



Hotline for Refugees and Migrants



IMMIGRATION DETENTION IN ISRAEL

Annual Monitoring Report 2018

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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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Commonly Used Acronyms and Abbreviations

HRM – the Hotline for Refugees and Migrants

UNHCR – United Nations High Commissioner for Refugees

PIBA – the Population, Immigration and Border Authority

IPS – Israel Prison Service

HCJ – High Court of Justice

The Tribunal – The Detention Review Tribunal

RSD – Refugee Status Determination

The closure of Holot, March 14, 2018. Photo by Oren Ziv, Activestills.



1. Forward

For the fourth consecutive year, the Hotline for Refugees and Migrants (HRM) is publishing a monitoring report on the detention conditions of asylum seekers and undocumented migrants being held in immigration detention facilities. In 2018, detention continued to constitute a major tool in Israel's policies toward undocumented migrants within its borders. However, the number of detained asylum seekers dropped significantly in 2018 due to the cancellation of section 4 of the Anti-Infiltration Law and the closure of the Holot Detention Center (see Chapter 5). This report describes the detainees currently held in different facilities, some of whom have been detained for many months and even years.¹ The report also describes the laws under which these migrants are being held.

The detention of families with children prior to their deportation from Israel, as well as the detention of persons denied entry to Israel and the violation of their rights, including the right to apply for asylum and receive access to the judicial system in Israel, are two of the prominent trends where we have identified particularly grave failings. Detention was significantly affected by the plan to deport asylum seekers to third countries, the cancellation of section 4 of the Anti-Infiltration Law and the closure of the Holot Detention Center, which sharply reduced the number of asylum seekers currently detained in Israel. The report also addresses the changes in the regulation concerning the issuance of entry permits to the Israel Prison Service (IPS) facilities at the end of 2016, which has made it much more difficult to enter these facilities and even resulted in the denial of entry of HRM's staff to the Givon facility for a period in 2018. The report describes the main problems we have identified and the main complaints of the detainees, presented to us.

Beside the issues described at length in this report, we can also point out the reduction in overcrowding in detention, due to the efforts of the IPS to decrease the number of detainees per cell, according to the High Court of Justice (HCJ) ruling on case 14/1892 *the Association for Civil Rights in Israel vs. the Ministry of Internal*

¹ See the Hotline for Refugees and Migrants, *Forgotten in Prison: The Prolonged Detention of Migrants*, December 2016. Available online: <https://bit.ly/2NW8Hd9>.

Security. On the other hand, as in previous years, we have received complaints, time and time again, about bedbugs at the Givon facility, a problem that has not been resolved since 2016.

Methodology

To paint a clear picture of the detention conditions of migrant workers and asylum seekers in Israel, we conducted extensive research and included information based on the following sources:

Freedom of Information Requests

We sent 14 Freedom of Information (FOI) requests to the IPS this year and seven FOI requests to the Population, Immigration and Border Authority (PIBA). In these requests, we inquired about the services provided to detainees (health services, nutrition, translation, cultural activities, education, recreational activities), detention conditions and the number of detainees in the different facilities. The IPS provided partial responses to these requests. On August 12, 2018, HRM contacted the IPS to request the missing information, but the requested information was not provided to date. PIBA only partially responded to 2 of the 7 requests sent on May 21, 2018, thus violating Israel's FOI Act.

Interviews and Testimonies

As in previous years, we kept track of detention conditions in the various detention facilities. We examined detention conditions utilizing a questionnaire based on international standards. In formulating the questionnaire, we used the Practical Manual authored by the UNHCR, the Association for the Prevention of Torture (APT) and the International Detention Coalition (IDC).²

Representatives of HRM conducted 25 interviews with migrants and asylum seekers from various countries, among them ten women, who were detained in 2018.³ The questionnaires were completed as part of meetings with clients of HRM in the various detention facilities, as well as in personal meetings and phone calls with persons

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

³ Representatives of HRM conducted seven interviews with detainees held in the Saharonim facility, 17 interviews with detainees held in the Givon facility and one interview with an asylum seeker detained at the Yahalom facility.

detained in 2018 who have since been released. It is important to mention that HRM representatives conducted fewer interviews in detention facilities compared to the number of interviews in previous years due to the closure of the Holot Detention Center, the reduction in the number of detainees held at the Saharonim Detention Facility and the challenges in accessing the Givon facility that we encountered this year.

Unlike the Saharonim facility, in which most of the detainees are asylum seekers and stateless persons, the Givon facility often holds undocumented migrants who are usually deported to their countries of origins within a short time after their detention, making it difficult to meet with them. In several cases, HRM representatives reached Givon to meet with detainees only to discover that they had already been deported. HRM representatives managed to interview only one asylum seeker who was detained at the Yahalom facility in 2018, after he had been transferred to the Givon facility where they met him. The reason is that Yahalom is managed by PIBA, which denies access to anyone except attorneys representing the detainees, or embassy representatives of the detainee's country of origin. Although HRM's legal department represented 13 asylum seekers held at the facility in 2018, the priority of providing them with legal services, coupled with the limited access to the facility given to our attorneys, left few opportunities to interview them about their detention conditions before their deportation from Israel (see Chapter 4).

Legal Proceedings

This report refers to a myriad of legal proceedings and rulings that have affected the detention of asylum seekers and undocumented migrants, and the manner and conditions of their detention.

Legal proceedings against the Anti-Infiltration Law:

- HCJ 7146/12 *Adam vs. the Knesset* (September 16, 2013).
- HCJ 8425/12 *Gabreselassi vs. the Knesset*.
- HCJ 8665/14 *Deste vs. the Knesset* (August 11, 2015).

Legal proceedings against the deportation to third countries:

- Administrative Appeal 8101/15 *Tsegeta vs. the Minister of Interior* (August 28, 2018).
- Administrative Petition 18-03-6716 *L. vs. the Ministry of Interior* (April 1, 2018).

- HCJ 679/18 *Cook Avivi vs. the Prime Minister*.
- HCJ 733/18 *Feldman vs. the State of Israel* (April 10, 2018).
- HCJ 2445/18 *the Hotline for Refugees and Migrants and others vs. the Prime Minister* (April 30, 2018).

Proceedings concerning individuals denied entry to Israel:

- Administrative Appeal 18-11-16206 *the State of Israel vs. Edirisinhage* (November 14, 2018).
- Request to Appeal⁴ 8192/18 *the State of Israel vs. Edirisinhage* (December 2, 2018).

Proceedings concerning limitation of access to IPS facilities:

- Request to Appeal to the HCJ 4644/15 *Ra'i vs. the IPS* (June 15, 2016).
- Request to Appeal to the HCJ 744/17 *Awad vs. the IPS* (February 20, 2018).
- HCJ 5109/16 *the Israeli Bar Association vs. the IPS* (September 28, 2017).

⁴ An appeal in the second instance requiring the permission of the Supreme Court.

2. 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 wishes to immigrate to Israel. It also applies to their children and grandchildren. These immigrants are immediately eligible for 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 on numerous occasions 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, or has no other humanitarian grounds for status, can obtain legal status only for short periods of time. Migrants who entered Israel with a tourist visa or a work visa and overstay the period 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 Persons Held in Immigration Detention

According to the definitions of PIBA, there are four groups of migrants in Israel,⁹ some of whom may end up in detention facilities:

⁵ The Law of Return, 1950: <https://bit.ly/2SeDbwx>.

⁶ The Citizenship Law, 1952. Available in Hebrew: <https://bit.ly/2CSiEU8>.

⁷ The Entry to Israel Law, 1952. Available in Hebrew: <https://bit.ly/2J954hD>.

⁸ The Anti-Infiltration Law, 1954. Available in Hebrew: <https://bit.ly/2Rq9Yth>.

⁹ PIBA, *Data on Foreigners in Israel – 2018*, January 2019. Available in Hebrew: <https://bit.ly/2RTCjIB>.

"Tourists"

in late 2018, 66,700 migrants resided in Israel as tourists who arrived through Ben Gurion Airport and remained. 69.3% of them are from former Soviet Union countries. The common assumption is that most of them are relatives of people who were naturalized under the Law of Return.

"Foreign Workers"

at the end of 2018, there were 98,214 migrant workers with visas allowing them to work in the agricultural, caregiving or construction sectors in Israel. Most of them are from Thailand, the Philippines, India, Moldova, Sri Lanka and China. About 44.8% 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 they can lose their legal status if they decide to leave their employers for various reasons, including exploitation and difficult working conditions, if their employer fires them, or if their work permit expires. At the end of 2018, there were 16,230 migrant workers who had lost their legal status but have not left Israel, among them 11,434 (70.4%) people employed in the caregiving sector, in which most are women.

"Infiltrators"

At the end of 2018, there were 33,627 migrants and asylum seekers who had entered Israel through the border with Egypt over the past decade, and who are pejoratively labeled as "infiltrators" by Israeli authorities, though international law allows individuals to cross borders illegally in search of safe haven. 91% of these individuals are asylum seekers from Eritrea and Sudan.

"Asylum seekers"

16,263 migrants applied for asylum in 2018. 43.7% of them are from Eritrea and Sudan and 33% are from Eastern Europe.

2018 witnessed a record number of deportations of undocumented migrants, with a 36% rise in the number of deportees. 7,959 migrants were deported from Israel in the past year compared to 5,841 in 2017, 3,221 in 2016 and 3,116 in 2015. As in 2015-2017, most of the deportees in 2018 were from the Ukraine (4,725) and Georgia (1,263). These are people who arrive in Israel with the encouragement of organized networks whose purpose is to bring workers to Israel while bypassing mechanisms regularizing the work of migrant laborers in Israel and the quota for the employment permits. These

networks encourage the workers to apply for asylum, which can allow them to remain in Israel while the application is reviewed.¹⁰ In some cases, it appears that the workers fall victim to human trafficking and are being held in conditions that can be considered to be modern slavery; the high numbers of deportees indicates that Israeli authorities do not exert enough efforts in examining whether the cases need to be referred to the Israeli Police for investigation of possible human trafficking offenses before the migrants are deported from Israel.

According to PIBA data, the number of people denied entry to Israel in 2018 – mostly citizens of the Ukraine, Russia and Georgia – stood at 22,495 compared to 19,556 such individuals in 2017.¹¹ This statistic contradicts information provided by PIBA in response to a FOI request filed by HRM, according to which Israel denied entry to only 10,604 people in 2017.¹²

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, described in HRM 2015 annual report.¹³ Chapter 5 of this report describes the different iterations of the Anti-Infiltration Law and the closure of the Holot Detention Center. Detention is the dominant tactic in Israel's policies concerning immigration to Israel. Detention serves as a method of managing and deterring migrants and asylum seekers from staying in Israel for long periods of time. However, in 2018 a change occurred in the policy concerning the detention of asylum seekers following the closure Holot and the cancellation of the deportation plan (see Chapter 5), and following HCJ ruling 14/1892,¹⁴ which set a timeline for reducing overcrowding in IPS facilities.¹⁵

¹⁰ See also: The Hotline for Refugees and Migrants, *Knocking at the Gate – Flawed Access to the Asylum System due to the influx of applicants from the Ukraine and Georgia*, October 2017. Available online: <https://bit.ly/2CisQpL>.

