

Hotline for Refugees and Migrants

A man with dark skin, wearing a striped short-sleeved shirt and dark trousers, is walking away from the camera along a tall, rusted metal fence. The fence is made of vertical bars and runs diagonally across the frame. The background is a dry, hilly landscape under a clear sky. The title text is overlaid on the left side of the image.

IMMIGRATION DETENTION IN ISRAEL

Annual Monitoring Report
2017

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Immigration Detention in Israel

Annual Monitoring Report – 2017

Hotline for Refugees and Migrants



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About the Hotline for Refugees and Migrants

The Hotline for Refugees and Migrants (HRM) is a nonpartisan nonprofit organization that aims to protect and promote the human rights of refugees and migrants and to prevent human trafficking in Israel through client services, detention monitoring, legal action and public policy initiatives.

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Abbreviations

HCI – High Court of Justice

Tribunal – the Detention Review Tribunal

The Hotline/HRM – Hotline for Refugees and Migrants

IPS – Israeli Prison Service

MHC – Mental Health Center of the IPS

Mol – Ministry of Interior

PHRI – Physicians for Human Rights – Israel

ACRI – Association for Civil Rights in Israel

PIBA/Immigration Authority – Population, Immigration and Borders Authority

Between Holot and Saharonim. Photo: Oren Ziv, ActiveStills



Preface

This is the third annual monitoring report issued by the Hotline for Refugees and Migrants (HRM) on the conditions under which migrants and asylum seekers are being held in administrative detention across immigration detention facilities in Israel. The Israeli government continues to employ detention and incarceration as a central component of its policy toward asylum seekers and migrants within its borders.

This report elucidates who are the detainees in these facilities and under what conditions they are being held. As of the writing of this report, about 2,400 migrants and asylum seekers are being held in detention facilities; many of them have been detained for a number of months and even years.¹

As in previous years, we monitored the conditions at the various detention facilities. Despite the reduction in the overall number of detainees, there was no difference in the crowding of cells, as the Israeli Prison Service (IPS) insisted on reducing the number of occupied cells instead of decreasing the number of detainees in each cell. At the Saharonim Detention Facility, we detected an improvement this year in referrals of detainees to the social support and mental health services, as well as better handling of requests by detainees to summon a police detective to file a complaint about violence at the hands of Immigration Authority inspectors. Many detainees even reported a general improvement in the way prison guards are treating them. This year saw a reduction in the number of penalties levied against detainees in Saharonim and Givon, as well as a shortening of the time during which detainees are held in the "cage" – detention cells resembling a cage – when awaiting hearings at the Tribunal or ahead of meeting visitors in Givon and Saharonim detention facilities. The only times when detainees reported long waiting periods of two hours or more inside the cage at Saharonim were during the daily roll calls. The Givon Prison saw an increase in the number of times when Hotline representatives were denied access to the facility to represent the detainees, although the visits were always coordinated and confirmed ahead of time with the IPS. On other matters, no noticeable change was observed compared to previous years, and thus the prior recommendations of the Hotline pertaining to those conditions still stand.

¹ For more, see Hotline for Refugees and Migrants, *Forgotten in Prison: The Prolonged Detention of Migrants*, December 2016. Accessible at: <https://hotline.org.il/en/publication/forgotten-in-prison-the-prolonged-detention-of-migrants/>

Unlike in previous years, we chose to focus on a number of issues in which we have identified especially grave failings: the detention of transgender people in isolation, detention of asylum seekers from Darfur in contravention of the State's commitment before the Court, as well as handcuffing of detainees during medical examinations. In addition, this report addresses developments and rulings made in legal proceedings concerning detention conditions at the Holot facility and the overcrowding of prisons. The report details these key problems and the main complaints of the detainees as they were presented to us.

Methodology

We conducted extensive research ahead of writing this report to allow us to present a clear picture of the detention conditions of migrants and asylum seekers in Israel. We relied on the following sources:

Freedom of Information Requests

We utilized responses to Freedom of Information requests filed to the IPS, Ministry of Health and the Immigration Authority concerning services provided to the detainees (medical care; food; housing; translation; cultural, educational and leisure activities), detention conditions and the numbers of individuals detainees in each facility.

Reports

We examined the detention conditions according to international specifications with a standard questionnaire. When formulating the questionnaire, we relied on the practical manual *Monitoring Immigration Detention* published by the UN High Commissioner for Refugees (UNHCR), the Association for the Prevention of Torture (APT) and the International Detention Coalition (IDC).² We compared the data we collected for this report to the relevant data in the Public Defender's Office report *Detention and Incarceration conditions in Prison Facilities of the Prison Service for the Year 2016*.³

Interviews and Testimonies

Representatives of the Hotline carried out 71 in-depth interviews with migrants and

² UN High Commissioner for Refugees (UNHCR), Association for the Prevention of Torture (APT) and the International Detention Coalition (IDC), *Monitoring Immigration Detention: Practical Manual*, 2014: <http://www.refworld.org/docid/53706e354.html>

³ Ministry of Justice, the Public Defender's Office, *Detention and Incarceration Conditions in Prison Facilities of the Israeli Prison Service for the Year 2016*, June 2017. Accessible in Hebrew at: <http://www.justice.gov.il/Units/SanegoriaZiborit/DohotRishmi/Documents/PrisonerReport2016.pdf>

asylum seekers from dozens of different countries, including nine women, who were detained during 2017.⁴ Many of the interviewees were held in more than one facility. The surveys were conducted during meetings with Hotline clients in various facilities, as well as private meetings and phone calls with those who have been detained throughout 2017 and subsequently released. It should be pointed out that Hotline representatives were able to carry out double the number of interviews with detainees in Saharonim and Holot compared to the number of interviews in Givon. Unlike Saharonim and Holot, where mostly asylum seekers are detained, Givon holds migrant workers as well, who are often promptly deported to their homelands, thus making data collection more difficult. Representatives of the Hotline were unable to meet migrants detained at the Yahalom facility in 2017 because this detention center is run by the Immigration Authority, which bars access to it except for lawyers who represent the detainees or representatives of the embassies and consulates of the detainees' countries of origin. As a result, only one interview was conducted with a migrant held at Yahalom, after her release.

Legal Proceedings and Rulings Regarding conditions in Holot and the Detention Facilities

HCJ 4602/16 *Hagos vs. the IPS*; HCJ 4386/16 *Medyo vs. IPS Commissioner*; HCJ 4388/16 *Muhammad vs. IPS Commissioner*; HCJ 4389/16 *Tesfasios vs. IPS Commissioner*; HCJ 4391/16 *Ali vs. PIBA* that were filed by the legal clinics at the Tel Aviv University and the College of Management, the HRM and ACRI; HCJ 4581/15 *Ismail vs. the IPS Commissioner* filed by ACRI, the HRM and PHRI; HCJ 1892/14 *the Association for Civil Rights in Israel vs. the Minister of Internal Security* filed by ACRI, the College of Law and Business and PHRI; HCJ 3855/17 *Daniel vs. the Minister of Internal Security* filed by the Refugee Rights Clinic at Tel Aviv University, ACRI and HRM.

⁴ Hotline representatives carried out 29 interviews with detainees held in Saharonim, 26 interviews with detainees held in Holot, 15 interviews with detainees held in Givon, and one interview with a woman who was detained in Yahalom with her underage daughter.

Background

The status of foreigners in Israel is determined by four laws: The Law of Return,⁵ the Citizenship Law,⁶ the Entry to Israel Law,⁷ and the various versions of the Anti-Infiltration Law.⁸

The Law of Return applies to any Jew who is a resident of a country other than Israel who wishes to immigrate to Israel, as well as his children and grandchildren. These immigrants are eligible to receive Israeli citizenship. Under the Citizenship Law, a person can gain citizenship in Israel according to the Law of Return or through family reunification. The status of all other migrants in Israel is determined by the Entry to Israel Law and the Anti-Infiltration Law. Israel does not see itself as a destination country for migration and government officials have stated many times that the only avenue for migration to Israel is through the Law of Return. Therefore, any migrant in Israel who has no Jewish lineage or is not married to a person with such lineage, can obtain legal status only for short periods of time. Migrants who entered Israel as tourists or migrant workers and overstay the period of residency permitted by their visa are detained under the Entry to Israel Law. Since June 2012, migrants and asylum seekers who enter Israel irregularly through the border with Egypt are detained under the Anti-Infiltration Law and its amendments.

The Identity of those Held in Immigration Detention Facilities

According to the Immigration Authority,⁹ individuals from four distinct groups of migrants in Israel may find themselves in detention due to unauthorized stay in Israel:

- 74,000 migrants who had arrived in Israel as tourists through Ben Gurion Airport

⁵ The Law of Return, 1950 :

<http://www.mfa.gov.il/mfa/mfa-archive/1950-1959/pages/Law%20of%20return%205710-1950.aspx>

⁶ The Citizenship Law, 1952 (Hebrew): http://www.nevo.co.il/Law_html/Law01/011_001.htm

⁷ The Entry to Israel Law, 1952: https://www.unodc.org/res/cld/document/Law-no--5712-1952--entry-into-israel-law_html/Entry_Into_Israel_1952.pdf

⁸ The Anti-Infiltration Law, 1954 (Hebrew): https://www.nevo.co.il/Law_html/Law01/247_001.htm

⁹ Population and Immigration Authority, *Data on Foreigners in Israel: Summary for the Year 2017*, January 2018 (Hebrew): https://www.gov.il/BlobFolder/generalpage/foreign_workers_stats/he/foreigners_in_Israel_data_2017_2.pdf

and overstayed their tourist visa, 69% of them from former Soviet Union countries. The common assumption is that most of them are relatives of people entitled to immigrate to Israel under the Law of Return who gained citizenship in Israel.

