

HOTLINE for REFUGEES and MIGRANTS



Deported to the Unknown

Monitoring report: summarizing findings of affidavits signed by asylum seekers in Uganda during August 2015 and testimonies gathered since by the Hotline for Refugees and Migrants
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<http://hotline.org.il/publication/3249/>

About the Hotline for Refugees and Migrants:

The Hotline for Refugees and Migrants is a nonpartisan nonprofit organization which aims to protect and promote the human rights of migrant workers and refugees and prevent human trafficking in Israel. We are committed to eradicating the exploitation of migrants, ensuring they receive respectful and fair treatment, and formulating government policy to this end. We seek to lend our voice to those who are not heard in the public sphere and build a just, equal, and democratic Israeli society. The organization acts by providing information, counsel, and legal representation to migrants, educating the Israeli public, and promoting legislation and public policy.

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Preface

*"Shishai, the immigration officer, told me that Rwanda was good, there are opportunities to learn, that there's work. When I sat with him he asked that I list my professional skills and said that this way it would be easier for me to find work."*¹

*"When we arrived to the airport in Kigali, we stood in the immigration line. A man came to us wearing a suit and took us from the airport. He took all of our papers and documents. After that we were driven from the airport to a hotel. I asked the driver what happened to my papers? Where was my visa, my travel documents? The driver said "I do not know". When we reached the hotel, there was a guard by the entrance. There were no other guests there. It was around two or three in the morning. The next day, a few of us wanted to leave the hotel. The guard said he had orders not to let anyone leave."*²

According to the Immigration Authority, in response to the court, as of October 2015, 3,000 Eritrean and Sudanese asylum seekers were sent to two "third-party" countries. Although the government did not release the names of these countries, we have learned that they are Rwanda and Uganda.³

¹ Testimony # 8- Testimony of M.B. Taken August 21st 2015

² Testimony #1- Testimony of A.T.T. Taken August 20th 2015

³ Administrative Petition 02-10-2055 District Court of Be'er Sheva. A.G.Z et al vs. The State of Israel- The Ministry of the Interior et al. July 2nd 2015.
<http://hotline.org.il/legal-action/2ndsaharonimrwanda/> . Judgement of the Honorable Judge Barkai -11.8.2015 Paragraph 6. A petition filed by two Eritrean asylum-seekers imprisoned in Saharonim at the time, A.G.Z. & G.B.K., along with human

In July 2015, The Hotline for Refugees and Migrants published a report that focused on the government's new policy of **Rwanda or Saharonim**. This policy over-rides the Supreme Court's previous rulings, in an attempt to remove asylum-seekers from Israel.⁴ According to this policy, the interior minister announced to the media at the end of March 2015, that "infiltrators" who are being held in Holot facility and have not applied for asylum, or who have filed for asylum and had their request denied; will have to decide whether to stay indefinitely detained in Saharonim prison or if they prefer, to leave for Rwanda. Authorities seek to justify the prolonged administrative detention of those who refuse to leave by invoking article 13(E)(B)(1) of the Entry to Israel Law.

"One shall not be released on bail if they have entered illegally and do one of the following:

- 1. Their expulsion from Israel is prevented or delayed due to the lack of full cooperation on their part in establishing their identity or complying with procedures of expulsion from Israel."*

rights organizations The Hotline for Migrants and Refugees, The Association for Civil Rights in Israel (ACRI), The African Refugee Development Center (ARDC), Physicians For Human Rights-Israel, Kav L'Oved, & ASSAF. Attorneys Anat Ben Dor and Elad Kahana from The Refugee Rights Clinic at Tel Aviv University.

⁴ The Hotline for Refugees and Migrants- "Rwanda or Saharonim": Monitoring Report of Asylum Seekers in Saharonim Prison. Published July 2015.

<http://hotline.org.il/en/publication/rwanda-or-saharonim/>

The policy has only effected 43 Eritrean Citizens so far, only because human rights organizations have appealed to the courts,⁵ however, the clear intention of the authorities is to expand the use of this policy, commonly referred to by human rights organizations as "Rwanda or Saharonim", a name that embodies the two choices that have been set for asylum seekers.

It is not justifiable to detain Eritreans or Sudanese under article 13(E)(B)(1) of the Entry to Israel Law. This is because Israel wants to deport these asylum-seekers to countries that do not allow the possibility of legal status to stay in their territory. As well, the agreements signed between these nations, if they were signed at all, are confidential and therefore there are no mechanisms to check them.

