

Hotline for Migrant Workers

"You shall not wrong a stranger or oppress him, for you were strangers in the land of Egypt" - *Exodus 22:20*

October 28, 2013

PROGRESS REPORT ON THE IMPLEMENTATION OF THE EUROPEAN NEIGHBOURHOOD POLICY (ENP) IN ISRAEL

2013 UPDATE OF THE EU HUMAN RIGHTS COUNTRY REPORT CONCERNING ISRAEL

The **Hotline for Migrant Workers** (HMW) was founded in 1998 by a group of citizens concerned about the exploitation and abuse of migrant workers in Israel. With the initial assistance from the NGO *Kav LaOved*, the HMW addressed a critical deficiency in existing services to detained foreigners slated for deportation. Through our exclusive access to detention centres, we met more vulnerable groups in need of assistance and enlarged our mandate. The HMW is a non-partisan, not-for-profit organization defending the rights of migrants and refugees in Israel, and combating human trafficking and xenophobia. The HMW assists vulnerable individuals, particularly those held in immigration detention to protect their basic human rights and to give them a voice.

For more information, please visit: www.hotline.org.il

The *Hotline for Migrant Workers* identified **several major issues of concern in its field of work:**

1. **Prolonged detention of asylum-seekers in Israel and pressure on them to leave the country**
2. **Purposeful government policy of making the life of asylum seekers in Israel miserable**
3. **Israeli Authorities' treatment of migrant workers employed in slavery-like conditions**

1. Prolonged detention of asylum seekers in Israel and pressure on them to leave the country

This report summarizes the conduct of Israeli authorities toward asylum seekers in the internment camps between January until August 2013, based on 104 prison visits of **Hotline for Migrant Workers (HMW)** activists during these eight months, and interviews of 1,035 asylum seekers during those visits. In the past year, *HMW* filed asylum requests on behalf of 320 detainees from Eritrea and Sudan who asked HMW to assist them applying for asylum. The Immigration Authority did not provide asylum seekers with the possibility to apply for asylum until March 2013, and instead, pressured the detainees to leave Israel "voluntarily". More information about HMW's struggle to provide asylum seekers with the possibility to apply for asylum can be found in a joint report of HMW and Human Rights Watch (HRW), published on March 13, 2013, "[Israel: Detained Asylum Seekers Pressured to Leave](#)".

General Data on asylum seekers in Israel and in detention

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At present, [54,201](#) African asylum seekers reside in Israel, among them 36,067 Eritreans and 13,551 Sudanese who have arrived in the country in the past decade. Israel's Prime Minister, cabinet members, parliamentarians, and public figures often claim in the media that these individuals are not refugees, but rather "work infiltrators" who come to Israel solely for the purpose of improving their quality of life. All of these years, the State of Israel has refrained from reviewing Eritreans' and Sudanese' asylum requests, while other countries that do review Eritreans' asylum requests have found that [84% of them](#), on average, are refugees according to the United Nations Refugee Convention.

As of September 16, 2013, 1,811 of Israel's asylum seekers are kept in detention, the majority of whom are detained in Saharonim internment camp and several hundred in the adjacent Ktsiot camp. The vast majority of the asylum seekers are Eritreans and a few hundred are Sudanese or from other African countries. More than 1,000 of the detainees are detained for more than a year. According to the Ministry of Interior (MOI), only 60 new "infiltrators" entered the country since the beginning of 2013 and several hundred more were arrested inside Israel under the [Criminal Procedure](#) of the Anti-Infiltration Law, which since July 1, 2013, allows the State to detain every asylum seeker who is suspected of [disturbing the public order](#) and other misdemeanors and petty felonies.

During the 15 months that passed since Israeli Authorities began implementing the [Anti Infiltration Law](#), the close follow-up by HMW made it possible to understand what it means and how it affects the life of asylum seekers, among them about 200 torture survivors from Sinai's camps as well as hundreds of women and children.

Extremely Low Recognition of asylum requests

On June 2013, the Immigration Authority reported to the Knesset Research and Information Center that to date Israel has only [recognized 202 people as refugees](#). According to UNHCR in Israel, most of the individuals recognized as refugees have since left the country.

Eritreans and Sudanese who reside in Israel have no access to the asylum system and the first few asylum claims of detained Eritreans and Sudanese were first accepted only in February 2013.

Out of 320 asylum requests submitted by HMW on behalf of detained asylum seekers, HMW received 20 replies so far, all of them of Eritrean asylum seekers, and all of them were rejected on the same grounds. The rejection letter sent by the Refugee Advisory Committee states:

"By decision of the Minister of the Interior, evasion of army service or deserting of army duties, in and of themselves, or with no connections to any of the grounds listed in the Refugee Convention, are not enough to establish grounds for political persecution in accordance with the Convention, and requests founded solely on draft dodging or desertion of the Eritrean army do not constitute a foundation for refugee status."

The wording of the rejection indicates that the Refugee Advisory Committee plans a sweeping rejection of asylum requests submitted by about 1,400 individuals jailed in the

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internment camps, most of whom who have fled the Eritrean military. In accordance with the **Anti-Infiltration Law**, those asylum seekers whose asylum requests are denied can be jailed without trial for at least three years.

No asylum request of Sudanese asylum seekers were answered so far.

