

HOTLINE for REFUGEES and MIGRANTS

# Forgotten in Prison

The Prolonged Detention of Migrants

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# **Forgotten in Prison**

## The Prolonged Detention of Migrants

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About the Hotline for Refugees and Migrants:

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

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# Summary

Over recent decades, Israel has become a target destination for tens of thousands of migrants: asylum seekers<sup>1</sup> fleeing wars, massacres, and oppressive regimes and migrant workers seeking to improve their standard of living. Israeli law<sup>2</sup> permits the detention of any person who does not have status in Israel, provided that the detention is not for a punitive purpose, but serves as a tool intended to enable removal. Section 13f(a) of the Entry to Israel Law establishes when a person may be released on bail. Among other provisions, the law establishes that a person who has been held in custody for more than 60 consecutive days is to be released, unless the exceptions stipulated in section 13f(b) of the law apply in their regard; these include fear of damage to public security, wellbeing, or health, as well as situations in which removal from Israel is being delayed due to a lack of full cooperation on the part of the detainee. The purpose of this section is to prevent the protracted detention of a person who cannot be removed from Israel, in order to incentivize the Immigration Authority to promote their removal, and to prevent a situation in which people are held in detention for protracted periods without this advancing their removal from Israel.

Despite these legislative provisions, representatives of the Hotline for Refugees and Migrants (hereinafter “the HRM”) have identified in the minutes of the Detention Review Tribunal (hereinafter “the Tribunal”)<sup>3</sup> dozens of cases in which people without status in Israel have been detained for many years without being removed from the country.<sup>4</sup> This report shows that, in most cases, the detention of persons without status is prolonged due to reasons beyond their control: the lack of valid travel documents; the refusal of their country of origin to admit them to its territory; the absence of representation of their country of origin in Israel; and communication or psychological difficulties impeding their ability to cooperate in proceedings for their removal from Israel. Persons

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<sup>1</sup> An asylum seeker is a person who fled their own country to another in which they request asylum on the grounds of substantiated fear that their life or liberty will be endangered if they return to their country of origin.

<sup>2</sup> Entry to Israel Law, 5712-1952.

<sup>3</sup> The Detention Review Tribunal was established in 2001 under the terms of Amendment No. 9 to the Entry to Israel Law, 5712-1952. The Tribunal engages in the judicial review of the decision of the Border Control Officer to issue custody orders for persons unlawfully present in Israel (migrants and asylum seekers).

<sup>4</sup> A “person without status” is a migrant or asylum seeker present in Israel unlawfully, without a valid staying permit.

without status also include asylum seekers whose applications were rejected by the Population and Immigration Authority (hereinafter "the Immigration Authority,") but who are afraid to return to the country from which they fled.

This report details information gathered by the HRM representatives regarding persons without status detained for periods of over two years. Of the 33 persons without status whose circumstances of detention are described in this report and in the appendix, 25 have been or were detained for over three years, 18 of them for over four years, 10 of them for over five years, and five for over six years.

The detainees currently held in Saharonim Prison include:

A detainee held for a cumulative period of eight years – a resident of the Ivory Coast who has not been recognized by the embassy of his country – a phenomenon that will be discussed below. The Border Control officers<sup>5</sup> are pressurizing the man to leave to Mali with an Israeli travel document for foreigners (hereinafter "Israeli T.D."),<sup>6</sup> despite the danger of arrest this entails.

A detainee held for a cumulative period of over seven years – a citizen of the Republic of Guinea ("Guinea-Conakry") coping with psychological difficulties<sup>7</sup> whose country of origin does not maintain diplomatic relations with Israel.

Persons detained for cumulative periods of over six years – a citizen of Mali who speaks a tribal language and cannot explain to the migration authorities why he is afraid for his life if returns to his homeland, and a citizen of Sierra Leone who claims that his mother is Israeli and that he hopes to find her in Israel.

Persons detained consecutively for over five years – two asylum seekers from Eritrea, survivors of the torture camps in Sinai,<sup>8</sup> whom the Border Control officers believe are Ethiopian citizens.

The report details the different circumstances surrounding the protracted

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<sup>5</sup> Border Control officer – an official of the Immigration Authority empowered to issue custody and removal orders for persons without status present unlawfully in Israel, with the goal of removing them from the borders of the state. The officer is also empowered to release such persons conditionally in certain cases.

<sup>6</sup> Israeli travel document for foreigners – a one-time travel document issued to foreign citizens who wish to leave Israel, or who are removed from Israel, and who cannot secure a valid passport from their country of origin.

<sup>7</sup> Coping with psychological difficulties – a person suffering from difficulties and problems in their emotional feelings, their mental function, and in some cases also their physical sensations. These difficulties sometimes lead to an inability to identify reality, functional difficulties in daily life, and even hallucinations and unrealistic thoughts.

<sup>8</sup> Concerning survivors of the torture camps in Sinai, see also: Hotline for Refugees and Migrants and Physicians for Human Rights, "Tortured in Sinai, Jailed in Israel: Detention of Slavery and Tortures Survivors under the Anti-Infiltration Law," July 2012: <http://hotline.org.il/wp-content/uploads/202509720-Tortured-in-Sinai-Jailed-in-Israel.pdf>

detention of persons with status:

Detention of persons without status whose citizenship is disputed due to a lack of identifying documents, lengthy periods of refugeehood that have broken the person's affinity to their country of origin, or the refusal of the country of origin to recognize them as citizens. In such cases, it is unclear to what country – if any – those involved may be removed. This group includes a large number of Eritreans who have been determined by the Immigration Authority to be Ethiopians, as well as persons without status who fled the civil wars in the Ivory Coast but are not recognized as citizens of that country due to its citizenship laws.

Detention of persons without status from countries with which Israel does not maintain diplomatic relations: Detainees who wish to return to such countries as Guinea, Guinea-Bissau, Gambia, Togo, Liberia, Mali, Niger, or Chad, but who do not hold a passport or other documents from their country of origin permitting their removal. In many cases, the individuals involved refuse to return using an Israeli T.D. after learning that others removed in this manner have been detained in Africa for protracted periods.

The Immigration Authority suspects those in these categories of holding different citizenship from that they claim and of failing to cooperate in their removal.

The report also details the circumstances surrounding the detention of persons without status who do not cooperate in their removal:

Persons without status coping with psychological difficulties who, due to their condition, do not always understand the proceedings pursued in their case. At present there is no proactive proceeding to examine their legal capacity.

Asylum seekers whose asylum application was rejected, but who nevertheless refuse to return to their country of origin due to fear for their life.

Migrants who refuse to leave Israel without their children and/or wives, when the latter cannot leave with them for various reasons.

The Tribunal releases some persons without status from detention after protracted periods, and after the Immigration Authority has failed to remove them after many years despite full cooperation on their part. Their conditional release is usually for a limited period and, among other conditions, includes the depositing of bail. After their release, they receive a conditional release visa (2A5) stating that the holder "is not eligible to work. Enforcement proceedings will be instigated against unlawful employment." This provision prevents them from making a living until they manage to arrange their departure from Israel.

At the end of the period of release, if they have not managed to leave Israel

by themselves and if the Tribunal declines to grant an extension, the persons without status are returned to prison for an additional period of unknown and unpredictable length. Two-thirds of detainees whose circumstances are detailed in this report and in the appendix were held in the past for protracted periods not specified in the documents of the Israel Prison Service (hereinafter "the IPS") or in the minutes of the Tribunal hearings, which merely quote the most recent date of detention. The calculation of the periods of detention was effectively possible only due to the fact that HRM representatives have worked for many years to secure the release of those involved, documenting the circumstances of their ongoing detention, and collecting on a real-time basis all the minutes not held on the Justice Ministry website. These detainees some who have been detained and released four or five times without their managing to leave Israel.



A yard in section 8, Saharonim prison. Photo: Tesfay Hadgu



# Methodology

Since HRM was established in 1998, its representatives have visited the prisons where persons without status, migrants, and asylum seekers are held. In addition to visits (at a frequency of at least once a week), the representatives also seek to ensure the representation of detainees and to document the problems they report. All the data, dates, and quotes in this report were collected from interviews with detainees and from the files of 28 detainees who are or were represented by HRM. In addition, extensive information was collected from the protocols of discussions at the Tribunal, which are accessible through the decisions database on the website of the Ministry of Justice.<sup>9</sup> We should add that it is unclear how many of the Tribunal minutes have been uploaded to the website; accordingly, there are additional persons without status who have been detained for protracted periods in circumstances that are not exposed in this report. As already noted, even regarding cases known to HRM minutes relating to old hearings before the Tribunal are not accessible. HRM also worked to secure data from the authorities regarding detainees held for protracted periods by submitting requests in accordance with the Freedom of Information Law. However, the data provided by the authorities are extremely partial and misleading.