- 88,378 migrant workers with visas allowing them to work in the agricultural, caregiving or construction sectors, most of them from Thailand, the Philippines, India, Moldova, Sri Lanka and China. About 47% of them are women. These workers arrive in Israel legally, some of them under bilateral agreements between Israel and their country of origin. These migrants are allowed to work in Israel for 63 months, but at times they lose their legal status when they decide to leave their employers for various reasons, including exploitation and difficult working conditions, when employers fire them, or when their work permit elapses. At the end of 2017, there were 17,852 migrant workers who lost their legal status but have not left Israel, among them 13,231 (74%) people employed in the caregiving sector, in which most employees are women.
- 37,288 migrants and asylum seekers who entered Israel through the border with Egypt over the past decade and are pejoratively labeled as "infiltrators" by Israeli authorities, although international law allows individuals to cross borders illegally in search of safe haven. 92% of these individuals are asylum seekers from Eritrea and Sudan.
- 14,778 migrants applied for asylum in 2017. About 70% of them entered Israel through a legal border crossing: Ben Gurion Airport, sea ports and the border crossings with Jordan.

Laws Regulating the Detention of Migrants

The detention of migrants in Israel is regulated in the provisions of the Entry to Israel Law and Anti-Infiltration Law, expounded on in the 2015 annual report.¹⁰ Detention is the dominant tactic in Israel's policies concerning immigration to Israel. Detention and incarceration serve as a method of managing and deterring migrant and asylum seekers from staying in Israel for long periods. The last amendments to the Anti-Infiltration Law explicitly refer to detention as a method of "convincing" migrants to leave Israel, and as a way to deter migrants and asylum seekers from coming to Israel.¹¹

¹⁰ Hotline for Refugees and Migrants, *Immigration Detention in Israel: 2015 Annual Monitoring Report*, February 2016. Accessible at: <https://hotline.org.il/en/publication/detentionmonitoring2015/>

¹¹ Hotline for Refugees and Migrants, *Rwanda or Saharonim*, July 2015. Accessible at: <https://hotline.org.il/en/publication/rwanda-or-saharonim/>

Immigration Detention Facilities

In 2017, there are four detention facilities holding migrants: Saharonim on the border with Egypt, Givon Prison in Ramle, Yahalom at Ben Gurion Airport, and Holot, an 'Open' Detention Center located across the road from Saharonim.

In the past, migrants not convicted of any crime were also held in criminal prisons such as Nitzan, Eshel, Dekel, Ha'Ela and Ohalei Keidar, to punish them with solitary confinement, or due to the decision to isolate them or keep them under observation. This detention occurred despite the legal prohibition on holding migrants not accused of any crime together with criminal prisoners.¹² However, in 2017, no migrant held under administrative detention in criminal prisons approached the Hotline.

Until 2017, the IPS operated a website with information about each facility. In 2017, the IPS' website was moved to the Governmental Information Website.¹³ The information provided about the detention facilities on the website is not as extensive, less accessible to search through search engines, and is only accessible in Hebrew. As a result, relatives and friends interested in visiting the detainees struggle to find the relevant information.

Saharonim Detention Facility

Located in the Negev, near Nitzana, next to the border with Egypt, Saharonim was built in 2007 to detain African asylum seekers who entered Israel through the Egyptian border. Until June 2012, Saharonim had eight wings of tents, each wing holding up to 250 detainees (2,000 altogether). In June 2012, six more wings were added, replacing the old ones. Regulations allow holding up to 1,000 detainees in Saharonim,¹⁴ but detention of this number of people does not meet IPS regulations or High Court of Justice rulings (see chapter 5 for more on this). According to a response from the Immigration Authority to a Freedom of Information request from May 24, 2017, Saharonim held 595 detainees at the time. 14% of the detainees were held for over six months, 9% were held for over a year, 5% were held for over two years, and 3% were held longer than three

¹² For additional information about detention of migrants in criminal prisons see: Hotline for Refugees and Migrants, *Far from Sight: Migrants and Asylum-Seekers Detained In Israeli Criminal Prisons*, February 2014. Accessible at: <https://hotline.org.il/en/publication/farfromsighteng/>

¹³ The Governmental Information Website, Israeli Prison Services. Accessible in Hebrew at: https://www.gov.il/he/Departments/prison_service

¹⁴ Josh Breiner, *Prison Officials Warn: No Room to Jail Thousands of Asylum Seekers Who Refuse to Leave Israel*, Haaretz, February 4, 2018. Accessible at: <https://www.haaretz.com/israel-news/premium-prison-service-no-room-to-jail-all-deportees-who-refuse-to-leave-1.5787141>

years, among them a detainee held in administrative detention in Saharonim since 2007.¹⁵

Givon Prison

Located in Ramle, Givon Prison opened in 2004 and is considered part of a larger compound of prisons that includes Ayalon, Massiyahu, Neve Tirtza and Nitzan Prison. The facility can hold up to 558 detainees and prisoners, but detaining this number of people in it contravenes IPS regulations and a High Court of Justice ruling. The facility is split between convicted Israeli criminals who are sentenced to five years or less, and foreign nationals detained due to their lack of legal status in the country. The groups are held in separate wards. Givon facility holds women, mainly migrant workers. According to a response from IPS dated May 21, 2017 to a Freedom of Information request, 185 migrant detainees were held there at the time, including two individuals who have been detained for longer than six months, one person who was detained for over a year and one person held for over three years. These data contradict the data provided by the Immigration Authority in their response dated May 24, 2017, to a Freedom of Information request. According to PIBA, 96 migrants were held in Givon at the time, four of them held for more than six months, three people detained for over a year, and one held for more than two years but less than three.

Holot Detention Center

The Fourth Amendment to the Anti-Infiltration Law, which was passed in December 2013, decreed the establishment of Holot.

This is how Israeli authorities describe the facility: "The open residency center is a place where infiltrators who received a Residency Order from a border control officer reside, where they are provided with appropriate living conditions and their needs are met with health and welfare services, voluntary employment, job training and educational and leisure activities."¹⁶

The facility is surrounded by two tall fences and operated by the Israeli Prison Services, and all aspects of the lives of the detainees are controlled by the prison guards or

¹⁵ IPS provides information concerning the last stretch of detention and does not compound the total periods of detention of the same person. As a result, there may be individuals who have spent a longer time in detention in total, as they are released, mostly for brief periods, only to be arrested again. See footnote 1.

¹⁶ HCJ 4386/16 *Tesfehiwet vs. IPS Commissioner and others*, initial response by the respondents, November 17, 2016, paragraph 7. Accessible in Hebrew at: <http://www.acri.org.il/he/wp-content/uploads/2016/11/bagatz4386-16-Holot-personal-equipment-meshivim-1116.pdf>

Immigration Authority inspectors. Detainees in Holot are free to exit its gates during certain hours of the day. A number of services in the facility are not provided by IPS but by other ministries, such as the Ministry of Health, the Ministry of Education and the Ministry of Interior.¹⁷

Following a petition by human rights organizations,¹⁸ the High Court of Justice limited the detention period in Holot to a maximum of 12 months. According to IPS data provided in response to a Freedom of Information request, at the end of May 2017, 1,659 asylum seekers were held in Holot, of them 1,503 Eritreans and 156 Sudanese nationals. On June 13, 2017, the High Court of Justice issued a ruling in the case HCJ 4602/16 *Hagos vs. the Israeli Prison Services*, obligating the state to reduce the maximum number of detainees per cell from ten to six and thus from a total number of 3,360 detainees in Holot to 2,016 (see more in chapter 4).

On December 14, 2017, an amendment to the Anti-Infiltration Law went into effect, extending the operation of Holot by only three months.¹⁹ In the foreword explaining the bill, it was stated that the government intends to implement its plan to deport asylum seekers to a third country and close the Holot facility subject to the implementation of the plan.²⁰ The facility was closed on March 14, 2018.

Yahalom Detention Facility

The Yahalom facility, located at Ben Gurion Airport, is the only facility that is managed by the Ministry of Interior (MoI) and not by the IPS. The facility was designed to hold migrants and tourists for several days when their entry to Israel is denied, until they can be deported to their home country. However, hundreds of cases have been documented in which migrants and their children were detained in Israel, transferred to Yahalom in order to be deported, and were held there for weeks and even months before deportation. To the best of our knowledge, families with children were not held for prolonged periods in 2017. If children were detained for a period longer than ten days, they were transferred with their mothers to Givon until their deportation was

¹⁷ See footnote 11.

¹⁸ Ruling in HCJ 8665/14 *Desta vs. the Knesset and others*, August 11, 2015. Accessible in Hebrew at: <http://elyon1.court.gov.il/files/14/650/086/c15/14086650.c15.htm>

¹⁹ The Anti-Infiltration Law (Offenses and Judgment) (Temporary Law), 2017. The law in Israel's official gazette of record. Accessible in Hebrew at: http://fs.knesset.gov.il/20/law/20_lsr_395792.pdf

²⁰ Law proposal no. 1167 from November 20, 2017. Accessible in Hebrew at: http://fs.knesset.gov.il/20/law/20_lsr_393745.pdf

possible. Yahalom has ten rooms of different sizes, including three rooms designed for families. There is a total of 56 beds at the facility.

Hotline representatives do not have access to the Yahalom facility, and thus were only able to interview one woman who was detained in the facility during 2017 with her underage daughter (see below in chapter 1). According to data provided by the Immigration Authority in response to a Freedom of Information request, during 2017, 11,850 migrants were detained in Yahalom: 9,717 migrants or tourists whose entry was refused at Ben Gurion Airport, as well as 2,133 migrants who were moved to the facility from within Israeli territory ahead of their slated deportation. Eight migrants were detained in the facility for over a week. Among all the detainees, 344 were minors held with at least one parent: 319 people whose entry was denied and 25 who were moved there ahead of deportation from within Israel. Two minors were held in the facility for over a week.

