



October 29, 2014

## Update: Asylum Seekers in Israel

### **Summary:**

Israel hosts 48,000 African asylum-seekers, 92% of whom came from Eritrea (35,000) and Sudan (9,000),<sup>1</sup> countries where they are likely to face – if returned – major human rights violations, including the risk of death and life imprisonment. At the end of 2007, a group of 500 asylum seekers from Darfur were granted temporary residency due to a one-time humanitarian decision made by Prime Minister Olmert. Their visa is renewed every six months. Since 2008, the majority of the asylum seekers - over 35,000 - were given a "conditional release visa" that needs to be renewed every one to four months. This status only grants suspension from deportation without full access to basic rights. As of October 2014, only two Eritreans (and no Sudanese) were granted refugee status in Israel.

Currently, around 2,200 asylum seekers are administratively held in the Holot detention facility on the Egyptian border, and about 800 asylum seekers and migrant workers are held in the Saharonim detention facility, near Holot.<sup>2</sup> According to the 4th amendment to the Anti-Infiltration Law, those detained in Saharonim will be transferred to Holot. Under said amendment, the detention in Holot is indefinite and there is no judicial review or release possibilities. On September 22, 2014, the High Court voided the 4th amendment, deeming it to be in violation of Basic Law: Human Dignity and Liberty. The Prime Minister, as well as the Minister of Interior have since made it clear that a 5th amendment will be passed in the Knesset by December 22, 2014, to ensure the continuous incarceration of the asylum seekers detained in Holot. According to the draft of the 5th amendment, newcomer asylum seekers will be detained in Saharonim for eight months instead of a year, the detention in Holot facility will be limited to two years and the detainees will have to participate in one roll call a day instead of three. The pressure to leave will continue.

To prevent the overturning of the 5th amendment by the High Court, Coalition members are promoting a

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<sup>1</sup> According to the Israeli Immigration Authority last statistic publication, dated July 2014, at the end of June 2014, there were 34,993 Eritreans and 9,264 Sudanese in Israel as well as 3,253 other Africans and 702 "infiltrators" who are non Africans (48,212 all together). The statistics are available in Hebrew at:

<http://www.piba.gov.il/PublicationAndTender/ForeignWorkersStat/Documents/%D7%A8%D7%91%D7%A2%D7%95%D7%9F%20%202014.pdf>

<sup>2</sup> The numbers of detainees in Saharonim and Holot facilities are based on estimations of the HRM's activists, visiting the detainees several times a week. The numbers are constantly changing due to the fact the asylum seekers held in Holot are sent to imprisonment in Saharonim for violating Holot's regulations and new asylum seekers are summonsed to Holot about twice a week. Information about the situation in the Holot facility can be found at the HRM's report: "From One Prison to Another" dated June 2014, available at: <http://hotline.org.il/wp-content/uploads/Report-Holot-061514.pdf>



bill, which has been approved by the Ministerial Committee for Legislation, which would allow the Knesset to reinstate laws that were voided by the High Court for violating Basic Law: Human Dignity and Liberty.

### **Abrogation of the 4th amendment to the Anti-Infiltration Law by the High Court of Justice**

On 22 September 2014, the High Court ruled in favor of a petition submitted by various NGOs, among them the Hotline for Refugees and Migrants, overturning the latest amendment to the Anti-Infiltration Law, nine months after its adoption. A majority of seven justices to two ordered the closure of the detention facility Holot, within 90 days. The panel also struck down, by a vote of six to three, the section of the law allowing imprisonment for a year of every person entering Israel irregularly. With this, the High Court declared these two 4<sup>th</sup> Amendment clauses as unconstitutional, and in violation of a previous High Court ruling, which had voided the 3<sup>rd</sup> Amendment of the Anti-Infiltration-Law, just a year ago.