In response to a freedom of information request submitted by HRM to the IPS, we were informed that, as of July 2015, 16 persons without status had been detained for over three years; 30 additional persons without status had been detained for over two years; and 31 additional persons had been detained for periods of between one and two years. In December 2015, 142 persons without status had been detained at Saharonim for over six months. Of this number, 82 had been detained for over one year, 41 for over two years, and 20 for over three years. Despite our explicit request to include only persons held in administrative detention, the reply states that the figures "relate to the total period of the detainee's holding by the IPS, including Holot and including criminal imprisonment." HRM's efforts to obtain data not including persons without status who were imprisoned following criminal indictment have to date

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<sup>9</sup> Database of Decisions by the Detention Review Tribunal on the website of the Ministry of Justice. Available at: <http://www.justice.gov.il/Units/mishmoret/Pages/muhzakim.aspx>

been unsuccessful.<sup>10</sup>

We must reiterate that the figures provided by the authorities relate solely to the most recent period of detention and ignore protracted previous detentions. As this report proves, the majority of persons without status have been held for more than one period of detention.

The names of detainees appear in this report using initials only, in order to protect their privacy. For the same reason, their detainee numbers and the precise dates of their hearings are held separately by HRM.



A yard in section 8, Saharonim prison. Photo: Tesfay Hadgu

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<sup>10</sup> Reply in accordance with the Freedom of Information Law from Superintendent Noa Inbal-Malachi, Freedom of Information Officer in the Legal Office of the IPS Commission, to Emi Saar of HRM, 9 May 2016.

# Detention of Persons without Status whose Citizenship is Disputed

**"Custody for removal is not intended for the goal of coercion or for a punitive goal; it is solely intended to realize the policy purpose of supervising persons entering and present in Israel unlawfully, and of providing the authority with efficient means for realizing this policy, while maintaining constitutional principles and protecting human rights."**

APA 696/06 Zurab Alkanov v Custody of Infiltrators Review Tribunal

The category of persons without status whose citizenship is disputed includes Eritreans suspected of being Ethiopians, Ethiopians pretending to be Eritreans, West Africans who cannot provide their citizenship, and individuals pretending to be citizens of other countries – or suspected of doing so – in order to secure release from detention. When the Immigration Authority is unable to remove a person without status to the country of which the person claims to be a citizen, its officials often try to prove that the individual is not telling the truth and is actually a citizen of a different country. In some cases the Border Control officers change the detainee's country of citizenship, and in others detainees whose citizenship is recorded as "unknown" are held in detention for years.

This group also includes survivors of the torture camps in Sinai – Eritreans who survived lengthy periods of imprisonment and torture, and who are now detained in Israeli prisons for many years without rehabilitation services. Experience shows that many of these individuals are unable to cope with the return to incarceration and find ways to leave Israel and travel to Ethiopia, which is willing to accept Eritrean citizens on certain conditions.

Residents of the Ivory Coast form a particularly prominent group among persons without status whose citizenship is disputed. For a period of over a decade, the Israeli authorities refrained from detaining and removing citizens of the Ivory Coast, in accordance with the recommendations of the UN High Commissioner for Refugees and against the background of the violent civil wars in that country. When the fighting ended, it was decided to change this policy, and citizens of the Ivory Coast were asked to leave Israel by 31 January 2012. On 2 July 2012, the Immigration Authority began to detain those who failed to respond to this demand. The change of policy regarding citizens of the Ivory Coast exposed the strict citizenship laws applying in that country, according to which many people born in the Ivory Coast are not recognized as citizens of the country, since their parents or grandparents migrated from neighboring countries. As early

as January 2011, when the policy of non-removal of citizens of the Ivory Coast was still in force, HRM representatives located and interviewed 26 persons without status from the Ivory Coast, all of whom belonged to the Dyula ethnic group and had been held at the time for periods of between one and four years. These detainees reported that the identification "interview" conducted by representatives of the Ivory Coast embassy in Israel lasted between one and five minutes. Those detainees who speak only the Dyula language and do not know French claim that they were not interviewed at all, and that the embassy representatives refused to confirm their citizenship. The embassy also demands original identification documents from the Ivory Coast. Persons without status who left the Ivory Coast many years ago are no longer in contact with their relatives in the country and find it difficult to secure such documents.

On the basis of the Tribunal minutes, at least 32 persons without status who are identified by the Immigration Authority as citizens of the Ivory Coast are detained in Israel. If we ignore previous periods of detention, then of these 32 detainees 25 have been held for over one year, 18 for over two years, 14 for over three years, and seven for over four years.

In this section we will explain the circumstances behind the protracted detention of an Eritrean suspected of being Ethiopian, a person without status from West Africa who the Immigration Authority claims is concealing his true country of citizenship, and a person without status from the Ivory Coast who is not recognized by his embassy representatives in Israel.

#### A.A. from Eritrea, detained for four years and 11 months

A.A. entered Israel via the Egyptian border in November 2011. In Sinai he was kidnapped by smugglers, subjected to severe torture, and provided services to his captors. The Border Control officers decided that A.A. is Ethiopian, despite an affidavit from his parents clarifying that he was born and raised in Eritrea. A.A. is willing to leave to Ethiopia, but the Ethiopian embassy in Israel refuses to admit him on the grounds that he has not proved a sufficient affinity to Ethiopia. Indeed, his only affinity to Ethiopia is the fact that, in the past, he was deported from Saudi Arabia to Ethiopia. In October 2016 A.A. agreed to provide the Immigration Authority with his mother's telephone number in Eritrea, despite the dangers this entails.

#### T.D. from an unknown African country, detained for a cumulative period of four years and four months

T.D. entered Israel via the Egyptian border in February 2010 and claimed to be a citizen of Congo. In January 2012, after being detained for two years without being recognized by the embassy of Congo in Israel, HRM representatives

managed to secure his release after bail was deposited, and on condition that he would take steps to leave Israel. In March 2013 T.D. was detained for a second time. He hired an attorney and was released in May 2015, after two years and two months, and after depositing an additional bail. In August 2016 he was detained for a third time, and he currently remains in detention.

Out of the total period of six years and eight months that T.D. has been in Israel, he has been detained at Saharonim for four years and four months. During this period he has hired at least four attorneys who have represented him in some of the 70 hearings held by the Tribunal in his case. To date, no way has been found to remove him from Israel.

### S.D.A. from the Ivory Coast, detained for a cumulative period of eight years

S.D.A. entered Israel via the Egyptian border in November 2007 and was held at Saharonim for four years. In November 2011 he was released due to the policy of non-removal of residents of the Ivory Coast in force at that time. In September 2012 he was arrested again, and since then he has been held for an additional four years. The Immigration Authority documents continue to state that his country of citizenship is the Ivory Coast, but he was asked to leave Israel for Mali. Due to the citizenship laws in the Ivory Coast, S.D.A. is not recognized by the embassy of that country in Israel. He is willing to leave Israel only with a passport, and not with an Israeli T.D. Like many others, he heard in prison about detainees removed from Israel with Israeli T.D. who were not recognized in the destination country and were arrested and held in harsher conditions than those of the Israeli prisons.

# Detention of persons without status from countries with which Israel does not maintain diplomatic relations

***"The responsibility for finding a solution and for removing the petitioner also rests with the state. Custody – a tool from the field of administrative law – is not to be used as a punishment, as if we were dealing with an offender convicted of a criminal offense, and for such a protracted period."***

Adm.App. (Tel Aviv – Jaffa) 06/304 Interior Ministry v Faisal Madadel

On their detention, many persons without status ask to return to their country of origin as quickly as possible, but cannot be removed from Israel because they do not hold a valid passport. In some cases, their country does not maintain diplomatic relations with Israel, and accordingly does not have a representative office in the country. The number of persons without status who came to Israel from such countries (including Mali, Guinea, Guinea-Bissau, Gambia, Chad, Liberia, Niger, and Togo) is small, but those who remain in Israel until after their passport expires encounter difficulties returning to their countries of origin.

In the case of citizens of these countries, even after their release, the Border Control officers tend to detain them once again on the grounds that they did not do enough to advance their removal from Israel during their brief period of freedom. In some cases, the Immigration Authority officials undertake an additional identification interview and change the registered country of citizenship of the person without status, in the hope that they will be able to persuade this country to accept them, or that protracted detention will convince the individual to leave Israel with an Israeli T.D., despite the danger this entails.

This chapter will highlight the difficulties facing the citizens of these countries during their detention, even when their attempts to leave Israel are genuine.