The ***Rwanda or Saharonim*** report, includes analysis of 24 testimonies of asylum-seekers whose asylum-applications were all rejected, despite having strong claims and evidence for asylum. Four of whom escaped Eritrea before being enlisted for indefinite military service. 20 other Eritrean citizens served in the army for an average of 11 years before they could escape. However, all of the interviewed had heard about friends who could not sustain the pressure in Israel, and choose to leave to Rwanda. From there, they were all forced to cross illegally the border to Uganda. Many of them disappeared. Some are known to have drowned in the Mediterranean Sea. Others were

⁵ A.G.Z et al vs. The State of Israel- The Ministry of the Interior et al. July 2nd 2015. <http://hotline.org.il/legal-action/2ndsaharonimrwanda/> (Hebrew) Administrative Petition 5126-07-15 District Court of Be'er Sheva.

arrested in Lybia and later were brutally murdered by ISIS,⁶ on their way to seek asylum in Europe. Some of the interviewed even knew the dead.

Human rights organizations protest the use of detention as a way to force a person to leave to another country, especially when by virtue of the agreement, he is promised to receive rights, status, and protection; but those stipulations are hidden from the public, the Knesset, the media, human rights organizations and the UNHCR.

During correspondance between human rights organizations and decisions makers, the Attorney General clarified that the agreement was conditional upon fulfillment of three conditions in the third country. These included guarantees of safety from fear of persecution of life or liberty, legal status and protection against refoulement (deportation), and the ability to have work and live life with dignity. The state's arguments are that these conditions are being met in these third countries. Therefore there is no obstacle preventing forced deportation of asylum-seekers to these countries. Courts in Australia, Great Britain, and the European Court of Human Rights have all noted in various cases about the importance of supervision of the state in implementation of these agreements. They have said that a state cannot ignore its obligations by relying solely on the receiving state to both implement and supervise the conditions of the agreement.⁷

⁶ Lior Ilan, 3 asylum seekers who left Israel were executed by ISIS, Haaretz, April 21, 2015: <http://www.haaretz.com/israel-news/premium-1.652834>

⁷ See for example the disqualification agreement between Australia and Malaysia by the High Court of Australia 2011 v. Minister for Immigration and Citizenship [2011]

Given the unbridgeable gap between the State's claims regarding the conditions of the agreement, and the testimonies of those who have left (as collected by human rights organizations), the Hotline for Refugees and Migrants sent two researchers to Uganda to meet asylum-seekers who had been deported from Rwanda and collect their testimonies and affidavits.

The researchers, attorney Anat Ben Dor, and Adi Drory Abraham traveled only to Uganda because of dozens of testimonies collected by human rights organizations, which had made clear that Rwanda does not allow asylum-seekers arriving from Israel to remain in its territory beyond a few days during which they are detained in a house or hotel before being smuggled across the border to Uganda. Even the local office of the UNHCR found that only four Eritreans who had come from Israel were able to stay in Rwanda. According to the Commission letter submitted to court, the four reported that they are not able to work due to the absence of legal status in Rwanda, despite promises of status and work from Israel.

HCA 32. As well The decision of the European Court of Human Rights not to allow the transfer of asylum seekers in Belgium. ECHR, Case of M.S.S v, Belgium and Greece Greece based on the Dublin Convention decision of the Supreme Court of the United Kingdom not to return asylum seekers, 30696/09; 21/01/2011. R((on the application of EM To Italy fearing it would expose violations of fundamental rights. ;(Eritrea) v. Secretary of State for the Home Deprtement [2014] UKSC 12, 19.2.2014. See also criticism of the European Court of Human Rights on the agreement made between Italy and Libya ECHR, Case of Hirsi Jamaa and others v. Italy (Application no. 27765/09, 22.2.2012

The researchers were able to collect ten affidavits in Kampala, Uganda. Nine of them from asylum seekers who left Israel, were currently in Uganda, and had not yet been arrested for illegal stay. Affidavits were taken from nine Eritrean citizens, eight of whom were sent from Israel to Rwanda, and one Sudanese citizen who was sent directly from Israel to Uganda. Nine of the testimonies were from people who had been sent during the last several months from Israel. The tenth, an Eritrean who came to Uganda directly from Eritrea, attested to his efforts to free his friends from Ugandan prisons after they were sent from Israel, to Rwanda, deported to Uganda, where they were imprisoned for their illegal presence in the country. The eight Eritreans sent from Israel to Rwanda testified to their experiences, and also testified to the experience of more than 76 other asylum seekers who were sent along with them from Israel to Rwanda and were deported with them to Uganda.