The 4th amendment to the Anti-Infiltration Law was passed through three readings in the plenum, the Ministerial Committee on Legislation, and the Knesset Interior Committee in less than 90 days to ensure that the State will be able to continue holding in detention the hundreds of asylum-seekers who've been jailed under the abrogated 3rd amendment since mid-2012. The High Court ruling that voided the 3<sup>rd</sup> amendment to the law gave the State 90 days to examine the individual cases of all detainees and release them.

Instead, the State drafted and passed the new legislation. Under the 4th amendment, all asylum-seekers who reside in Israel, and did not enter through a border checkpoint, can be placed in the detention camp that has so far a maximum capacity of 3,360 detainees. "Interior Ministry officials expressed their hope that the camp will serve as a 'revolving door', immigrants will be transferred to the facility, and will be forbidden to work. After several months they will give up hope and will accept the offer to receive \$ 3,500 and leave to their home lands. When they leave, new immigrants will be transferred to the facility."<sup>3</sup> Constant pressure by Immigration officials (coupled with a high financial incentive: \$3,500 to whoever agrees to leave back to Africa) caused 3,676 Sudanese and 696 Eritrean nationals to agree to sign "voluntary return" forms and depart to Africa during the first six months of 2014.<sup>4</sup> Several hundreds of those returnees refused to return to their homelands, but agreed to be sent to Uganda or Rwanda. According to numerous testimonies collected by the HRM and other NGOs, the asylum seekers enter Uganda and Rwanda with Israeli travelling

<sup>3</sup> Quote taken from: Lior Ilan, Haaretz, "From prison to prison", November 29<sup>th</sup>, 2013 available in Hebrew at: <http://www.haaretz.co.il/news/education/.premium-1.2178153>

<sup>4</sup> According to the Israeli Immigration Authority last statistic publication, dated July 2014, available in Hebrew at: <http://www.piba.gov.il/PublicationAndTender/ForeignWorkersStat/Documents/%D7%A8%D7%91%D7%A2%D7%95%D7%9F%20%202014.pdf> . P. 4.



documents, valid for three months and a one-week tourist visa. The travelling document is taken from their holders by the local government representative who meets them at the airport, leaving them with no identifying documents.

In addition to hundreds of prisoners transferred from Saharonim, Holot is populated by asylum seekers, currently only men, who received summons at the Immigration Authority offices when they came to renew their visas. In recent months, asylum seekers who have not succeeded in renewing their visas (due to reduced immigration authority offices and office hours) have been rounded up by the Immigration Authority and transferred to Saharonim prison.<sup>5</sup> Detention in Saharonim prison serves as punishment for not having renewed their visas. An immigration officer in Saharonim determines the length of the imprisonment period. Already a quarter of all asylum seekers in Israel (11,953 asylum seekers) fit the set criteria to be summoned to Holot, and others learn from the Israeli media that they are about to be summonsed in the near future.<sup>6</sup> All adult male Sudanese nationals who met the set criteria and arrived in Israel until the end of May 2011 are summonsed to Holot, as well as all adult male Eritreans who arrived until the end of May 2009. With a capacity of 3,300 places, the Holot facility is already an obligatory home to about 5% of the asylum-seekers in Israel.<sup>7</sup> The facility is run by the Israeli prison services (IPS) and as described by the Supreme Court Justice Fogelman: "A stay of days, weeks, months and in fact a stay that may last for years in a closed center, means that every aspect of a man's life - his leisure time, the food he consumed, his company - they are all dictated by the State. This is a harsh violation of man's liberty and dignity".<sup>8</sup>

### **Abrogation of the 3th amendment to the Anti-Infiltration Law by the High Court of Justice**

On 16 September 2013, the Hotline for Refugees and Migrants et al. already achieved a ruling of the High Court of Justice declaring the 3<sup>rd</sup> Amendment to the Anti-Infiltration-Law due to its disproportional infringement upon the right to liberty of asylum seekers. The Israeli government claimed it implemented

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<sup>5</sup> More information about the MoI visa renewal policy can be found at the HRM report dated March 20, 2014, "Streamlining the Process", available at: <http://hotline.org.il/en/publication/streamlining-the-process/>