Over the years, people contacted the Immigration Authority several times on behalf of persons without status who had been removed from Israel with an Israeli T.D. and denied entry to West African countries. Some of these individuals were returned to Ben Gurion Airport and imprisoned in Israel, while others were detained in the West African country in which they arrived or deported to other African countries. Our review here relates only to cases known to us from the past two years:

On 15 September 2014, A.D.M., a citizen of Senegal, was removed to that country with an Israeli T.D.. A.D.M. entered Israel in 2009 and was released from detention in February 2013, on condition that he report monthly to the

Immigration Authority until an Israeli T.D. was issued for the purpose of his return to Senegal. In July 2014 he was detained again. He explained to the Tribunal: "I didn't come to the Voluntary Leave Unit because my friends called me from Senegal and told me that the documents they used to return from Israel to Senegal were no good." Nevertheless, after his detention A.D.M. agreed to return to Senegal immediately, even if this meant using an Israeli T.D.. Two months later he was removed from Israel. In September 2014, two weeks after leaving, A.D.M. was returned to Ben Gurion Airport, detained again, and transferred to Givon Prison, where he stated to the Tribunal: "I flew to Senegal. The Senegalese authorities put me in prison and told me to return to Israel because they didn't accept the Israeli document I was given in Israel." The Border Control officer claimed that A.D.M. had not made a sufficient effort to return to his country of origin, but the Tribunal adjudicator disagreed and released A.D.M. so that he could leave the country by himself.

At the beginning of March 2015, D.K., a citizen of Mali, was removed from prison in Israel to Mali with an Israeli T.D.. In April 2015, his friends contacted the Tomer Warsha law firm and reported that he had been detained in Mali because he arrived holding an Israeli T.D.. The Voluntary Leave Unit in the Immigration Authority failed to respond to requests from the attorneys. D.K. made contact from the Ivory Coast after his release and stated that he had been detained for four months in Mali because of the Israeli travel document he was holding when he arrived in the country.

In April 2015 Attorney Orit Ronen received a telephone call from P.K., a citizen of Mali who had been detained in Israel for five years before agreeing to return to his country of origin with an Israeli T.D.. He was removed from Israel in October 2014, and according to his comments to Attorney Ronen he was detained on arrival in Mali because he was holding an Israeli T.D.. He was transferred to a prison close to Bamako, and after six months managed to make a telephone call from the prison. P.K. stated that he was held together with additional African citizens who had been removed from Israel to Mali with Israeli T.D.s.

Attorney Tal Steiner, who represented another citizen of Mali who is detained in Israel and refuses to return to his country of origin with an Israeli T.D., promptly forwarded the affidavit from Attorney Ronen testifying to this situation to the Voluntary Leave Unit in the Immigration Authority and to the Tribunal. The Voluntary Leave Unit informed Attorney Steiner in May 2015 that the matter was under investigation, but no further response has been forthcoming. The person concerned is still detained and continues to refuse to return to his country of origin with an Israeli T.D..

In August 2015, Tribunal Adjudicator released A.K., a citizen of Guinea who was detained twice for a cumulative period of two years and two months. The

minutes of the Tribunal hearing reveal what happened to A.K. after he was removed from Israel in the same month with an Israeli T.D.. He was flown from Israel to Ethiopia, and then to Mali, and finally to Guinea. He was detained and, after clarification, removed from Guinea to Togo, where he was detained for two additional days. From Togo he was removed to Ethiopia, which returned him to Israel. According to A.K., during the five days in which he was detained and removed from three countries, he did not receive any food and was not permitted to take a shower. His luggage sent from Israel vanished somewhere along this route.

The following sequence of events illustrates not only the dangers that await persons removed with an Israeli T.D., but also the practice of the Israeli documentation system of deleting the personal circumstances of the detainees and their protracted periods of detention. The above-mentioned A.K. was detained again in September 2016. In his decision in the matter, the Tribunal adjudicator states: "The detainee, a subject of Guinea, entered Israel via Ben Gurion Airport on 20 August 2015." It is unclear whether the documents before the Tribunal detailed the protracted period of A.K.'s detention in recent years, or his efforts to leave Israel. Yet, anyone reading the decision in his matter would be convinced that the case involved a tourist who came to Israel a year before and had now been detained for the first time. The minutes of the hearing do not explain that A.K. entered Israel via Ben Gurion Airport against his own wishes, after he had been detained in Israel twice for a cumulative period of two years and two months, and after he had been removed from the country with an Israeli travel document and returned to it against his will.

In the response of the Immigration Authority official included in the minutes in this case, Ofer Dagan explains that "a subject of Guinea was recently removed successfully with the aid of an Israeli T.D. without additional documents from Givon." Dagan's comments refer to A.S.A., another person without status from Guinea, who was detained for two years and removed to Guinea in July 2015 with an Israeli T.D.. However, the Immigration Authority does not monitor those it removes from Israel. Accordingly, this example proves only that A.S.A. was not sent back to Israel from Guinea. There can be no certainty that he was not detained in Guinea, or in Mali during his journey.

In January 2016, Attorney Shira Ratzon was contacted by a friend of E.K., a citizen of Guinea she had represented. The friend informed her that E.K., who left Israel in December 2015 with an Israeli T.D., had been sent to Mali via Ethiopia. However, the Malian authorities did not permit him to continue to Guinea, since their telephone inquiries found that he was not recognized as a citizen of Guinea. E.K. was detained in Mali but has not been in contact since then, and it is unknown what became of him. His attorneys inquiries to the Immigration Authority had gone unanswered.



In March 2016 Idan Moldavsky, who was representing another citizen of Guinea on behalf of the HIAS organization, informed the Immigration Authority that E.K. had left Israel for Guinea with an Israeli T.D. at the beginning of 2016. However, from a conversation with E.K.'s brother, Moldavsky gathered that E.K. had never reached Guinea, and his traces were lost after he reached Mali. In a reply received in April, the Immigration Authority suggested that E.K. should attempt to reach Guinea again without passing through Mali. In a conversation, an official from the Immigration Authority noted that it is also possible to return to Guinea via Senegal. However, in the case described at the beginning of this section, Senegal refused to accept even one of its own citizens who arrived with an Israeli T.D.

International law obliges the Israeli migration authorities to ensure that persons it removes do not face danger to their life or liberty.<sup>11</sup> The testimonies presented here show that at least some of the Africans removed with an Israeli T.D. were arrested in the destination country or returned to Israel after their countries of origin failed to recognize them as citizens. The testimonies also clarify that attempts were made by attorneys and even by the Tribunal to ask the Immigration Authority to respond to the claims, and to consider how to ensure the safety of those removed to Africa with Israeli travel documents. The information in our possession does not indicate any official response on this matter. The Border Control officers continue to apply enormous pressure on detainees from countries with which Israel does not maintain diplomatic relations in an attempt to persuade them to leave Israel using Israeli T.D.

In order to examine the scale of this problem, we will detail the periods of detention of citizens from three countries with which Israel does not maintain diplomatic relations: Guinea, Mali, and Togo. We will also clarify the efforts made by the authorities to arrange for their removal from Israel:

Guinea: At least nine persons without status who have been identified as citizens of Guinea are currently being held in Israel. At least six of them have been held for over two years. In November 2013 the Immigration Authority submitted notifications to the Tribunal stating that "we are acting to remove subjects of Guinea." A delegation of officials from Guinea was due to visit Israel at the time in order to identify its citizens and permit their return, but in reality no such visit has taken place since 2011.

Mali: At least four persons without status who have been identified as citizens of Mali are currently being held in Israel. The detainee from Mali who has been held for the longest period has been held for two periods jointly totaling six

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<sup>11</sup> See article 33 of the Convention relating to the Status of Refugees, and article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment .

years and eight months. Another detainee has been held for two periods jointly totaling five years and three months. A third citizen of Mali has been held for five years, while a fourth was detained for a protracted period, release on bail in November 2014, and detained again since May 2015.

Togo: At least one person without status from Togo is current detained in Israel. The man in question entered Israel in 2003. He was detained from January to August 2014, but his attorney managed to secure his release after depositing bail since he was suffering from serious medical problems. The man was again detained in September 2015. Although he reports that his medical condition has deteriorated, he cannot afford legal representation and has remained in detention since then. Accordingly, his cumulative period of detention is over two years. In 2013 representatives from the Center for International Migration and Integration (CIMI) attempted to arrange a video conference with representatives of the Togolese authorities in order to identify their citizens in Israel, but to date these efforts have been unsuccessful.

# Detention of Persons Who Refuse to Cooperate with Their Removal

**"Since the extension of custody of a person who is preventing his removal entails the protracted violation of a person's liberty, constant supervision and monitoring are required regarding the justification of such protracted custody in the specific facts of the case. This responsibility rests primarily with the Border Control officer and the Detention Review Tribunal. This review should include the periodic examination as to whether the conduct of the person held in custody is still preventing or delaying their removal; and, conversely, whether the state for its part is doing everything necessary and possible to implement the removal, and whether this may be effected even without the cooperation of the person held in custody."**

APA 696/06 Zurab Alkanov v Administrative Review Tribunal

Some of the persons without status who are held in prison in Israel have failed to cooperate with the proceedings for their removal from Israel, for various reasons. This section focuses on persons without status coping with psychological difficulties, asylum seekers who fear for their lives in their countries of origin, and detainees who refuse to leave Israel without their families.

