



FORCED AND UNLAWFUL

ISRAEL'S DEPORTATION OF ERITREAN AND SUDANESE ASYLUM-SEEKERS TO UGANDA

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First published in 2018

by Amnesty International Ltd

Peter Benenson House, 1 Easton Street

London WC1X 0DW, UK

Index: MDE 15/8479/2018

Original language: English

amnesty.org



Cover photo: African migrants and Israelis demonstrate in the Israeli coastal city of Tel Aviv on 24 February 2018, against the Israeli government's policy to deport African refugees and asylum seekers to Rwanda and Uganda. © JACK GUEZ/AFP/Getty Images

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CONTENTS

EXECUTIVE SUMMARY	7
METHODOLOGY	8
1. AN INTENTIONALLY DYSFUNCTIONAL ASYLUM SYSTEM	9
1.1 ERITREAN AND SUDANESE ARRIVALS FROM SINAI	10
1.2 FAILURE TO INFORM ASYLUM-SEEKERS OF THEIR RIGHT TO SEEK ASYLUM	11
1.3 OBSTACLES IN ACCESSING THE REFUGEE STATUS DETERMINATION (RSD) PROCEDURE	11
1.4 ASYLUM CLAIMS ARE HANDLED AT AN UNREASONABLY SLOW RATE	13
1.4.1 DARFURI ASYLUM-SEEKERS: LEFT IN LIMBO	14
1.5 ASYLUM CLAIMS ARE REJECTED UNFAIRLY	15
1.5.1 ERITREAN ASYLUM-SEEKERS: REJECTED SUMMARILY	15
2. A POLICY OF UNLAWFUL DETENTION AND DEPORTATION	17
2.1 STAGE ONE: THE ALLEGED “UNDERSTANDING” WITH EGYPT AND THE “HOT RETURNS”	18
2.2 STAGE TWO: THE “VOLUNTARY” DEPARTURES	19
2.3 STAGE THREE: FORCIBLE REMOVAL	22
2.3.1 THE JANUARY 2018 PROCEDURE FOR DEPORTATION TO THIRD COUNTRIES	22
2.3.2 THE “AGREEMENT” WITH RWANDA AND ITS DEMISE	23
2.3.3 THE ABANDONED AGREEMENT WITH UNHCR	24
2.3.4 THE “AGREEMENT” WITH UGANDA	25
3. A DANGEROUS REALITY BEHIND THE PROMISES	27
3.1 DEPORTATION PROCEDURE IN ISRAEL	29
3.1.1 IDENTITY OF THE “SAFE THIRD COUNTRY” AND INFORMATION ABOUT IT	29
3.1.2 TRAVEL DOCUMENTS	29
3.2 CONDITIONS UPON ARRIVAL IN UGANDA	31
3.2.1 “PROCEDURE” UPON ARRIVAL	31
3.2.2 “LOCAL REPRESENTATIVES”	31
3.2.3 IRREGULAR STATUS UPON ARRIVAL AND ITS CONSEQUENCES	32

3.2.4 ACCESSING THE UGANDAN ASYLUM SYSTEM	33
3.2.5 CONSEQUENCES OF IRREGULAR MIGRATION STATUS	34
3.2.6 MONITORING MECHANISMS	34
3.3 THE ONWARD JOURNEYS	35
4. THE DEPORTATIONS ARE UNLAWFUL UNDER INTERNATIONAL LAW	37
4.1 THE DEPORTATIONS VIOLATE THE INTERNATIONAL OBLIGATION OF NON-REFOULEMENT	38
4.2 THE ISRAELI ATTORNEY GENERAL'S REQUIREMENTS: INSUFFICIENT AND IGNORED	39
4.3 THE DEPORTATIONS VIOLATE THE INTERNATIONAL PROHIBITION OF DISCRIMINATION	40
5. CONCLUSIONS AND RECOMMENDATIONS	42
5.1 CONCLUSIONS	42
5.2 RECOMMENDATIONS	42
TO ISRAEL	42
TO OTHER COUNTRIES	43

GLOSSARY

ASYLUM / INTERNATIONAL PROTECTION	The grant of a formal legal status – including refugee status, subsidiary protection, and humanitarian status – due to the risk of serious human rights violations in a person’s country of origin.
ASYLUM-SEEKER	Someone who wishes to request asylum or international protection; or someone whose request for asylum or international protection has not been decided yet.
DEPORTATION	Forcible transfer from the territory or jurisdiction of a state to the territory or jurisdiction of another state.
DEPORTEE	For the purposes of this report, anyone who has been transferred from Israel to a “third country”, whether or not they have signed consent papers.
INFILTRATOR	Under Israel’s Anti-Infiltration Law, an “infiltrator” is someone who entered Israel by way other than an official border crossing, i.e. irregularly.
TRANSFER	For the purposes of this report, any deportation, expulsion, repatriation, return, removal, etc., involving a change of territory or jurisdiction from a state to another state. Can be forcible or voluntary.
UNHCR	United Nations High Commissioner for Refugees, the UN Refugee Agency. The agency is mandated to protect and support refugees – that is, people in need of international protection.

EXECUTIVE SUMMARY

In January 2018, the Israeli government launched a new *Procedure for Deportation to Third Countries*, under which Sudanese and Eritrean single men who had not applied for asylum by the end of 2017 (or whose request was denied) would be deported to a “third country” in Africa. According to Prime Minister Benjamin Netanyahu, the measure was the third stage of Israel’s policy towards “infiltrators”, the term used in Israeli law to describe irregular migrants. The first stage (2006-2012) consisted of physically blocking their entry with a tall razor-wire fence along the border with Egypt; and the second stage (2013-2017) involved transferring them to their country of origin or a “third country” on a “voluntary” basis.

In April 2018, the Israeli government admitted that the “third country”, Rwanda, had refused to accept deportations and announced the end of its deportation policy and a new solutions agreement with the United Nations High Commissioner for Refugees (UNHCR), involving some 33,000 people. Less than 24 hours later, however, the government cancelled the agreement with UNHCR, before rushing to reassure the Supreme Court that a deportation deal with a second “third country” (Uganda) was still valid. Despite these reassurances, the government was unable to show the Court a written deal with an African country accepting deportations. On 15 April, the Supreme Court ordered the suspension of the deportation plan and the release of all Eritrean and Sudanese asylum-seekers detained awaiting deportation.

At the time of writing, the deportations to African third countries are suspended. However, Israel and Uganda are still negotiating a possible agreement for the transfer of Sudanese and Eritrean nationals. Crucially, the “voluntary” transfers, which Israel has been carrying out since 2013, continue.

This report argues that, no matter the language used by the Israeli government, the transfers of Eritrean and Sudanese nationals to Uganda are not truly voluntary: they are not based on the free and informed consent of the individual concerned. Up to April 2018, the Israeli authorities used indefinite detention (or its threat) as the main tool to effectively force Eritrean and Sudanese nationals to leave Israel (chapter 2). Several other measures and factors have made their lives very difficult:

- First, the Israeli asylum system is dysfunctional and unfair. As a result, the chances of finding protection in Israel are effectively close to zero. Despite the government’s claim that Eritrean and Sudanese nationals in Israel are economic migrants, most of them seek protection from persecution and other serious human rights violations. Israel’s asylum system creates obstacles to submitting asylum claims; handles them excruciatingly slowly; or rejects them after an unfair and deeply flawed process (chapter 1).
- Second, the refusal of the Israeli authorities to officially name the countries the deportees are sent to - and the failure to keep promises as to the treatment they will receive upon arrival - speak volumes as to the scant and misleading information the deportees are provided before leaving Israel (chapter 3).
- Third, racist and xenophobic discourse by government officials also weigh heavily on asylum-seekers’ decision to leave (chapter 4).

No consent for “voluntary” transfers can be free and genuine under these conditions.

As the transfers of Eritrean and Sudanese asylum-seekers to Uganda are forcible, even when the deportee signs consent papers, they must comply with the international law obligation of *non-refoulement*, which prohibits states from transferring anyone to a country where they would be at real risk of persecution or other serious human rights violations or abuses, or to a country where they would not be protected against such transfer.

This report argues that the deportations of Eritrean and Sudanese asylum-seekers from Israel violate the international law obligation of *non-refoulement* and the international law prohibition of discrimination.

Amnesty International urges the government of Israel to immediately halt all transfers of Eritrean and Sudanese asylum-seekers to “third countries” or their countries of origin, whether forcible or “voluntary”; and assume its fair share of the common responsibility for the world’s refugees, starting with the refugees and asylum-seekers already on its territory or under its jurisdiction.¹ The organization also urges the government of Uganda to refuse any form of cooperation with Israel to carry out unlawful deportations, including by refusing to accept the deportees into their territory.

METHODOLOGY

This report is based on information collected by Amnesty International between November 2016 and May 2018 through individual interviews, direct observations, official correspondence and desk research. Amnesty International has offices in Jerusalem, Tel Aviv and Nairobi and visited Uganda from 3 to 6 March 2018 to interview Eritrean and Sudanese asylum-seekers who had been deported from Israel to there.

Amnesty International conducted a total of 30 in-depth individual interviews with Eritrean and Sudanese asylum-seekers, 29 men and one woman. The organization interviewed 17 men (14 Eritreans and three Sudanese) deported from Israel to Uganda between 2012 and 2018; three Eritrean men deported from Israel to Rwanda between 2015 and 2017; and one Sudanese man who was forcibly returned to Sudan in 2014. Additionally, Amnesty International interviewed nine Eritrean asylum-seekers (one woman and eight men) who were in Israel at the time of the interview about the difficulties they encountered accessing the asylum system. The interviews took place either in person or on the phone and were conducted in Tigrinya, Hebrew or English. Amnesty International corroborated the interviewees’ testimonies with documents, where available. To protect the identities of those interviewed, the organization withheld or changed their names and identifying details.

The information on the failures of Israel’s asylum system is based on several years of monitoring. Between November 2016 and September 2017, Amnesty International wrote seven times to the Population, Immigration and Border Authority (PIBA), expressing concern about the obstacles for Eritrean and Sudanese asylum-seekers to submit their asylum claims. The organization wrote also to the Ministry of Interior, the Ministry of Justice, the government’s Deputy Legal Advisor and many members of the Knesset. Amnesty International visited the Refugee Status Determination (RSD) Unit office in Tel Aviv, which receives asylum applications, about 20 times in 2017 and early 2018; after January 2018, when the office was transferred to Bnei Brak, a city just east of Tel Aviv, the organization gathered information, photos and videos through its contacts there. Amnesty International also gathered preliminary information on the cases of 262 Eritrean asylum-seekers who tried repeatedly to submit their asylum application in Israel between 2016 and 2018.

The analysis of Israel’s policy of unlawful detention and deportation, including its agreements with “third countries”, is based on desk research, including the study of court papers and other legal documents obtained by Amnesty International.

This report was last updated on 23 May 2018. On 17 May 2018, Amnesty International wrote to the Ugandan government to share its findings and request clarifications. The organization also wrote to the Israeli government on 1 June. At the time of going to press, the organization had not received a response from either of the two governments.

Amnesty International would like to thank the Eritrean and Sudanese refugees and asylum-seekers who shared their stories. The organization would like to thank as well Tamar Aviyah, Liat Bolzman, Mariano Gorbatt, Sigal Kook Aviv, Carmi Lecker, and Gilad Liberman and Benjamin Parker for their help.

¹ This report does not discuss Israel’s obligations towards Palestinian refugees. Amnesty International calls for Palestinians who fled or were expelled from Israel, the West Bank or Gaza Strip, along with those of their descendants who have genuine links with the area, to be able to exercise their right to return to their homes in what is now Israel and the Occupied Palestinian Territory (OPT). See Amnesty International, *The Right to Return: The Case of the Palestinians*, Index: MDE 15/013/2001, 30 March 2001, <https://www.amnesty.org/en/documents/mde15/013/2001/en/>

1. AN INTENTIONALLY DYSFUNCTIONAL ASYLUM SYSTEM

“We are not taking action against refugees... We are taking action against illegal immigrants who come here for work purposes. Israel will continue to be a shelter for true refugees and will eject illegal infiltrators.”

Prime Minister Benjamin Netanyahu, January 2018²

“Acknowledging the protection needs of the majority of the Eritrean and Sudanese population defined as ‘infiltrators’, which are akin to the protection needs of refugees, UNHCR considers them to be in a *refugee-like situation*...”

United Nations High Commissioner for Refugees (UNHCR), November 2017³

According to official Israeli statistics, there are currently 33,562 Eritrean and Sudanese women, men and children in Israel (26,081 Eritreans and 7,481 Sudanese).⁴ The Israeli government considers them to be “infiltrators”, i.e. economic migrants who entered the country irregularly and can be deported (see below). Formally, less than half of them have applied for asylum and only 11 of those have been recognized as refugees (Table 2).

² Quoted in “Netanyahu says Africans slated for deportation ‘not refugees’”, *The Times of Israel*, 21 January 2018, <https://www.timesofisrael.com/netanyahu-says-africans-slated-for-deportation-not-refugees/>

³ UNHCR, *UNHCR’s position on the status of Eritrean and Sudanese nationals defined as ‘infiltrators’ by Israel*, November 2017, <http://www.refworld.org/docid/5a5889584.html>.

⁴ These figures do not include births in Israel. Population Immigration and Border Authority, *Foreigners in Israel Data, First quarter of 2018*, April 2018, Table 3, p4, https://www.gov.il/BlobFolder/generalpage/foreign_workers_stats/he/%D7%A8%D7%91%D7%A2%D7%95%D7%9F%201.pdf.

This chapter discusses in detail the failures of the Israeli asylum system that explain the relatively low number of asylum claims submitted by Eritrean and Sudanese nationals and their exceptionally low recognition rate. Many Eritreans and Sudanese do not apply for asylum because of Israel's failure to adequately inform them about the refugee status determination (RSD) procedure (section 1.2); those who try to submit their claim face practical obstacles that make access to the asylum process unduly arduous (section 1.3). The few who manage to apply for asylum face one of two bleak prospects: either they receive no response to their claim for years (section 1.4); or their claim is denied, even when valid (section 1.5). These experiences in turn discourage other Eritrean and Sudanese asylum-seekers from submitting their claims.

These failures make the Israeli asylum system dysfunctional and unfair. In May 2018 State Comptroller Joseph Shapira examined several aspects of the processing of asylum requests and concluded:

deficiencies in the Population Authority's handling of asylum requests in recent years can be interpreted as a failure by Israel to honor and implement the international commitments it took upon itself.⁵

The dysfunctions of the Israeli asylum system are so serious, pervasive and systematic that, in the context of the political rhetoric accompanying them, they amount to an intentional policy to deny recognition to refugees. A wealthy country with a strong legal and judicial system, Israel is unwilling, rather than unable, to recognize the protection needs of Eritrean and Sudanese asylum-seekers. Its sweeping claim that Eritrean and Sudanese asylum-seekers are economic migrants is instrumental to its policy to deport them out of the country.

Because of these failures, neither refraining from applying for asylum nor having a claim rejected rule out the need for international protection of Eritreans and Sudanese in Israel. UNHCR considers them, as a group, to be "in a refugee-like situation", i.e. requiring the type of protection needed by refugees.⁶

1.1 ERITREAN AND SUDANESE ARRIVALS FROM SINAI

Eritrean and Sudanese asylum-seekers started arriving in Israel in 2006, through the Sinai desert and the border with Egypt. At the time, Amnesty International documented asylum-seekers and refugees being kidnapped from camps in Sudan, forcibly transported to Egypt, and being severely abused in Sinai, where they were held captive by criminal gangs while ransom payments were demanded from their families.⁷ The arrivals from Sinai decreased dramatically after 2012, when the Israeli government erected a tall razor-wire fence along the border with Egypt (Table 1).

Until 2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018 (Q1)	TOT
2,762	5,173	8,837	5,197	14,624	17,276	10,441	43	21	220	18	0	0	64,612

Table 1: Number of irregular entries into Israel detected at the border, by year

Source: Population Immigration and Border Authority⁸

According to the Israeli government, 64,612 "infiltrators" arrived through the Sinai border between 2006 and the first quarter of 2018. Israel's asylum system was not equipped to deal with these arrivals.⁹ Between 2006 and 2013, Eritrean and Sudanese asylum-seekers could not apply for asylum individually. From February 2008, all Sudanese and Eritrean asylum-seekers have been receiving "conditional release" visas, which grant the holder temporary protection from deportation. It was only in 2013 that the Israeli government started allowing Eritreans and Sudanese to apply for asylum and committed to review such applications. However, it failed to inform asylum-seekers who had been living and working in Israel for years that the policy had changed (see below). Between 2013 and 2017,

⁵ Quoted in "Israel Approved 0.09% of Asylum Requests Over Past Nine Years", *Haaretz*, 9 May 2018, <https://www.haaretz.com/israel-news/premium-israel-approved-0-09-of-asylum-requests-over-past-nine-years-1.6072058>.

⁶ UNHCR, *UNHCR's position on the status of Eritrean and Sudanese nationals defined as 'infiltrators' by Israel*, November 2017, <http://www.refworld.org/docid/5a5889584.html>.