Saharonim Detention Facility. Photo: Afwerki Teame



I. Women and Children in Detention Facilitates

"In my list of personal belonging there were clothes, dollars and shekels. In the document I received from the IPS it stated a sum lower by 200 dollars from what I said and wrote down. I told the officer this and they summoned me to a hearing. There were three large men there and they asked me 'do you have complaints against the prison?' I realized there's nothing to do, so I signed a document saying that I don't have any complaints because I thought that I would get in trouble if I wrote otherwise." T.A. a woman jailed in Givon.

Only 13% of the interviewees in this report are women, one of them detained with her daughter at the Yahalom facility and the rest held in Givon. The low number of women interviewees is explained by the fact that the Saharonim and Holot facilities house only men. Women have not been detained in Saharonim since 2013, while the Holot facility is intended for men only under the Anti-Infiltration Law.

Of the nine women interviewed for the report, three had arrived from the Ukraine, while the rest were from Germany, the Philippines, India, the Ivory Coast, Brazil and Ethiopia.

Givon Prison

The three Ukrainian women arrived in Israel as tourists. Two of them were arrested at the Immigration Authority's Refugee Status Determination (RSD) Unit and accused of presenting a fake appointment slip, one was arrested with her partner. Two of the interviewees reached Israel as migrant workers from southeast Asia. One woman came to Israel as a student. The women from Africa arrived in Israel as asylum seekers and overstayed after their application was rejected; one of them was detained with her family: two children aged 16 and 8, and her husband who was detained in a separate ward.

Two of the women were arrested by the Immigration Authority when their visa was still valid: one was detained by immigration inspectors after being suspected of working and thus violating the conditions of her visa, and the second was arrested by the Israeli Police for suspicion of selling marijuana; she was handed over to the Immigration Authority after completing a 4-month sentence in a criminal prison. Another woman was arrested by the Israeli Police after not reporting for a 21-day imprisonment to

which she was sentenced, and again transferred to the Immigration Authority upon completion of her sentence.

Five of the interviewees remained in detention for less than a month, one interviewee was detained for less than two months, another interviewee was held for more than two months, and the last interviewee is still in detention, over six months since she was detained.

Two of the interviewees reported that pregnant women are detained with them, and another said that a pregnant woman with two children, a 2-year-old and a 6-year-old, is detained with her. The detainees reported that the pregnant women do not receive any special care. Two of the interviewees reported that women with children enjoy easier conditions or additional services that other women do not receive, including being held in a separate room, receiving additional food, hygiene products and milk for the children, as well as books and games. The women added that the doors of the cells where the children are held are not locked during the day, but are locked at night.

The women receive hygiene products from the IPS, but three of the interviewees reported that they are insufficient and that they have had to buy additional products from the commissary.

Yahalom Detention Facility

The interviewee who was detained at the Yahalom facility arrived in Israel with her Israeli partner and their children, 3.5-year-old twins and a 17-year-old daughter from a previous marriage. She was detained at the airport after many hours of delay with her husband and children, during which they did not receive food or water. The woman and her daughter were detained at the Yahalom facility for 28 hours, although the partners presented the necessary documents given to them at the Israeli embassy in Germany.²¹ The couple's children, who are Israeli citizens, remained with the father.

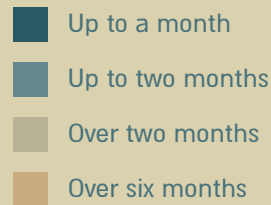
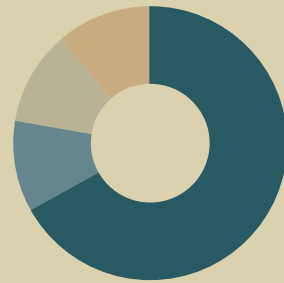
"The treatment of the guards toward the detainees was terrible, they kept making fun of the detainees: they made fun of an Italian-speaking detainee, calling her a whore, for example. They did not listen to requests, even basic ones, such as pleas for food and water, and they took their time with dealing with basic needs

²¹ Ilan Lior, *German Wife of Israeli Temporarily Denied Entry to Israel, Separated From Toddlers, Despite Embassy OK*, Haaretz, August 8, 2017. Accessible at: <https://www.haaretz.com/israel-news/premium-german-wife-of-israeli-temporarily-denied-entry-separated-from-toddlers-1.5440901>

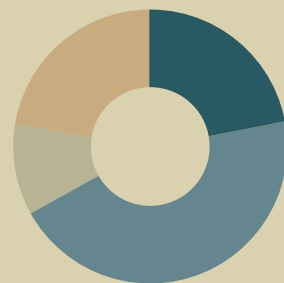
of the detainees such as medical care. They didn't listen to one detainee who had a letter stating that she is in Israel for medical care for cancer, although she had the document. All the detainees were in a state of uncertainty, no one explained anything to them. In the few cases when it was possible, all the detainees would try to speak amongst each other to understand [what is happening] and couldn't." A. F. a former detainee in Yahalom

The interviewee described particularly harsh conditions at the Yahalom facility: the mother and daughter were held in one of the "family rooms," a dirty room, without any basic equipment or hygiene products. They were locked in the room for most of the day and only allowed to leave it twice, for ten minutes each time. They were not allowed to make or receive phone calls until the lawyer representing them intervened. Two of the conversations she had with her husband lasted for only a few minutes, and she was not given privacy when conducting the calls. The guards – Immigration Authority inspectors – did not allow her to take medicine that was in her luggage despite her pleas, claiming that she must wait for a doctor who never arrived. Eventually, they were given hygiene products, but only because the woman insisted on it and because of the presence of her underage daughter. There was no drinking water in the room and they had to ask again and again until the guards agreed to give them water. Their room was distant from the guards, and therefore the woman had to bang and yell for a while to receive any attention from the guards. A guard who tried to help her

Duration of Detention



Type of Visa upon Entry



was reprimanded and replaced by another guard. The air conditioning and TV in the cell were not operating, and when she wanted to read from a Jewish prayer book in her luggage, the guards did not allow it. Thus, they had to spend many hours with nothing to do, waiting for their release. The interviewee described a humiliating and harsh treatment from the guards toward the detainees, as well as denial of basic needs such as food, water and medical care. The woman was not provided with any explanations regarding her status or her rights during detention.

The woman's testimony contradicts the response of the Immigration Authority dated November 1, 2017, to a Freedom of Information request regarding the conditions at the facility. According to PIBA, the cells housing families are not locked, and detainees can access the lobby of the facility for long periods of time. The Immigration Authority also claimed that whenever families request access to their luggage, they are allowed to go into the room storing their property. PIBA also claimed that a doctor from a private firm is called to the facility whenever necessary, and that detainees at the facility are provided with basic items, clothes, linen and hygiene products.

II. Transgender Detainees

In 2017, a transgender asylum seeker whose application was denied was detained in Givon and eventually deported from Israel. The detainee was held in isolation for over a month due to an IPS regulation stating that **"when admitting a prisoner whose [gender] identity is not unequivocal, holding them separately is required due to fear of harm to the detainee or the detainees and their surroundings."**²² This means that transgender prisoners who did not undergo or have not completed their gender reassignment procedure are held by the IPS in solitary confinement. During her detention in Givon, the asylum seeker was not allowed to take the hormones she would take regularly, and she was also not allowed to wear women's clothes or wear a wig. The prison guards with whom the representative of the Hotline spoke insisted on referring to the detainee as a male, thus disregarding her gender identity.

This was the second detention stretch for the woman, who was arrested and released by the Detention Review Tribunal in late 2016 after she had filed an asylum claim from Givon.²³ The Tribunal addressed her detention conditions in its decision dated November 28, 2016:

"I agree with the arguments of the representative of the Hotline regarding the harsh detention conditions of the female detainee. Since we are talking about a transgender [person], who is being held in isolation, in a separate cell, and she basically has no contact with the rest of the detainees. She also does the stroll in the yard separately from the other detainees. In effect, the isolation conditions in which the detainee is being held are solely due to her being transgender. There is no doubt that the detainee is discriminated against relative to the other detainees in the facility, whose detention conditions are significantly less harsh. Under these

²² From the response of the State as cited in the ruling in the Criminal Appeal 5833/12 *Jane Doe vs. the State of Israel* from September 12, 2013 (published in Nevo in Hebrew).

²³ See the Hotline for Refugees and Migrants, *Immigration Detention in Israel: 2016 Annual Monitoring Report*, March 2017, p. 21-22. <https://hotline.org.il/en/publication/4145/>

circumstances, my position is that there is no justification for authorizing the continuous holding of the detainee beyond a maximum period of three weeks, this is especially in light of the fact that there is no way to currently remove the woman from Israel."