Detainees coping with psychological difficulties are often suspicious of those who try to help them. Some of them are reluctant to leave Israel because they believe they are God or believe that God has instructed them to come to Israel. Others refuse to leave prison without any reason rooted in reality. In the absence of any appropriate procedure, persons without status coping with psychological difficulties are not usually diagnosed or released from detention, despite the fact that such individuals do not belong in prison, regardless of their country of citizenship and their ability to return to it.

Detainees refusing to cooperate with their removal also include persons without status who claim that their life or liberty will be endangered if they are removed to their country of origin. The Israeli asylum system rejected their asylum applications, in most cases in a truncated proceeding or in limine.<sup>12</sup> Since these

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<sup>12</sup> For information about the asylum system in Israel, see: Hotline for Refugees and Migrants, "Until our hearts are completely hardened: Asylum Procedures in Israel," March 2012. Accessible at: <http://hotline.org.il/wp-content/uploads/202505247-Until-Our-Hearts-Are-Completely-Hardened-Asylum-Procedures-in-Israel.pdf>. See also: Hotline for Refugees and Migrants, "No Safe Haven: Israeli asylum policy as applied to Eritrean and Sudanese citizens," December 2014. Accessible at: <http://hotline.org.il/wp-content/uploads/No-Safe-Haven.pdf>

detainees do not have the financial means to instigate legal proceedings against the rejection of their applications, they are held indefinitely in administrative detention on the grounds of failing to cooperate with the removal proceedings.

Among detainees held for protracted periods, HRM representatives identify some who have established families in Israel with partners from various countries. After their detention, many of these people find that there is no legal possibility for them to take their partner and children with them when they are removed from Israel. Accordingly, they are forced to choose between abandoning their family or remaining in detention for a protracted period in the hope that they may be able to secure status for their family in their own country of origin or that of their partner. To the best of our knowledge, three detainees are currently being held for protracted periods in these circumstances.

In this section we will present the circumstances of four persons without status who are not cooperating with the removal proceedings in their cases for the reasons discussed above.

### A.S. from Guinea, detained for seven years and one month

A.S. entered Israel via the Egyptian border in 2005. He contacted the UN High Commissioner for Refugees, initially identifying himself as a citizen of the Ivory Coast and later as a citizen of Guinea. On his detention in 2009, he identified himself as a citizen of Guinea but refused to return to that country. He later claimed that he actually originates from Sierra Leone. Over the years he has refused to leave Israel for Guinea with an Israeli T.D.

In a hearing in his case in February 2013, the Tribunal adjudicator stated: "The detainee claims that Guinea is not his country. The Tribunal has clarified to the detainee that it does not have any authority to intervene in the determination of his country of citizenship, and that if he wishes to challenge this determination he must turn to the competent court. For his part, the detainee replied that he is God, he is the son of God, and accordingly he is everywhere and therefore has no need to turn to the District Court."

From July 2015 A.S. began to receive psychiatric medication, leading to a stabilization and improvement in his condition.

To the best of our knowledge, and in an exceptional and one-time act, the Tribunal adjudicator contacted the Office of the Attorney General in the case of A.S., and the attorney general instructed that the Legal Aid Division in the Ministry of Justice appoint legal representation for him. In October 2015 A.S. began to receive representation from Attorney Michal Pomerantz of the Legal Aid Division.

During recent hearings A.S. seemed to be more focused and reported on his

efforts to secure identifying documents through his sister and uncle in Guinea. If his relatives manage to forward a valid passport for him to Israel, it will be possible to remove him. If not, we would note again that despite the inaccurate claim of the Immigration Authority, no delegation has come to Israel from Guinea since 2011 to identify its citizens and issue travel documents enabling their removal to that country.

### S.D. from the Ivory Coast, removed after a cumulative period of four years and two months in detention

S.D. entered Israel via the Egyptian border in August 2010 and was released in February 2011 due to the non-removal policy concerning residents of the Ivory Coast. After this policy was changed, he was detained again in November 2012. In 2013 the Tribunal decided to release him, but required a sum of bail that S.D. was unable to provide. After two years and nine months, the HRM representatives finally managed to persuade the Tribunal that S.D. was genuinely attempting to arrange documents to enable him to travel to the Ivory Coast. He was released in July 2015. As part of his conditions of release, S.D. was supposed to attend a further hearing at the Tribunal a month later in order to prove the efforts he was making. However, he failed to appear; the HRM representatives assumed that he had been afraid to attend the hearing due to the substantiated suspicion that he would be detained after it was completed.

A few months later S.D. contacted the HRM volunteer who was working on his case, Ofer Atar. He explained that he had been held in compulsory hospitalization at Abarbanel psychiatric hospital for four months. He stated that on the day before the hearing, he had heard voices telling him to set himself on fire while he was in a gas station. He obeyed the voices and was taken for emergency treatment in hospital, and then transferred to Abarbanel. A few months later he was released from Abarbanel, and one week after his release, in December 2015, he was detained.

Ofer Atar contacted Abarbanel Hospital and asked to receive S.D.'s records, but was informed that no person with his name had been hospitalized at the institution. After a detailed investigation, it merged that his name had been misspelled at the hospital, and that this had led to the delay in locating him. In the meantime, the Tribunal had instructed the Mental Health Center in the IPS to examine S.D.'s condition, and the Center had replied that he was healthy and had no history of psychosis. When Ofer Atar updated them concerning S.D.'s condition, the authorities replied they had not been able to locate the medical information at Abarbanel Hospital. The reason was that hospital patients in Israel are identified by their identity card numbers. Since persons without status do not have identity numbers, they are identified in the health system by means

of an arbitrary identity number that is not identical to the IPS prisoner number. In other words, persons without status coping with psychological difficulties are liable to be held in compulsory hospitalization for months or even years without it being possible to locate them, and without their medical information reaching the IPS health system and the other authorities.

During S.D.'s detention, the HRM representatives realized that although he is a citizen of the Ivory Coast, attempts had been made to remove him to Guinea. The HRM representatives updated the Tribunal and the IPS that S.D. was subject to a compulsory outpatient treatment order and that his mental condition did not enable him to make a balanced and informed decision regarding his desire to leave to any particular country. At the beginning of May 2016, the HRM staff learned that S.D. had been removed from Israel to an unknown destination.

### A.K.K. from the Ivory Coast, detained for a cumulative period of three years and five months

A.K.K., a resident of the Ivory Coast and a member of the Baoulé ethnic group, escaped to Burkina Faso during the civil war in his country. He lived in a refugee camp with his partner, a member of the Bété ethnic sub-group. The couple wished to marry, but the woman's parents objected to the match. The couple fled to Libya and Egypt, and in August 2008 attempted to cross the border into Israel. Egyptian soldiers opened fire. A.K.K.'s wife was injured and taken to Soroka Hospital in Beersheva, where she died of her wounds, while A.K.K. was taken to Saharonim prison. The wife was buried in the civil cemetery on Kibbutz Hatzor. A week later, the authorities informed A.K.K. that his wife had died. He asked that she be buried in the Ivory Coast, and was informed that the matter was being discussed with the consulate of the Ivory Coast. After a month of uncertainty and of requesting information from the IPS staff, A.K.K. finally learned that his wife had been buried in Israel. The HRM staff helped him locate her grave, but A.K.K. found it hard to accept that his wife had indeed died and was now buried under a sign reading "anonymous Sudanese woman." However, the person responsible for the cemetery made it clear to the HRM representatives that this was the only "infiltrator" buried that month, while the IDF Spokesperson confirmed that all "infiltrators" shot and killed on the border are buried at this cemetery. Even after A.K.K. was convinced that the woman buried at Hatzor is indeed his wife, he was anxious at the thought of returning to the Ivory Coast and having to explain her death to her family, who came from a rival ethnic group. Requests by HRM and the UN High Commissioner for Refugees to release A.K.K. were unsuccessful, and he was only released in 2010, after two years in jail, with the assistance of Attorney Smadar Ben Natan. In response to a petition submitted to the High Court of Justice by Ben Natan, the court decided that "the Petitioner's wife was shot while fleeing close to the Israeli border. She was not shot by IDF soldiers and it has

also been agreed that the Petitioner did not cause her death. She was found on the 'Philadelphia Route' after being shot, and was taken by the IDF soldiers to the Pathological Institute and buried a few days later on Kibbutz Hatzor." It was determined that A.K.K. would leave Israel, but even after receiving the court ruling confirming that he had not caused her death, he continued to fear for his life if he returned to the Ivory Coast without his wife's body. In May 2014 he was arrested for the second time and released in November, after five months. In November 2015 he was arrested for a third time. He has been held in detention since then, and insists that he can only leave Israel together with his wife's body.