Patterns reflected in the testimonies

The following are highlighted trends from the testimonies:

Pressure To Leave the Country: **All nine** testified that their decision to leave Israel came from buckling under pressure, due to the pressure put on them to choose to leave or indefinite incarceration at Saharonim Prison.

False Promises from Israeli Immigration Officials: **Three** affidavits of people deported from Israel, at different times, all testify to the fact that they were given false promises by Israeli Immigration Officers: *"The Official from the Ministry of the Interior told me that when I get to Rwanda, they will give me ten days in a hotel and after that, the Ministry of the Interior in Rwanda would bring (us) passports, and that I can stay there, make business, and work."*⁸ **Two** others were able to provide a name of the official from the Ministry of the Interior who made them these promises: *"Shishai told me that Rwanda was good, there are opportunities to learn, that there's work. When I sat with him he asked that I list my professional skills and said that this way it would be easier for me to find work."*⁹ And: *"Shishai said that I could work and stay in Rwanda."*¹⁰

⁸ Testimony #2- Testimony of T.B.G. Taken 18th 2015

⁹ Testimony # 8- Testimony of M.B. Taken August 21st 2015

¹⁰ Testimony #9- Testimony of K.T.A. Taken August 22nd 2015

Confiscation of all documents upon arrival at the destination: All nine testified to the fact that they were given travel documents in Israel, which were then confiscated upon their arrival in Rwanda.

Held captive in Rwanda before being smuggled to Uganda: Eight Eritrean citizens testified to being held captive in Kigali and forbidden to leave the place where they were being held, until they were smuggled to Uganda.

Six testified to wanting to stay in Rwanda, but were not allowed to do so and were forced to continue to Uganda.

Robbery: Five testified to having to pay additional fees when they were forcibly smuggled to Uganda, ranging anywhere from \$100-\$250. They also testified to being additionally extorted financially by people in uniform on their journey to Uganda.

Arrest Due To Unlawful Residency: One of the asylum-seekers interviewed was arrested for illegal residency in Uganda. Another asylum-seeker, who came from Eritrea to Uganda and did not come from Israel, testified that he saw two groups of Eritrean detainees from Israel; who were imprisoned due to their illegal status in the country. There were a group of seven who had been imprisoned for 40 days, and another group of eight who had been there for 30. This witness also testified that the attorney, who handled the release of the two groups, told him about 50 other Eritreans, who came from Israel, at

three different points of time, and were imprisoned after being smuggled from Rwanda to Uganda.

Despite the hard testimonies given in the statements, these are the testimonies of the lucky ones who were findable and were in possession of a cell phone allowing them to give testimony, they were reachable and not under arrest due to unlawful residency.

These significant findings were delivered in the form of signed affidavits to the Be'er Sheva District court, hearing the human rights organizations' petition.

Rejection of the petition by the Be'er Sheva District court

On November 8th 2015 the Honorable Judge Barkai rejected the human rights organizations' petition, concluding that the oversight findings do not prove that there is a substantial basis that those who leave for a third country are under additional fear, threat or persecution:

"The Petitioners have not upheld the burden of proof that these "Third Countries" are countries that endanger the well-being, freedom or safety of people who go there. The cases and testimonies brought before me do not reflect an objective situation of exposing abuse or persecution on the part of those countries. From an evidentiary basis, it can be concluded at a high level, that the testimonies of these witnesses come from people who voluntary choose not to accept

status in a third country, and who at their own volition crossed the border into another country".¹¹

Thus, even though **six** out of the nine witnesses who gave testimonies stressed in their affidavits their wish to remain in Rwanda, they were not allowed to leave their hotel in Kigali and were not allowed to stay in the country to which they were sent by the Israeli authorities.

The commitment of Israel as a result of the information collected in Uganda and the debate in the court

As a result of the information that the researchers collected in Uganda, the submission of a petition to the Beer Sheva district court and the discussion that resulted from it in the court on the 5th of October, the Judge concluded that Israel is committed to, among others:

- A. An updated information sheet will be provided to the expellees, in which, as opposed to in the past, there will be more detailed information and a phone number that will be available for people leaving the country to call during the working hours of the office. This telephone number is designed also to provide assistance in case of problems arising in the destination countries.

.....