Release from prison under the Anti-Infiltration Law

The Anti Infiltration Law leaves very little options for release (under Article 30A):

"30A....

ii. The Head of Border Control is authorized in exceptional circumstances to release an infiltrator with a monetary guarantee, a bank guarantee, another suitable guarantee or under conditions he finds appropriate (in this law – guarantee), if he is convinced that there exists one of the following:

1. Due to the infiltrator's age or medical condition, his being held in detention is likely to harm his health and there is no other way to prevent this stated harm;"

Despite serious medical problems of some of the detainees, HMW did not manage to release even one detainee under this article

"2. There are special humanitarian grounds other than those stated in paragraph (1) justifying the release of the infiltrator with a guarantee, including if as a result of his detainment in detention, a minor will be left unaccompanied; "

During 2013, HMW managed to release two survivors of the Sinai's torture camps under this article.

"3. The infiltrator is a minor who is unaccompanied by his family members or a guardian."

Unaccompanied minors are represented by the Public Defender under the Ministry of Justice. As far as we know, they managed to release several dozen minors during 2013.

On May 7, 2013, Nine Eritrean female asylum seekers with their ten children were released after HMW petitioned for their release. The release was made possible by a precedent ruling of the Beer Sheva District Court in an HMW appeal a week before on behalf of an Eritrean mother who was detained for more than a year with her 11 and nine year-old girls. In the ruling, Judge Alon declared that being a minor can be considered a "special humanitarian ground" for release from detention, even under the Anti-Infiltration Law.

According to the Israeli law, a person is considered a minor until the age of 18, but in its responses to court, the State refers to detained children only under the age of 10 as minors. HMW managed to release a 14-year-old South Sudanese minor who was detained in the men's section and separated from his mother and two younger siblings, in violation of Israeli Prison Services (IPS) regulations that prohibit the jailing of minors alongside

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detainees over the age of 18. On July 19, 2013, after serving a petition to the district court, HMW managed to release the family from prison on humanitarian grounds.

"4. The infiltrator's release will assist in his deportation proceedings. "

HMW managed to release one detainee under this article, Ibrahim Medio Jalo, a migrant from Gambia who was detained for four years because the Israeli authorities failed to come up with the travelling documents for him. After the Anti-Infiltration Law passed, his detention was transferred from the Entry to Israel Law to the Anti-Infiltration Law as in the case of all other detainees already in prison on June 2012. HMW had to serve a petition to the district court in order to release Jalo, after he was not brought in front of the Administrative Tribunal in Saharonim for 116 days. Jalo was released on January 13, 2013 after friends paid a NIS 5,000 bail for his release. For seven months, HMW together with Jalo, made tremendous efforts to get travelling documents for him to return to Gambia, but in vain. On July 2013, when Jalo came to sign at the Immigration Authority office as in every week, he was re-arrested. The Immigration officer claimed that Jalo did not invest enough efforts to obtain travelling documents, ignoring the fact that he was released by the regional court and only the regional court can decide to re-arrest him. When the HMW addressed the Tribunal asking to release Jalo, the Tribunal asked for the comment of the MOI, to be given after the Sukot Holiday (October 2013).

iii. The Head of Border Control is authorized to release an infiltrator with a guarantee if he is convinced that there exists one of the following:

1. The infiltrator requested a permit and license for residency in Israel according to the Entry into Israel Law and the handling of his requests has not begun despite the fact that three months have passed since submitting the request;

HMW managed to release only two detainees whose requests were not handled within three months of their filing.

2. The infiltrator submitted a request as stated in paragraph (1) and no decision has been given as regards to his request despite the fact that nine months have passed since submitting the request;

HMW managed to release 13 detainees whose requests were not answered within nine months of their filing. HMW received several dozens more release decisions on this ground, but since the detainees cannot afford the set bail, they cannot be released yet.

The majority of the detainees were released on the condition that NIS 3,000 -5,000 be deposited as bail in addition to a NIS 8,000-10,000 guarantee signed by a third person. The relatively high bail requested prevents more asylum seekers from being released. One of the Tribunal judges, Dvir Peleg refused almost all the release requests even if the detainee is waiting for 11 or 12 months for the authorities reply to his asylum request. The only exception occurred on September 15, when he agreed to release four detainees who were waiting for 11 months for the authorities reply to their asylum request. He set the bail at 10,000 NIS, a sum that it will take to asylum seekers ages to recruit.

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Five detainees from Sudan that HMW managed to obtain a release decision for them, signed the "voluntary leave" form, not knowing that there is already a release decision for them. Prison authorities and MOI personnel in prison do not inform the detainees of release decision and HMW cannot call detainees in prison (they have to call us). To the contrary, once a release decision is obtained for a detainee of when their nine months of waiting for a decision elapse, MOI officials in the prison redouble their pressure of the detainees to sign the "voluntary leave" forms. Those who agreed to leave could no longer bear the tremendous psychological pressure exerted on them by the Immigration officers in the camps.

In its reply to the Anti Infiltration Law petition (7146/12) on May 22nd, 2013, the State confirmed that up to this date (from June 2012) only 136 "infiltrators" were released under the various grounds. According to HMW estimation, the vast majority of them are TIP recognized victims and unaccompanied minors.

Cancellation of the Anti Infiltration Law by the High Court and Politicians' reaction

On September 16th, 2013, following a petition by human rights groups served on October 4, 2012 and a hearing on June 2, 2013, the High Court of Justice abrogated the Anti-Infiltration Law, claiming that it disproportionately violates the right to liberty of the detainees, and instructing the MOI to check and release the detainees within 90 days.

On September 17, 2013, while on summer recess, MK Miri Regev, the head of the Knesset Interior Committee, initiated an emergency hearing to discuss the implications of the abrogation of the law. During the hearing, the head of the Administration Population, Amnon Ben Ami informed that there are 1,811 detainees under the law and stated that the law is crucial for persuading asylum seekers to "voluntarily leave" Israel.