⁷ Amnesty International, *Egypt/Sudan: Refugees face kidnapping for ransom, brutal treatment and human trafficking*, Index number: AFR 04/001/2013, 3 April 2013, <https://www.amnesty.org/en/documents/AFR04/001/2013/en/>.

⁸ Population Immigration and Border Authority, *Foreigners in Israel Data, First quarter of 2018*, April 2018, Table 2, p3, https://www.gov.il/BlobFolder/generalpage/foreign_workers_stats/he/%D7%A8%D7%91%D7%A2%D7%95%D7%9F%201.pdf.

⁹ Although Israel is a party to both the 1951 Refugee Convention and its 1967 Protocol, it never implemented the Convention into its domestic legislation. UNHCR had exclusive responsibility for the refugee status determination (RSD) process until 2001.

15,205 Eritreans and Sudanese applied for asylum; only 11 of them were recognised as refugees (Table 2).

Asylum claims	Submitted	Pending	Rejected or closed	Recognised refugees
Eritreans	9,464	4,313	5,154	10
Sudanese	5,741	4,275	1,360	1
Total	15,205	8,588	6,514	11

Table 2: Status of the asylum claims submitted by Eritrean and Sudanese asylum-seekers 2013-2017

Source: Israeli government¹⁰

1.2 FAILURE TO INFORM ASYLUM-SEEKERS OF THEIR RIGHT TO SEEK ASYLUM

In 2013 Israel changed its policy with regards to Eritrean and Sudanese nationals, moving from granting temporary protection from deportation to allowing individual asylum applications within a refugee status determination (RSD) procedure. By that time, the vast majority of Eritrean and Sudanese asylum-seekers were already in Israel with a temporary visa, which had to be renewed every few months. For them, the new policy meant they would have to submit a formal asylum application for their protection needs to be evaluated.

Despite the serious implications of the new policy on the affected individuals' status, Israel did not inform them of this policy change. It failed to take simple steps, such as explaining the policy change during renewal of visas meetings; or publicizing the new policy, in relevant languages, on noticeboards at the Population Immigration and Border Authority's offices or in migration detention facilities.¹¹

It is a state's international obligation, deriving from the individual's right to seek asylum, to inform asylum-seekers of their right to submit asylum claims, as well as of the required procedure and of the implications of failing to do so on their migration status.¹² In Israel, this obligation is established in the Ministry of Interior's 2011 *Procedure for Handling Asylum Seekers in Israel*.¹³

1.3 OBSTACLES IN ACCESSING THE REFUGEE STATUS DETERMINATION (RSD) PROCEDURE

Asylum applications in Israel have to be physically submitted by the applicant at the office of the Population, Immigration and Border Authority's (PIBA) Refugee Status Determination (RSD) Unit.¹⁴ PIBA has set an official target of admitting 100 asylum-seekers per day into the RSD unit office to register their claim; however, even this modest target is not met. On any given day, there are very long queues outside the office; those who cannot enter the office on their first attempt have to keep on returning, as the Unit does not pre-book appointments.

Since 2013, thousands of Eritreans and Sudanese asylum-seekers have been unable to physically access the office to submit their asylum applications, in most cases despite several attempts.

¹⁰ Data provided by the government as part of the case *Ester Tsegay Gresgeher and others* (2293/17) before the High Court of Justice, 12 December 2017, <https://drive.google.com/file/d/1pwmPGyfnUA9NMM9E9tifzYyRL3I9x0gn/view>.

¹¹ Amnesty International Israel, *Rejected Out of Hand*, June 2016, http://www.amnesty.org.il/wp-content/uploads/2016/04/All-Rejected_Out_Of_Hand-report_updated-June_2016-HEBREW.pdf

¹² Right to seek asylum: art. 14 Universal Declaration of Human Rights; right to freedom to seek, receive and impart information, art. 19 International Covenant on Civil and Political Rights.

¹³ Israel, Ministry of Interior, Population Immigration and Border Authority, *Procedure for Handling Political Asylum Seekers in Israel*, Procedure no.: 5/2/0012, 2 January 2011, updated 26 February 2017, Section 1.a, https://www.gov.il/en/Departments/policies/handling_political_asylum_seekers_in_israel (Hebrew and English).

¹⁴ The Population, Immigration and Border Authority operates under the Ministry of Interior. Until 30 January 2018 the RSD Unit office was located on Salame Street in Tel Aviv; since then it has been transferred to Bnei Brak, a city just east of Tel Aviv.



↑ Queue outside the PIBA offices in Tel Aviv, © Amnesty International/Chen Brill Egri

Amnesty International visited the RSD Unit office in Tel Aviv about 20 times in 2017 and early 2018; after January 2018, when the office was transferred to Bnei Brak, a city just east of Tel Aviv, the organization gathered information, photos and videos through its contacts there. The organization's observers saw queues of hundreds of people forming outside the Unit's Tel Aviv office, forcing people to spend the night in the street to be first in line. Even when reaching the top of the queue, asylum-seekers from Eritrea and Sudan were often refused entry, as the security guards arbitrarily refused entry to those with a valid resident visa, telling them to return once their visa expired. Amnesty International observed that, on average, only 10-12 asylum-seekers from Eritrea or Sudan were admitted into the office on any given day. On average, more than 200 asylum-seekers would be denied entry and left outside of the office.

Amnesty International gathered information on the cases of 262 Eritrean asylum-seekers who tried repeatedly to submit their asylum application between 2016 and 2018. Most of them had tried one to four times, but 18 people said that they had tried five or six times; and 14 people said they had tried seven or more times, including seven people who said they had tried ten times or more.

Aaron*, an Eritrean asylum-seeker, told Amnesty International:

A few days ago, I arrived to the RSD unit offices at 5 a.m. The queue was already very long, and the security guard told me to go home and come back tomorrow. I came back the following day, at the same time, again a queue, again I'm instructed to come back tomorrow. I come back the following day, Tuesday, there was another security guard at the gate, who took a look at my visa and told me I should only be back in a month, once it expires. I am very upset, I can't understand why they won't let me file my asylum claim?¹⁵

In June 2017, the Tel Aviv Court of Appeals noted that, given the RSD Unit's workload, the need for asylum-seekers to arrive early and come back if necessary could be understood. However, the Court could not accept that the government required asylum-seekers to visit the office multiple times before their claim is received, if at all. The Court ordered PIBA to put in place a queue management system, or at the very least a system registering those who arrived to submit their asylum claim, but could not enter the building.¹⁶ PIBA, however, has not implemented the Court's recommendations.¹⁷

¹⁵ Amnesty International's interview, case Is-17, Tel Aviv, 2 August 2017.

¹⁶ Tel Aviv-Court of Appeals, *Unichi v the Interior Ministry – Population and Immigration Authority*, case 1734-17, ruling, 20 June 2017, https://www.nevo.co.il/psika_html/knisa/17-1734-9.pdf#xml=http://www.nevo.co.il/Handlers/Highlighter/PdfHighlighter.ashx?index=2&type=Main (Hebrew).

¹⁷ In August 2017, Amnesty International interviewed ten asylum-seekers who reported their repeated attempts to submit asylum claims during that year. After obtaining power of attorney documents, Amnesty International submitted formal requests for PIBA to accept their asylum claims by fax. PIBA denied these requests and replied that the only way to submit asylum claims was physically at the office. PIBA stated that they realized the difficulty to do so, but they were doing their best to solve the problem. The Authority added that, should anyone not succeed to submit their claim, they should try again another day.



↑ Queue outside the PIBA offices in Bnei Brak, © Atakliti Abraham Michael

In December 2017, Judge Bafi Tam of the Tel Aviv Court of Appeals decided to conduct an unannounced visit to the RSD Unit in Tel Aviv. She then wrote:

All the phenomena that several appeals claim to be taking place do in fact exist – prolonged wait in the queue, management of the queue by external parties, irregularities, violence and bullying, with many applicants denied the possibility to submit their claims. In practice, most wait in vain, since in fact only few are actually allowed entry, and even in their cases, some enter the building but eventually are not permitted to present their claim.¹⁸

Although the PIBA has the power to decide how to respond to the claims it is presented with, it is under an obligation to receive all submitted claims.¹⁹ Between November 2016 and September 2017 Amnesty International wrote seven times to the PIBA, expressing concern about the obstacles for Eritrean and Sudanese asylum-seekers to submit their asylum claims. In its replies, the Authority admitted the extreme difficulty of submitting an asylum claim but claimed that it was trying to solve the problem.²⁰

1.4 ASYLUM CLAIMS ARE HANDLED AT AN UNREASONABLY SLOW RATE

The Population, Immigration and Border Authority has yet to respond to 8,588 asylum claims submitted by Eritreans and Sudanese asylum-seekers,²¹ some of whom have been waiting for a response for over three years.²² During 2016 and 2017 Amnesty International submitted several enquiries to PIBA raising concern at the delays in deciding asylum applications. In June 2017, the Authority replied that:

Claims are discussed in the order they were received, and according to procedure.²³

¹⁸ Tel Aviv-Court of Appeals, *Ashurpoling v the Interior Ministry – Population and Immigration Authority*, case 4881-17, interim decision, 21 December 2017, para4, https://www.nevo.co.il/psika_html/knisa/17-4881.pdf#xml=http://www.nevo.co.il/Handlers/Highlighter/PdfHighlighter.ashx?index=1&type=Main (Hebrew, translation into English by Amnesty international).

¹⁹ Procedure no.: 5/2/0012, *cit.*

²⁰ Population Immigration and Border Authority, letters to Amnesty International Israel dated 26 April 2017, 8 August 2017 and 11 September 2017, on file with Amnesty International.

²¹ Data provided by the government as part of the case *Ester Tsegay Gresgeher and others* (2293/17) before the High Court of Justice, https://drive.google.com/file/d/1pwmPGyfnUA9NMM9E9tifzYyRL3I9x0gn/view_

²² Population Immigration and Border Authority, reply to Amnesty International's Freedom of Information request, 14 December 2016, on file with Amnesty International; Amnesty International's interviews with asylum-seekers, 2017 and 2018.

²³ Population Immigration and Border Authority, Response to Amnesty International communication, 8 June 2017, on file with Amnesty international.

These delays, however, are not only the result of a slow bureaucracy, heavy workloads or objective difficulties in deciding sensitive and complicated cases. Rather, they appear to be deliberate, part of state policy. Adv. Daniel Solomon, legal adviser to PIBA, stated before the Knesset State Control Committee in June 2017:

The State's assumption is, and this is what awaits at the Supreme Court, that if the Supreme Court approves this policy [of deportation to third countries], the numbers that will stay in the country will be different, and then for example we won't need to reach complicated determinations of different kinds of Eritreans etc.²⁴

This intentional delay policy affects particularly Darfuri asylum-seekers.

1.4.1 DARFURI ASYLUM-SEEKERS: LEFT IN LIMBO

In light of the ongoing conflict in the region and the general situation in Sudan, UNHCR recommends that states recognise asylum-seekers of non-Arab ethnic background from Darfur as refugees under the 1951 Refugee Convention.²⁵ A draft legal opinion by the Population Immigration and Border Authority, leaked in 2017, reached the same conclusion according to Israeli media.²⁶ Nonetheless, the Israeli government has *de facto* refused to decide the claims of thousands of Darfuris, while adopting *ad hoc* measures granting temporary residence to hundreds of them.²⁷

Since 2013, after the government allowed individual asylum applications, thousands of Darfuris applied for asylum, most of them without receiving any response. In February 2018, the Population, Immigration and Border Authority had 3,400 pending claims from Sudanese asylum-seekers originating from Darfur. While all of them had already been interviewed by the RSD unit, none of their cases had progressed to the next procedural stage.²⁸ The first, and so far only, Sudanese national recognised as a refugee in Israel, Mutasim Ali, from Darfur, was granted refugee status in June 2016 after long judicial proceedings: his case made national headlines.²⁹

During the past few years, several dozen Darfuri asylum-seekers petitioned the courts demanding to be given a temporary resident visa, on the grounds that it would be unreasonable for them to keep waiting for their asylum claims to be decided. These cases are currently pending. In response, in June 2017 the government announced that it would grant temporary resident status “on humanitarian grounds” to 200 Darfuris. It added that the measure was a “first step” and that,

once the Supreme Court rules in the matter of the [deportations to] third countries, the policy will be considered on a wider aspect and further steps will be decided upon.³⁰

At the time, Amnesty International expressed concern at this decision, which provided certain Darfuris protection from deportation based on an arbitrary government decision, while avoiding to recognise the need for international protection of the whole Darfuri population and of other groups of Sudanese asylum-seekers. Additionally, the organization strongly opposed the government's plan to extend this move more widely only once the Supreme Court sanctioned its policy of deportations to third countries. This trade-off would make protecting refugees contingent on the plausibility of having other asylum seekers unlawfully deported from Israel, emptying Israel's obligations towards asylum-seekers and refugees of meaning.

At the time of writing, a petition before the Supreme Court is asking the court to order the PIBA to decide on the asylum requests of all Darfuri asylum-seekers. In response, in December 2017 the government decided

²⁴ Knesset State Control Committee, Minutes of the meeting, 28 June 2017, p9, available from <http://main.knesset.gov.il/Activity/Committees/StateControl/Pages/CommitteeAgenda.aspx?tab=3&ItemID=2018234> (translation by Amnesty International).

²⁵ UNHCR's *Position on Sudanese Asylum-Seekers From Darfur*, 10 February 2006, <http://www.refworld.org/docid/43f5dea84.html>.

²⁶ “Report ignored by state could grant Darfur refugees legal status in Israel”, *YNet News*, 3 January 2017, <https://www.ynetnews.com/articles/0,7340,L-4902465,00.html>.

²⁷ In September 2007, then Prime Minister Ehud Olmert's government decided to “absorb” 498 Darfuri refugees already in Israel (later increased to 598), who were granted temporary residence permits without refugee status determination, while planning to deport all other asylum-seekers back to Egypt or their country of origin. “Israel will absorb only the Darfur refugees already here”, *The Jerusalem Post*, 23 September 2007, <http://www.jpost.com/Israel/Israel-will-absorb-only-the-Darfur-refugees-already-here>.

²⁸ Population Immigration and Border Authority, Answer to a Freedom of Information request submitted by Smadar Ben Natan & Pomeranz Law Office, 28 February 2018, on file with Amnesty International.

²⁹ “After 3,165 requests, first Sudanese man gets Israeli refugee status”, *Times of Israel*, 27 June 2016, <https://www.timesofisrael.com/after-3165-requests-first-sudanese-man-gets-israeli-refugee-status/>.

³⁰ State response to the petition before the Tel Aviv-Jaffa District Court sitting as the Administrative Affairs Court (Tel-Aviv-Jaffa), *Hemda Ibrahim Muhammad Adam v The Population, Immigration and Border Crossings Authority - National Information and Service Center*, case 17023-03-17, 7 June 2017, <https://drive.google.com/file/d/OB2CxVNHsPSiUOHVDYTVxSGJXWkk/view>.

to grant temporary residency to 300 more Darfuris.³¹ At the same time, however, it delayed the formulation of a general position towards Darfuri asylum-seekers until after the beginning of the deportations.³²

1.5 ASYLUM CLAIMS ARE REJECTED UNFAIRLY

As noted, out of the 15,205 asylum requests submitted by Eritreans and Sudanese asylum-seekers between 2013 and 2017, the Israeli government granted refugee status to 11 people: 10 Eritreans and one Sudanese from Darfur (Table 2). These figures correspond to a recognition rate of 0.1% for Eritrean and 0.01% for Sudanese asylum-seekers. By contrast, European Union member states issued positive first instance decisions for 90% of Eritrean asylum-seekers and 55% of Sudanese asylum-seekers during the last quarter of 2017.³³

Although asylum recognition rates may vary among fair and effective asylum systems, the meagre recognition rates of Eritrean and Sudanese asylum-seekers in Israel are the result of serious and systematic dysfunctions. Supreme Court Chief Justice Esther Hayut wrote in her concurring opinion in the case of *Desta v. The Knesset*:

The disproportionate harm brought about to those being held in the detention facility is made harsher considering the excruciatingly slow speed at which the State handles asylum claims submitted to the RSD unit, along with the next-to-zero rate of claims approved by the State thus far... The rate of approved asylum claims in Israel for the given period (July 2009 through February 2015) for nationals of Sudan and Eritrea [stands at] approximately 0.9%. If we compare these data to the percentage of asylum requests presented by these nationals and accepted around the world, the comparison alone can raise questions as to the way in which the State handles these requests and determines them, in the sense that the result attests to the method.³⁴

The discrepancy between recognition rates in Israel and recognition rates in other countries is particularly striking with respect to Eritrean asylum-seekers.

1.5.1 ERITREAN ASYLUM-SEEKERS: REJECTED SUMMARILY

Between 2013 and 2017, 5,154 out of 9,464 asylum requests submitted by Eritrean nationals were rejected or closed; 4,313 were still pending as of the end of 2017 (Table 2). The Israeli government rejected most of these requests because it does not consider desertion or evasion of national service in Eritrea (on which many claims submitted by Eritrean asylum-seekers are based) as a valid reason to grant refugee status. This position is not compatible with international law and standards, as reflected in UNHCR guidelines and best practices in other countries.