¹¹ See: PIBA, *Activity Summary Report – 2018*, Jan 2019. Available in Hebrew (pdf): <https://bit.ly/2V2Tbi4>.

¹² Response 2018-00004715 from February 28, 2018.

¹³ Hotline for Refugees and Migrants, *Immigration Detention in Israel – 2015 Annual Monitoring Report*, February 2016. Available online: <https://bit.ly/2rFAWmo>.

¹⁴ HCJ 1892/14 *the Association for Civil Rights in Israel vs. the Minister of Interior Security*. Available in Hebrew: <http://bit.ly/2DKPLto>.

¹⁵ For more see: The Hotline for Refugees and Migrants, *Immigration Detention in Israel – 2017 Annual Monitoring Report*, March 2018. Available online: <https://bit.ly/2HyoCoe>.

Immigration Detention Facilities

In 2018, there were four operating detention facilities with the purpose of holding undocumented migrants and asylum seekers: Saharonim Detention Facility on the border with Egypt; Givon Detention Facility in Ramle; Yahalom Detention Facility 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, HaEl and Ohalei Keidar, to punish them with solitary confinement, or due to the need to isolate them or keep them under observation. This detention occurred despite the legal prohibition on holding migrants not accused of a crime with criminal prisoners.¹⁶ However, in 2018, no migrant held under administrative detention in criminal prisons approached HRM.

Saharonim Detention Facility

Located in the Negev desert near Nitsana, next to the border with Egypt, Saharonim holds men only. 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 of which could hold up to 250 detainees (2,000 altogether). In June 2012, six more wings were added, replacing the old wings, permitting the detention of up to 1,000 detainees in Saharonim.¹⁷ However, due to the reduction in the number of detainees and the cancellation of the deportation plan (see Chapter 5), some of the wings were converted to house Palestinians who entered Israel without a permit (termed "illegal residents"), who were transferred from nearby Ktziot prison due to the implementation of HCJ ruling on case 1892/12.

According to a response from the IPS to a FOI request on July 22, 2018, Saharonim Detention Facility held 38 detainees at the time. 10 of the detainees had been held for over six months and up to a year (26.3%); nine were held for over a year but less than two years (24.7%); two were held for over two years but less than three years (5.2%); and four were held longer than three years (10.5%). The number of detainees

¹⁶ 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. Available online: <https://bit.ly/2Fbwwa3>.

¹⁷ Josh Breiner, *Prison Officials Warn: No Room to Jail Thousands of Asylum Seekers Who Refuse to Leave Israel*, Haaretz, February 4, 2018. Available at: <https://bit.ly/2O4CArY>.



Between Holot and Saharonim, February 22, 2018. Photo: Oren Ziv, Activestills

held in Saharonim remained constant throughout 2018 since the closure of Holot and the cancellation of the deportation plan.

Givon Detention Facility

Located in Ramle, Givon Detention Facility opened in 2004 and is considered part of a larger compound of prisons that includes Ayalon, Maassiyahu, Neve Tirtsa and Nitzan Prison. The facility holds Israeli citizens who have been convicted of criminal offenses for which they have been sentenced for up to five years, as well as undocumented migrants. The two populations are held in separate wings. Givon holds both men and women, mainly migrant workers. According to a response by the IPS to a FOI request dated July 22, 2018, 88 migrant detainees were held there at the time. Seven of them have been detained for longer than six months (8%), and eight were detained for over a year (9%). Although the information was requested in the FOI request, the IPS, in its response, did not clarify how many of the detainees are women and how many are minors. The IPS only mentions the ongoing detention period and does not consider prior durations of detention, thus making it impossible to know if these detainees were cumulatively held for longer periods.

Holot Detention Center

The Holot facility was opened in December 2013 and closed in March 2018. This is how Israeli authorities described the facility: "The open residency center is a place where infiltrators who received a detention 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.”¹⁸ Details about the Holot facility and its closure are described in Chapter 5.

Yahalom Detention Facility

The Yahalom Detention Facility, located at Ben Gurion Airport, is the only detention facility that is managed by PIBA and not by the IPS. The facility was designed to hold migrants and tourists, whose entry to Israel is denied, for several days until they can be deported to their country of origin. 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 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 2018. If children were detained for a period longer than ten days, they were transferred with their mothers to Givon Detention Facility until their deportation was possible. According to information provided by PIBA in 2017 in response to a FOI request, Yahalom has ten rooms of different sizes, including three rooms designed for families. There is a total of 56 beds at the facility.

Except for its attorneys, HRM representatives do not have access to the Yahalom facility. Despite repeated attempts to receive a response to FOI requests submitted by HRM to PIBA about the number of detainees held at the facility during 2018, no response has been received to date.

According to data provided by PIBA in response to a FOI request, during 2017, 11,850 migrants were detained in Yahalom: 9,717 migrants or tourists whose entry was denied 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. Of all the detainees, 344 were minors held with at least one parent, 319 people whose entry was denied, and 25 who were moved there prior to a deportation from Israel. Two minors were held in the facility for over a week. As mentioned above, according to PIBA data, the number of persons denied entry in 2018 stood at 22,495. Based on information provided by PIBA in previous years in response to FOI requests, we can deduce that over 90% of persons denied entry to Israel were detained at the Yahalom facility before deportation (96% in 2016 and 91.5% in 2017).

¹⁸ HCJ 4386/16 *Tesfahiwat vs. IPS Commissioner*, initial response by the respondents, November 17, 2016, paragraph 7. Available in Hebrew (pdf): <https://bit.ly/2TSnvPo>.

3. Women and Children in Detention

Starting in 2013, female asylum seekers are no longer detained in Israel, unless their asylum application is rejected and they are not members of national groups covered by a non-removal policy. However, the Entry to Israel Law allows the detention of undocumented migrants for the purpose of their deportation, and they can be detained with their children to facilitate the deportation of the entire family from Israel. According to PIBA data, at the end of 2018, there were 16,230 undocumented migrant workers in the country, of whom 11,434 came to work in the caregiving sector, which is largely comprised of female workers (about 80% are women). Each year, PIBA inspectors detain and deport dozens of families, including their children.

40% of detainees interviewed for this report are women. All of them were detained in Givon and some of them were also held at the Yahalom facility prior to their deportation. Saharonim is a facility intended for men only and women have not been detained there since 2013.

The women interviewed for this report came to Israel from the Ukraine, Ethiopia, India, Sri Lanka, Belarus, Nepal and Kazakhstan.

Two of the interviewees arrived (via Sinai) through the Egyptian border, from Ethiopia as asylum seekers, but their asylum applications have been rejected. One of these women is a possible victim of human trafficking in Sinai, but the Israeli Police did not recognize her as a human trafficking victim. Four of the interviewees arrived in Israel as tourists, three of whom arrived in Israel with the intention of filing an asylum application. The entry of one of them was denied and the asylum application of another woman was denied after she had filed an application to obtain legal status due to a relationship with an Israeli citizen, though this file was closed as well. Another three women reached Israel with work visas.

All were detained because their visa expired, except the one whose entry to Israel was denied. Three were detained by PIBA inspectors for working, a violation of the conditions of their visa. Two women were arrested in the street and two were detained in their homes.

Six of the interviewees were held in detention for less than a month; one study participant remained in detention for over a month; one interviewee and her two minor daughters were held in detention for two months; another interviewee was held in detention for over four months.

In addition to the women interviewed for the purpose of this report, during 2018 HRM collected information about 11 mothers who were detained by PIBA inspectors. They were from the Philippines, Nepal, India, Nigeria and Ethiopia. Seven of the women were detained with their children. Six of them were deported from Israel.

Background

In October 2004, the Pregnant Foreign Worker Regulation came into effect, under which a migrant who becomes pregnant could not renew her visa. If she did not leave Israel voluntarily, she would be detained and deported. In 2009 the Ministry of Interior determined that a pregnant migrant worker could remain in Israel on the condition that she send her newborn to her country of origin within the first three months of the newborn's life.¹⁹ In 2011, the HCJ abrogated the regulation following a petition filed by human rights organizations.²⁰ The updated regulation determines that a worker who gives birth during the first 63 months of her stay in Israel can choose either to leave Israel with the child after the birth and return to work in Israel after placing the baby in the mother's country of origin, or remain with her child in Israel until the 63 months of her visa elapse, conditional upon her practical ability to work and take care of the children, and the existence of appropriate conditions for raising a child at the home of her employer.

In June 2006, following a public campaign led by human rights organizations, the Israeli government adopted a one-time humanitarian decision to grant legal status to the children of migrant workers and thus prevent their deportation and that of their families. In August 2010, after the number of undocumented children residing in Israel rose again, and following another public campaign, the government made another one-time humanitarian decision. The government adopted the recommendations of an inter-ministerial committee that deliberated on the matter of children of migrant workers and determined that legal status would be granted

¹⁹ PIBA, *Regulation on Handling a Pregnant Foreign Worker and a Foreign Worker Who Gave Birth in Israel*, May 20, 2013.

²⁰ HCJ 11437/05 *Kav LaOved vs. the Ministry of Interior* (April 13, 2011).

to children who meet criteria like those set in the 2006 decision.

However, hundreds of migrant workers with families did not meet the criteria of the two decisions and were unable to obtain legal status. These families were detained and deported from Israel. Between 2007–2012, Israel detained 1,547 undocumented minors in IPS facilities. Up to July 2012, 112 families, most of them mothers and their children, were detained at Yahalom prior to their deportation since the establishment of the facility by PIBA 16 months earlier.

In 2018, the State of Israel continued to place limitations on the right of migrant workers to maintain a family life. Migrants are prohibited from becoming involved in intimate relationships or establishing a family, under the threat of loss of their visa, detention and deportation from Israel. A migrant worker who gives birth in Israel and wants to stay and work in Israel without losing her visa is forced to disclose the name of the father for the purpose of his deportation or prove that he left the country on his own.²¹

A child born to undocumented migrants in Israel also becomes undocumented. Israeli law allows for the detention and deportation of a migrant worker who lost her legal status, along with her children. Each year, PIBA inspectors detain and deport dozens of families.