In the hearing, MK Regev announced that she will propose a new law to replace the old one, within the next 90 days in order to prevent the release of the detained asylum seekers.

Israeli Authorities Pressure Detained Asylum Seekers to Leave "Voluntarily"

During the long detention period under the Anti-Infiltration Law, over 500 detained Sudanese and at least 14 detained Eritreans, people who escaped their country of origin fearing war, genocide or life in slavery conditions in the Eritrean national service, decided to return back to their countries of origin.

The pressure to leave on detainees consists of several elements:

1. The detainees are kept in harsh desert conditions. Despite having 5,400 beds for asylum seekers, the 1,800 detainees are crammed into two internment camps and given only 2.1 square meters (22.6 square feet) of space on average per person (compared to the Western average of 8.8 square meters (94.7 square feet) of space per inmate).

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2. Ministry of Interior (MOI) officials in the internment camps present the detainees with real data that shows that Israel does not recognize refugees and therefore their chances of being recognized as refugees is zero.
3. The MOI rejected the asylum request of Eritrean national service evaders and clarified in their letters to the asylum seekers that evasion of national service, the reason most of the detainees cited in their asylum requests, is not a ground for asylum in Israel.
4. MOI officials in the camps gathering the detainees one time after another and explaining to them the meaning of the Anti-Infiltration Law according to which all Eritreans are jailed for a minimum period of three years and Sudanese for a life time.
5. Prison authorities break hunger strikes of desperate detainees by dispersing the participants to different wards in harsher conditions.
6. MOI officials hold private meetings with detainees HMW managed to obtain a release decision for but has no way to inform them about it. The MOI officials repeatedly call those detainees into meetings and invest a great deal of effort into pressuring, cajoling and threatening the detainees into signing the voluntary leave form.
7. MOI officials in the camps spread information about supposedly imminent deportations to Uganda.

The massive psychological pressure, together with the fact that almost none of the close to 2,000 detainees were released during the whole year, made the detainees believe the MOI official's claims that "their only way out of prison is back home" and to hope that upon their arrival to their corrupted country, relatives will manage to buy their life or freedom.

On July 9, 2013, the Israeli news website Walla [published a letter](#), written by an Eritrean who participated in a hunger strike in Ward 3, Saharonim, a letter that illustrates the despair of the asylum seekers.

Below is the translation of the letter to English:

"I appreciate your caring in advance.

There were about 176 Eritrean in ward three. We went on a hunger strike on Sunday 23-06-2013 in the morning and continued until 30-06-2013. On that period, many of us lost their conscious, or became dehydrated. No medical help was offered to all those people, except for few of us who were affected very badly. Speaking on my behalf, due to previous health problems, I was very badly affected by the hunger strike. I was almost in a critical stage. On Monday, 24-06-2013, we were visited by some officers from the immigration authority. Some courageous Eritreans told them:

"We were prosecuted and victimized in our country and we didn't have democracy. We were not able to live in peace. Many among us were tortured and raped in Sinai. When we reached this democratic state of ISRAEL, we didn't expect such harsh punishment in prison and we still don't know which crime it is that makes us suffer for such a long time in this prison. We lost all hope and became frustrated by this situation so that we ask you to either provide us with a solution or send us to our

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country, no matter what will happen to us, even if we have to endure death penalty by the Eritrean regime".

The immigration officer tried to calm us down and advised us to be patient. They asked us to eat food but we decided to continue the hunger strike till death, for eight days.

On Sunday (30-06-2013) in the morning, while some of us were on beds, exhausted, and others went out to be counted, police officers tied their hand with plastic robber and took them away. We didn't know where they took them, but we heard later, that 24 of them were taken to the Seventh Ward. The rest of us were taken to Ktsiot prison. There we were told to go to the office one by one and we were forced to eat by threats to be taken to isolation cells.

Finally I want tell you the hunger strike was very difficult and dangerous for our life. I am a witness that everybody lost any hope and patience. Therefore we chose this difficult decision: achieve a solution or die."

On July 14th, 2013, according to phone calls that the *HMW* received from the Saharonim internment camp and from BGU airport, 15 Eritreans who spent the last year in Saharonim prison were about to be returned to Asmara. According to detainees, the Eritrean Ambassador in Israel said that he will be escorting them on their return. Israeli authorities did not admit to the media's questions that there was a flight to Eritrea that day, yet they claimed that those returned expressed a desire to do so and completed the new Voluntary Return Procedure authorized by the Attorney General. One of the Eritreans at the airport changed his mind and was allowed to return back to prison.

After Israeli Prison Authorities ended the mass hunger strike at Sahaornim on June 30, 2013, a strike that lasted for six days, more Eritreans decided to leave the Israeli prison even if it means to go back to Eritrea.

On July 14th, 2013, several detained asylum-seekers told to the *HMW*'s activists that 200 Eritreans have signed an agreement to go back to Eritrea, but since the Eritrean Embassy manages to arrange passports only to 15 people a day, the others will have to wait. An Eritrean jailed in Ward 5 told the *HMW* on July 11th, that he and his friends from Ward 5 were not taken to arrange their documents since they were told that the Embassy can handle only 15 people a day. An Eritrean who called from ward 7 on the same day, said that 11 Eritreans were taken from their ward in order to meet the Ambassador. Jailed Eritreans told *HMW* that the rumors about the number of those who can return home is limited, made many Eritreans to feel that they have to register since who knows when they will be able to get out of the prison.