<sup>6</sup> Lior Ilan, "Holot facility can accommodate 3,300 people, the state summoned 4,100 people", Haaretz, March 6, 2014 (Hebrew): <http://www.haaretz.co.il/news/education/.premium-1.2262094>, and Lior Ilan, "Israel's immigration authority sends hundreds to new detention site", Haaretz, March 6, 2014 (Hebrew): <http://www.haaretz.com/news/national/.premium-1.565702> and Yerushalmi Tamar, "No more space in Holot? Planning to transfer the foreigners to Saharonim prison", June 13 2014 (Hebrew): <http://glz.co.il/1064-44203-HE/Galatz.aspx> and many other similar articles.

<sup>7</sup> According to Ministry of Interior data provided on June 10, 2014 in response to an administrative petition, South district court case 10754-04-14, Abulgasim Asama v. the MoI.

<sup>8</sup> HCJ 7385/13 Eytan et al. vs. the Knesset et al., verdict dated September 22, 2014, available at: <http://elyon2.court.gov.il/files/13/850/073/M19/13073850.M19.htm>, para. 135.

this Court decision by adopting the 4<sup>th</sup> Amendment, which was voided in September 2014 by the High Court.

### **Asylum Seekers' Right to work and access to basic healthcare**

Asylum seekers are granted a suspension from deportation status that does not grant full access to basic human rights. The 2A5 visa does not provide the right to work; it grants very limited access to medical or welfare services; and no housing, food or any other assistance from the State.

### **Asylum Seekers Freedom of movement**

As mentioned, by now a quarter of the population meets the criteria to be summonsed to Holot and as a result - loses the 2A5 permits. Those who chose not to move to Holot cannot find work as a result of the efficient fining system of potential employers. If apprehended by the immigration authority, asylum seekers are imprisoned in Saharonim, and afterwards transferred to Holot. Those who violate the conditions of detention in Holot are also sentenced to punishment at the nearby Saharonim prison.

### **RSD procedures**

The 4<sup>th</sup> amendment to the Anti-Infiltration Law does not include a time limit for examining the asylum requests of people detained in the Holot facility. The 5<sup>th</sup> amendment is unlikely to be different in this regard. Almost 100% of asylum requests are rejected by Israeli authorities. The refugee recognition rate in Israel is 0.15%, the lowest recognition rate in the Western world.<sup>9</sup>

### **Torture Survivors in Israel**

According to estimates of the UNHCR and Israeli NGOs, 20% of all Eritrean asylum seekers in Israel survivors of torture, cruel, inhuman and degrading treatment, inflicted upon them in the Sinai torture camps in Egypt en route to Israel. Many of them suffer from physical wounds and mental trauma as a result of the torture.<sup>10</sup>

Israeli law provides protection mechanisms for trafficking victims, but nor for torture survivors who were not forcibly employed by their traffickers. Therefore, they are not granted access to medical and welfare services.

Since July 2014, the Hotline for Refugees and Migrants, an NGO with restricted access to detention facilities, identified and interviewed 30 torture survivors who spent over two years in detention without being

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<sup>9</sup> "Moshe Netta, The Knesset Research and Information Center, The RSD procedure in Israel, June 18, 2013, available at : [www.knesset.gov.il/mmm/data/pdf/m03216.pdf](http://www.knesset.gov.il/mmm/data/pdf/m03216.pdf)

<sup>10</sup> For further information on Sinai torture survivors in Israel, please see: *Hotline for Refugees and Migrants, Tortured in Sinai, jailed in Israel*, 2 October 2012.

identified by any of the State authorities.

The HRM interviewed four Sinai torture survivors in Saharonim and brought about the release of two victims, one was recognized as a trafficking victim under Israeli law, and one was released after a petition was granted. The Hotline also identified and interviewed 26 other Eritrean torture survivors detained in the Holot facility. All of them arrived in Israel in 2012 and have since been held in custody.<sup>11</sup> After these interviews, the Hotline referred ten of these cases to the Legal Aid Department at the Ministry of Justice, since the interviews indicated that the detainees were forcibly employed by their traffickers. The Legal Aid Department already recognized two of them as trafficking victims and secured their release.