The High Court of Justice also addressed the matter of detention of transgender prisoners in isolation in a verdict given in a criminal proceeding:

"The right to equality of transgenders, similarly to the constitutional right to equality of members of the LGBT community, is a protected constitutional right under Basic Law: Human Dignity and Liberty (see: Administrative Appeal 343/09 *The Open House in Jerusalem for Pride and Tolerance vs. The Jerusalem Municipality*, September 14, 2010, published in Nevo, paragraph 56 of Justice Y. Amit's ruling). Therefore, the transgender prisoner has the right to be incarcerated in identical conditions to any other prisoners as much as possible. The protection offered by the right to equality encompasses not just those who completed their gender reassignment process. **The social and legal challenges facing the transgender are unrelated to completing the physiological gender reassignment process. The mere lack of recognition of a person's gender identity, the way he sees it, is a violation of the right to equality.**"²⁴ (Emphasis added)

When referring to the mental harm that may be caused by detention in solitary confinement, Justice Hendel cited the opinion of the head of the legal psychiatry at the IPS' Center for Mental Health:

"The isolation or separation of the detainee involves, on top of his stay in detention, restricting him to an even more limited space, drastically reducing the scope and range of his activities, depriving him of interactions with other people, etc. As a result, isolation or separation may have more dire effects than the incarceration itself."²⁵

²⁴ See ruling in Criminal Appeal 5822/13 *Jane Doe vs. the State of Israel* from September 12, 2013, paragraph 5 to the verdict of Justice Joubran (Published in Nevo in Hebrew).

²⁵ Ibid., paragraph 6 of Justice Hendel's ruling.

In a statement of the UN Special Rapporteur on torture, Juan Méndez,²⁶ he asserts that "indefinite and prolonged solitary confinement, in excess of fifteen days, should also be subject to an absolute prohibition [...] Considering the severe mental pain or suffering solitary confinement may cause" noting that scientific studies have established that some lasting mental damage is caused after a few days of social isolation. The special rapporteur added that "considering the severe mental pain or suffering solitary confinement may cause, it can amount to torture or cruel, inhuman or degrading treatment."

Therefore, holding transgender prisoners in isolation worsens their detention conditions, denies them their right to equality, and may cause severe mental harm that at times amount to torture and inhumane treatment. This harm is especially unjustifiable and grave when it involves the detention of migrants ahead of their deportation, which cannot serve as a punishment and whose purpose is to guarantee the migrants' deportation from Israel.

²⁶ Office of the United Nations High Commissioner for Human Rights (OHCHR), *UN Special Rapporteur on torture calls for the prohibition of solitary confinement*, October 18, 2011. Accessible at: <http://newsarchive.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11506&LangID=E>

III. Detention of Darfuris in Contravention of the State's Commitment

On October 10, 2016, the State announced in court that "after weighing all considerations, it has been decided, at this point, not to refer Sudanese from the Darfur region to the Holot Residency Center, after data has shown that most members of this group filed asylum applications several years ago, and the requests have not been answered."²⁷ The State adopted this position due to a number of legal proceedings against the detention in Holot and against the delays in responding to asylum applications of Darfuris. Despite this, multiple appeals made to the Hotline reveal that the State continued to direct asylum seekers from Darfur to Holot, and is delaying examining the cases of those who were already in Holot at the time. The Immigration Authority announced that those who are recorded in their computerized system to be Darfuri will be released from Holot and their visa will be renewed. Those claiming to be from Darfur but are not recorded as such in the computerized system would have to undergo an identification interview in which they can present proof of their origin. Those who successfully proved to be Darfuri will be released and their stay permit will be renewed, PIBA claimed.

Since the announcement of the State on October 10, 2016 and until the end of 2017, 378 asylum seekers from Sudan who identify as Darfuri approached the Hotline for help; 80 of them received Holot summonses after the Immigration Authority committed not to send any additional Darfuris to Holot. Among those who contacted the Hotline were 81 Darfuris who were held in Holot and asked our help to abrogate their Residency Order and bring about their release; 32 were held in Saharonim and Givon for not reporting to Holot or because they did not renew their visa on time and asked to be released from detention and from Holot. The rest, 265 asylum seekers in total, approached the Hotline asking that we help renew their visa. Over the past year, the Hotline brought about the release or prevented the detention of 221 Darfuris.

Among those who approached the Hotline, there was information about at least 194 of them (more than half) indicating that they are Darfuris: they either held passports indicating their place of birth, they mentioned their origin upon entering Israel in front

²⁷ Statement by the respondents from October 10, 2016 in the Appeal (Tel Aviv Appeals Tribunal) 2167/16, 2187/16, 2191/16 *Abaker vs. the Population and Immigration Authority*.

of a border control officer or during a hearing at the Detention Review Tribunal, or because they had applied for asylum and mentioned this in the application. Among those who received Holot summonses after the State committed not to send Darfuris to Holot, in at least 40% of cases there was prior information indicating that the men are Darfuris.

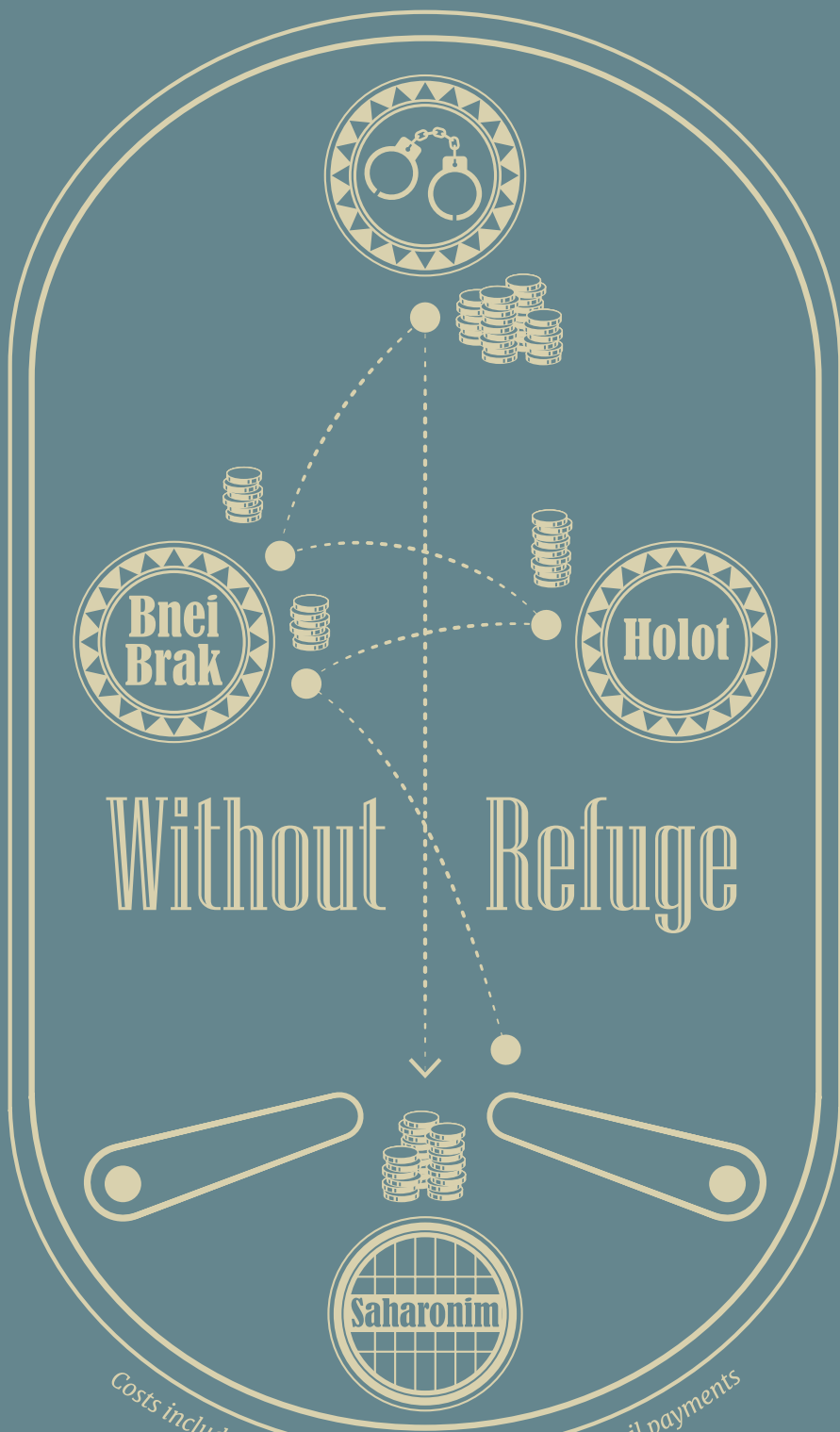
On June 25, 2017, the Immigration Authority announced that for the purpose of examining the cases of Darfuris in which there was no prior information about their origin in the computerized system, those who received a summons and the date of reporting to Holot has not passed, must do so and the identification interview would be held in Holot within 20 days of reporting there. Those who were given a Holot summons and did not report to the center on time will undergo the interview while in detention, within ten days after their arrest. Those who have not yet received a Holot summons – their claims about their origin will be examined as soon as possible at a pre-determined time.²⁸

Despite this, those who did not receive a Holot summons were sent to undergo the identification interview in Holot, with PIBA claiming that this is the location of the clerks trained to carry out the interviews. Only when the date of the interview was scheduled ahead of time were the asylum seekers allowed to enter the facility. Those who did not schedule the interview ahead of time were sent back to the Immigration Authority office in Bnei Brak, in central Israel, to schedule a time for the interview. 104 of those who contacted the Hotline were referred by the Immigration Authority to an interview at the Holot facility, and 33 were arrested at the Bnei Brak office or in Holot when they reported for the interview or arrived to renew their visa.

Although the State committed to holding identification interviews in Holot within 20 days of reporting there or within ten days in Saharonim and Givon from the day of arrest, the Immigration Authority did not carry out any interviews before the Hotline sent appeals regarding the matter or before the Tribunal ordered the Immigration Authority to carry them out. Many of those who contacted the Hotline from Holot were told that they must send a request in writing when they asked for an interview, and Immigration Authority inspectors referred them to the Hotline for this purpose.

In contravention of the State's commitment that only those who were given a summons and did not report to Holot on time will be interviewed in detention after their arrest,

²⁸ Updated notification by the respondent from June 25, 2017, in Appeal 1830-17 at the Tel Aviv Appeal Tribunal case *Baher vs. the Population and Immigration Authority*.