During the month of August 2013, *HMW* kept receiving more and more testimonies indicating that Ministry of Interior officials continue to insist to detained asylum-seekers that "there are no refugees in Israel" and that only those who will agree to leave in the next three months will receive the \$1,500 offered to returnees. The officials told the detainees that the MOI is in contact with the 14 returnees and that they are safe and well and with their families. *HMW* did not manage to locate any of the 14 returnees, but Eritreans

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activists claim that two of them did manage to escape Eritrea once more and are seeking refuge in Ethiopia.

G., an asylum-seeker from Eritrea detained in the Saharonim internment camp called the HMW at the beginning of August and said:

"Please help us. 127 detainees signed statements saying they are willing to return to Eritrea this week. Every day, people from the Ministry of Interior come to the wards and tell us 'your asylum requests will never be accepted. Israel will never accept them so sign your name saying you are willing to return.'" They also tell us 'don't say you don't want to sign because you have a standing asylum request, because your asylum claim will be rejected. Don't waste your time because now you can receive \$1,500 if you return.'

G. added:

"They are trying to pressure everyone to return. They don't care at all about what happens to us in Eritrea! You should ask everyone why they are really signing [the return forms] and that way you will find out the truth. Maybe the pages [forms] say that they are willing to return and that they have no problems, but they write this because the Ministry of Interior people tell them that if they write anything else, it will be impossible to return them. But if you ask them why they are returning actually, they will tell you that they are being pressured to leave and that their resolve has been weakened by prolonged stay in the prison. Most of those who signed to return are those who've been in prison for over a year or close to two years... If Israel does not want to accept us, let them send us to some African country, but we are terrified of returning to Eritrea."

The HMW' lawyer, Nimrod Avigal, addressed Adv. Daniel Solomon and Mr. Yossi Edelshtein at the Immigration Authority in the Ministry of Interior regarding seven detainees that the HMW demands their release since they filed their asylum request more than nine months before and did not receive any reply. Suspiciously, several days later the seven detainees signed the "voluntary leave" forms, without even knowing that a request for their release was filed already and without informing the HMW about it in advance.

On August 28th, 2013, the HMW addressed the Deputy Attorney General to protest against the insidious attempts of Ministry of Interior officials to pressure asylum seekers into signing the voluntary leave form, especially those that the HMW already managed to request their release. Adv. Asaf Weitzen and Adv. Nimrod Avigal demanded the Deputy Attorney General interference in order to stop the inhumane and illegal efforts of the Immigration Authority to bring about the "voluntary return" of asylum seekers from Sudan and Eritrea.

An earlier letter sent by the **HMW** to the Immigration Authority was answered by Mr. Edelstein who claimed that there is no pressure on the returnees and that whoever changes his mind regarding deportation will have his asylum file reopened.

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Among the cases described in Weitzen and Avigal's letter:

W. asylum seeker from Sudan has been suffering from kidney stones for a prolonged period. According to W's testimony, during his last visit at the paramedic clinic in the prison, the paramedic refused to treat him and told him: "What's the point? Even if you die here in prison no one cares and no one will notice." As a result of the pain and lack of treatment, W. decided to return to Sudan, with the hope of being treated there. HMW activist Cheska Katz managed to change his mind and as a result, the Immigration Authority official told him that he will need to re-fill the asylum form. According to the Anti-Infiltration Law, asylum requests must be answered within nine months. The Ministry of Interior official told W. that the count of the months will start from zero, while he will continue to be held in detention. That contradicts Mr. Edelstein's reply to the Hotline.

The Ministry of Interior's focuses on pressuring those on whose behalf the HMW had already applied for their release as more than nine months passed since they applied for asylum and no answer was provided to them. For example, A. from Eritrea, on whose behalf the HMW appealed for release on July 15. On July 30, Adv. Nimrod Avigal participated in a hearing conducted by the Administrative Tribunal in which it was decided that if there will be no reply to the asylum request until September 3, the Tribunal will positively consider releasing A. from detention. Since then, A. was being taken often to personal meetings with Immigration Authority officials during which he was being heavily pressured to leave. Just the week before, A. was taken to two such meetings, behind the back of his lawyers, and without A's knowledge about the results of the Tribunal hearing.

On August 5th, the Tribunal ordered the release of K. from Eritrea. The decision was delayed for three days in order for the Immigration Authority to have time to appeal and it was stated that if there will be no answer to the asylum request by August 18, K. would be released. After receiving the release decision and only three days before his expected release from prison, on August 15, the Immigration Authority sent a fax to the Hotline informing that K. is no longer interested in the Hotline representation since he wants to go back to Eritrea. The idea that a person will want to go back to the country from which he escaped and directly from prison despite being about to be released within three days is quite curious. On August 21, in a hearing held for K. by the Tribunal, he claimed, in contradiction to the Immigration Authority's announcement, that he is still represented by the HMW. K. is still illegally detained, despite the long period of time that passed since his release order, an order that the Immigration Authority did not disclose to the detainee.

These are only three examples, but the HMW activists who visit the internment camps for asylum seekers and who communicate with detainees via phone, claim that many detainees are being taken to personal meetings during which they are threatened that if they will not sign and leave now, they will miss the \$1,500 bribe detainees who agree to be deported receive, and the opportunity to get out of the internment camps, as the Immigration Authority officials keep on saying: "There are no refugees in Israel and your only way out is back to where you came from."