HRM's monitoring of detention of families in recent years indicates a significant improvement in the conduct of PIBA toward the families. In the past, inspectors would routinely burst into homes in the middle of the night, breaking down doors, waking up the family and detaining them while using excessive force. Information collected by HRM in the past year indicates that PIBA inspectors arrive at the homes of migrant families in the early morning hours, knock on doors and wait for the residents to open the door, or wait on the doorstep until the family leaves the house. It is apparent that PIBA inspectors rely on precise intelligence to arrest the families.

On the other hand, over the past year, undocumented parents received phone calls from PIBA inspectors inviting them to PIBA's offices to "register the children." Parents who did not report to the offices received another call to clarify that PIBA inspectors know where the family resides and can come and detain them prior to

²¹ PIBA, *Regulation on Handling a Pregnant Foreign Worker and a Foreign Worker Who Gave Birth in Israel*, September 5, 2018, Article D(3). Available in Hebrew (pdf): <https://bit.ly/2MELnjy>.

deportation from Israel. This threat in and of itself constitutes undue psychological pressure on migrant families to leave Israel.

In recent years, most of the parents arrested by PIBA inspectors were released after presenting documents proving that their children are attending schools in Israel. According to parents' testimonies, PIBA then issues them a removal order and tells the parents that they must leave the country at the beginning of the school summer recess. If they fail to do so, they will be detained and deported. Every year, during the summer school break in July-August, HRM recorded a rise in the number of families detained and deported from Israel.

"The social worker in prison doesn't help with anything. I asked again and again and she offered me no help. I asked her to talk to my social worker on the outside, they said that she'll send a fax message. I asked for someone to see the girls, or a psychiatrist, but it wasn't possible. The prison people's answer is always 'we don't understand why they bring children here'." Testimony of Yerusalem (pseudonym), as given to representative of HRM on July 17, 2018.

In July 2018, the detention of Mercy, a Nigerian migrant worker, made headlines. Mercy was arrested in June along with her four young children after she failed to obtain legal status in a series of legal proceedings. She was held with her children in Givon Detention Facility for about a month and a half until she was deported from Israel.²² Mercy was detained alongside Yerusalem, an Ethiopian asylum seeker, and her two young daughters, aged three years and one year.²³ HRM managed to secure the release Yerusalem and her daughters after two months of detention because the asylum application of the father had not yet been determined at the time.²⁴ Yerusalem reported that eight children who were detained with them were deported from Israel during their detention at the facility.²⁵

During her detention period, the mother reported the difficulty she and her daughters faced in adjusting to life in detention: her anxiety about the prospect

²² Yanir Cozin, *After a month in detention, Mercy and her four young children were deported from Israel*, Maariv, July 9, 2018. Available in Hebrew: <https://bit.ly/2VWNQo5>.

²³ Maor Tzur, *Special report: the six children living in prison – alongside hardened criminals*, Channel 10 News, July 5, 2018. Available in Hebrew: <https://www.10.tv/news/167303>.

²⁴ Lee Yaron, *Asylum Seeker and Two Children Released from Israeli Jail After Two Months' Detention*, Haaretz, July 17, 2018. Available online: <https://bit.ly/2HusQ90>.

²⁵ From a testimony provided by the woman to HRM.



Mercy and her children in Givon. Photo: Avshalom Shoshani, by courtesy of Maariv

of being deported from Israel and being unable to see the father of her children, who could not follow them to Ethiopia because of threats to his life; the difficult detention conditions her daughters are forced to live in; the bedbugs that greatly bother her daughters,²⁶ the respiration problems and violent coughs that afflicted her one-year-old; the sudden removal of the girls' from their kindergarten; the inability to speak on the phone with her husband who was detained in Saharonim at the time, and the lack of any interaction with him due to the detention of the mother and daughters:

"The prison is not adapted for the children in any way. There is nothing to do, no medical care or psychological support. We suffered from the heat and bedbugs. The drinking water from the faucet tasted bad, it wasn't clean and gave [my child] stomach aches. I had to buy water in the commissary. IPS workers tried to help as much as they could because I was with children, but they did not treat everyone this way." Testimony of Yerusalem, as given to a HRM representative on July 17, 2018.

Following the coverage of these cases in the media, the Knesset Committee on the Rights of the Child held a hearing on the detention of undocumented children.²⁷ During the hearing, the Deputy Commander of the Givon Detention Facility, Vered Rafaeli, reported that IPS personnel lack the training, tools and appropriate procedures for handling such cases. Adv. Shunit Shahar of PIBA's Legal Department referred to Article 18(H)(5) of the Entry to Israel Law, which stipulates that the Minister of Internal Security, with the agreement of the Minister of Interior, may set regulations concerning the detention conditions of families in children. Despite this, no regulations have been stipulated concerning the matter and the Entry to Israel Law does not address the issue of detention of minors.

The Commissioner for Human Rights at the Ministry of Justice, Adv. Hila Tene-Gilad, stated during the hearing that in August 2018, a meeting would be scheduled, to be held at the Ministry of Justice with representatives from all the relevant ministries, to find a solution for this matter. To the best of our knowledge, this meeting has not

²⁶ A representative of HRM addressed the chief warden at Givon with regards to complaints of detainees in Givon about the bedbugs back in January 1, 2017. It appears that the problem has not been resolved and has only gotten worse.

²⁷ The Special Committee on the Rights of the Child, hearing on the detention of undocumented female migrants and their minor children in prison, July 10, 2018. Available in Hebrew: <https://bit.ly/2DFcYNI>.

been held as of the writing of this report.

During the hearing HRM representative repeatedly emphasized that the Minister of Interior and other enforcement agencies have the authority to prevent the detention of parents and their children. When necessary, the state can use alternatives to detention.

The hearing concluded with a call by the committee to urgently promulgate regulations concerning the detention conditions of families and children under the Entry to Israel Law, to ensure that a solution is found, and that the detention of children will no longer take place. The committee called for alternative solutions to be found immediately, and to avoid detaining undocumented migrants and their children until those regulations are promulgated. The committee also demanded that an immediate alternative to detention is found for the Ethiopian mother and her two minor daughters being held at the Givon facility at the time.

Multiple studies show that even a brief period of detention greatly harms the mental and physical welfare of children.²⁸ The effects of detention can last a lifetime; the mental effects on children who are forced to witness their parents in a situation of distress and helplessness are devastating. Detention itself unsettles their lives and undermines the sense of safety that is required for normal development. These phenomena are further aggravated when the child in question has been part of Israeli society since birth and feels a part of this community.

Because of Israel's deportation policy, these children are torn from their normal lives and find themselves in detention, slated for deportation. For the adults among them, deportation is also a cultural exile, as they struggle to integrate themselves in their parents' country of origin, at times with limited fluency in the local language.

Even in countries that have hardened their immigration policies there is widespread recognition that the rights of children must be ensured, regardless of their legal status. There are alternatives to detention of families and children: case managers, residence in the community accompanied by a case manager, residence in facilities designed for families while accompanied by a case manager, and boarding schools

²⁸ See: The Hotline for Refugees and Migrants, Israeli Children Project in the Association for Civil Rights in Israel, Physicians for Human Rights-Israel, International Detention Coalition, UNHCR, *Alternatives to Child Detention*, February 2014. Available online: <https://bit.ly/2F59Hb8>.



Givon. Photo: Avshalom Shoshani, by courtesy of Maariv.

for unaccompanied minors.²⁹ In a ranking of the Global Campaign to End Child Detention concerning the detention of migrant children, which examined policies in 20 different countries, Israel was in the 15th place.³⁰

Israeli State Comptroller Joseph Shapira wrote that "PIBA must hold a genuine and comprehensive examination concerning the policy of one of the alternatives proposed to it and thus create a number of alternatives [to detention] that will be considered in accordance with the particulars of each case. Only in cases in which none of the alternatives is appropriate will detention be used. This approach is intended to ensure that the detention of children is done, as far as possible, in a manner in line with the Convention on the Rights of the Child."³¹

The detention of children, thus, needs to be the last resort, and even when it is used, should be carried out with strict limitations on the number of detention days and should ensure that detention takes place in special conditions adapted for children. Prior to using this last resort in very particular cases, the state must adopt alternatives to detention of undocumented children.

²⁹ Ibid.

³⁰ Global Campaign to End Child Detention, Global NextGen Index, August 2018: <https://bit.ly/2TYGaly>.

³¹ State Comptroller, Annual Report 63C for 2012 and the 2011 tax year, *The Handling of Undocumented Minors in Israel*, May 2013. Available in Hebrew (pdf): <https://bit.ly/2DxlnkW>.

4. Denial of Entry to Israel

Denial of Access to the Asylum System

On October 28, 2018, 13 asylum seekers from Sri Lanka, two women and 11 men, landed at Ben Gurion Airport. The group was detained at passport control and taken to a hearing, during which the head of the group claimed that they had fled for their lives and were seeking protection.

According to the group, they fled their country of origin due to a regime change that occurred in the country two days earlier, when Prime Minister Mahinda Rajapaksa returned to power in a contested move. Rajapaksa served as the Sri Lankan president from 2005 to 2015 and his reign was marred by a slew of murders and disappearances of regime opponents. The members of the group are political activists opposing Rajapaksa's rule, and were subjected to threats to their lives, as well as actual physical assaults by his supporters during his previous regime and after his return to power in 2018. The group was thus forced to flee for their lives.

Although the group expressed their desire to apply for asylum in Israel, the border control officer who held the hearing at the airport told the group that "there is nothing to be done" and that they would be deported to their country of origin on October 30 at 10 PM. On the day of the planned deportation, HRM discovered, completely by accident, that asylum seekers were being held at the Yahalom facility (for persons denied entry to Israel), and an attorney with HRM's legal department visited them at the facility and obtained their power of attorney. That same day, HRM filed an appeal to the Tel Aviv Appeals' Tribunal,³² which contested PIBA's decision to prevent them from filing asylum applications and its decision to deport them, both of which are a violation of refugee law and the non-refoulement principle embodied in international law by which Israel is bound.³³ The Appeals Tribunal was asked to order PIBA not to deport the asylum seekers from Israel, to allow them to file asylum applications and to examine these applications in accordance with

³² Appeal (Tel Aviv) 5977/18, heard by Tribunal Adjudicator Bergman.

³³ For more, see: Hotline for Refugees and Migrants, *Falling On Deaf Ears, Asylum Proceedings in Israel*, October 2018. Available online (pdf): <https://bit.ly/2FaNHPT>.

the law, as well as to release them until a final determination was made on their applications.

The same evening, the Appeals Tribunal issued a temporary injunction prohibiting the deportation of the group from Israel. The next day, October 31, 2018, the PIBA representative stated that if members of the group are interested in filing individual asylum applications, PIBA would allow it, and the appropriate forms would be brought to the Yahalom facility. As a result, the appeal was dismissed at the request of the appellants.

