

Torturing Them out of the Country

The Israeli Asylum Seeker 'System' and Its Torture-Like Policies

Diego Alberto Biancolin

Università degli Studi di Genova, Italia

Abstract This essay will focus on the Israeli immigration policies relating to asylum seekers, showing how they can be qualified as a form of (mainly psychological) torture. Firstly an outline of Israel's employment of torture against political dissidents will be laid out, together with an analysis of why administrative detention can be understood as a form of torture too. The attention will then be moved to the treatment of African asylum seekers, describing the harsh conditions they have to endure while staying in Israel prior to their deportation from the country, emphasising the features which can qualify them as forms of torture.

Keywords Torture. Israel. Asylum seekers. Immigration policies. Administrative detention.

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Punta della Dogana: Leonardo, Dino, Vladimir; You.
An instant in time; now an empty space. To what is
Lost. To Valeria Roma.

1 Introduction

Israeli society is founded on the immigration of Jewish people from across the world, who, on the basis of the *Law of Return*, have the right to come to Israel and to obtain Israeli citizenship. In spite of this, the treatment reserved to non-Jewish immigrants is not so open-armed, especially in the case of African asylum seekers.

Even if Israel ratified the *Convention Relating to the Status of Refugees* and acceded its *Protocol*, “it has not incorporated these treaties into its domestic law nor has it enacted primary legislation that sets eligibility criteria for ‘refugee’ status and regulates the treatment of asylum-seekers” (Ziegler 2015, 172). Moreover, in spite of the provisions set out by the *Convention*, asylum seekers in Israel are denied protection as a *group*, they have been characterised “as a threat to the existence, demography and character of the Jewish state” (ARDC, HMW 2013, 11), and they are labelled as ‘infiltrators’ via the application of the same laws employed to marginalise the non-Jewish population (i.e., Palestinians and Arabs).

With these premises in mind, this essay will analyse in which way the treatment that asylum seekers undergo upon and after their arrival in Israel can be understood as a form of (institutionally promoted) torture against them.

The first part of the essay will focus on the methodical use of torture against Palestinians and political dissidents almost since Israel’s foundation and on administrative detention. The former element will make clear why Israeli authorities are so familiar with torture methods, while the latter will allow to understand the functioning of one of the tools mostly employed by Israel to deal with (and to get rid of) asylum seekers, and the way in which it can be considered a form of torture too.

The attention will be then moved to the legal framework shaping the destiny of the asylum seekers in Israel, showing how preexisting laws were modified during the years so as to foster their exclusion from the Israeli society.

The remaining part of the text will be devoted to a description of what happens to asylum seekers once they reach Israel, and will be divided in three sections. The first one will focus on the processing of asylum seekers’ applications by government offices, describing the harsh treatment (both physical and psychological) that asylum seekers suffer while carrying them out, as well as the bureaucratic wrongdoings perpetrated by the State officers. The second one will zoom in

on the detention of asylum seekers, depicting the living conditions in the detention centres (using the now no-longer-operative Holot Open Detention Facility as an exemplary case) and the pressure put on the detainees to force them to leave the country. Lastly, the fate of those who are not detained will be examined, focusing on the visa-renewal procedures and Israeli deportation of asylum seekers policies.

2 Torture in Israel. A Brief History

Since the foundation of Israel, the use of torture in the State has not only been systematic, but also legitimised via domestic law (see Hawari 2019, § 6). It is proven that the majority of interrogations to Palestinian political detainees have involved some kind of ill treatment or torture, and that such practices were (and are) known by all the people involved in the management of the prisoners (see Tsemel 2012, 8).

Instances of mistreatments against Palestinian prisoners had been reported since 1968, but it was in 1977 that public opinion became aware of this custom, when an article containing the testimonies of several victims of torture in Israel was published on the *London Sunday Times*. Then-Prime-Minister Begin maintained he was unaware of that state of affairs, and some forms of torture (e.g., electrocution and hanging from the limbs) were abandoned in the wake of the scandal (see Tsemel 2012, 9).

