RSD in Israel

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History of RSD in Israel

1954 – Israel ratifies the Refugee Convention.


2001 – AG Regulation: UNHCR + NSGB + Minister of Interior.

2005 – Amendment to AG Regulation: Expedited Procedure + Right to work.

July 2009 – Israeli MOI takes over entire RSD process.
Procedure for Handling Political Asylum Seekers in Israel

Purpose of the Procedure

To set out the process of handling political asylum seekers in Israel, and those who were recognized as refugees by the Interior Minister by virtue of the 1951 Convention relating to the Status of Refugees\(^1\) and the 1967 Protocol relating to the Status of Refugees\(^2\) (hereinafter: “the Refugee Convention”\(^3\)).

The provisions of this procedure do not derogate from the authorities vested in the Interior Minister by the Entry to Israel Law 5712-1952\(^4\). However, persons staying illegally, who have submitted an application for political asylum, will not be deported until a final decision is made regarding their application.

General

The handling of applications for political asylum will be carried out in accordance with the law in Israel, while considering Israel’s commitments under the 1951 Geneva Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees. The authorized persons will also be able to be aided by the UN Refugee Agency Handbook.

This procedure does not derogate from the case law, according to which no person is to be expelled to an area in which there is prospective threat to his life, under the principle of non-refoulement.

Definitions
From UNHCR to MOI – Why?

- High numbers of asylum seekers since 2006
- Backlog (UNHCR’s inefficiency?)
- UNHCR too liberal
- Indepedency, Sovereignty, Normalcy
RSD or TP?

60% Eritreans – TP

30% Sudanese – TP

10% Other Nationals – RSD
Israeli TP – What is it?

• Temporary Protection due to mass influx? Complementary Protection? Temporary Status due to lack of diplomatic relations (with Sudan)?

• No Right to Work
• No Right to Health Care
• No right to Social Benefits
• No right to Liberty
• No right to Family Unity
• Protection from Deportation
RSD – Who’s First?

- No accessibility to people under TP (until recently)
- Suspected (weak) cases first

MOI: It is legitimate to process cases of people who are most deportable first.

Outcome: Weakest cases get to the Court system; handful of recognized refugees per year.
RSD – How?

- Atmosphere of Interrogation.
- Every inconsistency is a proof of non-credibility.
- Unfounded inferences from facts.
- Distorted analysis of COI.
- Narrow interpretation of the Convention: “being persecuted”, “particular social group”, (imputed) political opinion, sur place refugees, etc.

Rejection of 99.9% of applications.
The Court System

- Starting point: Minister of Interior has broad discretion emanating from the principle of sovereignty; narrow judicial review.
- Rare intervention in MOI’s fact-finding.
- Important decisions regarding procedural due process:
  - Translation
  - Receipt of protocol + visual documentation
  - Reasoned decision
  - Right to lawyer’s presence
The Court System – Cont.

- Substantive law decisions:
  - Refugee Convention binding due to “Presumption of Compatibility” with international law.
  - “Well Founded Fear” < 50%
  - Whistle Blowing = Political Opinion

- 1 (one) court decision ordering grant of refugee status.

- Supreme Court ruling on unconstitutionality of long term imprisonment of foreigners who are non-deportable. (Court’s ruling on constitutionality of new legislation pending)