The grave of A.K.K.'s wife at Hatzor Cemetery. Photo: Sigal Rozen

### A.S. from the Ivory Coast, father of an eight-year-old girl born in Israel, detained for four years

A.S. entered Israel via the Egyptian border in 2007. In Israel he met M.S., who had come to Israel from the Far East as a nursing worker. In 2008 the couple married and had a daughter. A.S. was detained in November 2012 and transferred to Saharonim, where he has spent the past four years. According to A.S. and his partner, they are both willing to leave Israel for either of their countries of origin, providing they can leave together with their daughter. Since their marriage is not recognized, they cannot secure status in each other's country. A.S.'s protracted detention makes it even harder for them to find a solution to their problem. A.S. was represented in the past by an attorney who did not manage to secure his release, and recently the family has become unable to continue to pay for legal representation.

# Summary and Recommendations

Protracted administrative detention as described in this report distorts the intention of the legislator, as clarified beyond doubt in section 13f(4) of the Entry to Israel Law. The following recommendations are intended to remedy this distortion and to minimize the violation of the right to liberty:

- 1** Legal representation funded by the state will be provided for any person without status detained for the purpose of removal from Israel for a period exceeding six months.
- 2** The case of any person without status detained for the purpose of removal for over one year will be brought for judicial review by the District Court, sitting as a Court of Administrative affairs, every six months, in addition to review by the Tribunal.
- 3** As a general rule, the release of persons without status detained for protracted periods should not be conditioned on the depositing of bail, since after such a period of detention most detainees cannot meet the bail conditions.
- 4** On release from protracted detention, persons without status will receive a B1-type work visa in order to enable them to make a dignified living while they strive to secure documents enabling their departure from Israel.
- 5** A person who has been released from protracted detention will not be detained when reporting for the weekly appointment to sign their names at the offices of the Immigration Authority. If the Immigration Authority officials believe that the person should be returned to detention, a written summons must be issued to a hearing in which the person without status can be represented, including representation funded by the state. This will allow the person without status to show and prove the efforts made to arrange for their departure from Israel before a decision is taken on their return to detention.
- 6** Israeli authorities should stop pressurizing citizens of countries with which Israel does not maintain diplomatic relations to return to their country of origin, or to another African country, with an Israeli T.D., unless and until



the safety of those leaving for these countries with such a document can be guaranteed.

- 7 Israeli authorities are obligated to contact the relevant officials in these countries and if they cannot come and identify their citizens, Israeli officials should ensure that they will interview and identify their citizens via Skype or any other technological means.

# Appendix:

## Circumstances of Protracted Detention in 25 Additional Cases

\* The attached appendix details the circumstances of detention of 25 additional persons without status:

- 10 persons without status whose identity is disputed and who came to Israel from Eritrea, the Ivory Coast, Gabon, and Togo. Four of these individuals are currently in detention – three for over five years. Six are not currently in detention but are unable to arrange for their departure from Israel.
- Three persons without status who are citizens of countries with which Israel does not maintain diplomatic relations and who came to Israel from Guinea, Guinea-Bissau, and Gambia. One of them has been detained for over two years while the other two are not currently in detention but are unable to arrange for their departure from Israel.
- 12 persons without status who are not cooperating with their removal and who came to Israel from Sierra Leone, the Ivory Coast, Honduras, Guinea, Mali, Ghana, Gambia, and Liberia, as well as an Israeli woman falsely claiming to be from Uzbekistan. Of these individuals, eight are still in detention, including five who have been held for over four years. Two have been removed from Israel and two have been released in Israel.

## Persons without Status whose Citizenship is Disputed

### 1. T.M.A. from Eritrea, detained for a cumulative period of five years and 10 months

T.M.A. entered Israel via the Egyptian border in July 2009, after he was kidnapped by smugglers in Sinai, tortured, and forced to provide sexual services to his captors. He hired legal representation and was released in November 2011, after two years and four months in prison. In addition to bail, the Tribunal demanded that T.M.A. submit a petition proving his identity as an Eritrean citizen. T.M.A.'s attorney filed the petition but later request its deletion, so that T.M.A. was left in violation of his conditions of release. He was detained again in April 2014 and the authorities demanded that he sign an application to receive travel documents to Ethiopia. He refused to do so, therefore preventing any chance of being released, since he is not cooperating with the proceedings for his removal.

### 2. M.D. from Eritrea, detained for five years and four months

M.D. entered Israel via the Egyptian border in June 2011, after he was kidnapped and tortured by smugglers in Sinai. Upon entering Israel, M.D. told the Detention Review Tribunal that he arrived from Ethiopia and that his parents reside in Sudan. In his second hearing he made it clear that he is Eritrean and presented the Eritrean identity cards of his parents, but he failed to prove that they are really his parents. Over the years, M.D. refused to sign a power of attorney to the HRM's representatives who were not able to assist him as a result. In May 2016, M.D. told the Detention Review Tribunal: "I'm an Eritrean and not an Ethiopian. If the Ethiopian consul will agree to accept an Eritrean citizen to his country, I will go there, but I'm not Ethiopian." Thus far, the Immigration Authority failed to deport M.D. to Ethiopia as well.

### 3. M.K. from the Ivory Coast (though his country of origin is recorded as Mali), detained for a cumulative period of five years and one month

M.K. entered Israel via the Egyptian border in 2008. He was released from detention after more than two years, in keeping with the policy of non-removal to the Ivory Coast. In November 2013 he was detained for a second time; the Immigration Authority again identified him as a citizen of the Ivory Coast and demanded that he depart for that country. Over a period of two and a half years, M.K. did his best to arrange for his departure to his country of origin, but without success.

M.K. was released in April 2014 and detained again in March 2015. Once again

he expressed his willingness to return to the Ivory Coast. In May 2015, after the immigration authorities failed to remove him, they suggested that he was actually a citizen of Mali. The Tribunal accepted this hypothesis, though the detainee himself denied it. In June 2016 the Immigration Authority changed M.K.'s country of citizenship to Mali and attempted to remove him to that country with Israeli T.D. M.K. opposed these attempts, having heard from his friends that he would be detained on reaching his destination. He was returned to prison.

#### 4. M.S. from the Ivory Coast, detained for a cumulative period of two years and five months

M.S. entered Israel via the Egyptian border in September 2010. In February 2011, after five and a half months, he was released due to the policy of non-removal of citizens of the Ivory Coast. M.S. submitted an application for asylum, which was rejected. In October 2012 he was detained and expressed his desire to return to his country of origin. After a year in detention, M.S. was released in October 2013, but after he failed to arrange travel documents for the journey, he was detained for a third time in December 2013 and held for three and a half months. In November 2015 M.S. was detained for a fourth time, for three months. He was supposed to leave within one month, but once again was unable to arrange travel documents. He contacted HRM, but despite his efforts and those of the HRM representatives, he has not yet secured recognition as a citizen of the Ivory Coast. In May 2016, during a hearing in his case, the Tribunal determined that M.S. would be returned to Saharonim Prison. To date, HRM's requests in this case have been rejected.

#### 5. A.Z. from the Ivory Coast, released after a cumulative period of 10 years and four months

A.Z. arrived in Israel from Guinea in 2006. In April 2006 he was detained while holding a passport of the Ivory Coast, as well as Guinea. After refusing to leave Israel to either of these two countries over a period of two years, the authorities attempted to expel him to Guinea, but he refused. In 2010 two further attempts were made to remove him to Guinea. On the second occasion, A.Z. arrived in Addis Ababa, where the authorities claimed that he caused a disturbance, while he claims that he was beaten and abused. In any case, Ethiopian Airlines chose to return A.Z. to Israel. After these three unsuccessful attempts, the authorities did not continue their efforts to remove A.Z., although in five separate minutes he expressed his consent to his removal. In October 2014, after he had been imprisoned for over eight consecutive years, the Tribunal decided to release him after he deposited bail of NIS 2,000. In February 2015 he was detained again. Attorney Asaf Weitzen, who is representing A.Z. for HRM, was forced to

pursue several legal proceedings before conditions were set for A.Z.'s release. In August 2016 he was released after depositing additional bail in the sum of NIS 3,000.

In October 2016 the Tribunal rejected Attorney Weitzen's request to reexamine the case, on the grounds that A.Z. is not cooperating with the proceedings for his removal from Israel. The next day, Attorney Weitzen filed an appeal to Beersheva District Court arguing that even on his release the authorities were aware that A.Z. is only willing to leave to the Ivory Coast and not to Guinea, and that the administrative denial of liberty has an upper time limit after which it becomes disproportionate and no longer serves any fit purpose. Judge Eliahu Bitan ordered that the detention of A.Z. be suspended until December 2016, during which time he would be permitted to undergo an examination that might create the possibility of granting him status on humanitarian grounds.