Representatives of HRM's legal department arrived at the Yahalom facility that evening, having coordinated their visit beforehand. After filing individual asylum applications with the group members, PIBA officials at the facility instructed the lawyers to file them at the office of PIBA's Refugee Status Determination (RSD) Unit in Tel Aviv. The lawyers had to explain to the PIBA personnel at Yahalom that they must accept the applications at the facility and transfer them to the RSD Unit, since asylum applications can only be filed personally by the asylum seeker. Eventually, and after the intervention of the director of the facility, the PIBA representatives acquiesced and accepted the forms just before midnight. These events indicate that PIBA representatives were not adept at handling asylum applications, nor were they given instructions on how to handle such cases.

The asylum application forms were given to members of the group only after an agreement was reached between the state and HRM after an appeal was filed, and only after representatives of HRM came to the facility to file the applications. The conduct of the state in this case raises the question of whether similar instances occurred, in which asylum seekers were deported to places in which their life or liberty are at risk because they were not allowed to file asylum applications upon their arrival at Ben Gurion Airport.

The asylum interviews of the group members were conducted at the Givon facility after they were transferred there from Yahalom. All the applications were summarily rejected. HRM filed appeals to the Appeals Tribunal in Jerusalem against all the rejections, and asked for interim orders to prevent the deportation of the asylum seekers from Israel until their case was fully adjudicated. Another leadership change in Sri Lanka led group members to decide to withdraw their asylum applications and return to their country of origin after 51 days of detention in Israel.

Violation of the Right to Representation and Attorney-Client Privilege

The Yahalom facility holds individuals whose entry to Israel was denied, as well as migrants slated for deportation who were arrested in Israel and their deportation date is imminent. Still, on occasion, some individuals have been detained in the facility for longer periods, at times for months. As mentioned, in 2018, Israel denied the entry of 22,495 people while 7,957 additional people were deported from Israel.³⁴ According to data provided by PIBA in response to FOI requests filed in previous years, a large number of these individuals were detained at the Yahalom facility. The detainees in this facility, as in other immigration detention facilities, are not eligible for legal representation by the Public Defender's Office or the Legal Aid department at the Ministry of Justice. According to data provided by the state in response to FOI requests, most of those detained at the Yahalom facility are deported without filing petitions against their removal.

The regulations at the Yahalom facility stipulate that visits by lawyers at the facility can be conducted Sunday to Thursday between 9 AM to 3 PM and will last for up to 30 minutes. All visits require prior approval. The shift supervisor must agree to any extension of the duration of the visit. In urgent cases, lawyers can conduct visits outside these hours, but the approval of the facility's director is required.³⁵

Due to the urgency of the case, HRM's attorney arrived at Yahalom to represent the Sri Lankan asylum seekers outside office hours and without prior coordination. She was forced to wait for a long time until her entry was approved. The lawyer met with 13 different clients on a bench in the facility's yard, without any privacy, while the facility's personnel rushed her and incessantly pressured her to complete the meeting with her clients.

During other visits to the detention facility, which were coordinated in advance, the lawyers had to wait for extensive periods until they were allowed to enter. Yahalom does not have a designated room for meetings between lawyers and their clients. As a result, lawyers are forced to sit in the staff dining room, in the director's office or staff room, while the facility's personnel come in and out, violating the detainees right to privacy and client-attorney privilege.

³⁴ See footnote 9.

³⁵ PIBA, *Regulation for the Operation of Holding Facility at Ben Gurion Airport*, no. 10.7.0002, last updated on December 5, 2018. Available in Hebrew: <https://bit.ly/2Gngos3>.

The requirement to coordinate attorney visits at the Yahalom facility in advance, and the limited visitation hours do not meet the actual needs of the detainees who reach the Ben Gurion Airport at all hours, at times in the middle of the night. If their entry to Israel is denied, they may be deported immediately without legal representation. These conditions necessarily make a large share of the cases of detention in the facility urgent, but the facility regulations do not meet those needs, and in effect, the access of lawyers to their clients is restricted.

The predetermined time limit for meetings between attorneys and their clients, a mere 30 minutes, is unreasonable and violates the rights of the detainees to legal representation, since lawyers often require longer meetings to present to detainees all the relevant information about their legal situation.

Israel's Evidence Ordinance and the Israeli Bar Association Law establish attorney-client privilege for communication and documents exchanged between the two sides, to allow the client to present his case to the attorney without fear. In line with this ordinance and law, the regulations concerning the operation of the Yahalom facility stipulate that attorney visits are to be held in a separate room, under conditions that ensure the confidentiality of the meeting. In reality, however, the Yahalom facility does not include a designated room for meetings between detainees and their attorneys. These meetings are often conducted in the staff's rooms, often with the door open, with facility personnel coming in and out during the meeting.

Incommunicado Detention

"I asked one of the guards to access my luggage so I can take out some clothes and he agreed. When we reached the storage room, I opened my bag and took out my phone and tried to call my wife because they did not allow us to use the facility's phone to make a call. The guard took my phone, led me to a nearby empty room, shut the door and slapped me hard twice. After this, he took the SIM card from the phone, broke it in two, and then threw the phone at the floor and broke it. Afterwards, he brought me back to the room where I was held..." (From an affidavit provided by one of the Sri Lankan asylum seekers to a HRM attorney, October 31, 2018).

Article 5.5.14 of the operating regulations of the Yahalom facility stipulates: "A detainee will be allowed to use the public phone available at the facility once a

day, for a reasonable duration.”³⁶ In reality, the situation at the facility is markedly different: until November 5, 2018, members of the Sri Lankan group were held at the Yahalom facility incommunicado, without access to their phones and with no contact with the outside world. The asylum seekers were denied the right to call their relatives and update them on their situation. According to one member of the group, when he tried to use his cellphone, he was slapped twice by a PIBA staffer. The HRM attorney who met the detainee on October 31, 2018, observed the bruises on his face as a result of the assault.

The HRM attorneys who represented the group struggled to reach them by phone; when the lawyers called the Yahalom facility, they had to negotiate with PIBA staffers until they were allowed to hold a brief talk with their clients.

On November 5, 2018, the members of the group were transferred to the Givon Detention Facility, due to an insufficient number of beds at Yahalom. In Givon, their detention conditions were harsher than those of the rest of the detainees; because they were denied entry to Israel, they were ineligible to purchase calling cards to allow them to contact the outside world, and they were not allowed to purchase other products from the facility’s commissary. This situation persisted even after the Detention Review Tribunal ordered IPS to allow the detainees to purchase calling cards and call their relatives, from whom they had been cut off since entering Israel.³⁷

Lack of Judicial Review over the Detention of Persons Denied Entry

On November 5, 2018, HRM filed an application to the Detention Review Tribunal at the Givon facility to release the Sri Lankan asylum seekers. The application argued that their detention was carried out illegally, without issuing removal or detention orders. Nor were the asylum seekers brought before a Detention Review Tribunal within 96 hours of their arrest, as required by law. The application also argued that as they had filed asylum applications, they cannot be deported from Israel until their applications are determined; therefore, there is no reason for their continued detention and they must be released, in accordance with the Entry to Israel Law.

On November 6, 2018, despite the state’s objections, the Detention Review Tribunal

³⁶ Ibid.

³⁷ Protocols of the hearings at the Detention Review Tribunal from November 15, 2018 and November 20, 2018.

Undocumented Migrants in Detention

- Detention and removal orders.
- Mandatory judicial review within **96 hrs by the Detention Review Tribunal**.
- Mandatory periodical *judicial* review by the Tribunal every 30 days.
- Detainee can approach the **Detention Review Tribunal** in the detention facility at any point.

Persons Denied Entry

- No detention and removal orders.
- No mandatory *judicial* review. Review by a **PIBA officer after 14 days**.
- A mandatory periodical review by a PIBA officer every 7 days.
- Detainees can only approach the **Appeals Tribunal** but this information is not accessible to them.

held a hearing on the case of the Sri Lankan asylum seekers. During the hearing, the state argued that it has the authority not to issue removal and detention orders. It also argued that detainees whose entry to Israel was denied are not eligible for judicial review of their detention. According to the state, the article in the Entry to Israel Law that requires judicial review by the Detention Review Tribunal within 96 hours of the arrest does not apply to persons denied entry to Israel, but only to undocumented migrants arrested within Israel proper. In response, HRM argued that the legal interpretation of the law is incorrect and the legislator never intended to exclude persons whose entry to Israel was denied from regular detention proceedings. In addition, HRM argued that once the asylum applications had been filed, PIBA should have implemented the regular process determined in the Entry to Israel Law, which includes mandatory, periodical judicial review and standards for detention.

On November 7, 2018, Tribunal Adjudicator Marzouq issued a ruling ordering the release of the Sri Lankan asylum seekers. The same day, the state filed an appeal of the decision in the District Court in Lod,³⁸ and a request to delay the release of the asylum seekers from detention. The request was granted and the group remained in detention.

On November 12, 2018, Justice Marshak-Marom presided over a hearing on the appeal filed by the state. During the hearing, the state argued that the Detention Review Tribunal's decision was granted without authority because these individuals were denied entry to Israel, and no removal or detention orders were issued for them. Therefore, the state argued, the Detention Review Tribunal does not have the authority to hear their case.

In response, the representatives of HRM argued that PIBA should have issued detention and removal orders as a precondition for holding them in detention, as it is inconceivable that a person is held without a legal order authorizing the detention

³⁸ Administrative Appeal 18-11-16206 *the State of Israel vs. Edirisinhage*.

and without judicial oversight, both intended to protect the basic rights of those whose liberty is deprived through an administrative decision. The distinction the state wishes to make between undocumented migrants and persons denied entry is artificial and goes against the purpose of the Entry to Israel Law.

The HRM representatives also argued that once the detainees filed asylum applications on Israeli soil, they cannot be deported until PIBA makes a determination regarding their applications. Therefore, there is no purpose in their continued detention. In this case, PIBA should have transferred the detainees to the ordinary process prescribed in the Entry to Israel Law, which provides grounds for release from detention and mandatory, periodical judicial review of the detention.

On November 14, 2018, the District Court issued a ruling partially accepting the state's appeal, deciding that the detainees would not be released. The ruling, however, rejected the state's argument that the judicial review mechanism stipulated in the Entry to Israel Law does not apply to detainees in this case, who were barred from entering Israel. Therefore, the District Court ruled that the Detention Review Tribunal correctly issued a fundamental decision that it has the authority to hold a hearing on their release applications, and therefore returned the matter to the Detention Review Tribunal.