An Agreement with a Third Country

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On August 28, 2013, Minister Gideon Saar announced before the Knesset that an agreement with a third country was signed and that immediately after the Jewish holidays (October 2013) the detainees from Sudan and Eritrea will be sent there. Saar did not specify which third country the agreement was reached with. Calls from prison on that day indicated that the detainees were panicking and many more thought it is better to try their luck in their own country than to be deported to Uganda, a country with a poor human rights record.

On August 29, 2013, the day after, Israeli media reported that the third country is Uganda.

In response to reports of an "agreement" to deport asylum-seekers from Israel to Uganda, Israeli human rights organizations said they doubted the likelihood that the agreement will materialize. The NGOs noted that for years, the Ministry of Interior has been talking about a third country that will take asylum-seekers from Israel in exchange for arms and money, and Uganda was even mentioned previously. But it turned out that Uganda is not a safe country for refugees from Israel, and that there is no way to ensure the safety of those deported there. Last March, 2013, Israel deported an Eritrean asylum-seeker to Uganda, and Uganda was quick to renounce any agreement and deport him immediately upon his arrival. The current talk about an agreement with Uganda remains as vague as ever. The Ministry of Interior did not make it clear when the agreement will be actualized, how many people will be absorbed in Uganda, what is the status they will receive and what are the assurances that they will not be deported to their country of origin. The purpose of the announcement on this ambiguous agreement with Uganda is to renew the discussion on the deportations to a third country to delay the High Court of Justice from ruling on the petition calling for the abrogation of the Anti Infiltration Law. The announcement is also intended to pressure asylum-seekers in Israel into requesting to leave Israel in any way they find, even if it means risking their lives."

The organizations also pointed out that the previous Minister of Interior, Eli Yishai, made a similar statement to the media one year ago about a decision to detain and deport all Sudanese asylum-seekers "after the [Jewish] holidays." After a petition was filed against this announcement, the State Attorney's office stated that the Minister of Interior cannot make such announcement and that if a decision of this kind was made, it would be published in an orderly manner by the Immigration Authority at least thirty days before coming into force.

In addition the NGO's learned that in response to a recent inquiry, the Refugee Commissioner of the Government of Uganda, David Apollo Kazungu, stated that he is unaware of an agreement between Israel and Uganda regarding the transfer of refugees. "As a department and Ministry of Government handling refugees, we are not aware of such an agreement", said Kazungu.

"It is fundamentally against the international principle of 'non refoulment' and grant of asylum to those in need of it."

Kazungu was initially approached in response to rumors about a pending agreement between Israel and Uganda in February 2013. Kazungu emphasized that no such agreement exists.

Yet, on the same day, and the following days, detainees calling HMW from the Saharonim

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prison reported that Immigration officials keep on telling them that they better sign up quickly for the voluntary leave program since those who will not sign now will be deported to Uganda and will lose the \$1,500 that those signing the forms right now will receive.

As stated before, on September 16, 2013 the High Court of Justice abrogated the Anti Infiltration Law and gave the MOI 90 days to check and release the asylum seekers. Calls from prison indicate that the pressure to leave "voluntarily" continues.

2. Purposeful government policy of making the life of asylum seekers in Israel miserable

Employing of Asylum Seekers in Israel

As of January 2011, asylum seekers in Israel hold three types of residence permits.

1. **A/5 temporary residence permits:** Individuals with these permits can be employed at any job. Their legal standing, regarding their rights and obligations, is the same as that of any Israeli employee. About 500 Darfuris and less than 100 recognized refugees hold this status.
2. **B/1 unlimited work and residence permits:** Whoever has this permit can hold any job. About 1000 Eritreans hold this status.
3. **Residence permits in accordance with article 2(A)(5) of the 1952 Entry Into Israel Law,** printed on the back of the "conditional release" document issued by the Ministry of Interior: Employers can hire asylum seekers with this permit to hold any job, and no legal action will be taken against the employers. This is the most common permit, given to anyone residing in Israel who holds no other permit and is not in detention, including those recognized as Sudanese or Eritrean. Most asylum seekers (close to 54,000 of them) hold this permit. In a ruling handed down on January 19, 2011 (HJC 6312/10), the High Court of Justice determined that until a November 18, 2010 government decision on opening a "residence center for infiltrators" on the Egyptian border is implemented, no legal action will be taken against individuals who employ asylum seekers, regardless of their country of citizenship. As a result of the High Court decision, an individual who employs someone with a permit in accordance with article 2(A)(5) will not be fined, and legal proceedings will not be conducted, even in cases in which the employee's permit includes the conditional release document which states that, "This temporary permit does not constitute a work permit."

Essentially the 2(A)(5) visa gives its holders no legal or social rights, and the sentence that the Interior Ministry added to the visa - "This temporary permit does not constitute a work permit" bars some 54,000 people from working, even though the court determined explicitly that no legal action be taken against individuals employing asylum seekers. Despite the court ruling, immigration officers threaten to take action against employers who hire asylum seekers. According to the ruling, fines will not be given until a new prison, built near Ketsiot, will be operational. The immigration officers' threats further weaken asylum seekers and leave them vulnerable to exploitation, because if they complain about their employers and involve humanitarian aid workers or authorities, their employers will no longer want to employ them.

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According to the information gathered by HMW and Kav LaOved, numerous asylum seekers in Israel complain that they have been fired because of the conditional release clause on their permits, or because their bosses fear that they will be fined for employing them. Once informed of the legal specifics, employers realize that they can hire asylum seekers without legal or financial repercussions, but many are not aware of the facts.