### **Asylum Seekers' Children**

Several thousand children were born to asylum seekers in Israel and several hundred crossed the border with or without their parents.<sup>12</sup> Their legal status is identical to their parents' status. The Israeli law system does not prevent the detention of children along with their parents, but petitions to the HCJ by the Hotline for Refugees and Migrants and partner NGOs usually secured their release after several months. At present there are no minor asylum seekers in Israeli immigration prisons.

Asylum seekers' children cannot be insured under Israeli national health insurance, but they have the right to purchase a private insurance in a cost of 200 NIS a month per child.

Until they reach the age of three, asylum seekers children are not entitled to any assistance or education that is provided by the State, but from the age of three, all children, regardless of their parents' status, are enrolled in the Israeli education system and receive the same education that citizens receive, including additional help due to language or other difficulties, if necessary.

### **Attack on the High Court following the Latest Anti-Infiltration Law Ruling**

Right-wing members of Knesset launched yet another attack at the High Court following its ruling to void the 4<sup>th</sup> amendment to the Anti-Infiltration law. The MKs are pursuing two tracks to significantly limit the powers and activism of the court: The first is to amend Basic Law: Human Dignity and Liberty to exclude "infiltrators", and the second is to increase politicians' influence over the selection of High Court justices.

Outgoing Minister of Interior Gideon Saar, MK Miri Regev, MK Yariv Levin, all from the Likud party, and Minister of Economy, MK Naftali Bennet and MK Ayelet Shaked, from the Jewish Home party, called to pass

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<sup>11</sup> For further information on the detention of asylum seekers in Israel, please see: *Hotline for Refugees and Migrants, From One Prison to Another*, 18 June 2014.

<sup>12</sup> See more: *Hotline for Refugees and Migrants, The Struggle to End Detention of Unaccompanied Minors in Israel*,



legislation that would allow the Knesset to overrule High Court rulings regarding 'infiltrators' that are based on Basic Law: Human Dignity and Liberty.

On 1 October 2014, during PM Netanyahu to members of the Jewish Federations of North America in New York, the PM claimed that "There is no asylum seeker problem in Israel - they are illegal job immigrants" and added "asylum seekers can come in like those from Syria - but not job seekers from Africa."

The Minister of Interior [stated](#) in a Channel 2 interview: "Israeli citizens [residents of southern Tel Aviv] also have human dignity, not just the illegal infiltrator. We cannot give up. If twice in one year laws that were passed by a large majority of the Knesset are voided, leaving the State with no tools [to abuse asylum-seekers] – we cannot agree to that."

According to the Maariv daily, closely affiliated with the Jewish Home party, MK Shaked [convinced](#) the head of the party, MK Bennet, to bring down the Netanyahu government if the coalition does not pass the law explicitly excluding asylum-seekers from the Basic Law: Human Dignity and Liberty.

On 23 September 2014, MK Miri Regev (Likud), the Chair of the Interior Committee at the Knesset paid a visit to southern Tel Aviv, the area where most asylum-seekers reside, and met with angry residents. Following the visit the MK [posted](#) on her Facebook page: "The High Court abandoned you [Jewish residents of southern Tel Aviv], but the Knesset and I, as the chairwoman of the Interior Committee, will do everything possible to bring a new bill that will pass [another petition at] the High Court and will return the infiltrators to their country of origin. ... I plan on passing a new law in the coming three months, before the residency [detention] in Holot expires, as the High Court ruled."

[The Hotline for Refugees and Migrants](#) (HRM) is a non-governmental and non-profit organization, established in 1998, which aims to defend and further the rights of refugees, migrants and prevent trafficking in persons in Israel. The HRM is the only human rights organization in Israel that holds a permit to visit asylum seekers and migrants inside the detention facilities and its activists visit detainees several times a week since 1998.

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February 25, 2014.