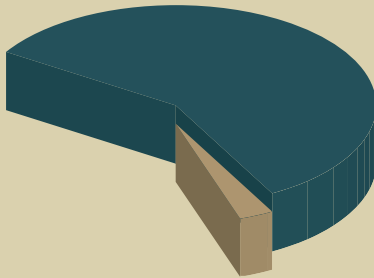
Costs include: transportation, loss of wages and bail payments

PIBA also arrested Darfuris without valid stay permits because they did not renew their visas on time. This policy is in violation of the ruling in Administrative Petition (Central Israel regional court) 27891-07-16 *Fol vs. the Ministry of Interior* preventing the detention under article 32(20) (3) of the Anti-Infiltration Law of asylum seekers who did not renew their visa, but do not fit the criteria for Holot. Out of the total number of detained Darfuris who contacted the Hotline, 26 were arrested for not renewing their visa. The Hotline was able to get ten of them released. Eight additional asylum seekers were released by the Detention Review Tribunal without the intervention of the Hotline.

Mr. Haroun, originally from Kutum in Darfur, was arrested in June 2017 for not having a valid visa. In an interview conducted with Haroun at the request of the lawyer who represented him at the time, the interviewer writes that "it appears that the focal point of his life was mainly in Kutum and that his family resides in Kutum." Mr. Haroun's passport, which was held by the Immigration Authority at the time, also indicated that he is originally from Darfur. Despite this, and without any justification, the interviewer determined that he was not convinced that Haroun is from Darfur. The Hotline's request that PIBA hold another identification interview to Mr. Haroun was rejected and the Tribunal rejected the appeal to release him, arguing that it is not within its authority to intervene in the Immigration Authority's decision not to recognize him as a Darfuri. PIBA agreed to hold another interview, which led to Haroun's release only after his case was publicized in the media.²⁹ This is not an aberration. Many similar lapses occurred in identification interviews, especially ones conducted in Givon. In many cases, interviewers ignored information that appeared in the passports of the detainees, including their place of birth. Interviewers also ignored information in the asylum cases of the detainees as well as protocols of prior interviews. It became apparent that in some cases, the interviewers were not sufficiently familiar with the Darfur region, and thus reached baseless conclusions. In addition, many of the interviews were conducted in Hebrew and without the presence of a translator, or by using a translator connected by phone, which resulted in misunderstandings during the interviews.

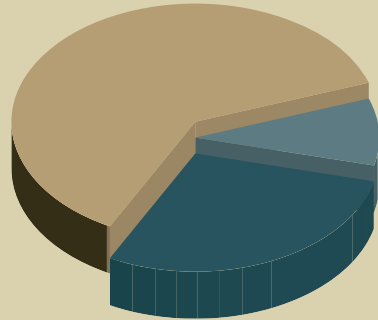
On October 31, 2017, the Tel Aviv Magistrate Court gave legal effect to the settlement agreements reached during a mediation process between the State and five Darfuri asylum seekers totaling over 2 million shekels (about \$580,000). The men were

²⁹ IDF Radio, *Following the Publication by IDF Radio: The Darfuri jailed in Saharonim against regulations was released*, August 16, 2017. Accessible in Hebrew at: <http://glz.im/CkP5>



- 58% Released by the Hotline
- 3% Released by the Tribunal

*Out of the total no. of Darfuris assisted by the Hotline



- 29% Prevention of detention
- 9% Released from detention
- 62% Released from Holot

* Out of the total no. of Darfuris released by the Hotline

compensated for being held in Holot despite being eligible to receive temporary residency status in 2008 in accordance with a decision of the Israeli government to grant this status to the 500 Darfuri asylum seekers who were present in Israel at the time.³⁰ Due to lapses on the part of the Immigration Authority, the Darfuris were not granted the status they deserve, resulting in a denial of their basic rights, including the right to liberty. It goes without saying that other asylum seekers who have been awaiting a decision regarding their asylum applications because the State does not wish to grant them refugee status are also denied their basic rights, including their right to liberty.

³⁰ Ilan Lior, *Israel to Pay Out Over \$120,000 to African Asylum Seekers Jailed Illegally*, Haaretz, November 7, 2017. Accessible at: <https://www.haaretz.com/israel-news/.premium-israel-to-pay-asylum-seekers-over-120-000-over-illegal-detention-1.5463574>

IV. Legal Proceedings Concerning Detention Conditions in Holot

The legal clinics at Tel Aviv University and College of Management, alongside Israeli human rights NGOs the Hotline for Refugees and Migrants and the Association for Civil Rights in Israel, filed a series of petitions³¹ to the High Court of Justice demanding that the State address the serious deficiencies in the operation of the Holot facility:³² the overcrowding (HCJ 4602/16); the prohibition on bringing personal effects and the inadequate supplies provided by the IPS (HCJ 4386/16); the lack of educational and leisure activities (HCJ 4388/16) including the lack of computers (HCJ 4389/16); as well as the abysmal treatment and service of the Immigration Authority at the facility (4391/16). These petitions were preceded by a petition filed against the prohibition on bringing food into the facility (HCJ 4581/15), which was filed by ACRI, HRM and PHRI in 2015.³³ In addition, a petition concerning an increase to the "pocket money" given to the detainees in Holot (HCJ 3855/17) was filed in May 2017 by the Refugee Rights Clinic at Tel Aviv University, ACRI and HRM.³⁴

The petitions emphasized that Holot does not have clear and publicly available operating regulations. As a result, on any matter not covered by internal rules, the IPS operates based on its standard operation procedures – the way it administers prisons, although the facility is defined as an "open residency center". According to the petitioners, the harsh conditions in Holot are not coincidental, and were put in place to break the spirit of the detainees to coerce them to "agree" to leave Israel for their homeland or to a third country.

On June 13, 2017, the High Court of Justice ruled on four of the petitions. Two additional rulings were handed down on June 25, 2017 and November 19, 2017. The rulings, which were all issued unanimously, upheld the human rights of migrants and asylum seekers, insisted on maintaining the civilian nature of the Holot facility, and examined the harm

³¹ See more on the website of the Association for Civil Rights in Israel. Accessible in Hebrew at: <https://www.acri.org.il/he/38050>

³² See footnote 23.

³³ See more on the website of the Association for Civil Rights in Israel. Accessible in Hebrew at: <https://www.acri.org.il/he/35190>

³⁴ See more on the website of the Association for Civil Rights in Israel. Accessible in Hebrew at: <https://www.acri.org.il/he/40674>

done to the detainees in Holot as a result of the conditions described in the petitions.

Prohibition on Bringing Food into the Holot Facility – HCJ 4581/15

On July 1, 2015, the Association for Civil Rights, the Hotline for Refugees and Migrants and Physicians for Human Rights filed an urgent petition to the High Court of Justice due to the IPS' refusal to allow detainees in Holot to bring in food and prepare it in the facility. The petition was filed due to the IPS' policy under which detainees in the facility were prohibited from bring in food items, although the employees working at the facility are allowed to do so. The operating procedures of prisons are applied to those held in Holot: those who arrive at the gate with food are ordered to throw it away, and those caught inside the facility with food that they managed to bring in have their food confiscated, and they are penalized.

"The Salad is full of water, the rice is dry and inedible, it's like kernels. The food is not good, not fresh, everything is left standing for a few days. I had a problem in my stomach and went to a doctor in Jerusalem who told me I had eaten spoiled food. I have many problems in my stomach all the time because of the food. People give up on eating, and drink tea and eat bread instead." B. T., a former detainee in Holot

In 2017 most interviewees held in Holot complained about the food provided at the facility. Out of the 21 interviewees, 81% complained about the food. The main complaints of the detainees were about the quality of food served at the cafeteria and its freshness (88%), the amount of food served that is insufficient to meet the needs of all the detainees (41%) as well as lack of variation and cultural adaptation of the food served to the detainees (41%). 19% of the detainees reported that they require a special diet due to medical conditions and that such a diet is not provided to them. 14% of the respondents reported that they suffered from indigestion due to the food served to them. Despite this, in their response to a Freedom of Information request on April 9, 2017, the IPS claimed that they carry out inspections of the quality of the food for each meal and that at no point did the inspectors discover food that is not suitable for human consumption.

In their petition to the High Court, the NGOs argued that the prohibition on bringing food into the Holot facility is harmful to the detainees in general, but in particular during the month of Ramadan, when the detainees who observe the fast hold an iftar dinner to break the daily fast. Because they are prohibited from bringing food into the facility and preparing it there, those fasting are forced to go out into the desert and

hold the holiday dinner on the ground, in humiliating conditions. According to the NGOs, the IPS' policy of banning the entry of food into the facility harms the dignity of the detainees, their liberty, autonomy and right to practice their religion freely.

Half of the respondents reported that they eat in the improvised restaurant area outside the facility, or that they purchase food and consume it before returning to the facility, with the frequency of such meals depending on how much they can afford to buy.

On November 19, 2017, the High Court partially accepted the petition of the NGOs. The Court ruled that the blanket prohibition on bringing food into the Holot facility is unreasonable, and therefore must be abrogated. The Court gave the IPS three months to formulate a list of the types of food that must not be brought into the facility, if the IPS wished to create such a list. The request to allow the detainees to cook inside the facility was rejected by the Court. Due to the closing of the Holot Facility, this ruling was not implemented.

Overcrowding in Cells – HCJ 4602/16

The Holot facility is made up of three main divisions, each of them including four wards of cells that are divided into 28 rooms each. Every room has five bunk beds and ten lockers with locks. Information collected by the Hotline indicates that ten people are held in each cell. When detainees are released, the IPS reduces the number of occupied cells.