Humanitarian aid workers dealing with this issue state that employers who already employ asylum seekers are quicker to understand that they will not face consequences for employing them, and therefore those most adversely affected by the conditional release statement are asylum seekers who were not employed before the clause specifying that the permit is not a work permit was added to the visas. It is nearly impossible for the asylum seekers to find work, particularly if they do not speak English or Hebrew, or if they are physically weaker (women, the elderly), as it is harder to market themselves.

Those who continue to work, who have an income and who are supposedly better off than those who are unemployed, have been weakened. The workers are concerned that if they lose their jobs they will not be able to find new employment opportunities, and find themselves bound to their employers, regardless of whether their employers abide by the Israeli labor laws that the asylum seekers are entitled to. People have been willing to accept horrible work conditions because they fear being fired at being left without a job. Under such conditions, refugees cannot stand up for their rights, and they remain weak and vulnerable. Humanitarian organizations are currently trying to raise workers' awareness of their rights, but no real change can come about if asylum seekers believe they have no other option but to work under existing conditions.

The 2A5 visa are to be renewed every one to four months. Some asylum seekers need to renew every month and others every three of four months. Since there are 54,000 asylum seekers who need to renew their visa every several months, there are long lines in front of the MOI offices every day. The offices accept only several dozen asylum seekers out of hundreds arriving every day. As a result, many asylum seekers sleeps in front of the offices the night before, hoping to be accepted the day after to renew their visa and not having to lose another working day.

Crackdown against Refugee-Run Businesses

Israeli authorities intensified their crackdown against refugee-run businesses in 2013. While in the past, municipal authorities would occasionally shut down refugee-run businesses in Eilat and Tel Aviv, in 2013, as the date for the municipal elections (October 2013) reached closer, the raids on businesses became more frequent and violent, especially in Tel Aviv.

The Ministry of Finance's Tax Authority does not permit asylum-seekers to register their businesses and thus does not enable them to pay VAT, as required by law. During the raids, conducted by municipality inspectors, police, and sometimes Health Ministry inspectors, property, goods and cash are confiscated and food is destroyed. Asylum-seekers whose businesses were closed were charged with operating an illegal business and not paying VAT.

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According to the VAT Law, amended in 2002, before asylum seekers arrived into Israel, if a foreign resident opens a business in Israel, he needs to appoint an Israeli citizen as guarantor and provide a local address for the Tax Authority. Article 60 A1 in the VAT Law defines a "foreign resident" as a *"person residing in Israel with a stay permit that is not of permanent residency, according to the director's instructions."* Before the amendment was passed, the law demanded an Israeli guarantor only from *"a person who is obligated to pay taxes who is a foreign citizen and does not reside in Israel regularly and most of whose businesses are outside of Israel"*. This, of course, is not the case with the asylum seekers who cannot leave Israel and have no other businesses elsewhere.

The purpose of the amendment, as explained in the legislating committee's protocol is to make it easier for foreign corporations that do not wish to be registered as a corporation in Israel and can use an Israeli guarantor instead.

The VAT Law allows the director of the Tax Authority to decide who will be demanded an Israeli guarantor and a contact person. Reading the explanation to the amended VAT Law, it is only logical that the director of the Tax Authority will exempt asylum seekers from providing an Israeli guarantor since they live in Israel and unlike other businessmen, cannot leave Israel not even for short vacations. In March 10th 2013, after being approached regarding this issue by the Tel Aviv University Law School Program for Businesses Entrepreneurship and Economic Justice, the Tax Authority refused to accept this logical interpretation of the law offered to them. The Tax Authority claimed that after consulting with the Immigration Authority, they will turn down the request as both asylum seekers and refugees do not stay in Israel long enough to operate a business and be responsible for its taxes and debts. According to their answer, recognized refugees receive a temporary residency valid for only three years. Asylum seekers receive a temporary residency for those staying illegally in the country with a pending removal order, instructing them to leave the State of Israel. Both of these legal statuses do not grant their holders the right to stay in the country long enough to establish a business and keep its legal commitments.

Most businesses run by asylum-seekers serve their communities exclusively. Those include restaurants, bars, barbershops, clothing stores, and grocery stores and music shops with goods imported from Ethiopia.

Below are the stories of three asylum-seekers among hundreds who had their businesses shut down by Israeli authorities.

S., a survivor of the Darfur genocide, operated a small shop selling cell phone, phone cards and tobacco. S., who has a 2(A)5 visa (conditional release) could not register his business with the Tax Authority and pay VAT.

S. lived very frugally, spending little and living with three friends in a small room. Over a period of six years, he managed to save a little over \$54,000 from his business. S. could not open a bank account in Israel as he does not possess a valid passport and cannot renew it in Israel. S. carried his savings in a plastic bag from place to place and kept it in his shop while working. In May 2013, police raided his little shop and confiscated all his savings. They attempted to do so without registering taking possession of the sum (as they

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often do with other refugee-run businesses), but S. insisted on accompanying the policemen who ended over his entire life savings to the Tax Authority.

S. received summon to an investigation due to "suspicion of violating the VAT law" in late December 2013. In addition to the confiscated sum of \$54,000, S. was asked to pay over \$135,000 in taxes, which he did not charge from his customers, and hence has no way of paying.

A. from Eritrea, runs a grocery shop that caters to the Eritrean community. In May 2013, municipality inspectors and policemen raided her shop. They confiscated goods from her shop and destroyed what they did not carry off by strewing the products (such as flour and spices) on the floor of the shop.