According to UNHCR, persons avoiding military/national service, including deserters, draft evaders and conscientious objectors from Eritrea “require a particularly careful examination of possible risks” of persecution upon return.³⁵ Based on research on the country, Amnesty International considers there is a high likelihood that anyone of approximately National Service age who is returned to Eritrea would be subject to arbitrary detention without charge and face possible torture to extract information on how and with whom they left the country. There would be a high likelihood that the individual would then be conscripted or returned to National Service, which, if extended arbitrarily, including indefinitely, is in itself a human rights violation and exposes conscripts to a host of other human rights violations. National Service is so pervasive that anyone who has fled from it faces the risk, if returned to Eritrea, of again being subjected to the human rights violations which take place within it, as well as the risk of harsh punishment for having fled. On this basis, those of National Service age who have fled from conscription into indefinite National Service in Eritrea have strong grounds for being given international protection.³⁶

³¹ “Israel to Grant Temporary Residency to 300 More Asylum Seekers From Darfur”, *Haaretz*, 17 December 2017, <https://www.haaretz.com/israel-news/.premium-israel-to-grant-temporary-residency-to-300-more-asylum-seekers-from-darfur-1.5628807>.

³² “High Court Slams Israeli Government for Failing to Develop Policy on Darfur Refugees”, *Haaretz*, 20 December 2017, <https://www.haaretz.com/israel-news/.premium-high-court-slams-israeli-government-for-failing-to-develop-policy-on-darfur-refugees-1.5629150>.

³³ Eurostat, “First instance decisions by outcome and recognition rates, 30 main citizenships of asylum applicants granted decisions in the EU-28, 4th quarter 2017”, in *Asylum Quarterly Report*, 19 March 2018, http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_quarterly_report.

³⁴ Concurring opinion of Justice Esther Hayut, para3, in Supreme Court (sitting as High Court of Justice), *Tashuma Noga Desta et al. v. The Knesset et al.*, case 8665/14, judgment, 11 August 2015 (Hebrew, translation into English by Amnesty International).

³⁵ UNHCR, *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Eritrea*, 20 April 2011, HCR/EG/ERT/11/01_Rev.1, p9-18, available at: <http://www.refworld.org/docid/4d4fe0ec2.html>.

³⁶ Amnesty International, *Just Deserters: Why Indefinite National Service in Eritrea has Created a Generation of Refugees - Revised edition*, Index: AFR 64/4794/2016, August 2016, <https://www.amnesty.org/en/documents/afr64/4794/2016/en/>.

In Israel, a 2013 legal opinion by the Population Immigration and Border Authority's legal advisor, entitled *Reviewing Eritrean Asylum Seekers Claims*, determined that individuals who have defected or evaded military service in Eritrea do not qualify for refugee status or complimentary protection.³⁷ As a result, the Population, Immigration and Border Authority had systematically been rejecting all Eritrean asylum claims, without individually examining each case or considering its circumstances.

In September 2016, Amnesty International's analysis showed that the 2013 legal opinion was not, as claimed by the Israeli government, a legitimate albeit narrow interpretation of the Refugee Convention, as claimed by the government of Israel, but rather had been designed as a tool for stopping the arrivals of Eritrean asylum seekers in Israel and preventing them from obtaining refugee status.³⁸

In February 2018, the Jerusalem Court of Appeals found that flight from service in the Eritrean army can be grounds for refugee status and ordered to grant refugee status to the appellant within 45 days.³⁹ At the time of writing, the government had appealed the ruling.



ABRAHAM'S* CASE:

After five years of serving in the Eritrean army, Abraham*, now an asylum-seeker in Israel, escaped during a family visit but was caught and arrested. He was detained without trial for more than two years; he was held in a small cell underground and beaten during interrogations. When he managed to escape from prison he went straight to Sudan and from there to Israel. He arrived in Israel in 2011; in 2016, he was told that he had overstayed his visa and detained in Holot. He applied for asylum only in 2017, after an NGO who visited him in detention told him about the RSD process. In December 2017, he received a letter stating that his application for asylum was denied because desertion or evasion from military service are not grounds for political persecution under the 1951 Refugee Convention. However, the letter does not make any reference to Abraham's allegations of torture and other ill-treatment.⁴⁰

³⁷ The opinion is not public but a summary of it is available in Human Rights Watch, *"Make Their Lives Miserable": Israel's Coercion of Eritrean and Sudanese Asylum-Seekers to Leave Israel*, September 2014, p69, <https://www.hrw.org/report/2014/09/09/make-their-lives-miserable/israels-coercion-eritrean-and-sudanese-asylum-seekers>.

³⁸ Amnesty International Israel, *Rigged Game*, September 2016, http://www.amnesty.org.il/wp-content/uploads/2016/11/ישראל_אינטרנשיונל_אמנסטי_27.09_מסמך_מכור_דוח_משחק_מכור.pdf (Hebrew).

³⁹ Jerusalem Court of Appeals, *Anon v Ministry of Interior – Population and Immigration Authority*, case 1010-14, judgment, 15 February 2018,

<http://www.justice.gov.il/SitePages/OpenDocument.aspx?d=wHUhsXTu0a51MqL90PKbdtPKmRXiM%2bK3hIHJLIGJfE%3d> (Hebrew). As a result, the Deputy Attorney General ordered the Population, Immigration and Border Authority to re-examine the cases of Eritreans held in detention awaiting deportation, whose asylum claims were similar to the appellant's and had been rejected. PIBA released 12 people. "Israel's Deputy Attorney General Orders Review of Eritrean Applications for Asylum", *Haaretz*, 23 March 2018, <https://www.haaretz.com/israel-news/attorney-general-orders-review-of-asylum-applications-by-eritreans-1.5936918>. "Despite Court Order, Israel Barely Releasing Eritrean Asylum Seekers From Prison", *Haaretz*, 2 April 2018, <https://www.haaretz.com/israel-news/premium-few-eritrean-asylum-seekers-released-despite-official-order-1.5964342>.

⁴⁰ Amnesty International's interview, case Is-2, Tel Aviv, 7 February 2018.

2. A POLICY OF UNLAWFUL DETENTION AND DEPORTATION

“Until I can deport them I'll lock them up to make their lives miserable.”

Interior Minister Eli Yishai, August 2012⁴¹

“I decided to go to Uganda because I was in prison and I wanted to be free.”

Daniel*, 4 May 2018⁴²

Israel's 2017-2018 failed deportation policy must be seen in the context of years of a wider policy formulated since the first arrivals of Eritrean and Sudanese asylum-seekers in 2006 and other previous failed attempts at deporting them out of the country. As soon as the first African asylum-seekers started crossing the Sinai border into Israel between 2005 and 2006, the Israeli government adopted a policy designed, on one hand, to stop further arrivals, and on the other hand, to deport those who had reached Israel. On a couple of occasions, Prime Minister Netanyahu articulated the policy around three stages:

- Stage one: blocking the entry of asylum-seekers from Africa into Israel;
- Stage two: returning asylum-seekers to their country of origin or transferring them to a third country on a “voluntary” basis;
- Stage three: transferring asylum-seekers to a third country forcibly.⁴³

This chapter discusses how these three stages have been implemented over the past decade. Before the construction of the fence along the Sinai border, Israel started pushing back African asylum-seekers across the Sinai border and into Egypt (section 2.1). After the completion of the fence dramatically

⁴¹ Quoted in “Yishai: Next phase – arresting Eritrean, Sudanese migrants”, *Ynet News*, 16 August 2012, <https://www.ynetnews.com/articles/0,7340,L-4269540,00.html>.

⁴² Amnesty International's interview, case Ug-15, Kampala (phone interview), 4 May 2018.

⁴³ Prime Minister's Office, *PM Netanyahu Convenes Discussion on the Issue of Work Infiltrators from Africa*, press release, 24 December 2012, <http://www.pmo.gov.il/English/MediaCenter/Spokesman/Pages/spokemistanenim241212.aspx>. “Government approves closure of Holot facility within 4 months”, *YNet News*, 19 November 2017, <https://www.ynetnews.com/articles/0,7340,L-5044929,00.html>

decreased irregular entries, Israel started focusing on the second stage, the “voluntary” departures (section 2.2).⁴⁴ However, the “voluntary” departures seemed to be under threat when, after years of legal battles, in August 2017 the Supreme Court rejected the government’s fourth attempt at imposing indefinite migration detention.

The government launched the third stage: that of forcible removals (deportations) to supposedly safe “third countries”. Because of the requirements imposed by the Supreme Court, the third stage had to be based on an agreement with a “third country” expressly willing to accept deportations. Over three frantic days in April 2018, however, the Israeli government first had to admit the failure of its “agreement” with Rwanda, then announced a new agreement with UNHCR and the end of its policy of deportations to a “third country”, then suddenly cancelled its agreement with UNHCR less than 24 hours later, and finally rushed to reassure the Supreme Court that a deal with a second “third country” (Uganda) was still valid. Despite these assurances, the government was unable to show the Court a written agreement with a “third country” accepting forcible removals and had to release all the asylum-seekers held in detention (section 2.3).

At the time of writing, the deportations to African third countries are suspended. However, Israel and Uganda are still negotiating a possible agreement for the transfer of Sudanese and Eritrean nationals. Crucially, the “voluntary” transfers, which Israel has been carrying out since 2013, continue.

2.1 STAGE ONE: THE ALLEGED “UNDERSTANDING” WITH EGYPT AND THE “HOT RETURNS”

In July 2007, then Prime Minister Ehud Olmert’s government announced that it had reached an “understanding with then Egyptian President Hosni Mubarak, according to which Egypt will receive back infiltrators who cross the common border as well as all those who cross it in the future, and will work to prevent future infiltrations from its territory.”⁴⁵ These push-backs, or “hot returns”, as they came to be known, were part of a wider policy, whereby sub-Saharan African asylum-seekers would be deported out of Israel,⁴⁶ either to Egypt or to their country of origin:

“the IDF [Israel Defence Forces] would act to apprehend infiltrators and quickly return them to Egypt via the border crossings, while accepting Egyptian assurances regarding their safety. In certain cases, in which their immediate return is impossible, the infiltrators will be handed over to the Immigration Police and detained until they can be returned to their country of origin.”⁴⁷

In August 2007, a statement from the Egyptian Foreign Ministry stated that “Egypt has informed Israel – officially – that it is not obligated to receive any non-Egyptian citizen who illegally crosses the border into Israel”.⁴⁸ Yet, on 18 August 2007 Israel forcibly returned to Egypt about 50 sub-Saharan African asylum-seekers who had crossed the border earlier that day.⁴⁹ In August 2008 Israel again forcibly returned to Egypt 91 sub-Saharan African asylum-seekers.⁵⁰

⁴⁴ The Israeli government started looking for third countries willing to accept deportees as early as March 2008. Prime Minister Olmert reportedly instructed the Ministry of Foreign Affairs to find a “third country” willing to accept African asylum-seekers in March 2008: Human Rights Watch, *Egypt/Israel, Sinai Perils: Risks to Migrants, Refugees and Asylum Seekers in Egypt and Israel*, November 2008, p59, <https://www.hrw.org/sites/default/files/reports/egypt1108webwcover.pdf>. A few months later, media sources reported that Israel had contacted Ethiopia, Uganda, the Ivory Coast and Benin and had offered to pay monetary compensation in exchange for hosting the African asylum-seekers that had entered the country. “Israel looks for African country to absorb Sudanese refugees”, Sudan Tribune, 13 June 2008, <http://www.sudantribune.com/Israel-looks-for-African-country,27514>.

⁴⁵ Israel Ministry of Foreign Affairs, *PM Olmert holds discussion on infiltrations into Israel via the Egyptian border*, press release, 1 July 2007, <http://www.mfa.gov.il/mfa/pressroom/2007/pages/pm%20olmert%20holds%20discussion%20on%20infiltrations%20into%20israel%20via%20the%20egyptian%20border%201-jul-2007.aspx>.

⁴⁶ “Israel will absorb only the Darfur refugees already here”, *The Jerusalem Post*, 23 September 2007, <http://www.jpost.com/Israel/Israel-will-absorb-only-the-Darfur-refugees-already-here>.

⁴⁷ Israel Ministry of Foreign Affairs, *PM Olmert holds discussion on infiltrations into Israel via the Egyptian border*, press release, 1 July 2007, <http://www.mfa.gov.il/mfa/pressroom/2007/pages/pm%20olmert%20holds%20discussion%20on%20infiltrations%20into%20israel%20via%20the%20egyptian%20border%201-jul-2007.aspx>.

⁴⁸ Quoted in “Egypt says won’t take back refugees who cross into Israel”, *AP-Sudan Tribune*, 10 August 2007, <http://www.sudantribune.com/spip.php?article23227>.

⁴⁹ “Israel Returns Illegal African Migrants to Egypt”, *The New York Times*, 19 August 2007, <https://www.nytimes.com/2007/08/20/world/middleeast/20mideast.html>.

⁵⁰ Human Rights Watch, *Egypt/Israel, Sinai Perils: Risks to Migrants, Refugees and Asylum Seekers in Egypt and Israel*, November 2008, p51, <https://www.hrw.org/sites/default/files/reports/egypt1108webwcover.pdf>.

In August 2007, a petition to the Supreme Court challenged Israel's forcible return of asylum-seekers to Egypt. After four years of discussion, following government assurances that "hot returns" to Egypt were no longer taking place, in 2011 the Court ruled that the petition had become irrelevant and rejected it on that basis.⁵¹ Despite the official declarations that "hot returns" to Egypt had stopped, between June and July 2012 Israel rejected dozens of Eritrean asylum-seekers at the Sinai border and unlawfully deported around 40 more Eritrean asylum-seekers to Egypt.⁵²

2.2 STAGE TWO: THE "VOLUNTARY" DEPARTURES

In December 2012, while the fence on the Sinai border was about to be completed, Prime Minister Netanyahu stated:

"We have succeeded in blocking the entry of infiltrators from Africa to Israel. ... Now we are moving on to the second stage, that of repatriating the infiltrators who are already here. ... [O]ur goal is to repatriate tens of thousands of infiltrators who are in Israel to their countries of origin."⁵³

Despite refusing to recognise their protection needs, as a matter of policy the Israeli government does not forcibly return Eritrean and Sudanese nationals to their countries of origin – or at least not formally. The repatriations announced in 2012, therefore, were based on the idea that the individuals concerned would decide to go back to their home country "voluntarily". Transfers to African "third countries", started around 2013, were also supposed to be "voluntary". Together with a dysfunctional and unfair asylum system, the use or threat of indefinite detention became the main tool for forcing Eritrean and Sudanese asylum-seekers to leave the country.

Between 2012 and 2017, the Supreme Court issued four different judgments declaring unlawful legislation intended to keep certain groups of Eritrean and Sudanese asylum-seekers in indefinite or prolonged detention (see timetable: "Voluntary" departures 2012-2017). The Supreme Court quashed three successive amendments to the 1954 Anti-Infiltration Law⁵⁴ providing for the indefinite or prolonged detention of individuals entering Israel irregularly.

Before the Court could stop it, however, the use or threat of indefinite or prolonged detention had already pushed thousands of Eritreans and Sudanese asylum-seekers to sign forms stating they would go back to their countries of origin or accept deportation to a "third country".⁵⁵ Gabriel* told Amnesty International:

"In 2015, after five years in Israel, the government decided that I should either return to Eritrea, go to Uganda, or stay in Holot prison, in the desert. At first I decided to go to prison in Holot, but after a month in prison I decided to go to Uganda instead: in prison I felt stressed, I didn't have a future."⁵⁶

Israeli officials used the threat of indefinite detention to put pressure not only on the asylum-seekers in detention, but also on those who had to renew their visas. Many left Israel because they had received an order to report to the Holot detention centre or feared they were about to receive such an order.⁵⁷

⁵¹ Supreme Court (sitting as High Court of Justice), *Hotline for Migrant Workers et al v Minister of Defence et al*, case 7302/07, judgment, 7 July 2011, <http://elyon1.court.gov.il/files/07/020/073/n32/07073020.n32.htm> (Hebrew). See also: Association for Civil Rights in Israel (ACRI), *High Court Rules on Petition Against "Hot Returns" of Asylum Seekers*, 10 July 2010, <https://www.acri.org.il/en/2011/07/10/high-court-rules-on-petition-against-hot-returns-of-asylum-seekers/>.

⁵² Hotline for Refugees and Migrants, Human Rights Watch and Physicians for Human Rights-Israel, *Israel: Asylum-Seekers Blocked At Borders*, 28 October 2012, <https://hotline.org.il/en/publication/israel-asylum-seekers-blocked-at-border/>.

⁵³ Prime Minister's Office, *PM Netanyahu Convenes Discussion on the Issue of Work Infiltrators from Africa*, press release, 24 December 2012, <http://www.pmo.gov.il/English/MediaCenter/Spokesman/Pages/spokemistanenim241212.aspx>.

⁵⁴ The Law originally targeted Palestinians entering Israel from the West Bank and the Gaza Strip and allowed for their immediate deportation or automatic detention. Prevention of Infiltration (Offenses and Jurisdiction) Law, Law no. 5714-1954, in *The Palestine Yearbook of International Law*, vol. III (1986), p139ff.