Cell measurements by the detainees in Holot indicate that the size of every room is 3.55 meters by 12 meters, equaling 46.15 square meters (about 500 square feet). This equals 4.61 square meters per detainee (about 50 square feet), and constitutes a deviation from National Outline Plan 46 under which Holot was established. In two of the appendices to the Outline it was stated that the number of detainees in each room will not exceed six.³⁵ All the respondents interviewed by Hotline representatives reported that their cells were at full occupancy with ten detainees sharing each room.

On June 13, 2017, the High Court of Justice ruled unanimously that the current situation under which ten detainees are held per room is in contravention of National Outline Plan 46, as well as the proper interpretation of the purpose of the facility, which seeks

³⁵ Appendices to the National Outline Plan no. 46 to the Holot Facility: *Detailed Program*, p. 7 table number 2 and the *Social Appendix*, page 89 (Hebrew).



to decrease as much as possible the harm done to the rights of the detainees, and in light of conditions in facilities around the world. The Court ordered the State to reduce the number of detainees per cell to six within nine months from the day the ruling was issued, the date when Holot was shut down.

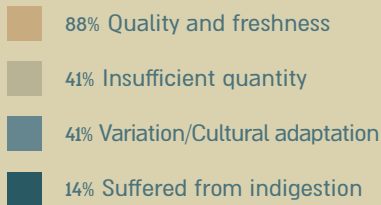
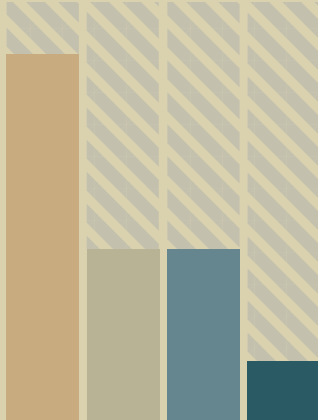
Educational and Cultural Activities – HCJ 4388/16

In a response to a Freedom of Information request dated March 28, 2017, the IPS claimed that formal education services (in English and mathematics) are provided by the Ministry of Education at the center, totaling 42 weekly hours of education, and that 250 detainees are attending these classes. The IPS also reported that a private firm is providing vocational and informal classes (in handicrafts, music and sports) totaling 24 weekly hours, and that 800 detainees are taking part in these classes. In addition, volunteers provide eight weekly hours of teaching. The IPS reported that there is a library at the facility with books in Tigrinya, Arabic, English and Amharic. The cultural hall at the center has televisions, but not the cells of the detainees.

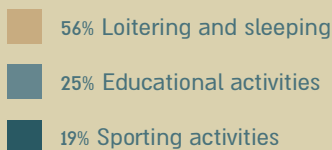
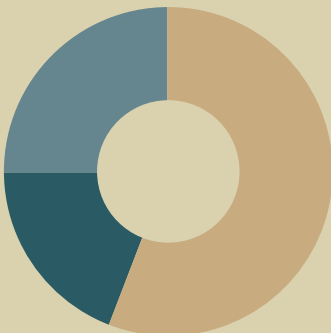
Despite this, 68% of the detainees reported that there are no educational or cultural activities at the facility. 56% said that they spend their day doing nothing, sleeping, loitering or watching television. 19% reported that they are participating in sports with fellow detainees or training by themselves. 25% of interviewees reported that they take part in educational activities initiated by other detainees, but only one respondent reported attending classes provided by the authorities at the facility.

As for the lack of educational activities, the NGOs' petition demanded that authorities provide activities based on the desires of the detainees in the facility, and that classrooms are opened in each ward throughout the entire week. There is no access to education and vocational training appropriate for the detainees in Holot. Due to the lack of diversified activities, the daily routine of the detainees is lacking in substance, even more so than in Israeli prisons. "Individuals who until a few months ago led independent adult lives, now spend months upon months doing nothing. Boredom is crippling, leading to frustrations, stress and desperation. This is a grave violation of the dignity of those being held at the facility, and their ability to lead a productive life, their right to education, to engagement during their hours of leisure and their right to lead a healthy lifestyle. Although the representatives of the State deny this, the petitioners insist that the facility is intended to break the spirit of those staying within it, to coerce

Complaints about the Food



Activities and Pastime



them to say that they "agree" to go to any place they are told to go, even if they face danger there."³⁶

On June 13, 2017, the High Court decided to dismiss the petition, while stating that it assumes that IPS will act to diversify and enrich the daily routine of the detainees in Holot, in part by carrying out surveys and through dialog with them. The Court also ruled that the IPS will issue two identifying cards to the detainees, so that handing over one of them to receive a key to a classroom or sports equipment will not restrict the freedom of movement of the detainees in the facility.

Bringing in Personal Items into the Holot Facility – HCJ 4386/16

The detainees in Holot are not routinely provided with basic equipment such as hygiene products, shaving products, toilet paper and laundry products, and they are banned from bringing such goods into the facility.

In contrast with the IPS' response to a Freedom of Information request that alleged that detainees are provided with cleaning and hygiene products based on their needs and upon request, 91% of the detainees reported that the hygiene products provided to them by the IPS are insufficient and that they are forced to purchase additional goods in the commissary. The prices of the products are similar to their prices outside of the facility, but the fact that the detainees receive only 16 shekels per day (\$4.60), purchasing these goods at the commissary is unaffordable: 71% of the respondents reported that the prices are too high for them.

³⁶ See footnote 31, HCJ 4386/16

On June 13, 2017, the High Court ruled that the blanket prohibition on bringing in and keeping cleaning supplies is unreasonable and therefore void. In light of the changes the IPS made to the list of items that detainees are prohibited from bringing in and keeping at the facility following the filing of the petition, the Court decided to keep the rest of the list as is, provided that within three months of the issuance of the ruling, the IPS will reexamine the list to see if it is possible to change it in a way that would make detention easier for the asylum seekers.

The Services Provided by the Immigration Authority at the Holot Facility – HCJ 4391/16

91% of respondents in 2017 reported long lines and waiting for long periods of time outside the offices of the Immigration Authority at Holot. 86% of the respondents knew that they had the right to ask for a furlough from Holot, but only one respondent knew that detainees can ask for up to four days of furlough (96 hours) as stated in Article 32(8)(C) in the Anti-Infiltration Law. 30% reported that they were told either in writing or in person that they can ask for three days of furlough per month. 76% of the respondents reported that they had received furloughs from Holot, but 19% said that sometimes their requests were approved and at times denied. Only one respondent reported receiving three continuous furlough days. The rest of the respondents said that they were only granted the right to leave for a day or two. It should be mentioned that the Anti-Infiltration Law allows penalizing a detainee for being absent from Holot without receiving prior permission only if 48 hours have elapsed since the detainee had left the facility.³⁷ All the respondents who reported having their requests denied said that the decision handed down to them was arbitrary, and that no explanation was provided as to why the request was rejected.

"I went to one clerk and he refused, the next day I returned and asked another clerk, and the second one agreed." F., a former detainee in Holot

Although Article 32(8)(C) allows the Detention Review Tribunal at the Saharonim Detention Facility to examine the decision of the border control officer to reject the request for a furlough, if a request for a review is filed within 14 days from the issuance of the decision, during 2017, the apparatus to allow detainees in Holot to address the Tribunal housed in Saharonim has not been established. As a result, detainees are unable to present their objections to the Tribunal.

³⁷ See footnote 8, Article 32(20)(A) 7

The petition of the NGOs points to the abysmal treatment asylum seekers encounter at the Immigration Authority office in Holot, which makes it harder for detainees to ask for furloughs: long lines due to limited opening hours; lack of seating spaces or a shaded waiting area; lack of clear criteria for receiving a furlough; lack of justification for refusals to grant a furlough, etc.

The Court decided to dismiss the petition due to the improvement in conditions at the Immigration Authority office in Holot – the creation of a shaded seating area – and due to the declaration of the Immigration Authority that in cases in which requests for furloughs are rejected, it will provide the applicants with reasoned decisions and the details of the interview Authority clerks held with them. The High Court also noted the commitment of the Immigration Authority not to exploit the occasion when detainees ask for a furlough to apply pressure, encourage or convince the asylum seekers to depart Israel.

Computers – HCJ 4389/16

The proceedings began with a petition to provide detainees with computers to use as well as unrestricted WiFi internet. The IPS categorically refused to provide these services. Currently, detainees have to pay to use the internet and surf the web with their mobile phones. After a hearing held in April, the High Court issued an order nisi, and as a result, the IPS agreed to carry out a pilot with two classrooms for teaching computer skills that would be connected to the Internet. In May 2017, another hearing was held, after which the IPS agreed to open three classrooms with a total cost of 500,000 shekels (about \$145,000). The petitioners insisted on the opening of classrooms in each ward, as specified in the Outline Plan of Holot, and that detainees be able to use the computers and the Internet freely during the day. On June 25, 2017 the Court dismissed the petition, while stating that the IPS will carry out a pilot starting in September. Under this pilot, the classrooms will be open during the day for personal use and not just for classes. In addition, in accordance with demand, the IPS would have to work toward creating a classroom in each ward and provide one computer for every 20 detainees.

After the ruling was issued, only one of the interviewees could report that a classroom with computers had been opened in the facility, but he added that there is a long line due to the great demand for using computers.

