming it unconstitutional and "a grave and disproportionate abuse of the right to personal freedom, which is a fundamental right of every human being, and deviates from the principles accepted in Israel and the enlightened world".

The Court ordered the state to review the cases of approximately 1,700 refugees, asylum-seekers and migrants detained in Israeli prisons. Those detained unlawfully were ordered to be released within 90 days of the ruling, by 15 December this year.

Instead of fully complying with that order, the Knesset has fast-tracked voting on new draft amendments to the Prevention of Infiltration Law, which are expected to be adopted this month.

While the proposed amendments would reduce the initial period of "closed" detention of refugees, asylum-seekers and migrants to one year, this would be followed by indefinite detention in an "open" detention centre. The proposed location is the Sadot facility, adjacent to Saharonim prison in a remote area of the Negev desert in southern Israel.

Asylum-seekers held at Sadot would be subjected to headcounts three times a day, which, together with the remote location and lack of sufficient public transportation, would effectively prevent them from leaving the vicinity. The “open” centre would also be closed at night.

The bill gives the staff of the centre the authority to demand identification as well as to search, prevent entry, apprehend and remove individuals. If an individual breaches or is accused of intending to breach a condition of the “open” centre, or is found to endanger the “security of the state” or “public safety”, he or she can be transferred to a prison for three months to a year. These stipulations are not well defined and open to abuse.

Amnesty International believes the new proposed amendments to the Law again fall far short of Israel’s international legal obligations as a state party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, as well as the International Covenant on Civil and Political Rights, and the International Convention on the Elimination of all Forms of Racial Discrimination.

Israel’s Minister of Interior has stated that the objective of such a “centre” is to encourage “voluntary” repatriation to home countries, highlighting its punitive nature. Around 90 per cent of the asylum-seekers in Israel are from Eritrea or Sudan, and would be at real risk of serious human rights violations or abuses if returned there.

“Eritrean and Sudanese asylum-seekers may face torture and other ill-treatment or imprisonment upon their return, but that has not stopped the Israeli authorities from violating international refugee law by ‘voluntarily’ returning hundreds in the past. Deportation is not ‘voluntary’ when the only alternative is prolonged and indefinite detention,” said Philip Luther.

Under international law, restrictions on the right to liberty of refugees, asylum-seekers and migrants must be exceptional measures, prescribed by law, necessary in the specific circumstances of the individual concerned and proportionate to the legitimate aim pursued. Amnesty International urges Knesset members to ensure that any immigration or national security provisions fully respect Israel’s international human rights obligations.

Background

Amnesty International has long-standing concerns that Israel’s asylum system lacks transparency, does not offer asylum-seekers access to fair proceedings, and fails to ensure their protection.

In June 2012, the government began implementing amendments to the Prevention of Infiltration Law, which had been passed in January of that year. The original law was enacted in 1954 under Israel’s emergency legislation. The amendments allowed for the detention of refugees, asylum-seekers and migrants for three years or more. Amnesty International had urged Israeli legislators to reject the draft law.

International law 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). Israel continues to pressure asylum-seekers to leave “voluntarily”, in violation of the prohibition on refoulement.

Further information

Amnesty International, Israel: Deportations of asylum-seekers must stop (Index: MDE 15/005/2013), 7 June 2013
(<http://www.amnesty.org/en/library/info/MDE15/005/2013/en>)

Amnesty International, Israel: New detention law violates rights of asylum-seekers, 10 January 2012 (<http://www.amnesty.org/en/news/new-israeli-detention-law-violates-asylum-seekers-rights-2012-01-10>)

Amnesty International, Israel: Knesset should reject draft law imposing prolonged detention on asylum-

seekers (Index: MDE 15/043/2011), 23 December 2011
(<http://www.amnesty.org/en/library/info/MDE15/043/2011/en>)