⁵⁵ Amnesty International, *Israel: Deportations of asylum-seekers must stop*, Index: MDE 15/005/2013, 7 June 2013, <https://www.amnesty.org/download/Documents/16000/mde150052013en.pdf>.

⁵⁶ Amnesty International's interview, case It-1, Siculiana (Italy), 31 July 2017.

⁵⁷ Human Rights Watch, *"Make Their Lives Miserable": Israel's Coercion of Eritrean and Sudanese Asylum-Seekers to Leave Israel*, September 2014, p41, <https://www.hrw.org/report/2014/09/09/make-their-lives-miserable/israels-coercion-eritrean-and-sudanese-asylum-seekers>.

		2013	2014	2015	2016	2017	Jan-Mar 2018	TOTAL
ERITREANS	To Eritrea	?	?	953	734	346	?	>2,033
	To a "third country"	?	?	1,058	534	427	?	>2,019
	To other countries	?	?	469	1,331	1,627	?	>3,427
	Total Eritreans	?	?	2,480	2,599	2,400	398	>7,877
SUDANESE	To Sudan	?	?	133	102	69	?	>304
	To a "third country"	?	?	449	272	96	?	>817
	To other countries	?	?	18	16	27	?	>61
	Total Sudanese	?	?	600	390	192	49	>1,231
	TOTAL	1,955	5,803	3,080	2,989	2,592	447	16,866

Table 3: "Voluntary departures" of Eritreans and Sudanese from Israel

Source: Amnesty International, based on figures released by the Israeli government⁵⁸

DEPARTURES TO OTHER COUNTRIES: RESETTLEMENT, SPONSORSHIP AND FAMILY REUNIFICATION

In Table 3, "other countries" are countries that asylum seekers from Israel relocate to under various procedures such as resettlement, sponsorship and family reunification. These departures are voluntary. According to data released by the Israeli government, in 2017 1,627 Eritreans and 27 Sudanese left Israel via one of these channels: the majority of them went to Canada (1,010 Eritreans and three Sudanese), Sweden (200 Eritrean and 17 Sudanese) and the Netherlands (155 Eritreans).⁵⁹

In February 2018, Canada was processing 1,845 applications to resettle Eritrean and Sudanese refugees from Israel through its sponsorship program. The Canadian government reached an agreement with the Israeli government to suspend the deportations of these refugees awaiting resettlement in Canada, but cited concern about policies of mass deportation for asylum-seekers.⁶⁰

TIMETABLE: "VOLUNTARY DEPARTURES" 2012-2017

	Anti-Infiltration Law ⁶¹	Departures to "third countries"
Jan 2012	An amendment to the Anti-Infiltration Law (Amendment 3) provides for the automatic detention of anyone entering the country irregularly and allows the government to detain them for five years. Nationals of countries considered to be "hostile" to Israel, such as Sudan, and individuals who would not cooperate with their deportation could be detained indefinitely. ⁶²	

⁵⁸ The total figure of Eritrean and Sudanese asylum seekers who left Israel in 2013 to unspecified destinations is taken from table A,3, p.4 at: https://www.gov.il/BlobFolder/reports/foreigners_summary_2013/he/2013_summary_foreignworkers_report.pdf. The corresponding figure for 2014 is taken from table A,3, p. 4 at:

https://www.gov.il/BlobFolder/generalpage/foreign_workers_stats/he/sum_2014_final.pdf. The figures for 2015-2017 are taken from a submission by the Israeli government to the Supreme Court (sitting as High Court of Justice) in case 2293/17, table on p32, available at: <https://www.acri.org.il/he/wp-content/uploads/2017/11/bagatz2293-17-asylum-seekers-wages-meshivim2-4-1117.pdf>. For the 2018 data see "Large migrant detention center to close at midnight amid deportation plan", *The Times of Israel*, 12 March 2018, <https://www.timesofisrael.com/large-migrant-detention-center-to-close-at-midnight-amid-deportation-plan/>.

⁵⁹ Submission by the Israeli government, H CJ case 2293/17, *cit.*, table on p33.

⁶⁰ "Israel agrees to halt deportations of Canada-bound asylum-seekers", *The Star*, 24 February 2018, <https://www.thestar.com/news/immigration/2018/02/24/israel-agrees-to-halt-deportations-of-canada-bound-asylum-seekers.html>.

⁶¹ Law for the Prevention of Infiltration (Crimes and Jurisdiction), Law no. 5714-1954, 16 August 1954, as amended, https://www.nevo.co.il/law_html/Law01/247_001.htm (Hebrew)

⁶² Law for the Prevention of Infiltration (Crimes and Jurisdiction) (Amendment No. 3 and Temporary Order) 5772-2012, 9 January 2012, <http://www.refworld.org/docid/55116dca4.html> (English). The Law applied retroactively to anyone who had entered Israel irregularly before 2012.

June 2013		The government announces the conclusion of an “agreement” with an unnamed third country. It claims that the country is willing to receive Eritrean nationals, and possibly other nationals, detained under the 2012 Law; and that additional agreements with two other countries willing to receive Sudanese nationals have almost been completed. ⁶³
Aug 2013		Minister of Interior Gideon Sa'ar reports to the Interior Committee of the Knesset that the Israel Attorney General has approved an agreement with a third country in Africa that would “absorb” Eritreans and Sudanese from Israel. A plan would be implemented to encourage them to leave Israel: while, at first, asylum-seekers would be encouraged to leave willingly, after a set period their permits would be revoked and they would be forced out of the country. ⁶⁴
Sept 2013	The Supreme Court quashes the 2012 Anti-Infiltration Law, which it finds to be in violation of the right to liberty under Israel's Basic Law. ⁶⁵	
Dec 2013	Amendment 4 to the Anti-Infiltration Law reduces the initial period of detention of “infiltrators” to one year. At the same time, however, it establishes “residency centres” (in fact detention centres) where “infiltrators” are requested to live until their deportation or departure from Israel or until a date determined by the Israeli authorities. ⁶⁶	
Sept 2014	The Supreme Court quashes the 2013 Law, determining that both the one-year detention period for “infiltrators” and the detention in the “residency centres” are unlawful. ⁶⁷	
Dec 2014	Amendment 5 to the Anti-Infiltration Law relaxes the “residency centres” regulations and sets a maximum initial detention period of three months for new “infiltrators” and a maximum period of 20 months in the “centres”. ⁶⁸	
Apr 2015		The government announces a new policy, whereby the PIBA would issue rejected asylum-seekers and “infiltrators” who have not applied for asylum with notifications requiring them to “voluntarily” depart for a “third country”. After 30 days, those who refuse would be detained until they agreed to leave, that is indefinitely. ⁶⁹
Aug 2015	The Supreme Court quashes Amendment 5. ⁷⁰	

⁶³ “Israel reaches deal with third state willing to absorb Eritrean migrants,” *Haaretz*, 2 June 2013, <https://www.haaretz.com/.premium-3rd-state-will-take-eritreans-from-israel-1.5272338>.

⁶⁴ “Sa'ar: Thousands of migrants will be deported after holidays,” *YNet News*, 28 August 2013, <https://www.ynetnews.com/articles/0,7340,L-4423534,00.html>.

⁶⁵ Supreme Court (sitting as High Court of Justice), *Adam et al v Knesset et al*, cases 7146/12, 1192/13 and 1247/13, judgment, 16 September 2013, <http://elyon1.court.gov.il/files/12/460/071/b24/12071460.b24.htm> (Hebrew); <http://www.refworld.org/docid/524e7ab54.html> (English).

⁶⁶ Law for the Prevention of Infiltration (Crimes and Jurisdiction) (Amendment No. 4 and Temporary Order), 5774-2013, 11 December 2013. Available in English at <http://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=55116e6e4>.

⁶⁷ Supreme Court (sitting as High Court of Justice), *Eitan - Israeli Immigration Policy Center v. Government of Israel*, case 7385/13, judgment, 22 September 2014, http://www.refworld.org/cases/ISR_SC,54e605334.html.

⁶⁸ Law for the Prevention of Infiltration and Ensuring the Departure of Infiltrators from Israel (Legislative Amendments and Temporary Orders), 5775-2014 (Amendment no 5).

⁶⁹ The new policy appears to be based on the 1952 Entry into Israel Law, Law No. 5712-1952, 26 August 1952, regulating non-Jewish foreigners' entry and stay in Israel. Section 13e.b.1 of the Law allows the authorities to detain a person for longer than 60 days if a person's deportation is being delayed because of his or her lack of cooperation with deportation proceedings. <http://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=54f9b26d4>.

⁷⁰ Supreme Court (sitting as High Court of Justice), *Desta et al. v. The Knesset et al.*, case 8665/14, judgment, 11 August 2015, <http://versa.cardozo.yu.edu/opinions/desta-v-knesset> (English).

Feb 2016	New legislation reduced the maximum period in Holot to 12 months. ⁷¹	
Aug 2017		The Supreme Court decides against the indefinite detention of rejected asylum-seekers and “infiltrators” who refuse to be deported.

In August 2017, the Supreme Court reviewed what the Israeli government presented as its deportation agreement with Rwanda (see below) and held that, since the agreement allowed only voluntary transfers, those who refuse to leave the country could not be detained indefinitely.⁷² The Court, however, mentioned that, should those agreements be amended so that the “third countries” agree to receive asylum-seekers deported without their consent (or should a new agreement of this sort be concluded with a new “third country”) then it would be legal to detain deportees as long as there is “a practical possibility of deporting them within a reasonable time.”⁷³ The Court also confirmed the government’s broader deportation policy, provided that certain safeguards are put in place in the third countries: a) the third country is effectively safe for the deportees; b) the agreements contain procedural safeguards; c) there are post-transfer monitoring mechanisms in place.⁷⁴

2.3 STAGE THREE: FORCIBLE REMOVAL

After the Supreme Court rejected the Israeli government’s fourth attempt to establish indefinite migration detention, the government announced a new stage in its policy towards “infiltrators”, namely transferring Eritrean and Sudanese asylum-seekers without their consent. In October 2017, the government announced that it had reached a new agreement with one of the “third countries”, no longer requiring the deportee’s consent and allowing for forcible transfers. In November 2017, Prime Minister Benjamin Netanyahu was quoted in the media explaining the new policy in the following terms:

Our policy towards infiltrators is three staged. Stage one is halting. We built a fence and enacted laws that completely blocked the flow of infiltrators, and today we have zero infiltrators. Second stage is removal. We removed approximately 20,000 out of the existing infiltrators using various measures. Stage three is increased removal. This removal is enabled thanks to an international agreement I achieved, which allows us to remove the 40,000 remaining infiltrators without their consent. ... [O]ur goal is to continue removing significantly more than what we have until now.⁷⁵

2.3.1 THE JANUARY 2018 *PROCEDURE FOR DEPORTATION TO THIRD COUNTRIES*

On 1 January 2018, the PIBA published a new *Procedure for Deportation to Third Countries*.⁷⁶ Under the new procedure, Sudanese and Eritrean single men who had not applied for asylum by the end of 2017 or whose request was denied would be served deportation notices asking them to leave voluntarily by 31 March 2018.⁷⁷ Those who accepted would receive US\$3,500 and a ticket for a “third country”;⁷⁸ those who refused could be detained until they accepted or transferred forcibly. The government was planning to get at least 600 Eritrean and Sudanese nationals to leave each month, making up a total of 7,200 a year.⁷⁹

⁷¹ Prevention of Infiltration Law (Crimes and Judgment) (Temporary Order), 2016, passed by the Knesset on 8 February 2016 https://www.nevo.co.il/law_word/law14/law-2530.pdf (Hebrew).

⁷² Supreme Court (sitting as High Court of Administrative Affairs), *Tsegeta vs. Minister of the Interior and others*, Administrative Appeal 8101/15, judgment, 28 August 2017, <http://elyon1.court.gov.il/files/15/010/081/C29/15081010.C29.pdf>.

⁷³ *Ibid.*, para 124.

⁷⁴ *Ibid.*, para 126.

⁷⁵ Quoted in “Government approves closure of Holot facility within 4 months”, *YNet News*, 19 November 2017, <https://www.ynetnews.com/articles/0,7340,L-5044929,00.html>

⁷⁶ PIBA, *Procedure for Deportation to Third Countries*, 1 January 2018, https://www.gov.il/he/Departments/policies/third_country_deportation_procedure

⁷⁷ The government did not give any notice to individuals who may have wanted to apply for asylum before the new procedure entered into force. The PIBA also announced that asylum claims submitted after 1 January would not be reviewed and that their submission would not protect the applicant from deportation.

⁷⁸ See: *A special track for the voluntary departure of infiltrators from Israel*, https://www.gov.il/he/Departments/news/voluntary_return_operation (Hebrew).

⁷⁹ “Israel Aims to Expel African Asylum Seekers at Doubled Pace”, *Haaretz*, 29 January 2018, <https://www.haaretz.com/israel-news/israel-aims-to-expel-african-asylum-seekers-at-doubled-pace-1.5769484>.

In January 2018, UNHCR issued a rare public statement calling on Israel to halt the deportations and expressed particular concern over the “forced relocation to countries that do not offer effective protection and [over] the onward movement of these people [from ‘third countries’] to Libya and Europe”.⁸⁰

On 4 February, the PIBA started issuing deportation notices to individuals who came to their offices to renew their conditional release visa; their visas were renewed for a final two months and they were summoned to a deportation hearing. About 300 asylum seekers were already held in Holot when they received their deportation notice; those who refused deportation were imprisoned at the nearby Saharonim prison (a detention centre in the Negev desert, close to the Israeli-Egyptian border). The Holot centre was closed on 13 March.



EMANUEL'S* CASE:

Emanuel*, an Eritrean asylum-seeker, was arrested in November 2017. At the time of his interview with Amnesty International, he was in Saharonim prison because he had refused to go to Rwanda. He told Amnesty International:

Every day, all the time, the prison guards and the Interior Ministry officers tell me that it would be better for me to go to Rwanda. They say: 'If you don't leave to Rwanda, you will leave Israel in a coffin'; 'if you don't sign this paper and leave, you will die here'. But I have friends in Uganda who tell me not to come, that the situation there is very difficult. I would rather die in Eritrea, so that my mother can visit my grave, than to go to Rwanda or Uganda. I have nothing there.⁸¹

2.3.2 THE “AGREEMENT” WITH RWANDA AND ITS DEMISE

“There are 180,000 refugees sitting [in Rwanda] under the protection of the UN, so the claims that it is dangerous are a joke.”

Prime Minister Benjamin Netanyahu, 28 January 2018⁸²

[The plan to deport asylum seekers to a “third country” was scrapped when] “it became clear that the third country did not meet the [required] conditions” and that this country “did not withstand the pressure.”

Prime Minister Benjamin Netanyahu, 2 April 2018⁸³

Since it first announced “agreements” with third countries in 2013, the Israeli government has consistently refused to provide details about their content, including the names of the third countries, which it considers to be confidential.⁸⁴

On 2 April 2015 Rwandan President Paul Kagame announced that his country was negotiating an agreement to transfer Eritrean and Sudanese nationals from Israel to Rwanda.⁸⁵ The Israeli government submitted what it presented as its “voluntary transfer” agreement with Rwanda to the Supreme Court during the proceedings in the *Tsegeta* case (see above).

In January 2018, however, the Rwandan government’s spokesperson denied that the government had signed a “secret deal with Israel regarding the relocation of African migrants”.⁸⁶ A few days later, in a meeting between Prime Minister Netanyahu and Rwandan President Paul Kagame in Davos, Kagame reportedly “emphasized that he will only accept a process that meets the demands of international law”.⁸⁷

⁸⁰ UNHCR, *UNHCR appeals to Israel over forced relocations policy*, 9 January 2018, <http://www.unhcr.org/news/briefing/2018/1/5a548e064/unhcr-appeals-israel-forced-relocations-policy.html>.

⁸¹ Amnesty International’s interview, case Is-7, Saharonim prison, 18 March 2018.

⁸² “Netanyahu: Claims Rwanda isn't safe for deported migrants are ‘a joke’ – report”, *The Times of Israel*, 28 January 2018, <https://www.timesofisrael.com/liveblog-january-28-2018/>.

⁸³ Quoted in “Israel Reaches Deal With UN to Deport Asylum Seekers to West, Not Africa”, *Haaretz*, 2 April 2018, <https://www.haaretz.com/israel-news/israel-cancels-forced-asylum-seeker-deportations-after-deal-with-un-1.5973475>.

⁸⁴ Confidentiality document signed by Israeli PM Netanyahu dated 30 March 2014, <https://www.acri.org.il/he/wp-content/uploads/2015/08/hit8425hisayon.pdf>. Most of the information available so far was revealed by the government to courts as part of the appeals against its detention policies (see below).