#### 6. M.K. from Togo, released after a cumulative period of four years and nine months

M.K. entered Israel through the Egyptian border in December 2009. He claimed to be citizen of Ghana and asked for asylum in Israel. When his asylum request was rejected, he changed his testimony and claimed to be a citizen of Togo. M.K. speaks French, a language spoken in Togo and does not speak English, spoken in Ghana. Throughout the four years of detention, M.K. failed to obtain travelling documents to Togo, with which Israel has no diplomatic relations, and refused to leave to Ghana. In February 2014, M.K. said to the Tribunal: "I agree to leave to Ghana, but I'm from Togo. I know no one in Ghana." Only after four more months the Tribunal concluded that the Immigration Authority is not working to advance M.K.'s removal from the country and in June 2014 he was released after managing to obtain NIS 2,000 as guarantee for his departure from Israel. In July 2015, M.K. refused to leave with Israeli T.D. while HRM's staff assisted him in contacting the embassies of Togo around the world to prove his identity. In June 2016, he was detained once again. Since there was no way to deport him this time as well, in October 2016, the Tribunal released him again, this time after depositing additional 7,000 NIS to secure his departure from the country within four months. If he is not able to obtain travelling documents by February 2017, M.K. will be detained for the third time.

#### 7. A.D. from the Ivory Coast, released after a cumulative period of four years

A.D. of the Djula tribe entered Israel in May 2008 through the Egyptian border. Despite the non-removal policy of residents of the Ivory Coast, only in May 2010 the Tribunal released him since the Immigration Authority failed to address

his asylum request. When the policy was changed and Israel began deporting residents of the Ivory Coast, A.D. was not able to leave since he was not recognized by the Ivory Coast Embassy in Israel as a citizen. In August 2012, A.D. was detained again and in his first hearing in front of the Tribunal he stated: "I'm ready to leave to any country on the west coast of Africa". He spent an additional year and eight months in prison and had to hire the services of an attorney, before the Tribunal determined in March 2014 that A.D. is cooperating with his removal and ordered his release. His attorney assisted him in proving his nationality and documenting his attempts to prove it for the Immigration Authority. A.D. also attended all the weekly roll calls obligatory for all other migrants in his situation. Despite this, he was detained twice more while standing for roll call at the immigration office: he was detained for three weeks during July 2014 and for three months from July until October 2015. During these detention periods, the Border Control Officers claimed that he is not trying hard enough to obtain travelling documents. In the two cases, the Tribunal determined that he did try hard enough to obtain the documents and released him. In 2016, the HRM served an appeal to the Appeals Tribunal, requesting that A.D. will be recognized as stateless person. The Ivory Coast embassy provided A.D. with a written confirmation that he is not recognized as their citizen. Due to the tremendous load of cases at the Appeals Tribunal, a hearing was scheduled for June 2017. Until then, A.D. is supposed to survive with a stay permit that states "The law will be enforced on the employers of this card holder", meaning, his employment is prohibited and will be punished with fines.

### 8. T.Z. from Eritrea, released after three years and nine months

T.Z. entered Israel via the Egyptian border in February 2012. He told the HRM representatives: "At the Interior Ministry they told me that although my parents are Eritrean, I grew up in Ethiopia so I'm Ethiopian... All the time I was there, the officials... kept on threatening to take me to Ethiopia by force and said I would spend my whole life stuck in prison. I saw that they were really not releasing me, so I agreed to leave for Ethiopia, too, and signed all the documents they asked me to sign. After that, Frowini from the Immigration Authority came and told me that I couldn't go to Ethiopia, so I would be going to Rwanda. I agreed to go to Rwanda, too, but then another official came along and shouted at me that I couldn't leave Israel."

In November 2015, T.Z. clarified to the Tribunal adjudicator: "I am not represented. Since the last hearing I haven't been summoned to the Interior Ministry and they haven't taken me anywhere. I am waiting to leave – my suitcases are ready and I'm ready to go, there's nothing else I can say – I'm ready. I'm ready for them to remove me wherever they want. I signed for them. I'm willing [to leave for] Eritrea or Ethiopia and I'm also willing to go to Uganda." Three weeks later,

in December 2015, T.Z. was released with HRM's assistance after bail in the sum of NIS 3,000 was deposited. The Immigration Authority officials quickly changed T.Z.'s recorded country from Ethiopia to Eritrea so that he could be summoned immediately to Holot detention center, where the HRM representatives were only able to secure his release after another eight months of detention.

#### 9. A.B. from Gabon, released after a cumulative period of three years and three months

A.B. entered Israel via the Egyptian border on March 2011 and spent a year in Saharonim prison, where he claimed that he was born in Gabon to a couple from the Ivory coast. When released, A.B. applied for asylum and was summarily rejected. In September 2013, Immigration Authority officers decided that he did not do enough to advance his departure from the country and detained him again. The HRM assisted in his release in July 2014 after the Immigration Authority failed to deport him. In February 2015, he was detained again and three months later, Immigration Authority officials decided that A.B. is a citizen of Ghana and not of Gabon, since they found on his phone card, which he received from a friend, phone numbers in Ghana. They made this determination despite the fact that he speaks only French and does not speak English as Ghanaians do. A. B. agrees to leave Israel to either Ghana or Gabon, but since he failed to know all the necessary details while filling the travelling document forms for Ghana, Immigration Authority officers decided that he is not cooperating with his removal efforts. The Detention Review Tribunal asked the Immigration Authority to report about their efforts to remove A.B. from the country but after receiving no answer for a year and four months, the Tribunal ordered A.B.'s release on condition that he deposit 4,000 NIS to guarantee his departure from the country within 30 days. He was released on July 2016 and the HRM assists him in addressing the embassy of Gabon in France and escorting him to the embassies of Ghana and the Ivory Coast in Israel to explore the possibilities of his removal to any of these countries. The HRM addressed HIAS, which allocated a lawyer to appeal on A.B.'s behalf for recognition as a stateless person.

#### 10. Y.H.K. from Eritrea, released after two years and 11 months

Y.H.K. fled over the Israeli-Egyptian border in January 2012 after being persecuted in Eritrea due to his membership of the Pentecostal Church. Although he was carrying a copy of his Eritrean military service document, the Immigration Authority officials consistently claimed that he was actually an Ethiopian citizen. Y.H.K. told the HRM representatives: "I've never even been to Ethiopia. Soon after I arrived in Israel, an Ethiopian woman from the Interior Ministry called Frowini interviewed me. She was against me from the start. She kept telling me

that I was Ethiopian and was lying when I claimed otherwise. She said that I would never leave Saharonim unless I admitted that I was Ethiopian.”

The Border Control officers made it clear to Y.H.K. that he would only be released if the Eritrean ambassador to Israel recognized him as an Eritrean citizen. Y.H.K. was afraid for his family's life, since there is a common policy in Eritrea of collective punishment against the relatives of deserters from the military. Accordingly, over a long period he refrained from meeting with the Eritrean ambassador. He agreed to meet the Ethiopian ambassador in the hope that the latter would confirm that he is not Ethiopian. Y.H.K. clarified to the ambassador that he would be willing to travel to Ethiopia provided he was released from prison, but he claimed that the ambassador saw his comments as an insult and declined his request.

After two years and 10 months in detention, Y.H.K. finally agreed to turn to the Eritrean embassy, despite the danger to his relatives. After the embassy recognized him as an Eritrean citizen, he was released from prison in November 2014.

In his decision to release Y.H.K., the Tribunal adjudicator wrote: "Insofar as the state fails to respond... and to explain why it is incorrect to form the impression that the detainee is being held in custody contrary to the decision of the Supreme Court in the petition, given that, as far as this Tribunal understands, there is no possibility to remove the detainee to his country (within 60 days or at all), and that the detainee has already been held in custody for almost three years!!! – then I shall order his release from custody." In the absence of such a reply from the state, Y.H.K. was released from the facility.

In 2015 the Immigration Authority issued an order for the detention of Y.H.K. for 12 months at Holot facility. The order was cancelled after HRM filed an appeal.

In 2016 Y.H.K.'s father was murdered by the Eritrean authorities. It is unclear whether he was murdered because of his religious faith, which is prohibited in Eritrea, or because Y.H.K.'s coerced meeting with the Eritrean ambassador identified him as the father of a deserter.

Due to his protracted detention, Y.H.K. now suffers from rage attacks and inability to spend long periods of time in enclosed spaces. These problems impair his ability to make a living for himself.