It was in the aftermath of this and other ensuing incidents that the Israeli government set up the Landau Commission in 1987, so that a thorough investigation about the issue could be carried out. The findings and suggestions of the commission were crystal clear: even if lying about it when asked by a court was wrong, the use of torture was nonetheless deemed permissible. By basing their arguments on the concept of ‘the lesser of two evils’, the commission suggested that “The effective interrogation of terrorist suspects is impossible without the use of means of pressure” (Landau Commission 1987, 79), and that

The means of pressure should principally take the form of non-violent psychological pressure through a vigorous and extensive interrogation, with the use of stratagems, including acts of deception. However, when these do not attain their purpose, the exertion of a moderate measure of physical pressure cannot be avoided. (Landau Commission 1987, 80)

Israel also did not incorporate into domestic law the provisions of the 1991 *Convention against Torture* (of which is a signatory), and the use of torture in case of necessity (the so-called ‘ticking bomb situations’)

is frequently authorised by the courts too. This was for instance the case of a 1991 ruling by the Israeli Court of Justice, which stated that even if the Israel Security Agency (ISA)¹ was forbidden to use ‘physical pressure’ during the interrogations, those who would have employed such methods in a situation of perceived imminent danger would not have faced legal prosecution. Something similar happened in 2017 too, when the Court ruled in favour of Shin Bet after some of its officials tortured a prisoner, by maintaining that, considering the situation in which torture was carried out, it would have been more precise to talk about ‘enhanced interrogation’, rather than torture.

As Tsemel writes, tortures employed nowadays are different from those of the past, for “We no longer see the more brutal methods of torture being employed as general practice. What we do see is something far shrewder, though it has not lost any of its efficacy” (2012, 10). This statement is confirmed by the very declarations of some torturers, as it has been reported by Levinson, who wrote:

N., a former senior interrogator who was authorised to approve ‘special means’, insisted that it’s not like Guantánamo; he and his colleagues don’t make suspects stand naked in 10-below-zero weather, he added. He said the methods used are carefully chosen to be effective enough to *break the suspect’s spirit*, but without causing permanent damage or leaving any marks. (2017, § 4, emphasis added)²

Moreover, even if interrogators must ask their superiors the permission to use such techniques, there are some methods which are not qualified as ‘direct’ torture, and therefore can be applied at the interrogator’s will. Such mechanisms include threatening the prisoners and their families; shouting and spitting to the detainees; using lie detector machines to claim prisoners are not telling the truth so as to extend the interrogation sessions; isolating the prisoners so that they do not know what they can do and they cannot get in contact with anyone else but the interrogators (see Tsemel 2012, 11).

In short, the use of torture in Israel – especially when it comes to suspect terrorists and political dissidents – is more the norm, rather than the exception.³

1 The ISA is also known as General Security Service (GSS), *Shin Beth*, and by the acronym *Shabak*.

2 N.’s remark about Guantánamo is quite interesting, for it has been proved that Israel has been internationally exporting its knowledge in the field of torture. Hawari writes that a former US interrogator in Iraq claimed that “the Israeli army trained US personnel in various interrogation and torture techniques” (2019, § 12).

3 Complaints about the use of torture have sharply increased with the passing of the years: whereas 860 of such complaints were filed in the 2001-2004 period, they multiplied by four between 2012 and 2014.

3 Administrative Detention as a Form of Torture

As per the definition provided by Art. 1 of the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, an act of torture is

any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.⁴

Several of the aforementioned features come also into play when analysing the living conditions of asylum seekers in Israel, especially in regard to administrative detention policy.

Even if it is focused on Palestinian prisoners, a 2016 report by human rights organisation Adameer contributes to better grasping the core features of administrative detention in Israel, thus granting a deeper understanding of the detained asylum seekers' status too.

Addameer's report is clear: given the proved consequences on the lives of those who are detained, the Israeli administrative detention policy meets the criteria for being considered a form of psychological torture according to international law, since it constitutes a form of punishment, intimidation and coercion, and also has a very strong effect when it comes to the psychological, physical and mental effects it has on the detainees (see Addameer 2016, 1).