⁸⁵ See <http://www.theeastafrican.co.ke/news/Rwanda-confirms-Israel-talks-on-hosting-African-immigrants/-/2558/2674228/-/item/0/-/1ppafxz/-/index.html>

⁸⁶ Statement by the Government Spokesperson, Kigali, 22 January 2018, <http://rwandahc.org/statement-by-the-government-spokesperson/>

⁸⁷ “Netanyahu Agrees Asylum Seekers Will Only Be Deported to Rwanda According to International Law”, *Haaretz*, 25 January 2018, <https://www.haaretz.com/israel-news/netanyahu-asylum-seekers-will-be-deported-according-to-int-l-law-1.5765346>

On 12 March 2018, during a hearing on a petition against the deportations, the Supreme Court expressed concern about Rwanda and Uganda's denials of any agreement with Israel, which would have a negative impact on the deportees' ability to seek remedy in the "third country". The Court also considered that the new "agreement", that the government claimed to have reached with one of the two "third countries" at the end of 2017, had not been previously reviewed and would have to be examined.⁸⁸

On 2 April 2018, Prime Minister Netanyahu announced that the plan to deport asylum-seekers to a "third country" had to be scrapped when "it became clear that the third country did not meet the [required] conditions" and that it "did not withstand the pressure".⁸⁹ He later explained:

In the past two years I have been working with Rwanda so that it will serve as a 'third country' that absorbs infiltrators who will be deported without their consent. This is the only legal way for us to deport infiltrators without their consent, after the rest of our moves have been legally disqualified. Rwanda agreed to this and began the deportation operation. In recent weeks, with tremendous pressure on Rwanda by the New Israel Fund and elements in the European Union, Rwanda has withdrawn from the agreement and has refused to absorb infiltrators from Israel who are forcibly removed.⁹⁰

A few days later, Knesset member and governing coalition chairman David Amsalem was quoted in the Israeli media admitting that the "agreement" with Rwanda was "under the radar" and involved monetary payments:

On almost every trip, to Africa and other international meetings, [Netanyahu] spoke with heads of state so they would accept work migrants – and not for free. There was one country willing to do it under the radar. Left-wing NGOs like the New Israel Fund and others... funded by Europe... worked against it.⁹¹

Rwandan authorities, from their end, kept denying any agreement with Israel. Rwanda's Minister of state for foreign affairs, Olivier Nduhungerehe, tweeted:

We didn't cancel any deal with Israel for the simple reason that there was no deal. The open doors policy of Rwanda towards African migrants has a basic requirement that Israel's proposal didn't meet: the migrants must be willing to come to Rwanda without any form of constraint.⁹²

As a consequence of the collapse of the "agreement" with Rwanda, the Israeli authorities had to free the 58 asylum-seekers detained at Saharonim awaiting deportation to Rwanda. The 207 asylum-seekers detained at Saharonim awaiting deportation to Uganda remained in custody.

2.3.3 THE ABANDONED AGREEMENT WITH UNHCR

Faced with the failure of his "agreement" with Rwanda, Prime Minister Netanyahu "decided to strive for a new agreement that would still allow the continued removal of the infiltrators".⁹³

On 2 April 2018, while announcing the end of the deal with Rwanda, he also announced the conclusion of a Framework of Common Understanding with UNHCR. Under the Framework, UNHCR would "work to facilitate the departure to third countries to be determined of some 16,000 Eritreans and Sudanese under various programmes, including sponsorship, resettlement, family reunion and labour migration schemes".⁹⁴ In exchange, Israel would "regulate the status" of "protected populations, most of which

⁸⁸ The Court was considering petitions HCJ 679/18 and HCJ 733/18. "Israel's Top Court Slams Asylum Seeker Deportation Plan: 'Rwanda Denies Deal, What Legal Recourse Will Deportees Have?'" , *Haaretz*, 12 March 2018, <https://www.haaretz.com/israel-news/.premium-israeli-top-court-slams-asylum-seeker-deportation-plan-1.5895411>.

⁸⁹ Quoted in "Israel Reaches Deal With UN to Deport Asylum Seekers to West, Not Africa", *Haaretz*, 2 April 2018, <https://www.haaretz.com/israel-news/israel-cancels-forced-asylum-seeker-deportations-after-deal-with-un-1.5973475>.

⁹⁰ Benjamin Netanyahu, Facebook post, 2 April 2018, <https://www.facebook.com/Netanyahu/posts/10155499430642076> (Hebrew, English translation by Amnesty International).

⁹¹ "Amsalem: Netanyahu may go back to UN agreement on migrants", *Jerusalem Post*, 4 April 2018, <https://www.jpost.com/Israel-News/Amsalem-Netanyahu-may-go-back-to-UN-agreement-on-migrants-547855>.

⁹² Amb. Olivier Nduhungerehe, Minister of State in the Ministry of Foreign Affairs, Cooperation and East African Community, Twitter post (@onduhungerehe), 4 April 2018, <https://twitter.com/onduhungerehe/status/981648464122732545>.

⁹³ Benjamin Netanyahu, Facebook post, 2 April 2018, <https://www.facebook.com/Netanyahu/posts/10155499430642076>, English translation by Amnesty International.

⁹⁴ UNHCR, *UNHCR and Israel sign agreement to find solutions for Eritreans and Sudanese*, press release, 2 April 2018, <http://www.unhcr.org/news/press/2018/4/5ac261bd4/unhcr-israel-sign-agreement-find-solutions-eritreans-sudanese.html>.

would have remained in Israel anyway”,⁹⁵ by granting temporary residency status to 16,250 individuals.⁹⁶

As a result of this new framework, the Israeli government announced that it would suspend its policy of forced departure to third countries.⁹⁷

Less than 24 hours after its announcement, however, amid criticism by political partners, Netanyahu declared that the agreement with UNHCR would be cancelled.⁹⁸

2.3.4 THE “AGREEMENT” WITH UGANDA

In August 2013, immediately after then Minister of Interior Gideon Sa’ar reported the conclusion of an agreement with a third country in Africa that would “absorb” Eritreans and Sudanese from Israel, Israeli newspaper *Haaretz* revealed that the African country to which Israel was planning to deport thousands of Eritrean and Sudanese asylum-seekers was Uganda. *Haaretz* reported however that Ugandan officials had denied the existence of any such agreement.⁹⁹

Despite media and NGO reports documenting deportations from Israel to Uganda, Uganda kept denying any involvement in Israel’s deportation policy until the first week of April 2018.¹⁰⁰ On 3 April 2018 Uganda’s Foreign Affairs Minister, Henry Okello Oryem, reportedly stated:

We do not have a contract, any understanding, formal or informal, with Israel for them to dump their refugees here,

adding that if any migrants deported from Israel arrive in Uganda “we will insist that the airlines return them to the country where they came from.”¹⁰¹

On 4-5 April 2018 - after the frantic two days when the Israeli government first had to admit the failure of its “agreement” with Rwanda; then announced an agreement with UNHCR and the end of its policy of forcible deportations; and finally cancelled its agreement with UNHCR and resumed its deportation policy – the government reassured the Supreme Court that its deal with a second “third country” was still valid.¹⁰² On 9 April, the government confirmed to the Supreme Court that it had a “detailed written agreement” with the second “third country”, updated to reflect the Court’s August 2017 ruling in the *Tsegeta* case (see above) and allowing for forcible deportations.¹⁰³ On 13 April 2018, a few days before the Israeli government was due to submit to the Court additional information about its “updated agreement” with Uganda, Hon. Musa Ecweru, Minister of State Minister for Relief and Disaster Preparedness, stated that Uganda was “positively considering” a request by Israel to “allow about 500 Eritreans and Sudanese refugees to relocate to Uganda”.¹⁰⁴ The following day, the Ugandan government Facebook page posted several photos of a previous meeting between Israeli Prime Minister Netanyahu and Ugandan President Yoweri Museveni with the caption “We’re open at resettling Israel Refugees in Uganda!”¹⁰⁵ Despite these statements, the Israeli government was unable to show the Court a written deal with an African country accepting forcible deportations. On 15 April, the Supreme Court ordered the

⁹⁵ Israel, Prime Minister’s Office, *Israel Reaches Unprecedented Common Understanding with UNHCR*, press release, 2 April 2018, http://www.pmo.gov.il/English/MediaCenter/Spokesman/Pages/spoke_refugees020418.aspx.

⁹⁶ “Israel Reaches Deal With UN to Deport Asylum Seekers to West, Not Africa”, *Haaretz*, 2 April 2018, <https://www.haaretz.com/Israel-news/Israel-cancels-forced-asylum-seeker-deportations-after-deal-with-un-1.5973475>.

⁹⁷ Israel, Prime Minister’s Office, *Israel Reaches Unprecedented Common Understanding with UNHCR*, press release, 2 April 2018, http://www.pmo.gov.il/English/MediaCenter/Spokesman/Pages/spoke_refugees020418.aspx.

⁹⁸ Benjamin Netanyahu, Facebook post, 3 April 2018, <https://www.facebook.com/Netanyahu/posts/10155500606907076>, English translation by Amnesty International.

⁹⁹ “Gag Order Lifted / Uganda Will Take in Thousands of Israel’s African Migrants”, *Haaretz*, 29 August 2013, <https://www.haaretz.com/.premium-uganda-to-take-in-israel-s-migrants-1.5326957>.

¹⁰⁰ In February 2014 *Haaretz* reported that an Israeli “senior government official” had confirmed that some “infiltrators” had already left for Uganda. A few weeks later, however, Musa Ecweru, Deputy Minister for Relief and Disaster Preparedness, declared having no knowledge of the “agreement”. Quoted in “Uganda accused of receiving money from Israel for refugees”, *The East African*, 1 March 2014, <http://www.theeastafrican.co.ke/news/Uganda-accused-of-receiving-money-from-Israel-for-refugees/-/2558/2227008/-/3h5nri/-/index.html>.

¹⁰¹ Associated Press, *The Latest: Rwanda, Uganda deny migrant deal with Israel*, 3 April 2018, <http://abcnews.go.com/International/wireStory/latest-israeli-pm-cancel-deal-resettle-migrants-54198281>

¹⁰² “With Rwanda out state says looking into other options for deportation destination”, *Jerusalem Post*, 4 April 2018, <http://www.jpost.com/Israel-News/With-Rwanda-out-state-says-looking-into-other-options-for-deportation-destination-547889>.

¹⁰³ Submission by the Israeli government to the Supreme Court (sitting as High Court of Justice), cases HCJ 679/18 and HCJ 733/18, 9 April 2018, paras 19 and 31, on file with Amnesty International (Hebrew).

¹⁰⁴ The Government of Uganda’s Official Centre for Public Communications (@UgandaMediaCent), Twitter post, 13 April 2018, <https://twitter.com/UgandaMediaCent/status/984703582296596480>.

¹⁰⁵ Government of the Republic of Uganda (@ugandagovernment), Facebook Post, 14 April 2018, <https://www.facebook.com/ugandagovernment/posts/1388089417963100>.

suspension of the deportation plan; the government had to release the remaining 207 asylum-seekers still held in Saharonim.¹⁰⁶

On 24 April, in the framework of a separate petition against the detention and deportation of asylum-seekers, the government admitted to the Court that its plan to forcibly deport African asylum-seekers had fallen through; and stated that it would therefore stop holding pre-deportation hearings and annul all previous decisions on the deportations.¹⁰⁷

At the time of writing, “voluntary” transfers are still ongoing. However, the means to put pressure on asylum-seekers to agree to the deportations are now reduced: those who refuse to leave “voluntarily” cannot be detained and their permits have to be renewed.

¹⁰⁶ The Supreme Court (sitting as High Court of Justice) was considering petitions 679/18 and 733/18. “All remaining asylum seekers released from Saharonim Prison”, *YNet News*, 15 April 2018, <https://www.ynetnews.com/articles/0,7340,L-5231024,00.html>.

¹⁰⁷ Submission by the Israeli government to the Supreme Court (sitting as High Court of Justice), case 2445/18, 24 April 2018, on file with Amnesty International. “Israel Admits: Plan to Relocate Asylum Seekers Has Collapsed, No Way to Forcefully Deport Africans”, *Haaretz*, 24 April 2018, <https://www.haaretz.com/israel-news/israel-admits-no-way-we-can-forcefully-deport-african-asylum-seekers-1.6028435>.

3. A DANGEROUS REALITY BEHIND THE PROMISES

“I was in Israel for five years. With the agreement between Israel and Uganda I came to Uganda. But in Uganda I am almost a loser. I cannot get work. I am living with the remittances of my relatives who are in Western countries. So now I am planning to go to Europe by sea, because in Uganda I do not have vision. I beg you not to deport to Uganda.”

Isayas*, Eritrean asylum-seeker deported from Israel to Uganda, April 2018¹⁰⁸

Israel is a prosperous and wealthy country that hosts a relatively small population of refugees and asylum-seekers (44,600 refugees). Israel's GDP per capita is more than 50 times that of Rwanda and more than 55 times that of Uganda. At the same time, Rwanda hosts at least three times more refugees than Israel (164,000 refugees), and Uganda's refugee population is more than 20 times that of Israel (1.1 million refugees).¹⁰⁹ Providing a fair, efficient and independent asylum system and effective protection from persecution should be a manageable task for the Israeli government. Yet, Israel has continued to deport Eritrean and Sudanese asylum-seekers to Rwanda and Uganda up to at least March and April 2018 respectively.

According to Israeli government official figures, Israel deported 4,532 Eritrean and Sudanese asylum-seekers to “third countries” between 2014 and March 2018 (Table 4). Of them, at least 1,749 went to Uganda (Table 5).

¹⁰⁸ Amnesty International's interview, case Ug-17, Kampala (phone interview), 22 April 2018.

¹⁰⁹ Israel has a GDP per capita of nearly 40,000 USD, a population of 8.9 million and a population of refugees and asylum-seekers of about 44,600. Rwanda has a GDP per capita of about 750 USD, a population of 11.2 million and a refugee population of 164,000. Uganda has a GDP per capita of 700 USD, a population of 41 million and a refugee population of 1.1 million. Source of all GDP figures: International Monetary Fund, *World Economic Outlook Database-October 2017*, <http://bit.ly/2ot2olR>. Source of all refugee population figures: UNHCR Global Focus <http://reporting.unhcr.org/operations> (2016). Source of all population figures: Wikipedia.

	2014	2015	2016	2017	Jan-Mar 2018	TOTAL
Eritreans	n/a	n/a	n/a	n/a	536	n/a
Sudanese	n/a	n/a	n/a	n/a	67	n/a
TOTAL	1,093	1,507	836	674	603	4,532

Table 4: Deportations of Eritrean and Sudanese asylum-seekers from Israel to “third countries”

Source: Israeli government¹¹⁰

	Before 2015	2015	2016	2017	Jan-Mar 2018	TOTAL
Uganda	n/a	485	506	630	128	>1,749
Rwanda	n/a	1,022	330	44	475	>1,871
TOTAL	1,093	1,507	836	674	603	4,532

Table 5: Deportations of African asylum-seekers from Israel to Rwanda and Uganda

Source: Amnesty International, based on figures released by the Israeli government¹¹¹

Israeli officials have issued documents and provided verbal assurances to deportees that they will receive a residence permit in Uganda to allow them to work and protect them from forcible return to their home country. In the *Notice on the arrangement of your departure from Israel to a safe third country*, issued under the January 2018 *Procedure for Deportation to Third Countries* and provided to each deportee during the first months of 2018, the Israeli government states:

the State of Israel has signed arrangements that allow you to leave Israel for a safe third country that will receive you and grant you a residence permit that will allow you to work in the country and ensure *non-refoulement* to your country of origin.¹¹²

Israel has also been giving each deportee US\$3,500 in cash upon departure, since at least 2015.

As noted above, however, the Ugandan government has consistently denied the existence of any agreement for the reception of deportees from Israel, implicitly denying the presence of asylum-seekers arriving from Israel in their territory and refusing to acknowledge any obligations towards them.

This chapter is based on testimonies Amnesty International collected from 14 Eritrean and two Sudanese asylum-seekers (16 men in total) deported from Israel to Uganda between November 2015 and February 2018.¹¹³ Of these, one was deported in 2015; three were deported in 2016; nine were deported in 2017; three were deported in 2018. Twelve of them were still in Uganda at the time of the interview; four had left for other countries in Africa and Europe.

Once in Uganda, deported asylum-seekers interviewed by Amnesty International said they found the Israeli government’s promises to be empty. Instead of being granted a residence permit, as promised, they were in an irregular migration status, leaving them at risk of detention and forcible return to their country of origin and without the possibility to work. As a result, many have decided to leave Uganda for other countries, in Africa and in Europe.

Commenting on Israel’s deportations to Rwanda and Uganda, UNHCR stated:

Due to the secrecy surrounding this policy and the lack of transparency concerning its implementation, it has been very difficult for UNHCR to follow up and systematically monitor the situation of people relocated to these African countries. UNHCR, however, is concerned that these persons have not found adequate safety or a durable solution

¹¹⁰ For the 2014-2017 data see: PIBA, *Foreigners in Israel Data 2017*, January 2018, Graph 2, p8, https://www.gov.il/BlobFolder/generalpage/foreign_workers_stats/he/foreigners_in_israel_data_2017.pdf. For the 2018 data see: PIBA, *Foreigners in Israel Data*, First quarter of 2018, April 2018, Table 4, p4, https://www.gov.il/BlobFolder/generalpage/foreign_workers_stats/he/%D7%A8%D7%91%D7%A2%D7%95%D7%9F%201.pdf.

¹¹¹ See the sources for table 4. The Israeli government provided the figures of Eritreans and Sudanese who left Israel to Uganda between 2015 and the first quarter of 2018 in a deposition to the Supreme Court, cases HCJ 679/18 and 733/18, 9 April 2018, on file with Amnesty International.