## **Detention of persons without status from countries with which Israel does not maintain diplomatic relations**

### **11. A.E.B. from Guinea-Bissau, detained for two years and eight months**



A.E.B., a citizen of Guinea-Bissau, entered Israel via the Egyptian border in 2007, carrying his passport. On his detention in February 2014 the authorities took his passport (which was no longer valid) from him. In March 2014 the Immigration Authority attempted to remove him from Israel with an Israeli T.D., despite A.E.B.'s objections to this proceeding due to his fear that he would be detained on arrival in Guinea-Bissau.

In December 2015, A.E.B. clarified to the Tribunal: "I am willing to return to my country with my documents, but not with an Israeli travel document. In 2014 I was arrested and my original documents were taken from me. I don't want to stay here. I want to leave. I cannot enter Guinea-Bissau with an Israeli travel document. The authorities of Guinea-Bissau will not recognize me as a subject of that country."

In August 2016, A.E.B. stated to the Tribunal for the first time that he was also willing to return to Guinea-Bissau with an Israeli T.D. He repeated this remark in October 2016, but he has not yet been removed.

During the two years and eight months of his detention, A.E.B. has hired the services of two attorneys, but both resigned and terminated their representation without managing to secure his release.

## 12. M.D. from Gambia, released after a cumulative period of six years and two months

M.D. entered Israel via the Egyptian border in October 2008 and identified himself as a citizen of Sudan. Shortly after his arrival, he changed his testimony and admitted that he was a citizen of Gambia who had fled that country after learning that he was wanted by the authorities. His request for asylum was rejected in January 2011, while he was still in detention. The Immigration Authority issued him with an Israeli T.D., but he refused to leave for Gambia with that document. He was released in May 2011, but detained again in June 2012 after failing to leave Israel. In January 2013, following a petition filed by HRM to the District Court, M.D. was released again after depositing bail. Despite his efforts to arrange travel documents, he was arrested in July 2013 when he reported to the offices of the Immigration Authority. In January 2016, after an additional period of two and a half years in prison, M.D. finally agreed to leave with an Israeli T.D., despite the fact that he heard of detainees who had been arrested or deported back to Israel after returning to their country of origin with such a document. In January 2016 M.D. was taken from Saharonim to Ben Gurion Airport, where he waited for an Ethiopian Airlines flight to Gambia. The next day he was taken back to Saharonim Prison.

M.D. told the adjudicator: "I agreed to fly to my country. When I got the airport

they told me that they wouldn't agree to carry me with Israeli documents... I agree to return to my country because I'm tired of prison. I want to go back."

After a further two months in detention, the Border Control officer clarified to the adjudicator in March 2016: "The detainee was taken to a flight that did not transpire, since the only document he held was a one-way Israeli travel document. The airline refused to fly him back to Gambia, claiming that the Gambian authorities would act in this manner."

The Border Control officer requested and was granted an additional month to seek to arrange for M.D.'s departure.

At the end of May 2016, the adjudicator ruled: "... The detainee has been held in custody for years, including many months when he has declared that he will cooperate with his removal, while the state has not managed to execute its removal." Despite these clear remarks, the adjudicator ruled that A.D. would only be released in August 2016 (if he was not removed before then). He would then be required to deposit bail of NIS 7,000 for a period of four months, and if he failed to leave Israel during that period, he would be returned to prison. At the beginning of August A.D. was released, and since then he has been doing his best to secure travel documents allowing him to leave for Gambia, through contacts with the Center for International Migration and Integration (CIMI).

### 13. M.D. from Guinea, released after a cumulative period of three years and two months

M.D. entered Israel via the Egyptian border in October 2011. Immediately after his detention he identified himself as a citizen of Guinea and expressed his agreement to return to his country of origin. After the Immigration Authority failed to remove him over a period of two years and four months, the Tribunal accepted HRM's request and released M.D. after the depositing of bail in the sum of NIS 3,000. In June 2014 M.D. was again detained and released after four months, after HRM activists informed the Tribunal of their contacts with the embassies of Guinea in France and Belgium in an attempt to secure his documents. On this occasion M.D. was required to provide additional bail. In August 2015 M.D. was detained for a third time and hired the services of an attorney. The Tribunal released him two weeks later, ruling that M.D. had not violated his conditions of release. In June 2016 M.D. was detained for a fourth time. Once again he clarified that he is willing to return to Guinea but has not managed to secure the necessary documents to this end. The attorney he hired on this occasion managed to secure his release in October 2016 after he deposited additional bail. M.D. is currently released through January 2017, but it remains unclear whether it will be possible to secure travel documents for him by that date.

During his five years in Israel, M.D. has been detained for three years and two months. He has been forced to hire the services of at least two attorneys, and in addition to their fees he has also deposited and lost bail in the cumulative sum of NIS 8,000.

## **Detention of Persons Who Refuse to Cooperate with Their Removal**

### **Persons Coping with Psychological Difficulties**

#### **14. A.V. from Sierra Leone, detained for a cumulative period of six years and three months**

A.V. entered Israel via the Egyptian border in October 2009. He states that his mother is an Israeli woman who met his father in England; the couple moved to Sierra Leone, where he and his brothers were born. Due to the war in that country, the family was dispersed. Since he knew that his mother was Israeli, he came to Israel in hope of finding her.

A.V. told the HRM representatives that his family kept the Jewish religious commandments, and that he also keeps the commandments and wears a skullcap. He clarified to the Tribunal: "I came here to look for my homeland, my mother, the land God promised, but if they don't want, then that's alright. But at least they should let me return to Sierra Leone. If they don't want then it's okay for them to send me back – I don't need to be in prison for five years."

In November 2012 an Israeli T.D. was issued for A.V. and an attempt was made to return him to Sierra Leone. He was sent back to Ben Gurion Airport and back to prison after he clarified to the Sierra Leone authorities that he is Jewish and not a Sierra Leonean. In May 2013 and August 2014 two further attempts were made to remove A.V. to Sierra Leone, but on each occasion he returned to Israel to prison. In January 2015, after five years and three months in detention, the Tribunal released A.V. He was detained for a second time in October 2015 and currently continues to be held in Saharonim, for a cumulative period of six years and three months.

#### **15. D.D.A., from the Ivory Coast, detained for four years**

D.D.A. arrived in Israel from the Ivory Coast as a tourist. After her visa expired she was detained and transferred to Givon in October 2012. During her four years of detention, D.D.A.'s behavior has raised concern that in addition to health issues that require her to undergo a surgical procedure, she is also

suffering from psychological problems that may explain her refusal to undergo the surgery in the IPS and may perhaps be leading her to refuse to leave Israel. D.D.A. refuses to undergo surgery while she is being held in prison because she does not trust the IPS staff, whom she even accuses of stealing her money. In conversations with HRM representatives, she claimed that the IPS staff want to put her to sleep and then expel her from Israel. She also claimed that IPS staff refused to accept money her employer sent to Israel for her. During her period of detention, D.D.A. has hired the services of two attorneys, but she is no longer represented. D.D.A. has complained several times of violence by officials from the Immigration Authority and the IPS, and insists that there are signs of violence on her body, although no such signs are visible.

In October 2016 D.D.A. clarified to the Tribunal: "My position has not changed. After I undergo the surgery in Israel, I will be willing to return to the Ivory Coast. I want them to release me so that I can have the surgery. I am not willing to have the surgery while I am in custody. I ask the Tribunal to help me."

#### 16. A.D. from Guinea, removed after three years and 10 months in detention

A.D. entered Israel in December 2011 via the Egyptian border. He initially claimed to be a citizen of the Ivory Coast and later stated that he is from Guinea. From the 35 minutes of Tribunal hearings in his case, it is apparent that A.D. has repeatedly changed his testimony before the Tribunal, both regarding his country of origin and regarding the countries to which he is willing to depart. In some cases he changes his position during the course of a single hearing. In minutes from July 2014, the Tribunal adjudicator notes: "The detainee appears to be confused and utters sequences of sentences that are not connected. The detainee was hospitalized in the past at the mental health center in Tirat HaCarmel."

Over the years, HRM representatives have submitted numerous requests relating to the case of A.D., who has been diagnosed as schizophrenic. In May 2015, during hearings on the level of bail for his release, and after he had been detained for three years and 10 months, A.D. was deported to Guinea. In a conversation from Guinea with an HRM representative, A.D. complained that no-one around him speaks Hebrew, and was under the impression that he was still in Israel.

#### 17. R.L.P.K. from Honduras, removed after three years in detention

R.L.P.K. arrived in Israel from Honduras in 2011 as a tourist. After his visa expired he was detained in April 2013 and transferred to Givon Prison. He claims that his financial position is good and that his wife and six children are waiting for him

in Honduras. He arrived in Israel in order to carry out a mission whose character had not been explained to him. He refuses to leave, explaining: "Every day the spirit of God comes to me. It only happens in Israel, because the prophets lived in Israel. I connect in particular with the prophet Moses. This important prophet is our Father Moses, and the God of Abraham is embodied through the prophet Moses... Until God gives my heart a sign, I cannot leave Israel." In many of the 35 minutes from the hearings held at the Tribunal in his case over the three years he has been in detention, R.L.P.K. asks to visit the Jewish holy places, and claims: "I am here because I have a spiritual mission. An order from above. I am doing what God orders me to do."