Palestinians may undergo administrative detention according to the provisions of Article 285 of Military Order 1651,⁵ which allows the military to detain any individual up to a renewable six-months-long period if they have reasonable grounds to presume that the security of the area or public security requires the detention. It is however interesting to note that no definition of what 'public security' and 'security of the area' mean, and therefore people may be deprived of their freedom even if no actual charges exist against them. The *International Convention on Civil and Political Rights* allows detention in case of a public emergency constituting a possible threat

⁴ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, December 10, 1984. <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>.

⁵ https://www.militarycourtwatch.org/files/server/military_order_1651.pdf.

to the nation, but it must be noted that according to that document administrative detention can be ordered only on an individual basis. Things in Israel are different, for this instrument has been historically used as a form of punishment and a means to control Palestinians as a *group*; a feature, the latter, which comes into play in the case of asylum seekers too.

Another important aspect characterising administrative detention as a form of (psychological) torture is linked to the amount of stress the detainees have to live and deal with when faced with the perspective of being indefinitely imprisoned without knowing which charges are brought against them, being therefore unable to defend themselves. This loss of control results in the detainees to develop anxiety, mental instability and a sensation of helplessness. Because of these elements Murad Amro, senior psychologist and supervisor at the Palestinian Counselling Centre, stated that

Administrative detention can be characterized as psychological torture due to the detainee's dealing with dimensions of the unknown. For administrative detention you do not know why you're there, and you do not know when you will leave; time and space is out of the locus of control. (quoted in Addameer 2016, 2)

This rapid survey about administrative detention of Palestinians was by no means casual, for not only it was possible to better understand which of its features can be understood as a form of psychological torture, but also because a clear understanding of the legislation governing the administrative detention of Arabs and Palestinians can help in better grasping the nature of Israel's anti-immigration (and anti-asylum) policies.

4 Legally Sanctioned Entrapment

Since 2005, Israel has experienced a sharp increase in the number of African asylum seekers entering the country, a fact which resulted in the government and authorities to seek "a way to maintain asylum seekers in detention for prolonged periods, making it difficult to release them" (Guthmann, Rozen 2019, 33). As Anteby-Yemini wrote, in order to do so Israel began

to tighten its geographic and political-legal borders in an attempt to contain the flow of non-Jewish African asylum seekers by resorting to processes of criminalization and illegalization, economic exploitation and abuse, and social and urban marginalization. (2017, 7)

Quite interestingly, both the geographical and political isolation of the African asylum seekers employed instruments which had already been tested on Palestinians, namely the erection of both physical and legal barriers.

With respect to the former, Israel built at its southern border a 245-kilometres-long, 5-metres-high 'smart fence' equipped with advanced surveillance systems. This contributed to the almost annihilation of migration fluxes from Egypt, which decreased also as a result of the harsh treatment reserved to migrants by Bedouin smugglers and Israeli authorities. A very telling example of this behaviour dates back to September 2012, when 21 African asylum seekers reached the fence and they were left there for about a week: not only Israeli authorities denied the access to the area to a delegation of human rights activists who wanted to deliver equipment to the group, but they also received the order to provide the asylum seekers with "as little water as possible". In the end, only three people (two women and a boy) were allowed to enter into Israel (where they were imprisoned), whereas the others were immediately sent back to Egypt (probably by the use of force). This was not an exceptional case, for several similar incidents were reported in the same period (see ACRI 2012, 24-5).

When it comes to legal obstacles, it is worth noting that, as of today, no specifically designed policies exist in Israel regarding the status and the living conditions of asylum seekers, and the State rather relies on a group of domestic laws when it comes to their rejection from the country. Not only an actual policy regarding asylum seekers has never been laid out, but the Israeli government also declared, when discussing the matter in 2010, that it would have been ill-advised to develop a specific legislation on the issue (see Ziegler 2015, 174).