¹¹² State of Israel, *Notice on the arrangement of your departure from Israel to a safe third country*, 2018, on file with Amnesty International.

¹¹³ During its research, Amnesty International also interviewed a Sudanese man who told the organization that he was deported from Israel to Uganda in 2012. He currently lives in the Netherlands, where he was granted refugee status. His testimony is not included in this chapter because his deportation happened before Israel announced the existence of “agreements” with “third countries”.

to their plight and that many have subsequently attempted dangerous onward movements within Africa or to Europe.¹¹⁴

This chapter details the findings of Amnesty International’s research on the conditions awaiting Eritrean and Sudanese asylum-seekers upon arrival in Uganda. Where relevant, the findings are complemented by those of other NGOs, academic researchers and journalists.

3.1 DEPORTATION PROCEDURE IN ISRAEL

3.1.1 IDENTITY OF THE “SAFE THIRD COUNTRY” AND INFORMATION ABOUT IT

The *Notice on the arrangement of your departure from Israel to a safe third country* never identifies the “safe third country”. However, it does state that the country has “developed tremendously” in the past decade and that it “has been showing some of the highest economic growth figures in Africa, thanks to exports to Europe and the United States, as well as to the flourishing tourism industry”. The Notice then promises that “complete information” about the “safe third country” will be provided by representatives of PIBA’s Voluntary Return Department.¹¹⁵ However, at no point during the process do asylum-seekers receive the complete, independent information they would need to provide informed consent for their deportation.

Israeli authorities do not conduct pre-transfer “hearings” when the transfer is considered to be “voluntary”. During the first months of 2018, Israeli authorities conducted “deportation hearings” before deportations. However, they conducted no individual assessment of the risks of human rights violations each deportee may face upon transfer, as they are obliged to do under the *non-refoulement* principle, and they provided no written record mentioning the country of destination.

3.1.2 TRAVEL DOCUMENTS

Deportees receive an Israeli *laissez passer* travel document,¹¹⁶ a plane ticket and a grant of US\$3,500, which they receive in cash at the airport upon their departure.

The *Notice on the arrangement of your departure from Israel to a safe third country* states that Israel will give deportees an “entry visa to the destination country that has been arranged for you in advance”.¹¹⁷ In April 2018, the Israeli government told the Supreme Court that, under their “revised agreement”, Uganda had committed to provide deportees with an entry visa valid for 30 days.¹¹⁸

Whether or not the Israeli government arranges valid visas for deportees is difficult to determine, as all deportees have to hand in their papers when they reach the airport in Uganda (see below). Some of the asylum-seekers interviewed by Amnesty International denied having received a visa or any other document that would have allowed their regular entry into Uganda.¹¹⁹ One asylum-seeker, deported in January 2018, said that Israeli officials gave him not an entry visa but a letter titled *Arriving to Uganda – Visa confirmation*. Ostensibly written on letterhead of the Ugandan Directorate of Citizenship and Immigration Control, the letter states:

“Arriving to Uganda-Visa Confirmation

[date]

To whom it may concern:

Dear Sir/madam

We hereby confirm the arrival to Uganda of:

¹¹⁴ UNHCR, *UNHCR concerned over Israel’s refugee relocation proposal*, 17 November 2017, <http://www.unhcr.org/uk/news/press/2017/11/5a0f27484/unhcr-concerned-israels-refugee-relocation-proposals.html>

¹¹⁵ *Notice on the arrangement of your departure from Israel to a safe third country*, cit..

¹¹⁶ Amnesty International has seen photos of three of these documents. A photo of a fourth one was published in “Israel’s unwanted African migrants”, *BBC News*, 3 February 2016, <http://www.bbc.co.uk/news/magazine-35475403>.

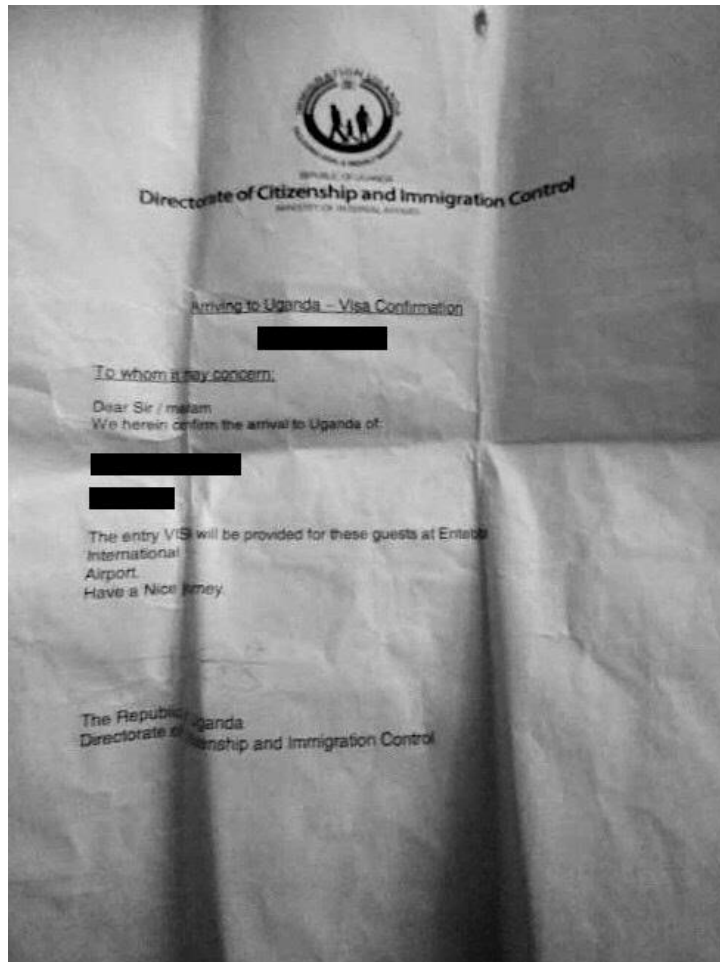
¹¹⁷ *Notice on the arrangement of your departure from Israel to a safe third country*, cit..

¹¹⁸ Submission by the Israeli government to the Supreme Court (sitting as High Court of Justice), cases HCJ 679/18 and HCJ 733/18, 9 April 2018, para19, on file with Amnesty International (Hebrew).

¹¹⁹ Amnesty International’s interviews: case Ug-12, Kampala (phone interview), 10 April 2018; and case Ug-15, Kampala (phone interview), 4 May 2018.

[NAME SURNAME]
[document number]
The entry VISA will be provided to these guests at Entebbe International Airport.
Have a Nice journey,
The Republic of Uganda
Directorate of Citizenship and Immigration Control.”

While the asylum-seeker had to hand in the letter once in Uganda, however, he did not receive any visa in its stead.



Ⓞ ↑ Arriving to Uganda – Visa confirmation letter.

In May 2018 Amnesty International wrote to the Prime Minister of Uganda, among other things asking to either confirm or deny the veracity of the letter. At the time of going to press, the organization has not received a response.

Israeli newspaper *Haaretz*; Israeli NGOs Aid Organisation for Refugees and Asylum-Seekers in Israel (ASSAF) and Hotline for Refugees and Migrants; and Ugandan NGO International Refugee Rights Initiative (IRRI) all independently reported seeing similar letters.¹²⁰ In April 2018 *Haaretz* reported that Ugandan officials did not recognise a letter entitled *Arriving to Uganda Visa Confirmation*, provided to asylum-seekers

¹²⁰ The two letters seen by NGOs in 2015 are signed by a person named George and include a telephone number. Their text is very similar to the letter seen by Amnesty International. ASSAF – Aid Organization for Refugees and Asylum-Seekers in Israel and Hotline for Refugees and Migrants, *Where There is No Free Will: Israel's 'Voluntary return' procedure for asylum-seekers*, April 2015, p26, <https://hotline.org.il/wp-content/uploads/2015/04/free-will-web-.pdf>. International Refugee Rights Initiative (IRRI), *“I was left with nothing”*: “Voluntary” departures of asylum-seekers from Israel to Rwanda and Uganda, September 2015, p13, <http://www.refworld.org/docid/55ee8c3a4.html>.

at the Tel Aviv airport. According to the Ugandan officials, it was a forgery “bearing no resemblance to any document our government issues”.¹²¹

3.2 CONDITIONS UPON ARRIVAL IN UGANDA

The asylum-seekers interviewed by Amnesty International travelled on commercial flights operated by Turkish Airlines or EgyptAir, in small groups of less than ten people.

3.2.1 “PROCEDURE” UPON ARRIVAL

In the *Notice on the arrangement of your departure from Israel to a safe third country* the Israeli governments promises:

Upon your arrival in the third country, a local team will be waiting for you at the airport to accompany you in the first few days. The team that will await you will take you to a hotel arranged for you in advance, where you will have an orientation and introduction meeting with the local representatives, during which they will inform you of your options and help you in your first steps in the country. You must cooperate with the representatives of the third country, and you can ask any questions regarding your integration in the country.¹²²

Despite travelling separately and at different times over three years, all asylum-seekers interviewed by Amnesty International described the same procedure upon arrival at the airport in Uganda – a procedure that seems to have been consistently implemented since 2015.¹²³ According to asylum-seekers’ testimonies, Ugandan individuals were waiting for them at the airport and met them immediately after they disembarked the plane, while they were still inside the airport terminal. Two of the deportees, both deported in 2017, said that the person waiting for them was a Ugandan man in plain clothes who said his name was “Dick”;¹²⁴ at least four were met by one or more Ugandan officials wearing a uniform, which they describe as the uniform of Ugandan immigration officials. One of these officials in uniform expressly said that they were “working with Israel”.¹²⁵ These individuals then escorted them out of the airport via back passages, circumventing immigration and customs checks. One Eritrean asylum-seeker told Amnesty International that he protested vigorously:

I wanted to go through normal immigration checks but the men who were escorting us across the airport told us to go a different way. I asked what was going on. I told them ‘I came here legally, what you are doing is kidnapping’.¹²⁶

In most cases, once out of the airport, the same individuals called some pre-arranged taxis that took the asylum-seekers to a hotel in Kampala, where rooms for them had been booked and paid for in advance for two or three nights. After the first couple of days, asylum-seekers leave the hotel and are left to their own devices.

Based on this information, Amnesty International is concerned that Israeli officials, agents or representatives, Ugandan officials or other individuals may have authorized; facilitated; and/or had knowledge of irregular entry of Eritrean and Sudanese asylum-seekers from Israel into Uganda.

3.2.2 “LOCAL REPRESENTATIVES”

The government of Israel claims that the deportations happen pursuant to a formal agreement with the government of Uganda. Yet, follow-up in Uganda is not carried out by either of the two governments’ officials. In fact, the Ugandan individuals who meet the asylum-seekers at the airport rarely identify themselves; if they do so, they only state their first name (see above). According to the testimonies collected by Amnesty International, the other “local representatives” mentioned in the *Notice on the arrangement of*

¹²¹ “Uganda Says Israel Gives Deported Asylum Seekers Fake Visas”, *Haaretz*, 13 April 2018, <https://www.haaretz.com/israel-news/premium-uganda-says-israel-gives-deported-asylum-seekers-fake-visas-1.5994836>.

¹²² *Notice on the arrangement of your departure from Israel to a safe third country*, cit.

¹²³ The asylum-seekers interviewed by IRRRI in 2015 reported the same procedure: International Refugee Rights Initiative (IRRI), “I was left with nothing”: “Voluntary” departures of asylum-seekers from Israel to Rwanda and Uganda, September 2015, p13-14, <http://www.refworld.org/docid/55ee8c3a4.html>.

¹²⁴ Amnesty International’s interviews, cases Ug-5 and Ug-6, Kampala, 8 March 2018.

¹²⁵ Amnesty International’s interview, case Ug-9, Kampala (phone interview), 14 May 2018.

¹²⁶ Amnesty International’s interview, case Ug-12, Kampala (phone interview), 10 April 2018.

your departure from Israel to a safe third country are Eritrean and Sudanese men, in direct contact with the Israeli government.

Yohanes*, who arrived in Uganda in 2017, told Amnesty International,

There is a network of people there, they are like the mafia: the Ugandan officer who took us at the airport, the taxi driver... An Eritrean guy who said his name was Mehrteab is working with them. He was waiting for us at the hotel when we arrived and he gave us an orientation. He told us that the hotel was paid for three nights only. I know he was connected to them because he explained everything.¹²⁷

Ibrahim*, a Sudanese asylum-seeker deported to Uganda in 2017, told Amnesty International:

Before I left Israel, I received a piece of paper with a name and a number to contact upon arrival. When we arrived at the airport in Uganda, a Ugandan man came to pick us up. He told us his name was Dick. He took all of our paperwork at the airport and told us that we would meet two Sudanese men later, who could help us. A taxi driver then took us to a hotel, where two Sudanese men were waiting for us. There was also an Eritrean man, who showed up at the hotel and talked to the Eritreans who had arrived with me. One of the Sudanese men at the hotel was the one named in the piece of paper I received in Israel.

They told us that Uganda is dangerous because people know that we arrive here with money and they will try and steal from us. They told us that they wanted to help us because we didn't have documents, and without an ID card we wouldn't even be able to get a SIM card for our phone. They also told us that we would not be able to get [asylum] papers here because we came from Israel. They acted like they wanted to help us and told us not to worry.¹²⁸

Some asylum-seekers have reported that these “representatives” can arrange smuggling out of Uganda upon payment. One of the deportees told Amnesty International that two Sudanese men who had travelled with him to Uganda paid the Sudanese “representative” to be taken to Juba, South Sudan.¹²⁹ Another deportee told Amnesty International that the Eritrean man who came to meet his group upon arrival at the hotel, who identified himself as “Michael”, later arranged for three Eritrean asylum-seekers to leave Uganda.¹³⁰

Abel*, an Eritrean man deported in 2017, told Amnesty International that before leaving Israel an Israeli immigration official told him that in Uganda a man called “Sammy” could help him get papers. He added:

When we arrived at the airport an Eritrean man who said his name was ‘Michael’ came to pick us up. He took all of our Israeli documents, took us to a hotel and told us that the Israeli government would pay for the room for three days. After two days ‘Michael’ came with another Eritrean man called ‘Sammy’. ‘Sammy’ told us he could help us get to Sudan or Kenya.¹³¹

Abel* paid ‘Sammy’ US\$6,000 to arrange for him to go to Europe.

3.2.3 IRREGULAR STATUS UPON ARRIVAL AND ITS CONSEQUENCES

At some point between landing at the airport and arriving at the hotel, all asylum seekers interviewed by Amnesty International had the travel papers provided by Israel taken from them; they did not receive anything in their stead and were left with no visa or other document to show regular entry into the country. A taxi driver told one of the deportees that their papers had to be sent back to Israel.¹³²

In 2015, following NGO reports that travel documents were taken from asylum-seekers at the airport in the country of destination, the Israeli government committed to guaranteeing that deportees would retain their transit document until they receive a permit in their destination state.¹³³ The government did not subsequently respect or uphold this commitment.

As mentioned above, the Israeli government has promised deportees that they would receive a residence permit in Uganda to allow them to work and protect them from forcible return to their home country. In April 2018, the government confirmed to the Supreme Court that its agreement with the “second third country”,

¹²⁷ Amnesty International’s interview, Su-1, Khartoum (phone interview), 26 March 2018.

¹²⁸ Amnesty International’s interview, case Ug-6, Kampala, 8 March 2018.

¹²⁹ Amnesty International’s interview, case Ug-9, Kampala (phone interview), 14 May 2018.

¹³⁰ Amnesty International’s interview, case Ug-11, Kampala (phone interview), 13 April 2018.

¹³¹ Amnesty International’s interview, case Ke-1, Nairobi, 28 February 2018.

¹³² Amnesty International’s interview, case Ug-5, Kampala, 8 March 2018.

¹³³ Dr Ruvii Ziegler, *Between ‘Voluntary’ Departure to an Undisclosed Third State and Indefinite Detention*, 9 December 2015, <https://www.law.ox.ac.uk/research-subject-groups/centre-criminology/centreborder-criminologies/blog/2015/12/between->

updated after August 2017, included the possibility for the deportees to apply for a one-year ID that enables the holder to stay, work, open a business and move freely within the country.¹³⁴

Once in Uganda, however, asylum-seekers interviewed by Amnesty International found these promises to be empty. Not a single one of the asylum-seekers interviewed by Amnesty International received a residence permit upon his arrival in Uganda, or any other document allowing them to work and/or protecting them from *refoulement* to their country of origin.¹³⁵

Musa*, an asylum-seeker from Sudan, was deported in 2017. He told Amnesty International:

When I arrived at the hotel, a Sudanese man showed up. He told me that if I gave him US\$400 he could give me papers to stay in Uganda. I gave him the money but never saw him again.¹³⁶

Haile*, an Eritrean man deported in 2018, told Amnesty International:

An Eritrean man called 'Michael' took us from the airport to the hotel. He said 'you need papers' and said that he would give them to us, but then disappeared.¹³⁷

Two of the asylum-seekers interviewed, deported in 2017 and 2018 respectively, mentioned that once at the hotel Israel's "representatives" filled out some paperwork for them, that they signed, but did not know what the paperwork was about and did not see it again.¹³⁸

Daniel*, an Eritrean asylum-seeker deported to Uganda in 2017, told Amnesty International:

In Tel Aviv the immigration official who arranged our departure told us that our papers would be valid for two weeks and that after then Ugandan immigration would give us papers. He said that in Kampala an Eritrean man called Michele would help us. When we arrived at the airport a woman wearing the uniform of Ugandan immigration took all our papers. I was worried, I asked her about Michele. She said Michele would wait for us at the hotel. When we arrived at the hotel, Michele was there waiting for us. He said that he would arrange everything for Ugandan immigration to give us papers. But he didn't.¹³⁹

3.2.4 ACCESSING THE UGANDAN ASYLUM SYSTEM

Several of the deportees interviewed by Amnesty International tried to start the process of seeking asylum in Uganda. None of them said that Israel's "local representatives" had assisted them in doing so. They found two types of obstacles: first, incorrect information about the asylum process; and second, the need to use a middleman.