¹¹ Administrative Petition 5126-07-15. The District Court of Be'er Sheva: A.G.Tz. et al vs. The State of Israel: The Ministry of the Interior et al. The Honorable Judge Barkai's verdict dated November 8th 2015. Paragraph 25

- C. As opposed to in the past, travel documents that were issued to expellees will stay in their possession after their arrival to the third-party country and will not be taken from them, as occurred in the past, as a way to ensure his ability to move around the third-party country without risk until he receives a residency permit from that country.

- D. Orientation meeting will be held on arrival in the third country, where expellees will receive information about life in the country, how to obtain a work permit, legal status, and any other pertinent information that will facilitate their absorption in that country."¹²

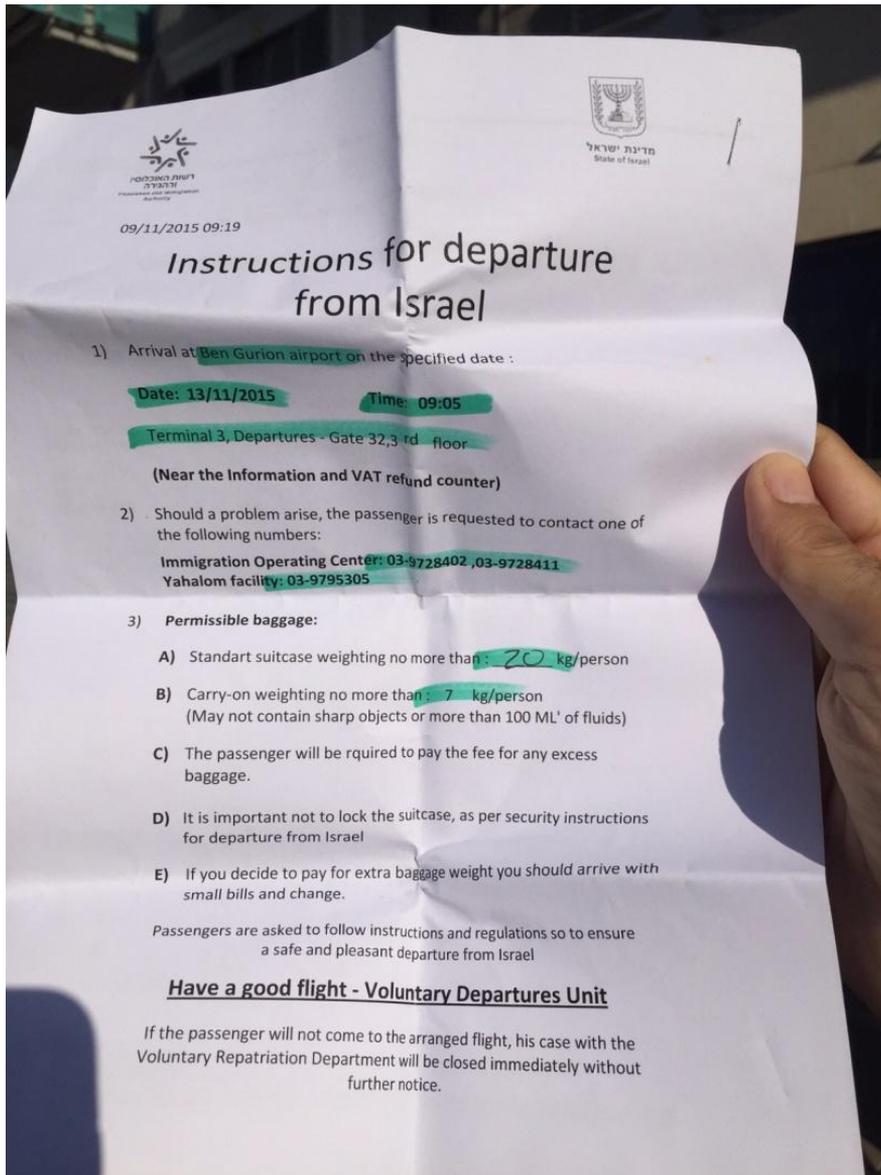
Israel's breach of obligation and its infringement on the principle of non-refoulement

On November 13th 2015, three more Eritrean citizens were sent to Kigali, Rwanda, as part of the Department of Immigration's "Voluntary Departure" program. One of them, Philimon, reported to Yoel Herzberg, a journalist for "The Hottest Place in Hell", that within three days of his contacting the authorities he was given a flight to leave to Kigali. From the travel documents, which Philimon took photos and sent to a reporter, one can see, that in contrast of the promise the