On November 18, 2018, the state filed a request to appeal to the Supreme Court against the decision of the District Court.³⁹ The Supreme Court accepted the request to appeal and issued a ruling on December 2, 2018 determining that the Entry to Israel Law distinguished between the process of detaining undocumented migrants residing in Israel and between the detention of persons denied entry to Israel. The Court found that the detention of undocumented migrants is subject to mandatory, periodical judicial review of the Detention Review Tribunal, while the detention of persons denied entry to Israel is not subject to the Tribunal's review. The detention of persons denied entry, the Court determined, is subject to the review of a PIBA officer, and against whose decision an appeal to the Appeals Tribunal may be filed.

The Court found that the Entry to Israel Law does not specify the timing for mandatory, periodical review by the PIBA officer over the detention of persons denied entry to Israel, but a PIBA regulation determined that this review will be carried out within 30 days of the moment of detention. The Court also noted the state's announcement

³⁹ Request to Appeal 8192/18 *the State of Israel vs. Edirisinhage*.

that it intends to amend the regulation and shorten the period of the mandatory hearing, a form of review, to be carried out after 14 days from the moment of detention, followed by a hearing every seven days, if the detainees have not been deported to their country of origin. The Supreme Court stated, without making a decision on the matter, that it may be appropriate to regulate even shorter periods for review hearings for persons denied entry to Israel.

On December 5, 2018, three days after the Supreme Court ruling was issued, PIBA published an amended regulation and the period for holding review hearings was indeed shortened to 14 days. However, the amended regulation still does not require PIBA to inform persons denied entry that they are eligible to appeal to the Appeals Tribunal against PIBA's decision. In effect, unless they receive this information elsewhere and initiate an appeal, this means there will be no judicial review of their detention.

On December 17, 2018, HRM filed another petition to the Supreme Court asking it to reconsider the matter. The appeal argued that the decision that persons denied entry to Israel are ineligible for mandatory, periodic judicial review by a judicial body outside the executive branch is "an important, new and harsh" precedent that would result in significant violations of human rights of persons denied entry to Israel held in detention. The Court ordered the state to respond to the appeal by March 11, 2019.

It appears that from the moment of the Sri Lankan group's arrival, the state did everything in its power to deport them from Israel as soon as possible, and to this end, made a concerted effort to reject their asylum applications in a speedy process. The cumulative harm to persons denied entry in the future is grave: they are not provided with information about their right to appeal against their deportation to the Appeals Tribunal; they are denied the right to communicate with the outside world and to contact entities that can help them, their ability to consult with an attorney, meet them or speak to them by phone is very restricted; PIBA does not issue detention and removal orders against them with the result that there is no mandatory, periodic judicial review of their detention. This leads to a situation in which persons denied entry to Israel are held without any external body being informed; the detainees are not provided with any information, assistance or access to bodies that could help them. This, then, raises the concern that Israel is in violation of its obligations under international law.

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- Oct 28** The group lands at Ben Gurion Airport
 - Oct 30** 10PM, The planned deportation date. An appeal is filed.
 - Oct 31** The State allows the filing of applications. HRM attorneys go to Yahalom to assist.
 - Nov 1** The appeal is dismissed.
 - Nov 5** A release application to the Detention Review Tribunal.
 - Nov 7** The Tribunal orders their release; the state files an appeal.
 - Nov 14** The appeal is partially accepted.
 - Nov 15** The applications are rejected. HRM appeals the decisions.
 - Nov 18** The state appeals to the Supreme Court.
 - Dec 2** The Supreme Court issues its ruling
 - Dec 5** PIBA updates the Yahalom regulations: review after 14 days.
 - Dec 17** HRM files a petition for another hearing on the fundamental question at hand.
 - Dec 18** The group decides to return to Sri Lanka.

Asylum

Detention

5. The Deportation Plan and Closure of Holot

Background

The 4th amendment to the Anti-Infiltration Law (2013) passed in its final readings on International Human Rights Day, December 10, 2013.⁴⁰ This law was intended to bypass the HCJ ruling issued in September of the same year, which abrogated the 3rd Amendment to the Anti-Infiltration Law, passed in January 2012. The HCJ ruling granted the state 90 days to release all asylum seekers who were detained at Saharonim Detention Facility under the 3rd Amendment.⁴¹ Instead, the state rushed through a legislative process to prevent the release of the detainees in Saharonim. On December 12, about 500 detainees were transferred in the middle of the night, during a winter storm, to the Holot Detention Center that had recently been opened in the middle of the desert, next to Saharonim Detention Facility. The 4th Amendment determined that the asylum seekers could be detained at the Holot facility indefinitely.

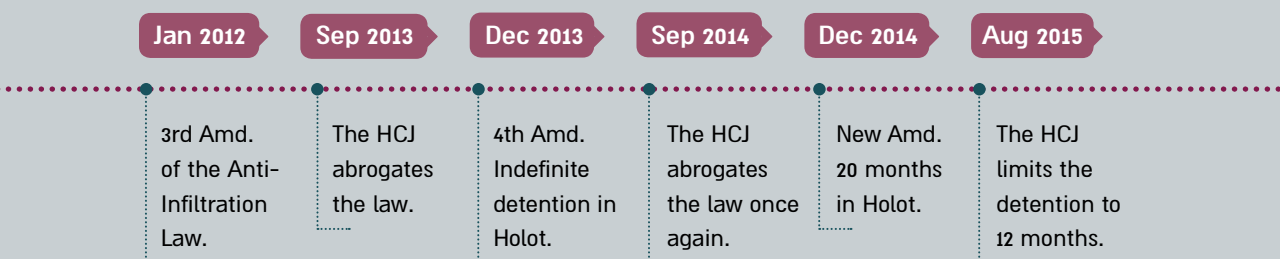
On December 15, 2013, a group of human rights organizations filed another appeal against the Anti-Infiltration Law.⁴² The petition challenged the state's narrative regarding the Holot facility, in effect a detention camp, despite being defined by the state as an "open residency center". The facility was surrounded by two tall fences, was managed by the IPS, and all aspects of the detainees' lives were dictated by PIBA and IPS guards. The detainees at the facility were allowed to leave during certain hours of the day, but they were required to participate in three roll calls per day, thus preventing them from traveling far from the facility. The HCJ abrogated the 4th Amendment to the law on September 22, 2014 and ordered the state to shut down the Holot facility within 90 days.⁴³

⁴⁰ Anti-Infiltration Law (Amendment no. 4), 2013. Available in Hebrew: <https://bit.ly/2S2vx3i>.

⁴¹ HCJ 7146/12 *Adam vs. the Knesset* (Sep 16, 2013). Available in Hebrew (pdf): <https://bit.ly/2H7ce7S>.

⁴² HCJ 8425/13 *Gabreselassi vs. the Knesset*. Available in Hebrew (pdf): <https://bit.ly/2TToWdu>.

⁴³ HCJ 7385/13 *Eitan vs. the Government of Israel* (Sep 22, 2014). Available in Hebrew (pdf): <https://bit.ly/2lZHffO>.



Instead, the state once again passed a new amendment to the Anti-Infiltration Law on December 8, 2014, hours before the Knesset went into recess ahead of elections. The law came into effect on December 17, 2014, allowing the continued detention of the asylum seekers held at Holot.⁴⁴ This time, the state limited the duration of detention at the facility to 20 months. And again, human rights organization filed another petition against the law, after which the HCJ limited the detention period at the Holot facility to 12 months at most.⁴⁵ The Knesset amended the Anti-Infiltration Law once again in February 2016 setting the maximum detention period to 12 months, a duration that remained in effect until the facility was shut down.⁴⁶

On November 20, 2017, the government submitted a bill amending the Anti-Infiltration Law that extended the operation of the Holot facility for three months only.⁴⁷ In the forward to the bill, it was argued that, following the ruling on the petition against the plan to deport asylum seekers to Rwanda (henceforth: the case of Tsegeta),⁴⁸ "the [state] worked to amend the existing agreement with the third country [Rwanda] and intends to bring about the exit of infiltrators to third countries in large numbers. Under these conditions, and in accordance with the degree of success in removing infiltrators from population centers directly to the third country, the [state] will re-examine following the aforementioned three-month period whether there is still need for the existence of the Holot Residency Center." The language of law itself did not address the deportation plan. The law came into effect on December 14, 2017 after being published in the official gazette.⁴⁹

⁴⁴ The Anti-Infiltration Law for Enduring the Exit of Infiltrators from Israel, 2014. Available in Hebrew: <https://bit.ly/2XtMm>.

⁴⁵ HCJ 8665/14 *Deste vs. the Knesset* (August 11, 2015). Available in Hebrew (pdf): <https://bit.ly/2NLX60g>.

⁴⁶ Anti-Infiltration Law, 2016. Available in Hebrew: <https://bit.ly/2lcVSvP>.

⁴⁷ Bill proposal 1167 from November 20, 2017. Available in Hebrew (pdf): <https://bit.ly/2TlslV>.

⁴⁸ Administrative Appeal 8101/15 *Tsegeta vs. the Minister of Interior* (August 28, 2018).

⁴⁹ The Anti-Infiltration Law, 2017. The official gazette publication. Available in Hebrew (pdf): <https://bit.ly/2sTeOp0>.

Dec 14, 2017

Another Amd.
Holot is to
operate until
March 2018.

Jan 1, 2018

PIBA announces
the deportation
plan.

Jan 18, 2018

First
deportation
hearings in
Holot.

Feb 20, 2018

First detainees
in Saharonim.
Hunger strike
in Holot.

Feb 22, 2018

Protest in
front of
Saharonim.

On January 1, 2018, PIBA fired the opening shot of the deportation plan by publishing a "public call for infiltrators" in four languages stating that they must leave Israel within three months.⁵⁰ The same day, PIBA published the *Regulation of Removal to Third Countries*.⁵¹ The regulation determined that asylum seekers detained in Holot would be given 30 days to declare whether they agree to leave Israel; if they refuse to do so, they would be detained indefinitely at the Saharonim facility.⁵²

On January 3, 2018, during the its weekly meeting, the government decided to allocate \$41.5 million (NIS 150 million) per year for "voluntary departure grants," as well as create new positions for recruits who would be responsible for, enforcing the regulation against asylum seekers who fail to depart Israel.⁵³

During the meeting, the Prime Minister ordered PIBA to bring about the "departure of infiltrators in large numbers" and examine the possibility of deporting asylum seekers using force, for fear that prolonged detention of many asylum seekers, a costly business, would also create a shortage of beds in detention facilities.⁵⁴ In response, PIBA announced that it could not handle massive deportations with the use of force.⁵⁵ However, in late February, the Head of PIBA's Enforcement Administration, Yossi Edelstein, clarified that PIBA would not allow people to remain

⁵⁰ See PIBA's website: <https://bit.ly/2yTinhE>.