Several of those interviewed by Amnesty International, both Eritreans and Sudanese, expressed concern that, because they had arrived in Uganda from Israel, they would be rejected if they attempted to submit an asylum claim. Two of them said that they had been told so by one of the "local representatives" of the Israeli government.¹⁴⁰

Three of them applied for asylum through a middleman, who asked them for money. One told Amnesty International:

I know that people will ask me for money when I go to seek asylum, but if I don't pay them they won't do anything.¹⁴¹

Another asylum-seeker said that the middleman demanded US\$800-1,000; he felt angry and frustrated because he could not pay that sum.¹⁴²

¹³⁴ Submission by the Israeli government to the Supreme Court (sitting as High Court of Justice), cases HCJ 679/18 and HCJ 733/18, 9 April 2018, para19, on file with Amnesty International (Hebrew). The *Notice on the arrangement of your departure from Israel to a safe third country* states: "Should you wish to apply for a temporary ID card, by virtue of the arrangement with the third country, you must inform the local representative of the fact and submit an application for temporary residence during the orientation meeting or immediately thereafter. Should you do so, the local representative will update you of the time expected for the processing of your application. Within a few days of submitting the application you will receive a temporary certificate that arranges your stay and your ability to work in the third country." cit.

¹³⁵ These findings are consistent with findings by other NGOs, academics and journalists. For example: *AP Exclusive: Migrant recounts his deportation from Israel*, AP, 22 February 2018, <https://apnews.com/71bbc1bd816145309394eba9a150673b>. ASSAF and Hotline 2015, cit.

¹³⁶ Amnesty International's interview, case Ug-5, Kampala, Uganda, 8 March 2018.

¹³⁷ Amnesty International's interview, case Ke-2, Nairobi, Kenya, 1 March 2018.

¹³⁸ Amnesty International's interviews, case Ug-1, Kampala, Uganda, 3 March 2018; and case Ug-4, Kampala, Uganda, 5 March 2018.

¹³⁹ Amnesty International's interview, case Ug-15, Kampala (phone interview), 4 May 2018.

¹⁴⁰ Amnesty International's interviews: case Ug-6, Kampala, 8 March 2018; case Ug-9, phone interview, Kampala, 14 May 2018.

¹⁴¹ Amnesty International's interview, case Ug-15, Kampala (phone interview), 4 May 2018.

¹⁴² Amnesty International's interview, case Ug-11, Kampala (phone interview), 13 April 2018.

Two of the deportees managed to register their claim and received a temporary asylum-seeker ID and residence permit.

3.2.5 CONSEQUENCES OF IRREGULAR MIGRATION STATUS

As the deportees do not receive residence permits upon arrival to Uganda and experience difficulties in accessing the asylum system, their migration status in Uganda remains irregular.

The most immediate consequence of their irregular migration status is that Eritrean and Sudanese asylum-seekers in Uganda struggle to find a job and experience financial hardship. Isayas*, an asylum-seeker from Eritrea, arrived in Uganda in 2016. He told Amnesty International:

Before coming to Uganda I was promised that I could settle down here. But things were not the way I expected. I cannot find a job, I can only sit in the house and sleep. I am surviving asking for money from my relatives who live in other countries. I am going to leave Uganda soon, but I can only leave irregularly. I am trying to find the right person who can help me. It is expensive, but I'd rather pay to go to another country than spend money in Uganda. I want to go to Europe, the UK or the US.¹⁴³

Their irregular migration status leaves asylum-seekers at risk of arrest and forcible return to their country of origin. One of the asylum-seekers interviewed by Amnesty International told the organization that his group of deportees was arrested by Ugandan police in Kampala in February 2017 and beaten for more than three hours:

We were six men, all coming from Israel. They were asking: 'you are illegal, how did you enter the country?' They took all the money we had from Israel.¹⁴⁴

The group managed to pay the police to be released and left Uganda two days later.

3.2.6 MONITORING MECHANISMS

In its 2017 judgment in the *Tsegeta* case, the Israeli Supreme Court required that post-transfer monitoring mechanisms be put in place to ensure deportees receive the protection they need.¹⁴⁵

In February 2018, the Israeli media revealed a recording of the Israeli Deputy Foreign Minister, Tzipi Hotovely, in which she said that the Israeli government was not in a position to ensure any follow-up on the situation of the deportees in Rwanda and Uganda.¹⁴⁶ In April 2018, the Israeli government told the Supreme Court that it had a monitoring system in place to ensure the implementation of the "agreement", including follow-up with the deportees via phone calls and emails during the first 30 days after their arrival, to verify that they had received papers, had a place to stay, etc. It added that the Population, Immigration and Border Authority had contacted 95% of the deportees who left Israel in 2017, none of whom had reported "unusual events".¹⁴⁷

Only two of the deportees interviewed by Amnesty International told the organization that they had been in contact with Israeli immigration officials after leaving Israel. David*, deported to Uganda in 2017, told Amnesty International:

A few hours after we arrived at the hotel 'Michael', an Eritrean man, came to the room. He said he worked with Israeli immigration and took our pictures with his phone to send them to Israel as proof that we had arrived. Then he called 'Shishai', an immigration officer in Israel, from his phone and let me speak to him. 'Shishai' just wanted to make sure that we had reached Kampala. I never spoke to him again.¹⁴⁸

Only one of the deportees interviewed by Amnesty International, deported in January 2018, told Amnesty International that he had received a call from an Israeli immigration official, who asked him details about his current situation in Uganda. He told Amnesty International:

¹⁴³ Amnesty International's interview, case Ug-17, Kampala (phone interview), 22 April 2018.

¹⁴⁴ Amnesty International's interview, Su-1, Khartoum (phone interview), 26 March 2018.

¹⁴⁵ Supreme Court, *Tsegeta* judgment, cit.

¹⁴⁶ "Deputy FM says Israel can't monitor fate of African deportees", *The Jerusalem Post*, 6 February 2018, <https://www.jpost.com/Israel-News/Deputy-FM-says-Israel-cant-monitor-fate-of-African-deportees-540896>.

¹⁴⁷ Submission by the Israeli government to the Supreme Court (sitting as High Court of Justice), cases HCJ 679/18 and HCJ 733/18, 9 April 2018, para28, on file with Amnesty International (Hebrew).

¹⁴⁸ Amnesty International's interview, case Ug-9, Kampala (phone interview), 14 May 2018.

I told him it's very bad: I have no job and no papers.¹⁴⁹

However, the Israeli authorities do not seem to have taken any measure in response to his feedback.

3.3 THE ONWARD JOURNEYS

Many deportees find that they have little option but to continue their journey further from Rwanda and Uganda. Daniel* told Amnesty International:

I have a friend in Canada, he said maybe I could find someone to sponsor me and go there. If I find a sponsor in Canada I can stay in Uganda until I can go to Canada. But if it doesn't work I cannot stay in Uganda, I have to try to go to Libya, even if I know that it's dangerous.¹⁵⁰

It is difficult to determine exactly how many asylum-seekers, deported by Israel to Rwanda and Uganda, have since left the two countries for other destinations. However, researchers have documented onward journeys from Uganda and Rwanda since the beginning of the deportations from Israel to the "third countries".¹⁵¹ According to reports, of the about 2,000 asylum-seekers deported to Rwanda since 2013, only about a dozen are still in the country.¹⁵²

Of the 16 asylum-seekers interviewed by Amnesty International, four had left Uganda for another country at the time of the interview: two were in Kenya; one was in Sudan; one was in Italy. One asylum-seeker had left Uganda to get to Kenya and then Ethiopia, but had been arrested in Ethiopia and went back to Uganda.¹⁵³ Amnesty International also interviewed three Eritrean men deported from Israel to Rwanda between 2015 and 2017; at the time of the interviews they were in Uganda, Kenya and Norway.

Europe is the destination of choice for many Eritrean and Sudanese deportees, who embark on dangerous journey through Libya and the Mediterranean. Amnesty International received reports about one Eritrean asylum-seeker deported from Israel to Rwanda currently detained in Libya.¹⁵⁴ One of the interviewees told the organization that two other Eritreans, deported from Israel with him in September 2017, later tried to reach Europe by boat and died at sea.¹⁵⁵ Amnesty International was also in contact with Eritrean and Sudanese asylum-seekers deported from Israel to Uganda or Rwanda who are currently in Switzerland, France, the Netherlands and Sweden.



GABRIEL'S* CASE:

Gabriel*, an Eritrean asylum-seeker who was deported to Uganda in 2015, told Amnesty International:

I was scared to stay in Uganda, so I went immediately to Sudan. I stayed in Khartoum almost one year, the Sudanese police caught me twice because I didn't have papers, I was afraid that they would send me back to Eritrea, I had to pay them to be released. The situation was too bad in Sudan, so I decided to go to Libya. I decided to take my chances even if I knew that other people had died at sea and in the desert, but in Sudan I could be killed too. I asked around and found a guy who could arrange the trip to Libya.

From Khartoum I went into the Chadian desert by car. We were more than 18, men and women, all Eritreans. In the Chadian desert men with machine guns and even a RPG [rocket-propelled grenade] on three grey pickups stopped us. They fired up in the sky and took up out of the car. They kidnapped us. They took us to another car and transferred us through the desert up to Libya. At that point one of them explained that we had reached Libya, that some Libyans were coming and that we would be sold to them. We had very little food and water, we were not well and some were unconscious. We were very lucky we didn't die, a lot of people die in the desert.

The Libyans arrived in two cars. They had weapons too. They took us to a village in the desert where there is a place like a prison. We were locked inside a building without windows. There were about 200 people already there; a lot of people were sick. I would see one person dying every day, for lack of food, sickness, injuries. The situation was difficult there, the Libyans would beat us. They came and hit me with a stick several times, just because I was chatting to someone, or I had not paid money yet. They ask for money; initially they asked me for US\$7,500 – they said they had bought us. One or two weeks later they came back to me and asked whether I wanted to pay or not. I said I had not enough. They said the lowest price was US\$5,500 and if I didn't pay I would be beaten and I would die. They give you

¹⁴⁹ Amnesty International's interview, case Ug-2, Kampala, 3 March 2018.

¹⁵⁰ Amnesty International's interview, case Ug-15, Kampala (phone interview), 4 May 2018.

¹⁵¹ ASSAF and Hotline 2015, *cit.*, p34-37.

¹⁵² "Asylum Seekers Deported From Israel to Rwanda Warn Those Remaining: 'Don't Come Here'", *Haaretz*, 2 February 2018, <https://www.haaretz.com/israel-news/asylum-seekers-who-left-israel-for-rwanda-warn-those-remaining-don-t-1.5785996>.

¹⁵³ Amnesty International's interview, case Ug-12, Kampala (phone interview), 10 April 2018.

¹⁵⁴ On the situation in Libya see: Amnesty International, *Libya's dark web of collusion: Abuses against Europe-bound refugees and migrants*, 11 December 2017, Index number: MDE 19/7561/2017, <https://www.amnesty.org/en/documents/mde19/7561/2017/en/>.

¹⁵⁵ Amnesty International's interview, case Ug-1, Kampala, 3 March 2018.

a telephone while holding a stick to force you to call your family. I called my mum and brother, who collected money from many people to pay.

After money was paid, I was released and taken to an open place. I stayed there for one or two weeks, then transferred to the beach in Sabratha, where we were staying inside a cement factory. Three days later I was pushed on a boat and after three and a half hours we were rescued by the Italian Coast Guard. They took us to Catania. I arrived in July 2017.¹⁵⁶

Academic researchers Lior Birger, Shahar Shoham and Liat Bolzman interviewed 19 Eritrean refugees and asylum-seekers who had been deported from Israel to Rwanda or Uganda between 2014 and 2016 and had since reached Germany or the Netherlands via the Mediterranean.¹⁵⁷

Between November 2015 and December 2017 UNHCR identified 80 cases of Eritrean asylum-seekers who had been deported from Israel to a “third country” in Africa and then decided to risk the journey to Europe via Libya. UNHCR staff interviewed them in Rome:

Feeling they had no other choice, they travelled many hundreds of kilometers through conflict zones in South Sudan, Sudan and Libya after being relocated by Israel. Along the way they suffered abuse, torture and extortion before risking their lives once again by crossing the Mediterranean to Italy.

[...] Most said they had been transferred from Israel to a country in Africa and provided with a lump sum of US\$3,500 dollars. However, the situation on arrival was different to what most had expected and with little further support provided beyond accommodation on the first night. They reported feeling unsafe, as they were known to have money.

Some said that people travelling with them had died en route to Libya, where many experienced extortion and detention, as well as being subjected to abuse – including torture – and violence.¹⁵⁸

Based on this information, Amnesty International considers that hundreds of asylum-seekers deported from Israel to Rwanda and Uganda may have since tried to reach Europe via the dangerous route across the Mediterranean.

¹⁵⁶ Amnesty International’s interview, case It-1, Siculiana (Italy), 31 July 2017.

¹⁵⁷ Lior Birger, Shahar Shoham and Liat Bolzman, “*Better a prison in Israel than dying on the way*”: Testimonies of refugees who ‘voluntarily’ departed Israel to Rwanda and Uganda and gained protection in Europe, January 2018, <https://bit.ly/2qpdY2w>.

¹⁵⁸ UNHCR, *UNHCR appeals to Israel over forced relocations policy*, 9 January 2018, <http://www.unhcr.org/news/briefing/2018/1/5a548e064/unhcr-appeals-israel-forced-relocations-policy.html>.

4. THE DEPORTATIONS ARE UNLAWFUL UNDER INTERNATIONAL LAW

“After eight years in Israel, I had no visa, no job, no future. I had no hope: I had seen no change in policy or attitude. I had no asylum and no rights. I was hoping I would have a better life in Uganda, so I went to immigration and told them I wanted to go there.”

David*, asylum-seeker deported from Israel to Uganda, May 2018¹⁵⁹

No matter the language used by the Israeli government, the transfers of Eritrean and Sudanese asylum-seekers to Uganda are not truly voluntary. If they were to be truly voluntary, they would have to be based on the free and informed consent of the individual concerned. As detailed in the previous chapters, until April 2018 the Israeli authorities used indefinite detention (or its threat) as the main tool to effectively force asylum-seekers to leave Israel. Even setting the prospect of indefinite detention aside, several other measures and factors make asylum-seekers' lives very difficult. Because of the dysfunctional and unfair asylum system, the chances of finding protection in Israel are effectively close to zero. Racist and xenophobic discourse by government officials also weigh heavily on asylum-seekers' decision to leave (see below). The refusal of the Israeli authorities to even officially name the countries the deportees are sent to - and their failure to keep their promises as to the treatment the deportees will receive upon arrival - speak volumes as to the scant and misleading information the deportees are provided when required to leave Israel. No consent can be free and genuine under these conditions.

The Israeli transfers of Eritrean and Sudanese asylum-seekers to Uganda are forcible – they are, in fact, deportations. As such, they must comply with the international law obligation of *non-refoulement*, which prohibits states from transferring anyone to a country where they would be at real risk of persecution or other serious human rights violations or abuses, or to a country where they would not be protected against such transfer.¹⁶⁰ This chapter argues that the deportations of Eritrean and Sudanese asylum-seekers from Israel violate the international law obligation of *non-refoulement* (section 4.1).

¹⁵⁹ Amnesty International's interview, case Ug-9, Kampala (phone interview), 14 May 2018.

¹⁶⁰ This is an obligation under international customary law – i.e. it applies to all states, regardless of whether they have ratified the relevant treaties. It is expressed, among others, in: Convention relating to the Status of Refugees, Geneva, 28 July 1951, article 33(1); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, article 3. The prohibition on *refoulement*

Interestingly, the conditions imposed by the Israeli Attorney General on the government for the transfers of “infiltrators” to third countries reflect in part the principle of *non-refoulement*, thereby implying that the transfers are not voluntary. However, the Attorney General’s conditions fall short of the requirements under international law and standards; and in any event, the government has failed to comply with both sets of rules (section 4.2).

Israel’s deportation policy targets exclusively African asylum-seekers; if this is because of their racial, ethnic or religious identity, it would be in violation of the international law prohibition of discrimination (section 4.3).