The most important laws regulating the access of immigrants into Israel are three: the *Law of Return* (1950), which maintains that every Jew has the right to come to Israel as an *oleh* (Jewish immigrant), and was followed by the *Citizenship Act* specifying the criteria for obtaining Israeli citizenship; the *Law of Entry* (1952), regulating the rights of the non-*oleh* who want to reside in Israel, laying out the procedures required to obtain a visa and setting the bases for the deportation of those who are not welcome; the *Prevention of Infiltration Law* (1954).

Originally issued in order to bar the access to Israel to the so-called 'infiltrators', the *Prevention of Infiltration Law* has been amended several times in recent years so as to target asylum seekers from Africa, so that they could be detained with no time limits and no trial. Starting in January 2012, asylum seekers who travelled across the Israeli-Egyptian border could be imprisoned without trial for a period of three years or until their deportation was possible, *de facto* meaning, in some circumstances, for an indefinite period of time. Even if a High Court ruling ordered indefinite detention to be

withdrawn, a new amendment aimed at circumventing it was passed in December 2013, establishing that people who illegally entered Israel could be detained for one year in Saharonim prison, only to be then transferred to an 'open facility' where they would have to stay indefinitely, until they decided to leave the country. This amendment was voided by the High Court in September 2014, but three months later another modification to the law was passed, according to which administrative detention in Holot Open Detention Centre would have been limited to 20 months, with the purpose of 'convincing' the detainees to leave the country. Petitions against the amendment were submitted by several NGOs, which resulted in a 2015 ruling by the Supreme Court (later incorporated into the law) reducing the maximum detention period from 20 to 15 months.

After having described how basic laws are employed in Israel in a way to justify the discrimination, the marginalization and the suspension of rights and civic equality of a consistent part of the population (especially non-Jewish and African asylum seekers), the purpose of the following sections will be to provide a description of the asylum seeker's fate after they enter Israel, emphasising in which way the treatment they are subjected to can be understood as a form of torture.

5 The RSD Procedure. Between Structural Faults and Violence

As a UNHCR report maintained, Israel's handling of asylum procedures fails the standards for being considered "a fair, efficient and effective system" (2018, 2). The recognition of refugee status is not automatic even in the case of people meeting the internationally recognised criteria to be qualified as such, and it can only be conferred after people underwent a lengthy and complex bureaucratic procedure known as Refugee Status Determination (RSD).

Until 2009, it was the UNHCR which primarily reviewed the applications from asylum seekers in Israel, but starting from that year it was the Israeli Ministry of Interior (MoI) which started to process those requests instead. From then on, all the applications had to be submitted to the Population Immigration and Border Authority (PIBA, created in 2008 as a branch of the MoI), but until 2011 - when PIBA itself established them - no guidelines were set regarding the RSD procedure. In sum, PIBA is "the entity that conducts interviews with asylum seekers, makes recommendations regarding whether to grant them refugee status, and forwards recommendations to the National Status Granting Body" (Berman 2015, 43), and the entire process of determining the refugee status, issuing visas and the processing of the asylum seekers' requests is under the total control of the MoI.

Many faults can be identified when looking at the way in which the RSD procedures are carried out, the main concerns being linked to the processing time of the requests, the recognition rate of the refugees, the detention of asylum seekers and violations of the non-refoulement principle. Given the aim of the present essay, the following sections will specifically analyse the torture-like wrongdoings which are carried out in both in the course of RSD or visa renewal procedures and during the detention or deportation of asylum seekers, leaving aside the other issues.

Firstly, Israel grants protection to asylum seekers in the form of 'temporary group protection' or 'collective protection', a practice going against the provisions of international law, since asylum seekers are protected as members of a group, instead of as individuals. This kind of protection - which bars people from singularly access the Refugee Status Determination procedure - has no formal limit, and criteria establishing who is entitled to it have never been clearly laid out.