⁵¹ *Regulation of Removal to Third Countries* no. 10.9.0005, published on January 1, 2018. Available in Hebrew (pdf): <https://bit.ly/2l0iT4l>.

⁵² For a detailed overview of the deportation to "third countries" see: Hotline for Refugees and Migrants, *Voluntary Departure and Israel's Plan for Deportation to Third Countries*, June 2018. <https://bit.ly/2AowWuY>.

⁵³ Statement of the government secretary summarizing the government's meeting on January 3, 2018. Available in Hebrew: <https://bit.ly/2q648BY>.

⁵⁴ Noa Landau and Ilan Lior, *Netanyahu Pushes for Forced Expulsion of African Asylum Seekers*, Haaretz, January 3, 2018. Available online: <https://bit.ly/2ucrXtT>.

⁵⁵ Ilan Lior and Noa Landau, *Israeli Officials Told Netanyahu Plan to Deport Asylum Seekers by Force Is Unrealistic*, Haaretz, January 4, 2018. Available online: <https://bit.ly/2UKPw97>.

Mar 12, 2018

1st HCJ hearing.

Mar 14, 2018

Holot is closed.

Mar 15, 2018

A temporary injunction prohibiting the deportation.

Mar 20, 2018

2nd HCJ hearing.

Mar 22, 2018

Hunger strike in Saharonim.

in Saharonim indefinitely, and would forcibly deport those who refuse to leave.⁵⁶ IPS too announced that the detention facilities did not have enough space to detain all those refusing to leave Israel.⁵⁷

On January 18, 2018, PIBA began holding hearings for asylum seekers detained at the Holot facility, informing them that they must decide within 30 days whether they intend to leave to Uganda or Rwanda. If they refuse, they were told, they would be detained indefinitely at Saharonim Detention Facility.⁵⁸ Among the asylum seekers who received deportation notices were survivors of the Sinai torture camps, as became apparent in a survey conducted by HRM a few days later; a petition was filed on their behalf against their deportation.⁵⁹

On February 20, the first asylum seekers were transferred to Saharonim after refusing to leave Israel at the end of the 30 days allotted to them.⁶⁰ Those who remained in Holot launched a two-day hunger strike and protested in front of the Saharonim Detention Facility.⁶¹

On March 14 the Holot facility was closed and its 264 asylum seekers, including torture survivors, who refused to be deported were transferred to the Saharonim facility.⁶² Hundreds of asylum seekers who had been detained in Holot did not

⁵⁶ Einat Fishbein, *The 8,000 refugees who filed asylum applications are also slated for deportation*, The Hottest Place in Hell, February 28, 2018. Available in Hebrew: <https://bit.ly/2F90bm7>.

⁵⁷ Gilan Tsweik, *Oversight of the State – It is Not Prepared for the Refusal of Infiltrators to Leave Israel*, Mida, January 18, 2018. Available in Hebrew: <https://bit.ly/2TPyZ2U>.

⁵⁸ Ilan Lior, *'Best of Luck,' Israeli Officials Tell Asylum Seekers Ahead of Expulsion to Rwanda*, Haaretz, January 22, 2018. Available online: <https://bit.ly/2u8qsDS>.

⁵⁹ Administrative Appeal 18-03-67216 L. vs. the Ministry of Interior (April 1, 2018).

⁶⁰ Ilan Lior, *Hundreds of Asylum Seekers Go on Hunger Strike as Israel Begins Jailing Those Refusing Deportation*, Haaretz, February 20, 2018. Available online: <https://bit.ly/2BHPDLL>.

⁶¹ Almog Ben Zikri, *Hundreds of Asylum Seekers Protest Imprisonment by Israel Outside Jail*, Haaretz, February 22, 2018. Available online: <https://bit.ly/2Fh90wy>.

⁶² See the response of the State from April 24 in HCJ 2445/18 the *Hotline for Refugees and Migrants and others vs. the Prime Minister*.

Apr 2, 2018

Announcement of the UNHCR deal.

Apr 3, 2018

The UNHCR deal is cancelled.

Apr 4, 2018

The State refuses to release the detainees.

Apr 10, 2018

Another HCJ hearing.

Apr 15, 2018

The detainees in Saharonim are released.

receive deportation notices to third countries and were released by PIBA officials, who made sure to maintain an element of surprise: only on the morning of their last day in Holot were the detainees informed that they would be released that same day.⁶³

During its four years of operation, over 13,000 asylum seekers were detained in Holot.⁶⁴ Nearly all asylum seekers were summoned for detention in Holot, whether they met the criteria for detention set forth by PIBA or not. The cost to Israel's taxpayers exceeded \$350 million (NIS 1.25 billion).⁶⁵ The facility greatly preoccupied the Israeli judicial system: in addition to the two petitions filed to the HCJ seeking its closure,⁶⁶ six additional petitions were filed to improve detention conditions within it,⁶⁷ and countless asylum seekers filed appeals against the decision to detain them in Holot. Representatives of HRM conducted over 100 visits to the facility to assist the detainees, document detention conditions, and to file petitions on their behalf.⁶⁸

⁶³ Yarden Zur, *Last Asylum Seekers Released From Holot Detention Center as Mass Deportation Campaign Moves Ahead*, Haaretz, March 14, 2018. Available online: <https://bit.ly/2TIOYEd>.

⁶⁴ Amir Alon, *Holot Open Detention Facility Closes*, Ynet News, March 14, 2018: <https://bit.ly/2CooWex>.

⁶⁵ The cost of constructing the facility was \$89.3 million (NIS 323 million), according to a response to a FOI request filed by the Movement for Freedom of Information. Available in Hebrew (pdf): <https://bit.ly/2SrgvEI>. According to the Ministry of Internal Security, the annual operational cost of the facility was \$66.3 million (NIS 240 million): Moran Azulay, Amir Alon, Yishai Porat, *Government approves closure of Holot facility within 4 months*, Ynet News, November 19, 2017: <https://bit.ly/2W6vd6c>.

⁶⁶ HCJ 8425/13 *Gabreselassi vs. the Knesset* and HCJ 8665/14 *Desta vs. the Knesset* (August 11, 2015).

⁶⁷ Hotline for Refugees and Migrants, *Immigration Detention in Israel, Annual Monitoring Report – 2017*, March 2018, chapter 5. Available online: <https://bit.ly/2HyoCoe>.

⁶⁸ Ibid; Immigration Detention in Israel – Annual Monitoring Report 2016, March 2017. Available online: <https://bit.ly/2ujcsQQ>; Immigration Detention in Israel – Annual Monitoring Report 2015, February 2016. Available online: <https://bit.ly/2rFAWmo>; Rwanda or Saharonim – Monitoring Report: Asylum Seekers at the Holot Facility, July 2015. Available online: <https://bit.ly/2MefwZ>; Hotline for Refugees and Migrants and Physicians for Human Rights-Israel, *Managing the Despair – Monitoring report: asylum seekers at the Holot facility*, April–September 2014, November 2014. Available online: <https://bit.ly/2Gkogvi>; Hotline for Refugees and Migrants, *From One Prison to Another: Holot Detention Facility*, June 2014. Available online: <https://bit.ly/2BrBIYG>.

Detention in Saharonim and Cancellation of the Deportation Plan

"It's better for me to stay in prison than return to Eritrea or [go to] Rwanda-Uganda. I had a friend who left to Rwanda and he told me it's better to stay in prison."
Ibrahim (pseudonym), asylum seeker from Eritrea.

Three petitions were filed to the HCJ against the deportation plan.⁶⁹ On March 12 the Court held a hearing on the first two petitions during which the state claimed that the previous agreement with Rwanda, which required the consent of asylum seekers as a condition for their deportation and was validated by the HCJ in the Tsegeta case, had been updated to enable forced deportation. On March 15, the Court handed down a temporary injunction prohibiting the deportation to third

⁶⁹ HCJ 679/18 *Cook Avivi vs. the Prime Minister*; HCJ 733/18 *Feldman vs. the State of Israel*. Available in Hebrew (pdf): <https://bit.ly/2GMvA16>; HCJ 2445/18 *the Hotline for Refugees and Migrants and others vs. the Prime Minister*. Available in Hebrew (pdf): <https://bit.ly/2TTwBbl>.

Protesters marching to Saharonim. February 22, 2018. Photo: Oren Ziv, Activestills



countries until further notice.⁷⁰ However, PIBA did not believe itself obligated to release the detainees held in Saharonim ahead of deportation, despite the absence of deportation proceedings. In another hearing on March 20, 2018, the HCJ clarified that the order halting the forcible deportations would remain in force until further notice.⁷¹

The Hunger Strike at Saharonim

On March 22, 2018, 115 asylum seekers in ward 14 in Saharonim were moved to ward 11. After the move, they discovered that three of their cellmates in the previous ward were missing, and feared they had been taken to the airport and deported from Israel. Following this, the asylum seekers who were moved to the new ward launched a hunger strike beginning at lunch the same day. The announcement of the hunger strike was made in the yard of ward 11. When the detainees approached the guards to ask about the fate of their friends, and why they were still being held without a release date, the IPS used tear gas and a water cannon against the strikers to break up the gathering.

The next day, HRM representatives, who came to meet with the detainees in Saharonim, were told that they would not be allowed to meet the detainees of ward 11. No explanations were provided. One of the detainees contacted a HRM representative that evening and reported that they had been denied the right to meet the HRM representatives. He added that he and his friends were sleeping in cells without mattresses or blankets because their belongings had been confiscated as punishment for the hunger strike.

The strike lasted for several days until it was learned that the three missing detainees had not been deported.

On April 2, the Prime Minister and Minister of Interior held a press conference,⁷² in which they announced that Rwanda had pulled out of the agreement concerning the forcible deportation of asylum seekers to its territory, and that instead, the state

⁷⁰ See decision from March 15, 2018. Available in Hebrew (pdf): <https://bit.ly/2SBpHLF>.

⁷¹ Lee Yaron, *HCJ Clarifies: The Order Freezing the Deportation Campaign of Asylum Seekers is Not Limited by Time*, Haaretz, March 20, 2018. Available in Hebrew: <https://bit.ly/2SBAwgs>.

⁷² The press conference from April 2, 2018. Available in Hebrew: <https://bit.ly/2FR8PdE>.