At the beginning of 2014 R.L.P.K. was hospitalized for one week at Beer Yaakov psychiatric hospital and returned to prison with no more than a recommendation for psychiatric follow-up.

In April 2014 the Tribunal ruled that R.L.P.K. would be released on bail of NIS 10,000, provided he left Israel within one month. However, he violated his conditions of release and was detained for a second time in November 2014. In August 2016 he told the adjudicator: "Just now I am not willing to travel to Honduras. I need to travel to Jerusalem first." Though we do not know how, the Immigration Authority managed to execute his removal from Israel just before the festival of Sukkot in 2016.

### 18. R.S., Israeli citizen, released after three years and 10 months

R.S. is an Israeli citizen who was suspected by mistake to be residing in Israel unlawfully. In October 2012, R.S. approached an immigration officer in the Haifa port and claimed that she is a tourist from Tashkent, Uzbekistan who lost her passport. The officer detained her and she was transferred to Givon Prison. The Uzbek consulate in Israel refused to recognize her as a citizen and she was detained until her removal will be possible. R.S. refused the offers of assistance of the HRM's and since January 2016 she stopped attending the monthly hearings of the Tribunal. In November 2014, the Immigration Authority conducted a DNA test to R.S. and sent the results to the Interpol with the hope of discovering the true identity of R.S. Only two years later, the results were examined in Israel as well and revealed that R.S. is an Israeli citizen. Israeli authorities decided to press charges against R.S. for impersonating and for disturbing a police officer. R.S. was transferred to Neve Tirtsa women prison. Since her detention was now criminal and not administrative, she was entitled for legal representation by the public defender. The lawyer appointed to represent her, Adv. Ketty Tsvetkov addressed the court in Rishon Letsion, where Judge Avraham Haiman immediately released R.S. while wondering: "for four years she was detained in prison and no one checked why and how?... I heard from the government

that the woman agreed with her denial of liberty and I reject this idea. Even though she behaved strangely, it does not mean that she agreed to be detained for four years. The government should have examined this strange desire to be detained'.<sup>13</sup>

## **Persons without Status Who are Afraid to Return to Their Countries of Origin due to Mortal Danger**

### **19. C.G. from Mali, detained for a cumulative period of six years and eight months**

C.G. from Mali entered Israel via the Egyptian border in June 2009. HRM representatives submitted numerous requests for his release, given the impossibility of removing him. In September 2014, after depositing bail in the sum of NIS 2,000, the Tribunal released him, but he was detained again in May 2015. C.G. attempted to clarify his problems in French, a language of which he has only a limited command, and stated that he speaks Bambara, an ethnic minority language in Mali. During his years in detention no-one has been found who could translate his remarks to the authorities. HRM representatives have understood that he is afraid that he will be murdered if he returns to Mali, but they have not been able to understand the reason for this.

The Tribunal rejected a request from HRM to hold a hearing in the Bambara language, ruling that the authorities should not be obliged to provide an interpreter for this ethnic minority language.

### **20. F.A. from the Ivory Coast, detained for a cumulative period of five years and two months**

F.A. arrived in Israel from the Ivory Coast in June 2007 with her 15-year-old son. Her asylum request was rejected. She was released from prison after eight months due to the temporary non-removal policy of citizens of the Ivory Coast. She was re-arrested in June 2010 although the non-removal policy was still in place. She was released with the assistance of a lawyer only in February 2011. In January 2013, after Israel abrogated this temporary protection and began arresting and deporting the citizens of the Ivory Coast, F.A. was arrested for the third time. Since then, for a cumulative period of five years and two months, she has been detained in Givon prison. For the first year and a half of her detention, F.A. refused to return to the Ivory Coast, arguing that she will not be

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<sup>13</sup> Morag, Gilad, "Four years in prison with no reason, for impersonating," YNet, August 8, 2016: <http://www.ynet.co.il/articles/0,7340,L-4838997,00.html>

safe there. In July 2014, she agreed to return to the Ivory Coast, but conditioned her return with issuing a passport of the Ivory Coast, which will enable her to leave the Ivory Coast upon her arrival there. The Immigration Authority made two attempts, in November 2014 and in October 2015, to forcibly remove F.A. to the Ivory Coast with an Israeli T.D., but due to her strong objection, the attempts failed and she was brought back to prison.

#### 21. M.K.K. from the Ivory Coast, detained for two years and one month

M.K.K. arrived in Israel at the age of 15 in 2007, with his mother, whose circumstances are described above.

M.K.K. was arrested in September 2014 and is detained ever since in Saharonim prison. In May 2015, M.K.K. agrees to return to the Ivory Coast, but only with his mother, F.A., who is detained in a different prison. Due to lack of communication, he failed to convince her to return with him, and therefore he is still in detention as well.

#### 22. V.A. from Sierra Leone, detained for a cumulative period of four years and nine months

V.A. entered Israel via the Egyptian border in December 2010 and was identified as a citizen of Sierra Leone. In September 2011 his request for asylum was summarily rejected. In January 2012 he clarified that he fears for his life if he returns to Sierra Leone, but in June 2012 he expressed his willingness to return to that country, and was released by the Tribunal after depositing bail of NIS 3,000. In July 2013 the Voluntary Leave Unit of the Immigration Authority invited V.A. to collect his Israeli T.D. and entry visa to Sierra Leone. V.A. contacted an attorney who requested on his behalf that he be allowed to leave with his passport only, and not with the Israeli document, since he had heard from friends that those who return with Israeli documents are placed in detention. The request was rejected and V.A. was detained again during the same month. Attempts by the authorities to remove A.D. failed after he clarified to the Sierra Leonean authorities that he is not from that country. Attorneys he hired submitted petitions on his behalf, but these were rejected. Of the five years and 10 months V.A. has been in Israel, he has spent four years and nine months in Saharonim.

#### 23. A.K. from Ghana, released after two and a half years

A.K., a citizen of Ghana, entered Israel via the Egyptian border in October 2011. He left Ghana after facing persecution because he is homosexual. After submitting a request for asylum, he was referred to the Immigration Authority in Holon,

where he was detained. His request for asylum was summarily rejected, on the grounds that he should have filed it at an earlier stage. HRM referred A.K. to the Refugee Rights Program at Tel Aviv University, where Attorney Elad Kahana managed to secure the reopening of A.K.'s asylum file, after noting that he had not received the application documents in order to enable him to prepare a proper appeal against the rejection.

In May 2015 the Tribunal set conditions for A.K.'s release and reprimanded the Immigration Authority:

"The state's conduct in the detainees' regard was dismissive and unworthy, and on the more practical level – unreasonable and disproportionate. As if it were not enough that the proceeding for the detainee's removal does not appear to have advanced whatsoever over a period of almost two years, the state has also failed to meet its undertakings (as expressed before the Tribunal) and has ignored the decisions of this Tribunal."

## **Persons without Status Who Refuse to Leave without Their Relatives**

### **24. D.D. from Gambia, detained for two years and 10 months**

D.D. entered Israel in 1989 and married an Israeli woman. The couple had a son who is now 15 years old. In 2005 the couple divorced and D.D. lost his status. After losing his job and failing to meet alimony payments, his ex-wife denied him access to his son, thereby preventing the possibility of arranging his status in Israel. In December 2013 D.D. was detained. He thwarted an attempt to remove him to Gambia with an Israeli T.D., thereby marking him as someone who has failed to cooperate with his removal. Two attorneys he has hired to date have not managed to secure his release.

### **25. A.K. from Liberia, detained for a year and seven months**

A.K. escaped Liberia to Guinea where he met his wife, who escaped the Ivory Coast. The couple entered Israel on February 2006. A. K. was released in July 2006 due to the non-removal policy that existed at the time vis-à-vis citizens of Liberia.<sup>14</sup> Over the years, they gave birth to two children, a six-year-old girl and a four-year-old boy. A.K. was detained for the second time in September 2015 and agreed to leave to any country that will accept his wife and two children. Due to the wife's medical condition, she cannot work and provide for herself

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<sup>14</sup> Due to the violent conflict in Liberia, the Immigration Authority refrained from removing citizens of Liberia until March 31, 2007.



and the children who rely on charity and barely survive. Since A.K.'s wife, like many other Ivorians, is not recognized by the Ivory Coast embassy, she cannot leave the country. In the Tribunal hearing that took place in September 2016, the judge stated: "Under these circumstances the conduct of the Immigration Authority's is regrettable - in a hearing that took place on June 6, 2016, the Immigration authority representative claimed that he will assist the family in leaving the country together, but on the other hand - did nothing to advance it."