The "Pocket Money" Given to Detainees in Holot – HCJ 3855/17

Under the law, detainees in Holot are prohibited from working for a living outside the facility. The work opportunities inside the facility are limited, and the remuneration is 30 shekels for a whole day of work (almost \$9), significantly below the minimum wage in Israel. The duration of employment is limited to ten days per month. Therefore, detainees in the facility depend on receiving "pocket money," as it is defined by the Anti-Infiltration Law, in the sum of 16 shekels per day (\$4.60), about 480 shekels per month (\$140) to finance all their needs – clothing, communication, transportation, hygiene products, etc. Since this sum is insufficient to cover all needs, many of the detainees in the facility cannot get out of Holot during the day due to lack of funds. They are disconnected from friends and family who live outside the facility, enduring an impoverished existence inside the facility itself.

"The prices at the commissary are like outside, but for us, it's expensive. 16 shekels per day is not enough to buy everything you need. Basic stuff like soap, shampoo, tea, bus rides. I borrow money for transportation from friends". B. T., a former detainee in Holot

The Refugee Rights Clinic at Tel Aviv University addressed the Minister of Internal Security and Minister of Finance, demanding that the State significantly increase the sum given to detainees due to the infringement on their right to dignity and freedom of movement resulting from such a low daily allowance. After its request was denied, on May 10, 2017, the Clinic filed a petition on behalf of three detainees held at Holot, along with the Association for Civil Rights in Israel and the Hotline for Refugees and Migrants. The petitioners demanded that the daily allowance be increased to 37 shekels (almost \$11), based on a calculation of the detainees' needs and their costs. The Court is yet to rule on this petition, and it became moot due to the closure of the facility.

V. Overcrowding in Prisons

On June 13, 2017, the High Court of Justice ruled in favor of the petition filed by the Association for Civil Rights, the Academic Center for Law and Business in Ramat Gan and PHRI, decreeing that within nine months, authorities must provide every detainee with 3 square meters of living space (32 square feet) excluding the area of the toilet and shower, and within 18 months, the IPS must provide every detainee with 4 square meters (43 square feet) of living space excluding the area of the toilet and shower, or 4.5 square meters (48 square feet) including the area of the toilet and shower.³⁸

As the report concerning the conditions of detention and imprisonment in Israeli Prison Services carceral facilities for the year 2016 shows (hereafter "the Public Defender's report"), "the extreme overcrowding prevalent in Israeli prisons constitutes a grave violation of the rights of the incarcerated, including their dignity, privacy and health. This overcrowding has negative ramifications on the physical and mental state of the detainee and his interaction with his environment, and it does not provide space for even minimal privacy. In a large share of the carceral institutions, the overcrowding further exacerbates the already difficult living conditions, including: the heat and airlessness; subpar hygiene and sanitation conditions; lack of separation between the shower and toilet; inadequate eating setups in cells; lack of space to store property, and more."³⁹

Saharonim

Saharonim contains three compounds: A, B and C. Compound A, which houses wings 1–6, has not been in use for the last four years; Compound B, housing wings 7 and 8, has not been in use since early 2015; Compound C, the only one in use in 2017 and currently, was opened in June 2012. Compound C consists of wings 9–14, housing residential containers arranged in two rows, with a roofed central area that serves as a yard. Another wing is the isolation wing, which contains three cells.

From data collected throughout 2017, similarly to information collected in years prior, each room houses ten detainees arranged on five bunk beds at maximum capacity. The number of detainees per room is in contravention of the official plan of the facility that the Bar Association reported on in 2014,⁴⁰ which indicated that after refurbishment, the

³⁸ HCJ 1892/14 *The Association for Civil Rights in Israel vs. the Minister of Internal Security*. Accessible in Hebrew at: <https://www.acri.org.il/he/30843>

³⁹ See footnote 3.

⁴⁰ Israel Bar Association, *Official Monitoring Report: Saharonim Facility*, December 31, 2013, pages 7–8. Accessible in Hebrew at: <http://bit.ly/MTIqMn>

number of detainees per cell would not exceed five people. In addition, the number of detainees to a room violates IPS regulations and the Israeli Penal Code, which states that "there will be no more than four beds for prisoners in each cell."⁴¹

48% of respondents reported that all the bunk beds in their cells are occupied – ten people per room. 52% of the respondents reported that there is over 80% occupancy in their room, with eight or nine detainees per cell. This results in a living space of between 2.2 square meters to 2.8 square meters only (23.7–30 square feet), half of what IPS regulations dictate and a quarter of the living space provided to detainees in other developed countries.⁴² Even when the cells are not fully occupied, the empty beds take up space and contribute to the overcrowding of the room.

The findings in the Public Defender's report about the overcrowding in Saharonim matches the data collected by Hotline representatives during 2017. The authors of the Public Defender's report mentioned that to meet the minimum requirement of 4.2 square meters per detainee (54.2 square feet), no more than four detainees must be held in each cell.⁴³

Givon

Givon is a criminal prison that contains two cell blocks for migrants, one of them for men and the other one for women and children. The cell sizes vary, and between six to 16 detainees are held in each. Toilets and showers are located inside the cells and serve the occupants of the room. Among the respondents in Givon, 77% reported about full occupancy in their room or occupancy of over 80% (66% of the female responders and 86% of the male respondents).

The findings of the Hotline's research during 2017 are in line with the Public Defender's report, which stated that "in the ward where the foreigners are held (ward 3), there is significant overcrowding. There are ten cells in the ward, some of which contain 16 beds. The other cells are intended for up to eight detainees. During the visit [of members of the Public Defender's Office], the ward was almost completely full: out of the total 112 spots for detainees that can be held there, 92 detainees were present during the visit."⁴⁴ The Public Defender's report does not address the matter of overcrowding in the women's ward (ward 2).

⁴¹ Article 2(H) of 2010 Prison Ordinance (Detention Conditions) and Article 3(E) (2) of the 1977 Penal Code (Arrest Enforcement Authority) (Detention Condition)

⁴² See footnote 3.

⁴³ Ibid., page 20 of the report.

⁴⁴ Ibid., p. 20.

VI. Penalties and Violence

The penalties imposed on detainees are carried out in accordance with the Order of Prison Commissioner (OPC) 04.13.00 (disciplinary action). Handcuffing or holding a prisoner in isolation cannot be used as punishment (OPC 04.15.00 and OPC 04.03.00 respectively). Migrants may be penalized for violating the facility regulations and even endure violence from prison guards and Immigration Authority inspectors during their arrest. Penalties for violating prison regulations may lead to solitary confinement, as detained in OPC 04.14.00 (Holding in Solitary Confinement). Unlike penalties for violation of regulations, the exercise of violence that exceeds reasonable force to carry out one's duty against detainees or prisoners is illegal, and there are oversight mechanisms whose role is to investigate complaints to prevent such violence by State employees. In many cases, these oversight mechanisms are ineffective: few detainees dare to complain about violence meted out against them, and those who do are often deported before authorities have had a chance to investigate their claim.

Penalties are handed down in Holot according to Articles 32(10) and 32(20) in the Anti-Infiltration Law, and according to Operating Order 11 – "Rules of Conduct for Center Residents: The Order and Discipline at the Center," which grant Immigration Authority clerks as well as the IPS the right to punish the detainees, with penalties ranging from monetary fines to detention in Saharonim. The list of violations for which penalties may be imposed are detailed in Article 32(20) of the Anti-Infiltration Law and Appendix A to the operating order of the Holot facility, but this list was never published, and the detainees were not informed about it.

Saharonim

Two of the respondents reported being punished by the prison guards during their detention. One of the respondents reported being handcuffed and sent to 24 hours in solitary confinement after arguing with the judge at the Detention Review Tribunal during a hearing because he felt he was being pressured to leave Israel for his homeland or a third country. Another testified that he was handcuffed and placed in solitary confinement for three days because he did not get up for a roll call during a meal.

"I argued with the judge. I explained that I cannot return to Sudan and they pressured me to leave for Rwanda. I refused to leave. So they moved me handcuffed in solitary for 24 hours. It's a small room, with no TV, no water. Dirty toilet and there's no paper. You're not allowed to smoke. They didn't give me water when I asked." S. B., detained in Saharonim

Two of the respondents reported that they were subjected to violence at the hands of Immigration Authority inspectors during their arrest. Only one of them said that he had filed a complaint due to the violence he endured, and that a police investigator was summoned by the IPS to take his statement.

Givon

The interviewees for this report did not describe any cases of penalties imposed on them during 2017 or cases of violence from IPS prison guards or the Immigration Authority employees.

Holot

61% of respondents reported being penalized by Immigration Authority employees or by IPS prison guards in Holot. 61% among them were punished with detention in Saharonim. The respondents testified about arbitrary punishment, and at times double penalties for the same violation by both IPS guards and Immigration Authority personnel. Most reported that they were punished for arriving late to the facility or because they did not stamp the time clock on schedule. Since the detainees do not receive confirmation for stamping the time clock, they have no way of proving that they have done so, and some were punished due to technical errors in the system. Detainees were also penalized for crossing between sections of the facility without signing in, due to loss of their biometric Holot card or for damaging property.

"At 6 in the morning they came into our room, woke us up and took me to a hearing. At the hearing, I was told that because I did not sign in four times in the past four months, they want to send me to Saharonim. I talked to them, without arguing. I told them that I'm a human being and that such things happen and I just forgot. In the end, they gave me a warning and told me 'if you do this one more time, I'll do an interview and send you straight to prison.' Later, I was called to the warden. He fined me for 180 shekels [\$52] for this issue of not signing in, although I had already undergone a hearing and received a warning for it. I asked for a receipt from the warden, but he refused and told me 'get out of here.'" T. Y., a former detainee in Holot

In a response from the IPS dated April 24, 2017 to a Freedom of Information request, the Prison Service stated that as of that date, 441 disciplinary hearing were held for detainees in Holot. 18% of proceedings were due to detainees' not taking part in over three roll calls per month, 2% were over returns to the facility after 10 p.m., 0.5% were over staying outside the facility; 10% were over loss or damage to the detainees' biometric Holot card; and 69.5% of cases involved other violations such as a refusal to identify oneself to facility authorities, bringing in prohibited items, entering the facility drunk, fighting and destruction of property. These data do not include penalties imposed by Immigration Authority clerks at the facility.