Released from Saharonim. April 15, 2018. Photo: Oren Ziv, Activestills

had reached an agreement with the UNHCR (UN High Commissioner for Refugees). Under the agreement with the UNHCR, about 16,000 asylum seekers would receive temporary residence in Israel within a five-year period and that another 16,000 additional asylum seekers would be resettled to "Western" countries. During the press conference the two ministers announced that the authorities would implement a plan to disperse asylum seekers residing in southern Tel Aviv across the country, and that the funds saved by ending Israel's detention and deportation policies would be invested in rehabilitating southern Tel Aviv. The establishment of a Directorate for the Rehabilitation of Southern Tel Aviv was also announced.⁷³ A few hours later, however, the Prime Minister halted the UN deal,⁷⁴ and the next day retracted it completely.⁷⁵ He also announced he would act to re-open the Holot facility and push forward the passage of "an override clause," which would allow the Knesset to pass again laws that were abrogated by the HCJ.⁷⁶

⁷³ See also the press release of the UNHCR, April 2, 2018. Available in Hebrew (pdf): <http://bit.ly/2DyFQzc>.

⁷⁴ See: <http://bit.ly/2E913Jg>, Available in Hebrew.

⁷⁵ See: <http://bit.ly/2USJrH6>, Available in Hebrew.

⁷⁶ Tal Shalev and Dana Yerkdzi, *Netanyahu Promotes a Solution Bypassing the HCJ – And Asks to Re-Open the Holot Facility*, Walla News, April 3, 2018. Available in Hebrew: <https://bit.ly/2DKXaJf>.

Despite this, the state refused to release those detained in Saharonim, informing the Court that an updated agreement had been signed with the "second third country" (Uganda) and that the Attorney General would have to determine whether it was possible to deport the asylum seekers there.⁷⁷ The state also claimed that it was very likely that the Attorney General would approve the agreement, and therefore, there was no reason to order the release of the detainees.⁷⁸ Meanwhile, Uganda continued to deny not only the existence of an agreement with Israel, but that negotiations were even taking place.⁷⁹

In a hearing on April 10 on the first two petitions, the Prosecutor's Office continued to claim that an updated agreement has been signed with Uganda. In a ruling given the same day, the Court determined that if, by 12:00 noon on April 15 the Attorney General did not approve that the agreement with the "second third country" (Uganda) and arrangements for its implementation meet his standards, those detained for refusing deportation would be released. The Court reprimanded the state for not informing it that, even as early as the first hearing on March 12, difficulties had emerged in the arrangement reached with Rwanda.⁸⁰ The Court ruled that due to recent developments the first two petitions against the deportation plan were no longer relevant and should be dismissed, while preserving the arguments of the two sides. The Court also ruled that the temporary injunction prohibiting deportation would continue for an additional 14 days.

On April 15, the asylum seekers in Saharonim were released. On April 16, a notification filed by the state to the HCJ, stated that an updated agreement had not been signed yet with Uganda.⁸¹ This notification contradicted the state's notification from April 5, which claimed that Israel had signed updated agreements with both third countries, and all that was required was clarification of some details with the "second third country" before implementing the agreement. The state also reported that because there was no agreement, all but eight of the 214 asylum seekers in Saharonim were released. The eight were being held under the Criminal Guideline, which allows

⁷⁷ See the notice given the State from April 4, 2018. Available in Hebrew (pdf): <https://bit.ly/2t0095k>.

⁷⁸ State notification from April 5, 2018. Available in Hebrew (pdf): <https://bit.ly/2STPrIt>.

⁷⁹ Lee Yaron, *Despite Israeli Claims, Uganda Says It Will Not Take Asylum Seekers Without Their Consent*, Haaretz, April 5, 2018. Available online: <https://bit.ly/2O9Dp2w>.

⁸⁰ See ruling from April 10, 2018. Available in Hebrew (pdf): <https://bit.ly/2D0kHbZ>.

⁸¹ State notification from April 16, 2018. Available in Hebrew (pdf): <https://bit.ly/2Gt97a2>.



Released from Saharonim. April 15, 2018. Photo: Oren Ziv, Activestills.

the state to hold asylum seekers suspected of criminal activity in administrative detention, in some cases.⁸²

The same day, the state filed a notification as part of the legal proceedings concerning the petition of human rights organizations against the deportation plan, HCJ 2445/18.⁸³ In it, the state admitted for the first time that there is no longer an operational plan for the forcible deportation of asylum seekers from Israel. Therefore, the Ministry of Interior had stopped holding hearings under the Regulation of Removal to Third Countries, and all deportation notices given thus far were therefore null and void.

Thus, the deportation plan to "third countries" came to its end, as did the detention of asylum seekers resulting from it.

⁸² For more, see: Hotline for Refugees and Migrants, *'Ye Shall Have One Law' – Administrative Detention of Asylum Seekers Implicated in Criminal Activity*, September 2017, Available online: <https://bit.ly/2HzchJa>.

⁸³ State notification from April 16, 2018. Available in Hebrew (pdf): <http://bit.ly/2Nbiksn>.

6. Entry Permits to the Givon Facility

Until 2014, the Intelligence Division of the IPS provided entry permits to Saharonim and Givon to HRM's staff and volunteers. The permits were valid from two to six months. Starting at the end of 2014, the IPS gave HRM's staff and volunteers annual entry permits for 2015 and 2016. The entry permits to both IPS detention facilities visited by HRM's representatives, Saharonim and Givon, were issued by the IPS Department for Prisoners, subject to a security check carried out by the head of the Information Security Department.

During 2016, the process of issuing entry permits changed. The director of HRM's Crisis Intervention Center (CIC) was referred to the officer in charge of detainees in each of the individual detention facilities when asking for entry permits for new volunteers, despite the fact that the regulation regarding entry permits to IPS facilities had not changed. Under this regulation, the officials authorized to recommend granting entry permits, the deputy IPS commissioner or head of staff,⁸⁴ did so after receiving the official opinion of the head of the relevant departmental head.⁸⁵ The regulation also stipulates that entry permits are to be provided to multiple facilities in different districts through one official request. However, the officers responsible for detainees in Saharonim or Givon were not told of these new instructions, and referred the CIC director back to the Department for Prisoners. It later became possible to get entry permits from the officers responsible for detainees, but for each facility separately, a breach of the regulation.

In its response on January 1, 2017 to Adv. Reut Michaeli, the former Executive Director of HRM, IPS stated that while the new policy is being examined, temporary entry permits would only be given to HRM representatives who had previously received permits, to enable HRM to maintain its ongoing work of representing detainees at the Detention Review Tribunal in Givon and Saharonim, in line with the Entry to Israel Law.

HRM was not the only organization struggling to obtain entry permits to IPS facilities.

⁸⁴ The Saharonim Facility is located in the Southern district, while the Givon Facility is located in the Central district.

⁸⁵ Article 6.A.5 of the *Regulation on Issuing Entry Permits to IPS Facilities*, no 03.07.00. Available in Hebrew: <https://bit.ly/2N2AzvT>.



Givon. Photo by courtesy of IPS.

During that period, as well as in previous years, a number of petitions were filed after the IPS prevented the entry of experts seeking access so as to design post-release rehabilitation plans for inmates, as well as criminologists and social workers.⁸⁶ Lawyers have also faced challenges in accessing IPS facilities.⁸⁷ Following these petitions, the new limitations imposed by IPS were partially or completely reversed.

On January 11, 2017, the officer responsible for detainees at Saharonim informed HRM that the organization would be allowed to submit requests for permits to enter both Givon and Saharonim to his office, thus enabling HRM representatives to gain access to both facilities in 2017.

At the end of 2017, HRM sent the forms for entry permits for 2018, in accordance with IPS requirements, to the officers responsible for detainees at Saharonim and Givon. However, in August 2018 it was discovered that the annual entry permit had been granted for entry to Saharonim only, while in Givon, the IPS provided HRM representatives with one-time entry permits subject to an annual quota, which was depleted by August. According to the registration officer at Givon, the number of visitors from HRM would be limited to ten people only. Following another appeal by HRM to IPS officials, these limitations were lifted.

⁸⁶ Request to Appeal to the HCJ 4644/15 *Ra'i vs. the IPS* (June 15, 2016). Available in Hebrew (pdf): <https://bit.ly/2Gmu2eX>; Request to Appeal to the HCJ 744/17 *Awad vs. the IPS* (February 20, 2018). Available in Hebrew (pdf): <https://bit.ly/2SrwJSW>. See also the appeal of the Public Defender General from February 1, 2017. Available in Hebrew (pdf): <https://bit.ly/2tmVfFH>.

⁸⁷ HCJ 5109/16 *the Israeli Bar Association vs. IPS* (February 28, 2017): <https://bit.ly/2GIMyoi>.

7. Violence by PIBA Inspectors

Currently, there is no external and impartial body to which migrants and asylum seekers can file a complaint if subjected to violence by PIBA inspectors, though such bodies do exist within the police and the IPS. In the absence of a dedicated investigatory body, those authorized to handle complaints about offenses or violence by PIBA inspectors are the Internal Oversight and Public Complaints Department at PIBA, the Disciplinary Investigations Department at the Civil Service Commission and the Israeli Police. In 2017, HRM addressed the Minister of Interior and Attorney General asking them to set a precise, clear definition of the term "reasonable force," which PIBA inspectors are allowed to use on the job; to define mechanisms to prevent conflicts of interest; to establish an external body to oversee the activities of PIBA inspectors; to set clear disciplinary rules; and to establish an extensive training program for PIBA inspectors. The letter sent by HRM also detailed a number of cases in which PIBA inspectors used excessive force against undocumented migrants and asylum seekers, but which received no redress and were not investigated by the Israeli Police. During 2018, several cases were brought to the attention of HRM in which PIBA inspectors resorted to excessive force toward detainees during attempts to deport undocumented migrants from Israel.

Dimitri

Dimitri (pseudonym) is a Ukrainian citizen who lived in Israel a number of years and attempted to obtain legal status as the partner of an Israeli citizen. During his residency in Israel, Dimitri became addicted to drugs and a criminal case was brought against him. After he had finished serving his sentence, Dimitri was moved to a rehabilitation center and lived in a hostel for recovering addicts. Dimitri, having decided to continue the process of obtaining legal status in Israel, visited a PIBA bureau, where he was arrested and taken to the Givon facility to await deportation from Israel. During the attempt to deport him to the Ukraine, PIBA inspectors cursed, pushed and slapped him. Dimitri called HRM which sent an attorney to visit him in the detention facility. During the visit, Dimitri detailed the assault against him during the first deportation attempt, in late March 2018:

"I turned to enter the vehicle, but he [the inspector] stepped on my feet from the

back, hard, and pushed me into the car. About 20-30 seconds later, the inspector rushed into the car. I was sitting down and he stood hunched over. Then suddenly he gave me two slaps to my face with an open hand. I asked for his last name but he refused to tell me. I told him that I don't understand why he is beating me and why he's using his authority this way, and he replied that I wouldn't be able to prove anything anyway."