¹² Administrative Petition 5126-07-15. The District Court of Be'er Sheva: A.G.Tz. et al vs. The State of Israel: The Ministry of the Interior et al. The Honorable Judge Barkai's verdict dated November 8th 2015. Paragraph 23

state gave the court, there were not any changes in the guideline form, for people leaving Israel. As we published in the past, Philion's documents stated that the purpose of his arrival to Rwanda is a vacation, and he is not allowed to work.¹³

¹³ Where There is No Free Will - Voluntary Return of Asylum Seekers, Report from the Hotline for Refugees and Migrants & ASSAF. February 2015: <http://hotline.org.il/en/publication/where-there-is-no-free-will/> page 24.



Pictured: The instructions given to Philimon upon his departure from Israel. Which have been unchanged for over a month since the government promised to court to update it.

Contrary to the State's promise to court, when arriving in Kigali, all of their identifying documents were taken from them. For fear of being

arrested in Rwanda, they continued the same day to Uganda and from there, to Kenya. Their journey ended in Kenya on November 17th 2015, when they were arrested by Kenya's anti-terrorism police due to suspicion of their intentions. Only on November 22nd, Philimon was able to notify the reporter of his arrest along with two others who traveled with him. The Hotline for Refugees and Migrants informed the UNHCR and local NGOs in Nairobi of this detention. The next day a hearing was held in Nairobi, where it was decided to deport the three Eritreans back to Eritrea. The deportation was prevented due to the intervention of the UNHCR. As of today, three weeks after their arrest, the three are still incarcerated, in very harsh conditions, while the UNHCR is working with a local lawyer to facilitate their deportation to Ethiopia, where they hope to find refuge. If they are deported to Eritrea, they are likely to be detained in harsh conditions indefinitely, and be at risk of torture or death.

On November 29th 2015 the two Eritrean plaintiffs, and the six human rights organizations appealed to the High Court of Justice petitioning Judge Barkai's decision according to which Israel can imprison those Eritreans who do not agree to leave to a third country according to a secret agreement. The petitioners argued that the district court erred when it allowed indefinite administrative detention under a secret arrangement, when it did not hold any discussion on the details of the flaws around the state's lack of supervision on the agreements conditions. They also claimed that the court rejected the testimonies and affidavits of those who had left, even though the burden of proof was met regarding the safety-risk for those who departed for Rwanda.

There was also no discussion of the evidence the organizations presented about the state's inability to allow for administrative due-process due to the fact that all the conversations and discussions of the agreement were held in secret.¹⁴

¹⁴ Administrative Petition 8101/15. A.G.Tz et al vs. The State of Israel- Ministry of the Interior et al. November 29th 2015

Recommendations

1. Israel should meet its obligations under the Refugee Convention to conduct a fair asylum procedure and should avoid removal of asylum seekers to third countries without fairly examining their asylum applications.
2. Restrictive measures for encouragement of “voluntary return” are to be avoided. It should be noted in particular that a person’s consent to leave Israel does not reflect free will when he is denied liberty or face danger of imprisonment.
3. Ensuring informed consent. Information about the countries to which people are sent as part of a “voluntary return” should be collected on an ongoing basis, and those asking to leave should be given full information about conditions in that country and the dangers expected there.
4. Agreements with third countries to which removal takes place must be made available to the public. Only when they are public, can they be subjected to examination and judicial review as needed. In addition, these agreements must include safeguards for the deported persons with regard to their access to the asylum system in the third country, their rights under the Refugee Convention, and a ban on their deportation to a country in which they are in danger. Israel must ensure that

these conditions be fulfilled for those deported to third countries.

- 5.** The conduct of Voluntary Returns Unit clerks and others at the Population and Immigration Authority must be supervised to ensure that asylum seekers are not subjected to verbal pressure negating their free will.

The Testimony of M.B.¹⁵

I am citizen of Eritrea, I arrived in Israel on 12.12.2007 to seek asylum. Once I arrived I went to the UNHCR, I received from them protecting papers as an asylum seeker and later got a work permit. On February 26, 2014 I was forcibly sent to Holot. It was very difficult. Only eating and drinking, outside of that we were not doing anything. I am a human being, I needed to be able to do more than just eat and sleep. We were forced to sign in three times a day, this is not a normal procedure.

As soon as I entered Holot, the Border Control officers told me that I can stay all of my life in Holot, I can go back to my country, or I can go to Rwanda. I felt that all the time I was being pressured to leave the country.