Near Holot. Photo: Malin Fezehai





VII. Handcuffing During Medical Examinations

According to IPS procedures, detainees under administrative detention should be handcuffed while being transferred from one facility to another including when being transported to a medical facility.

The position of the Israel Medical Association (IMA) is that "providing medical care when a person is handcuffed is a violation of his dignity and privacy. Handcuffing causes suffering and at times even harm and may be detrimental to the quality of the medical care itself. By merely agreeing to treat a handcuffed person, it may be interpreted that the doctor is becoming part of the enforcement mechanism, thus abandoning medical ethics in favor of the ruling authority."⁴⁵ Therefore, IMA guidelines concerning examining detained patients are:⁴⁶

- 1** The doctor will respect the dignity, privacy and health of every person held in detention or imprisoned.
- 2** The doctor will respect the right of any detainee or prisoner to receive medical care like any other person, without being handcuffed.
- 3** The doctor will exercise his professional judgment to release a detainee or a prisoner under his care from his shackles, except for cases when there is an immediate and tangible danger to the patient or the medical team treating him.

The Hotline inquired of the ministry of health whether there is a directive or regulation banning medical examinations when a person is shackled. In a response of the Health Directorate to the Freedom of Information request, it was stated that "in a general hospital, the rule is to ask to unshackle handcuffs and keep only one handcuff, and in any case, it is ensured that the shackling would not interfere with the medical examination and medical care. The IPS notifies the medical staff regarding the level

⁴⁵ See, the Israeli Medical Association, *Handcuffing of Prisoners and Detainees in Hospitals*, Accessible in Hebrew at: <https://www.ima.org.il/MainSiteNew/EditClinicalInstruction.aspx?ClinicalInstructionId=157>

⁴⁶ See, the Israeli Medical Association, *Relations between the Doctor and Society*, Accessible in Hebrew at: <https://www.ima.org.il/mainsitenew/viewcategory.aspx?categoryid=3298>

of threat posed by the patient as far as they are concerned. At the Center of Mental Health, the patient arrives with guards and it is uncommon to examine a shackled patient.”

In response to a question on whether there is a directive or regulation that instructs the prison guard to unshackle a person during medical examination, the Health Directorate responded: “in a general hospital – there is a directive to act in accordance with the level of threat as defined by the IPS. If it is required to administer treatment, of course it is possible to ask to remove the handcuffs. A person without legal status [asylum seekers, migrants] at a hospital is first and foremost a patient, and a detainee/prisoner second, and this applies to Israeli residents as well who are brought to examinations or treatment by the IPS. As for the Mental Health Center – [detainees are unshackled] except in extraordinary cases of an aggressive patient, in which the IPS, due to security concerns, leaves the patient handcuffed (after physical attacks by the patient against the staff)*.

It should be emphasized that the asylum seekers and migrants in question are detained under administrative immigration procedures, and these are not individuals involved in any criminal proceedings who may pose a danger to their surroundings. Shackling cannot serve as a panacea for the lack of manpower required to guard the patient while he is treated at a hospital. The handcuffing of detainees and prisoners during hospitalization or a medical examination is also in contravention of IPS Order of Prison Commissioner 04.15.01 (handcuffing a prisoner in a public place).

“I needed medical care [interviewee cries and struggles to calm down]. They took me in handcuffs and this is how I received treatment, while I was handcuffed. They mistreated me and refused to unshackle me. The doctor asked to remove my handcuffs, and the prison guards that were with me refused. They also stayed with me during the medical procedure.” N. R., a woman jailed in Givon

Three of the respondents who were held in Saharonim and two of the respondents held in Givon, one of them a woman, reported being handcuffed during a medical examination or while undergoing treatment at a hospital. One of the detainees from Saharonim testified that he was hospitalized for three days during which one of his arms was shackled to the bed, except for a short break, during an imaging test. Another detainee in Givon reported that he had fainted, and when he regained consciousness, he discovered that he was shackled and connected to an intravenous infusion.

Summary and Recommendations

As stated in the foreword to this report, as part of the monitoring of detention conditions, we chose to focus on several important phenomena: detention of transgender migrants; detention of Darfuris in contravention of the State's commitment not to detain them; legal proceedings and rulings concerning detention conditions; penalties and violence employed against detainees; as well as shackling during hospitalization or medical examinations. With regards to other aspects that we monitored throughout the year, as in previous years, no change or progress occurred since the publication of the annual monitoring report for 2016. Thus, the recommendations of the Hotline regarding those matters still stand.⁴⁷

The vast majority of detainees in immigration detention are Eritrean and Sudanese asylum seekers that the state of Israel admits it cannot deport to their countries of origin. Others are migrant workers and tourists who overstayed or violated the conditions of their visa. The Hotline's position is that detention should be the last resort while attempting to deport migrants from the country. According to the UNHCR guidelines, "detention is an exceptional measure and can only be justified for a legitimate purpose."⁴⁸ Yet Israeli policy for more than a decade is to detain both migrants and asylum seekers and to refrain from releasing them inside the country. The Hotline's primary recommendation is to stop detaining migrant workers and asylum seekers and to use other means, more humane, useful and economic ones, in order to control immigration.⁴⁹

However, as long as the Israeli authorities insist on maintaining the present detention policy, HRM's immediate recommendations are as follows:

Recommendations for the IPS

- Migrants should not be detained in solitary confinement.

⁴⁷ See footnote 23.

⁴⁸ UN High Commissioner for Refugees (UNHCR), *Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum Seekers and Alternatives to Detention*, 2012, guideline 4.1: <http://www.refworld.org/docid/503489533b8.html>

⁴⁹ International Detention Coalition, *There are Alternatives*, September 24, 2015: <http://idcoalition.org/publications/there-are-alternatives-revised-edition/>

- Transgender detainees should not be detained separately or in isolation. They should be allowed to take hormones and dress according to their gender identity. Prison authorities should address them according to their gender identity and maintain the dignity of the detainees.
- Handcuffing during medical examinations or hospitalization should be entirely avoided and amended in accordance with regulations concerning migrants in administrative detention who are not suspects or charged with any crime, and hence do not pose a threat to their environment.
- The social support and mental health services should be expanded to be able to provide assistance for those detained indefinitely due to Israel's policy of deporting asylum seekers to a third country.
- Reduce by 50 percent the number of detainees in cells so that the living space per detainee is at least 4.5 square meters, in accordance with the IPS regulations and the ruling of the High Court of Justice.
- The principle of a public hearing should be respected. Authorities should promulgate a procedure to enable the attendance of hearings at the Tribunal by anyone interested in doing so.
- Detainees should be provided with food they are accustomed to, as much as possible, and authorities should take into account their religious customs and fasts.
- Regular religious services should be provided at all facilities and freedom of worship should be safeguarded.
- The IPS should formulate a protocol for summoning a police investigator in cases when the detainee or his representative appeal to the IPS to file a complaint, to ensure that the detainee can file the complaint before being deported from the country.
- The information about visitation days at immigration detention facilities should be made accessible on the website of the IPS, and it should be published in languages spoken by relatives of the detainees.

Recommendations for the Immigration Authority

- Asylum seekers should not be pressured or threatened to coerce them to leave Israel.

- Asylum seekers should not be jailed to undergo identification procedures, and instead such interviews should be carried out in the Immigration Authority office closest to their place of residence prior to their arrest and detention.
- Access to Israel's asylum system should be unrestricted and decisions must be provided without delay. Those who await a decision regarding their application should not be detained.
- Forms of asylum applications should be made available in all wards of detention facilities, as well as information explaining Israel's asylum system, the application process and how to file the forms.
- Survivors of torture or people suffering from post trauma or other mental disorders should not be imprisoned. Authorities should find alternatives to detention in such cases.
- In cases of detention of children and families, a coordinator should be appointed who can assist in the family's exit from Israel without incarceration. Children should not be held in detention except in cases of deportation set to take place within hours of their detention.
- The detention periods for migrants at the Yahalom facility should be as short as possible.
- PIBA must uphold the dignity and rights of detainees at Yahalom, as well as humane detention conditions there, and in particular, the hygiene of the facility and the conditions under which children are detained until their flights.
- Monitoring bodies and representatives of human rights organizations should be allowed access to the Yahalom facility.
- The role and authority of the border control officers should be explained to the detainees, as well as the purpose of the meetings and hearings conducted on their matter.
- The detainees should be provided with the hearing protocol and the reasoned decision made regarding their case, as per law.
- The rights of detainees to representation should be upheld; their representatives should be notified about proceedings or hearings ahead of time, and they should be provided with the relevant materials regarding their clients' cases without delays.

- Responses should be provided in a timely manner to detainees or to their representatives.

Recommendations for the Ministry of Justice

- An effective and discrete mechanism should be created that enables migrants to file a complaint with the police regarding violence experienced during arrest or afterwards, before they are deported from Israel.
- The principle of a public hearing should be respected. Authorities should promulgate a procedure to enable the attendance of hearings at the Tribunal by anyone interested in doing so.
- The online database of decisions and transcripts of hearings of the Detention Review Tribunal should be updated daily to allow friends and family to locate their loved ones. This would also enable watchdogs to locate victims of trafficking or slavery before they are deported from the country, to ensure that traffickers are brought to justice.
- Signs in the relevant languages should be hung across all detention facilities explaining to the detainees their rights, as well as the authority of the border control officers and Tribunal judges who hold hearings on their cases.