During the second deportation attempt, in May 2018, the inspectors presented him with a video showing a young African man being deported while shackled, screaming, crying and humiliated in a plane full of passengers. When showing him the video, an inspector told him "Do you think you're a hero? We got the African out and we'll get you out too." Following this event, HRM contacted the Detention Review Tribunal asking it to order the IPS to invite police investigators to collect Dimitri's testimony so as to allow him to file a complaint. Though the Tribunal did order this, Dimitri was deported before he was able to file his complaint.

Diallo

In March 2018, PIBA attempted to deport Diallo (pseudonym) to the Ivory Coast after six years in immigration detention. Diallo's arms were handcuffed, his legs shackled, and he was taken to the airport. Fearing for his life if returned to his country of origin, Diallo sat on the floor and refused to move. In response, three PIBA inspectors began beating him: they punched and kicked his back, ribs and head while he was shackled. Later, the inspectors tied his arms to his body with a restraining belt and led him on a chain attached to the belt. Five inspectors used force to put him on the plane, after which two other inspectors, dressed in civilian clothes, sat on either side. Diallo cried and screamed that he is a refugee who feared for his life if returned to the Ivory Coast. The inspectors who sat next to him, pushed their elbows into his ribs and attempted to silence him. This occurred in front of a plane full passengers and the airplane's crew. Eventually, Diallo was removed from the plane and taken back to the detention facility. After he was released, Diallo visited HRM and asked to file a complaint. In June 2018, Diallo and an HRM attorney filed a complaint with the police. During the interrogation he was asked only superficial questions about the violence he had endured. A mere three weeks after filing the complaint, he was informed that the investigation had been closed because "the circumstances of the case do not justify further investigation." HRM filed an appeal against the decision to close the case to the Appeals Department at

the State Attorney's Office. A decision on the matter is expected by the end of July 2019.

Yaya

"Last week, the Immigration took me to the airport to deport me. Five people held me and would have killed me if I hadn't screamed... In the airplane, they tied my legs and pushed my head down, grabbing my head, five of them." From the protocol on a hearing at the Detention Review Tribunal on Yaya's case.

In June 2018, PIBA tried to deport Yaya (pseudonym) to the Ivory Coast after several failed attempts during his five years in immigration detention. Fearing for his life in his country of origin, Yaya refused to cooperate with his deportation. In response, PIBA inspectors used verbal and extreme physical abuse against him, including choking him, punching him, tying him with restraints, forcibly bending his head and humiliating him. This violence left Yaya with physical and mental scars. Here is how he described the event:

"They pushed me and put handcuffs on my arms. From there they took me to a room between the detention facility and the airport. The whole conduct was very violent, they yelled at me and threatened me. In that room they checked my luggage. At this point, they shackled my legs and put them right next to each other and put on a restraining belt in which the arms are tied to the waist. I started crying and screaming that I don't want to leave, that I'm afraid. One of the inspectors started hitting me with his knees, punching my ribs. One of them choked me really hard from the back and told me to put on the belt. At the same time, they bent my head down and pushed me down hard with their elbows." From an affidavit given on July 2, 2018.

Finally, Yaya too was removed from the airplane and returned to the detention facility. If that was not enough, after Yaya told the Detention Review Tribunal and the doctor in the facility about what had happened to him, PIBA inspectors came to his cell and tried to threaten him into silence, while telling him that his complaint was false.

Issa

Issa, a citizen of Niger, was deported from Israel on November 6, 2018. Although PIBA was unable to obtain travel documents from the state of Niger, PIBA issued him an

Israeli travel document and tried to deport him using this document. Issa arrived in Niger on November 7. According to him, authorities there claimed that his Israeli travel document was fake and he was detained for eight days, until November 15, when he was deported back to Israel.

Issa landed in Israel on November 16. He was denied entry to Israel and detained at the Yahalom facility for 13 days until November 28, when PIBA inspectors attempted to deport him a second time to Niger. Issa reports that after he refused to travel with the same travel document that led to his detention in inhumane conditions in Niger, PIBA inspectors beat and threatened him while trying to coerce him to leave Israel.

"The flight was in the morning, at 8 o'clock. At six o'clock, this man, he comes to me to ask me if i want to go or not. I said 'no' and he beat me and beat me, until he got tired of beating me. I cried. He said 'If you die you will go. Die. Cry as you want.' After 7 o'clock, they came to take me to the airport. He put me in the back of the airport, so if I cry nobody can hear me. They shackled my legs and my hands [...] He brought me [to the security] to check me and in the stairs someone beat me in the back and told me 'You want to go. You want to go. If you do don't want to go, you will get a shot [a sedative] and you will sleep until Niger. You wouldn't wake up.' [...] After they put me on the plane, I cried there and they [gagged] my mouth. They put something in so that I cannot cry. Only when we arrived in Ethiopia, did they unshackle me and let me go." From Issa's testimony as given to a representative of HRM.

Issa reached Niger a second time, through Addis Ababa, but the authorities once again refused to allow him inside. This time, he tried to continue on to Burkina Faso. He was denied entry there as well, and deported to Niger, which again refused to admit him. Issa was deported from Niger to Addis Ababa, where has he remained, unable to leave the airport, from November 30, 2018 to the writing of this report.⁸⁸

⁸⁸ Emmanuel Igunza, *Niger man deported by Israel marooned in Ethiopian airport*, BBC, February 18, 2019. Available online: <https://bbc.in/2TYAyyO>; Tamar Pileggi, *Niger man deported by Israel stranded in Ethiopia airport for months*, Times of Israel, February 19, 2019. Available online: <https://bit.ly/2SoHCjw>.

8. Summary and Recommendations

As stated in the forward of this report, we chose to focus on several central issues as part of the monitoring of detention conditions: detention of women and children prior to deportation after receiving a notice to leave the country, and lack of alternatives to detention for children; rights violations surrounding detention of persons denied entry to Israel: lack of access to the asylum system, violations of the right to representation and attorney-client privilege, denial of the right to communicate with the outside world and lack of mandatory, periodic judicial review of detention; the deportation plan to Uganda and Rwanda, detention of asylum seekers in Saharonim and closure of Holot; the limits placed on access to the Givon facility; the failures to address violence by PIBA inspectors and the need to establish an independent oversight body to which complaints against violent inspectors could be filed.

Other aspects of detention monitored this year, as in previous years, did not see changes or progress since the publication of the 2017 report. Therefore, HRM's recommendations on these matters still stand.

The vast majority of detainees in immigration detention are undocumented migrants: migrant workers and tourists who overstayed or violated the conditions of their visa, or persons denied entry to Israel. Due to the closure of Holot and the cancellation of the deportation plan to "third countries," there has been a significant drop in the number of asylum seekers currently held in detention facilities. HRM's position is that detention should be a last resort while attempting to deport migrants from the country. According to UNHCR guidelines, "detention is an exceptional measure and can only be justified for a legitimate purpose." Yet Israeli policy for more than a decade has been to detain both migrants and asylum seekers for prolonged periods, even when their deportation is not possible. HRM's primary recommendation is to avoid detaining undocumented migrants and asylum seekers, particularly children, and to use other means, more effective, economic and humane, to control immigration.

However, as long as the Israeli authorities insist on maintaining the present detention

policy, HRM's immediate recommendations are as follow:

Recommendations for the IPS

- Migrants should not be detained in solitary confinement.
- Regulations need to be urgently promulgated concerning the detention conditions of families and children under the Entry to Israel Law. The staff at the Givon facility needs to undergo training on handling these detainees.
- Minors detained at the Givon facility should receive educational services.
- Handcuffing during medical examinations or hospitalization should be eliminated entirely and the procedure amended in accordance with regulations concerning migrants in administrative detention who are neither suspects nor charged with any crime, and hence do not pose a threat to their environment.
- 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 prior to his deportation.
- Information about visitation days at immigration detention facilities should be made accessible on the IPS website, and should be published in languages spoken by relatives of the detainees.

Recommendations for PIBA

- Asylum seekers should not be pressured or threatened to coerce them to leave Israel.
- 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 for asylum applications should be made available in all 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 detained. Authorities should find alternatives to detention in such cases.
- In cases of children and families, a coordinator should be appointed who can assist in the family's departure without detaining them. Children should not be held in detention except in cases of removal 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, in particular, the hygiene of the facility and the conditions under which children are detained until their flight.
- Detainees should have access to telephones and calling cards, and should not be denied the right to communicate with the outside world.
- The operational regulations of the Yahalom facility should be amended to allow attorneys representing the detainees access to the facility at all hours of the day, without restrictions on the duration of visitations.
- Dedicated rooms should be assigned for meetings between attorneys and their clients, in a manner that ensures attorney-client privilege and the privacy of the meeting.
- The operational regulations of the Yahalom facility need to be amended to ensure that any decision to detain persons whose entry into Israel was denied is reviewed by the Detention Review Tribunal within 96 hours of detention, similar to migrants detained inside Israel.
- Detainees in Yahalom must be notified about their right to have legal representation and appeal against their detention and deportation from Israel.
- 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.

- Monitoring bodies and representatives of human rights organizations should be allowed access to the Yahalom facility.
- PIBA must set a narrow and clear definition of the term "reasonable force" and stipulate clear disciplinary rules.
- PIBA inspectors should undergo an extensive, professional and consistent training program, which includes hosting various experts who can provide the inspectors with information on the types of communities they encounter in their work.
- The role and authority of Border Control officers and other PIBA officials should be explained to the detainees, as well as the purpose of the meetings and hearings conducted on their cases.
- The detainees should be provided with the hearing protocol and the reasoned decision made regarding their case, as per law.
- 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 the identification of victims of trafficking or slavery before they are deported from the country, to ensure that traffickers are brought to justice.
- Signs in relevant languages should be posted throughout all detention facilities explaining to the detainees their rights, as well as the authority of Border Control

officers and Tribunal adjudicators who hold hearings on their cases.

- An independent investigative body should be established to examine cases of excessive violence by PIBA inspectors, similar to bodies that currently exist within the Israeli Police and IPS. Regulations must be adopted to prevent conflicts of interest between members of this body and PIBA.
- The operational regulations of the Yahalom facility should be amended to ensure that any decision to detain persons whose entry into Israel was denied is reviewed by the Detention Review Tribunal within 96 hours of detention, similar to migrants detained inside Israel.
- Regulations need to be urgently formulated concerning the detention of families and children under the Entry to Israel Law to prevent the detention of children.
- A meeting must be held, urgently, with all relevant parties, to find alternative solutions to placing undocumented migrants with their children in detention. Alternatives to detention, such as case workers accompanying families in deportation proceedings, should be embraced.

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