Photo by Sigal Rozen, May 2013: A. looks at her destroyed shop

M.S. from Eritrea opened a barbershop in 2011. M. is handicapped in one arm and cannot perform physical labor. M.'s friends collected \$43,000 so he can open his barbershop and make a living despite his disability. After M. opened his barbershop, authorities gave him notices that he is operating in violation of the Business Licensing Law. M. hired a lawyer to obtain the necessary legal status, but in vain. Because he is an "infiltrator", he cannot own a business in Israel. Unable to legally register his business, M. shut down the barbershop. In May 2013, Justice Guy Heimann of the Tel Aviv District Court ordered him to pay an \$850 fine for operating an illegal business and he was forbidden from reopening his business. M. now has no way of making a living while he has to repay the money his friends gave him so he could open the business.

While walking on the main streets of southern Tel Aviv, one can see hundreds of businesses opened by asylum-seekers, mainly from Eritrea, businesses established to serve the Eritrean and Sudanese communities. Since many Eritreans do not manage to rent a shop, they open businesses in their flats or rent flats especially for their business. There are already coffee shops, and catering businesses operating on the second and third floors of regular residential buildings, without a license. There is no doubt that the

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outcome of the crackdown against refugee-run businesses will be the quick and quiet transfer of hundreds of businesses to secret flats in residential buildings.

As mentioned before, the VAT Law allows the director of the Tax Authority to decide who will be demanded an Israeli guarantor and a contact person. By exercising his power and granting asylum seekers carrying B1 work permit or 2A5 conditional release visa a possibility to register their business with the Tax Authority, the Tax Authority director will achieve several benefits:

1. Additional income of millions of NIS of tax revenue from refugee-run businesses.
2. Contributing to the legalization of businesses in Israel and greatly diminishing the operation of illegal businesses that operate under the surface and disturb public order and peace in residential buildings.
3. Assisting the businesses run by Israelis in the area who cannot compete with the prices offered by the asylum seekers who do not pay VAT.
4. Complying with article 18 in the International Refugee Convention, which Israel signed and ratified that states: "*The Contracting States shall accord to a refugee lawfully in their territory treatment as favorable as possible and, in any event, not less favorable than that accorded to aliens generally in the same circumstances, as regards the right to engage on his own account in agriculture, industry, handicrafts and commerce and to establish commercial and industrial companies.*"

3. Israeli Authorities' Treatment of Migrant Workers Employed in Slavery-Like Conditions

Background

In February 2011, the Hotline for Migrant Workers (HMW) discovered a disturbing new phenomenon that despite HMW's actions against it continues unabated. A shipping agency, Bar Sapanut LTD, brings migrants to Israel to work as seafarers, who do not require work permits, and then employs them in Israel as fishermen in slavery conditions. An unknown number of individuals, at least several dozens, have been employed in slavery-like conditions under this scheme, with many more potential victims who could be enslaved under it.

Between February 2011 and September 2013 HMW was contacted by 18 fishermen who worked for Bar Sapanut LTD in very similar conditions. Those who contacted us were: three fishermen from Sri Lanka (February 14, 2011), a fourth fisherman from Sri Lanka (December 18, 2011), fifth fisherman from Sri Lanka (February 22, 2012), sixth fishermen from the Philippines (February 26, 2012), four fishermen from India (March 14, 2012) and three fishermen from Thailand (May 20, 2013).

Out of these 18 slavery victims of Bar Sapanut, HMW represented 15. Despite the fact that they contacted HMW at different times over the years, and the fact that they are citizens of four countries who do not speak the same language and cannot communicate with one another, their testimonies regarding their employment conditions were almost identical and

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differ mainly in the amount of recruitment fees they were required to pay for the right to work in Israel.

The workers reported about additional migrant workers who labored alongside them in the same harsh conditions, but afraid of being deported from Israel and therefore, refuse to complain against their employer.

The three first Sri Lankan who contacted HMW on February 2011 received no redress by the police, which insisted that they were not TIP victims. Due to the lack of proper translation to Sinhalese in court, which resulted in discrepancies in their testimonies, they were found to be non-credible and HMW's request to recognize them as TIP victims was rejected. They were forced to leave the country.

The fourth Sri Lankan who contacted HMW (December 2011) was recognized by Israeli authorities as TIP victim and was transferred to the *Atlas* shelter.

The Fifth Sri Lankan who contacted HMW (February 2012), was deported from the country on the same month after the police brought him back to his employer after he escaped the terrible working conditions. The employer then threatened the worker into leaving the country.

Six Filipinos, and two out of the four Indians who contacted HMW on February and March 2012, were recognized by Israeli authorities as TIP victims and were transferred to *Atlas* shelter. The two other Indians changed their mind and we have no information on whether they are still employed by the company or were deported back to India.

The three Thai workers who contacted the HMW on May 2013 chose to leave the country after HMW's request to recognize them as TIP victims was rejected, despite the fact that they described the same working conditions as the TIP victims recognized before them.

Fishermen employed in Slavery Conditions During 2013

During 2013, three new slavery survivors contacted HMW for assistance:

Manoon Thongsri, Walop Thongsri and Somsak Chaipantho, all citizens of Thailand. The three contacted HMW on May 2013 after being jailed for three and a half months in a little cell at Ben Gurion Airport without knowing why they are jailed there, for what purpose and for how long. The immediate investigation by HMW's lawyer, Nimrod Avigal, led to the discovery that the Israeli Tax Authorities pressed charges against the employer of the three workers, Bar Sapanut LTD, and that the three are demanded for testimony scheduled for June 18, 2013. Israeli authorities intended to keep them locked up for four months and three days for this purpose without informing them about it.