The final straw was before Passover, I went to ask to be released for the day because friends had invited me to the Passover Seder. The official said- "What do you mean you have a Seder? It's only for Jews!". I told him that I was requesting leave to celebrate Passover for the Christians (Easter). He said that he did not know what that was and that I should come back in a week. I knew that the next week, no one was going to be working, and that was that. My friends left for the holiday without permission and then they were put in Prison. (*Since*

¹⁵ One of the 10 testimonies provided as affidavits to the Beer Sheva Regional Court, taken in Kapala on August 21. 2015

they were unable to make it back for the 3 mandatory sign-ins that existed at Holot).

Shishai, the immigration officer, told me that Rwanda was good, there are opportunities to learn, that there's work. When I sat with him he asked that I list my professional skills and said that this way it would be easier for me to find work. I was promised that they would meet me there and give me a two days hotel accommodation. I was also asked to sign that I was leaving willingly.

I left Israel on 7.16.2014 via a flight to Istanbul. There were six other asylum-seekers on the flight. When I got to Rwanda, I collected my luggage, and I presented my travel papers and went outside. I stood there and waited for my friends, but they did not come. I walked in and it turned out they were looking for the person who was supposed to pick us up.

A guy came from Rwandan Immigration. **He took all of our documents** and called a taxi driver to take us to the hotel. He introduced himself as Clever. We asked the taxi driver what happened to our documents. He told us that Clever would come back in the morning.

That morning, one of my friends woke up early, and gave money to the guard (bribery, that allowed him to leave) and went to look for the Rwandan Interior Ministry, in order to apply for asylum. He came back when I was eating breakfast and said that when he arrived at the

Ministry, they asked him where he was coming from. He told them "Israel", and **they said that they did not accept the requests of those who came from Israel.** We were worried, and were waiting for Clever to arrive.

When Clever arrived, he told him about what happened to us, and asked what would we do if Rwanda was not ready to accept us. He said that there was no problem, and for \$200 for each of us he would arrange for us to go to Uganda. We all agreed, because we realized that we could not stay in Rwanda.

We were driven to the border-first by bus and then by minibus. We traveled for several hours, and in the middle of the night, we arrived in Uganda. We went through the border by foot, and it took about half an hour. They told us not to turn our cellphones, because the light would get us caught. On the other side of the border was a man waiting for us with a minibus.

When we were already inside Uganda, around four or five in the morning, soldiers stopped us to check our van. I was sure that whoever drove us from Rwanda to Uganda, told them that we are coming and that we had money. **They did a search and found that each of us had \$3,500 (This was the amount we had received in Israel before we left).** They threatened to put us in prison because **we had no documents and we crossed the border illegally. We were really scared. In the end, we agreed that we would each pay them \$500 and they let us go.**

I arrived in Kampala on 7.19.2014. After around 10 days, I went to the police, following the procedure, to seek asylum with them first. The officer asked to see my documents. I only had a photocopy of Teudat Ma'avar (Travel ID). The officer wanted to see the original, but I didn't have it (because it had been taken).

After that I had a few meetings, including the police, and also the Office of the Prime Minister (OPM). I never hid that I had come from Israel.

While waiting for a decision, I could not work even though I tried to find a job. There is no work here. People only hire those who they already know. My situation started to get really hard. I reached the point where I had nothing to eat. I had to ask friends from abroad to send me money. While I wait, the only documentation I have is an Asylum Seeker Certificate. I have to keep on renewing this all the time.

On 6.17.2015 I was given a meeting to receive an answer to my asylum claims. **The clerk asked me "You have come from Israel?" I said yes. She told me "Your request is denied"**. I asked why. She told me that she didn't know.

I asked for the rejection decision in writing, the clerk told me to come back the next week. I return there every week and have not received a decision rejecting the request of my asylum request. In the meanwhile they have stopped renewing my Asylum Seeker Certificate.

At the end of June, I went to the ministry and begged to have my Certificate extended. I did not have anything to eat, my friend had sent me money, but without the paper extended, I couldn't get it from the bank. They agreed to extend my certificate the next week.

I went to the Refugee Law Project and asked them for help. They said without a formal rejection on paper, you aren't able to appeal the decision, so I am stuck.

I understand that Israel wanted to get rid of us, but what turns out is, no matter where I am, no one wants to accept me because I came from Israel. I don't know what will happen now.

8.21.2015