4.1 THE DEPORTATIONS VIOLATE THE INTERNATIONAL OBLIGATION OF *NON-REFOULEMENT*

For the obligation of *non-refoulement* to be discharged, the risk of human rights violations upon transfer must be evaluated on a case-by-case basis, considering the individual circumstances of each person concerned. The UN Committee against torture explained:

Each case should be individually, impartially and independently examined by the State party through competent administrative and/or judicial authorities, in conformity with essential procedural safeguards, notably the guarantee of a prompt and transparent process, a review of the deportation decision and of a suspensive effect of the appeal... Collective deportation, without an objective examination of the individual cases in regard to personal risk, should be considered as a violation of the principle of “non-refoulement”.¹⁶¹

Laws or decisions providing for collective or mass expulsions also violate article 13 of the International Covenant on Civil and Political Rights, which entitles foreign nationals to an individual decision.¹⁶²

Additionally, the Israeli authorities must evaluate not only each deportee’s risk of human rights violations upon transfer to Uganda (or another “third country”) but also their risk of onward return from there to another country where they would be at risk (“chain” or “indirect” *refoulement*). The UN Committee against torture recently explained with respect to the risk of torture upon transfer:

[T]he person at risk should never be deported to another State where he/she may subsequently face deportation to a third State in which there are substantial grounds for believing that he/she would be in danger of being subjected to torture.¹⁶³

In other words, agreements with third countries on the transfer of asylum-seekers would not satisfy Israel’s obligation of *non-refoulement*. Deportations in violation of the principle of *non-refoulement* are unlawful, whether they are conducted under an inter-state agreement or not.¹⁶⁴

As discussed above, Israeli authorities conduct no individual assessment of the risks of human rights violations each deportee may face upon transfer, either directly or indirectly.

covers all forms of forced transfer, including legal or other measures such as extradition, deportation, push-backs at the border and collective expulsion.

¹⁶¹ UN Committee against torture, General Comment No. 4 (2017) on the implementation of article 3 of the Convention in the context of article 22, Un Doc. CAT/C/GC/4, 9 February 2018, para13, http://www.ohchr.org/Documents/HRBodies/CAT/CAT-C-GC-4_EN.pdf.

¹⁶² UN Human Rights Committee, General Comment No. 15: The Position of Aliens Under the Covenant, 11 April 1986, para10, <http://www.refworld.org/docid/45139acfc.html>.

¹⁶³ UN Committee against torture, General Comment No. 4 (2017), cit., para12.

¹⁶⁴ See: *Letter to the Israeli AG About the Deportation of African Asylum Seekers*, signed by 25 Israeli experts in international law, 6 February 2018, <http://opiniojuris.org/2018/02/06/open-letter-to-the-israeli-ag/>

“CONSTRUCTIVE” REFOULEMENT

Even without transferring individuals or physically forcing them to go to a country or jurisdiction where their lives or freedoms are at risk, states can use indirect means to carry out *refoulement*. Tactics may include reducing or totally cutting off aid that refugees receive leaving them destitute; denying refugee status on exclusion grounds and leaving the individuals concerned destitute; using indefinite detention; refusing to process any claims for asylum; or otherwise making life so difficult – deliberately or otherwise – that the individuals feel compelled to leave, even if it means returning to the country from which they fled while the risk to their lives or freedoms is still extant. This is commonly referred to as constructive *refoulement*. As explained by the UN Committee against torture:

States parties should not adopt dissuasive measures or policies, such as detention in poor conditions for indefinite periods, refusing to process claims for asylum or unduly prolong them, or cutting funds for assistance programs to asylum seekers, which would compel persons in need of protection... to return to their country of origin.¹⁶⁵

4.2 THE ISRAELI ATTORNEY GENERAL’S REQUIREMENTS: INSUFFICIENT AND IGNORED

An analysis of the legal requirements imposed by the Israeli Attorney General on the government for the execution of deportations shows both (a) that these requirements fall short of the requirements under international law and standards, in particular UNHCR’s *Guidance Note on Transfer Arrangements*;¹⁶⁶ and (b) that the government has failed to comply with both the Attorney General’s requirements and those under international law and standards.

In June 2013 and then again in April 2015 the Attorney General set six conditions for the legality of deportations in the framework of agreements with third countries:

- i. There is no conflict / general disturbance in the third country;**
- ii. There is no UNHCR advisory guidelines against return to the third country;**
- iii. Generally, the infiltrator would not be at risk for his life and liberty on the basis of race, religion, nationality or membership in a particular social or political group;**
- iv. The third country allows access to the asylum procedure or the enjoyment of temporary protection, or at least provides a guarantee against refoulement, and would not transfer the infiltrator to another state where his life or liberty would be at risk;**
- v. The third country prohibits torture or other cruel or degrading treatment;**
- vi. The third state undertakes to provide the individual with dignified living (at least a prospect of staying and working).¹⁶⁷**

The Attorney General then requested the Ministry of Foreign Affairs for its opinion on whether the “third countries” meet these conditions. In August 2013, the Ministry of Justice confirmed that the Attorney General had approved an “agreement” with a “third country” in Africa that would “absorb” Eritreans and Sudanese from Israel:

“The attorney general was convinced that there is no legal problem with the government acting in accordance with the outline obtained, ... This was after he determined, inter alia, that the third country is a party to the Convention Relating to the Status of Refugees, that it has a system to receive refugees that provides sufficient protection to the relevant population, and that it meets the standards of the UN High Commission for Refugees.”¹⁶⁸

The Attorney General’s six conditions fall short of the requirements under international law and standards. The fifth condition (legal prohibition of torture or other ill-treatment) is linked to the prohibition of *refoulement* to human rights violations that the individual may suffer in the “third country”

¹⁶⁵ UN Committee against torture, General Comment No. 4 (2017) cit., para14.

¹⁶⁶ UN High Commissioner for Refugees (UNHCR), *Guidance Note on bilateral and/or multilateral transfer arrangements of asylum-seekers*, May 2013, <http://www.refworld.org/docid/51af82794.html>.

¹⁶⁷ Deputy Attorney General Dina Zilber, Letter dated 2 April 2015, <https://www.acri.org.il/he/wp-content/uploads/2015/04/asylum-seekers020415.pdf> (Hebrew; translation by Amnesty International); see also Attorney General, *Procedure for documenting the free will of infiltrators, from Eritrea and The Republic of the Sudan, who are in detention in their requests to depart from Israel to their country*, 30 June 2013, <http://www.refworld.org/docid/5511388d4.html> (unofficial English translation).

¹⁶⁸ Quoted in “Gag Order Lifted / Uganda Will Take in Thousands of Israel’s African Migrants”, *Haaretz*, 29 August 2013, <https://www.haaretz.com/.premium-uganda-to-take-in-israel-s-migrants-1.5326957>.

itself.¹⁶⁹ However, this condition falls short of international law, as establishing a prohibition in law does not exclude the existence of torture and ill-treatment in practice, and therefore an individual's risk to be subjected to them. Additionally, the Attorney General's conditions fail to include two principles highlighted in the *UNHCR Guidance Note on Transfer Arrangements*. The first of these principles stipulates that any agreement should be written, public and enforceable before a court of law:

An arrangement between States for the transfer of asylum-seekers is best governed by a legally binding instrument, challengeable and enforceable in a court of law by the affected asylum-seekers. The arrangement would need to clearly stipulate the rights and obligations of each State and the rights and duties of asylum-seekers.¹⁷⁰

This principle reflects the right to an effective remedy; the international law principles of good faith and legal certainty; and the obligation to register and publish international treaties under article 102 of the Charter of the United Nations.¹⁷¹ The second of the principles highlighted in the *UNHCR Guidance Note on Transfer Arrangements* stipulates that any agreement should enhance the states' ability to assume their fair share of the global responsibility towards refugees and to provide protection to refugees on their own territory.¹⁷² As previously discussed, Israel's deportation agreements are intended to avoid responsibility for providing protection for Eritreans and Sudanese refugees in Israel.

Other conditions in the Attorney General's list reflect international law, but the Israeli government failed to comply with them. The first three conditions on the list reflect the prohibition of *refoulement* to human rights violations that the individual may suffer in the "third country" itself. However, to determine whether a risk exists for the individual (condition *iii*), the government would have to conduct case-by-case assessments based on individual circumstances. As long as the Israeli government fails in its obligation under international law to conduct such individual assessment prior to deportation, it is impossible to determine whether the condition would be met in the individual case.

The fourth and sixth conditions relate to the status and treatment the individual would receive after the transfer. Before accepting any commitment in this sense, the "third country" should first admit that a transfer has indeed taken place. The governments of Rwanda and Uganda have repeatedly and consistently denied the existence of any agreement with Israel. They not only refuse to acknowledge any duty towards asylum-seekers transferred from Israel, but also officially deny their very presence on their territory. This casts serious doubts about the willingness and ability of the governments of Rwanda and Uganda to guarantee Eritrean and Sudanese deportees' right to seek asylum and to protect them from forcible returns to their countries of origin.

4.3 THE DEPORTATIONS VIOLATE THE INTERNATIONAL PROHIBITION OF DISCRIMINATION

Israel's deportation policy targets exclusively sub-Saharan African asylum-seekers because of their racial, ethnic or religious identity; it therefore violates the international law prohibition of discrimination.¹⁷³

While Israeli law grants every Jew the right to immigrate into the country,¹⁷⁴ the Israeli government considers migration from sub-Saharan Africa as a threat to the identity of the Jewish state. In July 2010, Prime Minister Benjamin Netanyahu said that the "flood of illegal workers infiltrating from Africa" into Israel was "a concrete threat to the Jewish and democratic character of the country."¹⁷⁵ In August 2011, Interior Minister Eli Yishai said that "infiltrators" are an existential threat to the State of Israel and that he would "protect the Jewish majority of this country at any price".¹⁷⁶ In May 2012, Netanyahu said that "infiltrators" were threatening Israel's "national identity" and its "existence as a Jewish and democratic state".¹⁷⁷ In May 2015, Netanyahu

¹⁶⁹ This prohibition is enshrined, in particular, under Article 3 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

¹⁷⁰ *UNHCR Guidance Note on Transfer Arrangements*, cit., para3.v.

¹⁷¹ See: *Letter to the Israeli AG About the Deportation of African Asylum Seekers*, signed by 25 Israeli experts in international law, 6 February 2018, <http://opiniojuris.org/2018/02/06/open-letter-to-the-israeli-ag/>

¹⁷² *UNHCR Guidance Note on Transfer Arrangements*, cit., para3.iv.

¹⁷³ International Covenant on Civil and Political Rights, art. 2.1; International Convention on the Elimination of All Forms of Racial Discrimination, art.5.

¹⁷⁴ Israel, The Law of Return 5710 (1950), <https://knesset.gov.il/laws/special/eng/return.htm>.

¹⁷⁵ "Netanyahu: Illegal African Immigrants - a Threat to Israel's Jewish Character", *Haaretz*, 18 July 2010, <https://www.haaretz.com/1.5150323>.

¹⁷⁶ "Eli Yishai asserts: We will return every infiltrator – until the last of them," *Channel 2 News*, 12 August, 2011,

<http://www.mako.co.il/news-military/politics/Article-74bb292eddc1431017.htm> (Hebrew, translation by Amnesty International).

¹⁷⁷ "Israel PM: illegal African immigrants threaten identity of Jewish state", *The Guardian*, 20 May 2012, <https://www.theguardian.com/world/2012/may/20/israel-netanyahu-african-immigrants-jewish>.

said that the transfers of sub-Saharan African migrants from Israel were intended to “protect the Jewish and democratic character” of the state.¹⁷⁸

Referring to the January 2018 *Procedure for Deportation to Third Countries*, the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance stated:

By singling out Eritrean and Sudanese nationals, the policy clearly breaches the prohibition of discrimination on the basis of race and national origin... The use of [terms such as “illegal infiltrators”] reinforces and further legitimizes discriminatory public discourse and racist attitudes towards migrants, refugees and asylum-seekers, especially those from sub-Saharan Africa.¹⁷⁹

¹⁷⁸ “Israeli government to pay African refugees \$3,500 to leave”, *The Independent*, 15 May 2015, <https://www.independent.co.uk/news/world/middle-east/israeli-government-to-pay-african-refugees-3500-to-leave-10253318.html>.

¹⁷⁹ *Israel: UN experts urge immediate halt of plans to deport Eritrean and Sudanese nationals*, press release, 1 March 2018, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22741&LangID=E>.

5. CONCLUSIONS AND RECOMMENDATIONS

5.1 CONCLUSIONS

The research detailed in this report shows that Israel's deportations of Eritrean and Sudanese asylum-seekers to Uganda are not voluntary, even when the deportee formally "agrees" to them. In fact, the combination of several factors - an intentionally dysfunctional asylum system, the use or threat of indefinite detention, aggressive and discriminatory statements by government officials and vague and misleading information about what awaits them after the transfer - force many asylum-seekers to leave the country to find protection elsewhere.

The Israeli authorities make no effort to determine the risks that each deportee may face upon transfer, or whether they may be at risk of further transfer. Israel's deportations are based on a generic and superficial consideration of general conditions in Uganda - therefore they are essentially collective in nature.

Upon arrival in Uganda, deportees find a shambolic reception, which leaves them without papers, without protection and without sustainable resources. This pushes many to continue their journeys to other African countries or to Europe.

Israel's policy of deporting African asylum-seekers to "third countries" is a way to abdicate its responsibility towards the refugees and asylum-seekers under its jurisdiction and shift it to less wealthy countries with bigger refugee populations. It is an example of the vicious political measures feeding the global "refugee crisis".

5.2 RECOMMENDATIONS

TO ISRAEL

Amnesty International calls on the Knesset to:

- reject any proposed law allowing the unlawful transfer of Eritrean and Sudanese asylum-seekers to their country of origin or a third country; their coercion; or their arbitrary and indefinite detention.

Amnesty International calls on the Israeli government to:

- Immediately halt all deportations of Eritrean and Sudanese asylum-seekers to "third countries" or their countries of origin, whether forcibly or "voluntary"; and assume its fair share of the common responsibility for the world's refugees, starting with the refugees and asylum-seekers already on its territory or under its jurisdiction.
- Investigate allegations that Israeli officials, agents or representatives may have authorized or facilitated the irregular entry of Eritrean and Sudanese asylum-seekers from Israel into Uganda.

- Allow into Israel and provide regular, long-term migration status to the Eritrean and Sudanese asylum-seekers who were deported to Rwanda and Uganda and wish to go back to Israel.
- Allow all Eritreans and Sudanese currently in Israel or under its jurisdiction to present their asylum claims; review these claims according to the 1951 Refugee Convention, international law and standards and UNHCR guidelines; and grant refugee status and/or complementary protection to those who need it. In particular:
 - speed up the examination of pending claims submitted by Sudanese nationals and grant international protection to those who need it;
 - ensure that all the Eritrean asylum cases rejected based on the 2013 legal opinion entitled *Reviewing Eritrean Asylum Seekers Claims* are re-examined in a fair and effective RSD procedure.
- In collaboration with the Attorney General and UNHCR, conduct a comprehensive reform of the Israeli asylum system, to make it fair, effective and impartial, and fully compliant with international law. In particular:
 - introduce complementary protection status to ensure protection from *refoulement* for those who are not entitled to refugee status;
 - allow all those who wish to submit an asylum application to do so through a simple, short, clear, transparent and affordable procedure. For example, Israel could allow submission of asylum claims electronically and/or in additional immigration offices; pre-book appointments for the submission of asylum claims; register all those who have arrived to present their claims but were denied the possibility to do so; etc.

TO OTHER COUNTRIES

Amnesty International calls on the governments of Uganda, Rwanda and other “third countries” to:

- Refuse any form of cooperation with Israel to carry out unlawful deportations, including by refusing to accept the deportees into their territory.

Amnesty International calls on the government of Uganda to:

- Establish an investigation into the deportations of Eritrean and Sudanese asylum-seekers from Israel, to establish whether under its jurisdiction Israeli officials, agents or representatives, Ugandan officials or other individuals have authorized; facilitated; and/or had knowledge of irregular entry of Eritrean and Sudanese asylum-seekers from Israel into Uganda.
- Ensure that the Eritrean and Sudanese asylum-seekers deported from Israel are informed of their right to seek asylum in Uganda and can do so without being exploited by middle men.
- Determine their claims for asylum fairly, effectively and independently.

Amnesty International calls on the government of Rwanda to:

- Establish an investigation into the deportations of Eritrean and Sudanese asylum-seekers from Israel, to establish whether under its jurisdiction Israeli officials, agents or representatives, Rwandan officials or other individuals have authorized; facilitated; and/or had knowledge of irregular entry of Eritrean and Sudanese asylum-seekers from Israel into Rwanda.

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FORCED AND UNLAWFUL

ISRAEL'S DEPORTATION OF ERITREAN AND SUDANESE ASYLUM-SEEKERS TO UGANDA

Between 2015 and March 2018, Israel deported some 1,700 Sudanese and Eritrean asylum-seekers to Uganda. Upon arrival in Uganda, deportees find a shambolic reception, which leaves them without papers, without protection and without sustainable resources. This pushes many to continue their journeys to other African countries or to Europe.

This report argues that Israel's deportations to Uganda violate Israel's obligations under international law. Israel's deportation policy is a way to abdicate its responsibility towards the refugees and asylum-seekers under its jurisdiction and shift it to less wealthy countries with bigger refugee populations.