Avigal had to serve a petition in order to have the three Thai workers released to a cheap hotel financed by the Customs Authority after three and a half months, where they were kept until they finished testifying against Bar Sapanut LTD. Despite Avigal's demand that the three be recognized as TIP victims, the Immigration Authority decided to reject the request and deport them.

Working in Harsh Slavery Conditions for Two Months

One of the Thai workers worked for the company since 2006. The two others arrived and started working for Bar Sapanut LTD on December 19, 2012. The three worked on two

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boats in slavery conditions: Their passports were confiscated by the employer upon arrival and were not returned. They were required to work around the clock, day and night, collecting the fish nets for three hours, sorting the fish, spreading the empty fish nets back in the water and having only two hours to rest before they need to collect the fish nets once more. At night, they worked the same hours and could not sleep for more than two hours at a time. On weekends, they would unload everything at the Ashdod port, cleaned the boats and fixed the nets. During the entire working period, the only shower they could use had only cold water, on the deck. In one of the boats, as reported by other victims who worked on it, there is no bathroom. Walop Thongsri and other who worked on it had to go overboard, and defecate into the sea while holding onto the railing to prevent themselves from falling into the sea, even in stormy weather. They had no gloves and their hands were wounded regularly from the nets, the crabs and the fish they were sorting. The workers' requests for warm winter clothes were ignored and they had to beg the ports' workers for clothes when they met them for a short while, when unloading at the Ashdod port. Once a week, when unloading at the port, the workers received food and water for the next week. The amount of water supplied to them was not enough for drinking and showering and the food was enough for one meal a day containing rice, a small portion of chicken, and a cucumber. In addition, they could have a slice of bread each, which they usually saved for the morning or evening. Since they were so hungry, the workers sometimes hid the remains of rice in their bag so that the employer will believe it is finished and give them a little bit more food. Since the employer did not speak Thai, the workers could not understand what he was saying, just that he was yelling.

They worked in these conditions between December 19, 2012 and February 15, 2013. During these two months, they did not receive even one day of rest, vacation, or a sickness leave. For their work, their families in Thailand received \$1,000 a month.

Employment of the Workers in Cigarette Smuggling Unbeknownst to Them

On February 15, 2013, the three workers were taken by their employer to Cyprus and placed on a boat on which packages of cigarettes were uploaded. On their way back to Israel, the Customs Authorities caught the boat and pressed charges against Bar Sapanut for smuggling goods. After the three workers were interrogated, they were sent to the prison cell at Ben Gurion Airport prison facility, Yahalom, without anyone informing them that they will be locked there for four months and three days, until the hearing date at court.

Imprisonment Conditions at Yahalom Facility at the Ben Gurion Airport

For many years, Yahalom prison has been used to detain foreigners arriving to Israel whose entry was denied by the Immigration Authority. These foreigners are usually detained for several hours or days until there is a return flight to their country of origin. Since March 2011, the facility is also used to detain migrant children and their mothers prior to their deportation from Israel, again for a short period of time, until travelling documents and flights are arranged for the detainees.

The workers testimony regarding the imprisonment conditions fits many other testimonies received by other detainees there in the past. According to their testimony, they were locked for three and a half months in a little room with four double beds, two toilet cells and a sink for drinking water. There was no shower in the room and for the entire first month they did not receive an opportunity to take shower. After that, they were taken out occasionally to

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take showers. Food did not arrive regularly and there were days they were starving. Every few days, they were allowed to take a five-minute stroll out of their cell. Throughout their imprisonment, they had two sets of clothes but only one pair of underwear.

HMW was informed about the three workers by the Thai embassy only on May 2013, and questioned them with the assistance of a Thai translator and contacted authorities on their behalf on May 22, 2013.

More than two months prior, on March 6, 2013, the three were brought in front of Judge Lavi at the Magistrate Court in Kiryat Gat in a hearing regarding the charges against Bar Sapanut LTD by the Israeli Customs Authority. The judge found it odd that the three witnesses are represented by the same lawyer who represents the company against which they are supposed to testify. She said:

I asked the witnesses for their opinion... and they said they would like to leave the country... I expressed my surprise about the fact that the witnesses are not represented by a lawyer. I stated that there are NGOs that represent foreigners and defend their rights and due to the contradicting interests it is improper that the witnesses will be represented by the lawyer of the defendant. Since a worker at the detention facility testified that it is meant for deportees detained there for 24-48 hours only, I stated in my decision that if the State gave its consent to hold them in Israel (until their testimony), the State should arrange a proper and decent place for them to reside in, until then.

Despite the judge's decision, the State did nothing to release the Thai workers and only two and a half months later, as a result of the initiative of the Thai embassy that reached out to HMW, they were released after a petition served by HMW on their behalf.

HMW transferred the case to Adv. Tamir Blank who on June 2013 filed a suit for damages against Bar Sapanut LTD and against the Israeli Immigration Authority, on behalf of the three Thai workers. The workers have already left to Thailand and the legal proceedings will continue in their absence.

Only in April 2012, the Israeli Immigration Authority informed Bar Spanut LTD that "due to severe suspicions regarding improper conduct with bringing into Israel and employing foreign seamen, it was decided that every new request of your company will be controlled by the Immigration headquarters." The company served a petition against this decision.

Despite having nine ex-workers defined by the authorities as TIP victims, and despite having a permit to employ just one fishermen, as far as the company's slavery survivors know, there are still foreign seamen working for it as fishermen, in harsh conditions, without the proper work permit.

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