Second, the Israeli establishment deals with asylum seekers solely as a matter of public security, and, in accordance with the *Prevention of Infiltration Law*, any individual who has illegally entered Israel is deemed to be an 'infiltrator', until they prove the contrary. To do so, asylum seekers must undergo a series of procedures supposedly aimed at verifying the truthfulness of their accounts, mainly via a series of interviews and a subsequent check by the MoI of the information they provided.

The true aim of those interviews is however eloquently summarised by the fact that those carrying out the questionings define themselves as 'interrogators', rather than 'interviewers': instead of constituting a way to ascertain the actual status of the migrants, interviews are a tool employed by MoI officers to dispute the statements of the interrogated people, starting from the assumption that they are lying. The following is the case of A., an asylum seeker from Ethiopia:

At the outset of the interview, and before he was even asked a single question, one of the interviewers made it clear to him that he is evidently lying, and that in his own interest he should confess immediately so as not to waste everyone's time. During the interview a second interviewer joined in and both interviewers took turns asking questions. Considerable parts of the interview were conducted in raised voices, with the interviewers accusing A. repeatedly of lying and pressing him to admit it. (Berman 2012, 30-1)

Aggressive behaviours are constantly displayed during interrogations, which are characterised by an atmosphere of distrust and pressure against those who are questioned. This in turn often results in the interviewees to change some elements of their previous state-

ments in order to please their interrogator, producing minor contradictions in their testimonies which are often used as an excuse to reject the recognition of asylum status. Furthermore, the criteria according to which applications are dismissed are not clearly laid out, making it impossible for people to challenge the RSD decisions.

The behaviour of MoI officers during the questionings and the grave consequences it has on the psyche of the asylum seekers can certainly be qualified as a form of psychological torture, but forms of more 'conventionally understood' torture happen in those circumstances too.

As reported by Amnesty International, "Complaints of torture and other ill-treatment by the Israeli police against asylum-seekers and members of the Ethiopian community [are] common" (2018, 209), and the employment of "unjustified and unreasonable physical violence directed at migrants and asylum seekers, both during and after arrest" is not unusual (see HRM 2019, 1). More specifically, in one attachment to a 2019 submission to the United Nations Committee against All Forms of Racial Discrimination (CERD), the Hotline for Refugees and Migrants (HRM) emphasises how "Physical violence, primarily beatings (severe enough to warrant hospitalization on occasion) as well as electric shock and intentional deprivation of food, are used by immigration officers during arrest, interrogation, or sometimes just on a whim during detention" (HRM 2019, 1).

Moreover,

findings report incidents of verbal and physical violence during acts of arrest and deportation, xenophobic comments made by inspectors towards 'foreigners' and racial identification ('profiling') during arrests. These findings also report incidents in which 'suspects' surrounded by PIBA inspectors were hospitalized for medical treatment after being assaulted. They also report incidents in which the submission or review of complaints against inspectors were avoided by deporting the complainants of violence. (Berman 2015, 70)

In general, violence towards immigrants and asylum seekers includes beatings, slaps and verbal abuses of various sorts. All the aforementioned occur especially (but not limitedly) at the time of deportation, since many asylum seekers, fearing for their own lives in their countries of origin, refuse to cooperate to the procedures which will result in their expulsion from Israel. This behaviour is evidently taken to be an authorisation for the MoI officers to resort to violence in the form of humiliating treatments, verbal abuses, threats, beatings of various kinds, strangle holds, handcuffing and shackling people prior to boarding them on the plane to be deported. In some cases denunciations were filed against the MoI officials, but even then things did

not change much, for not only people who filed the complaints were threatened, but in some cases the complaints were also dismissed by the courts. The Hotline for Refugees and Migrants once contacted the Detention Review Tribunal asking it to collect the testimony of A.S., an immigrant from Ukraine whose case was of particular interest, since he wanted to both report about the abuses he underwent during his first deportation attempt and about the existence of a video which was shown to him during his second deportation attempt, in which “a young African man was deported while shackled, screaming, crying and humiliated in a plane full of passengers” (HRM 2019, 2). However, not only A.S. had already been deported (preventing him to officially file his complaints), but he himself was also filmed, possibly to serve as a threat to future deportees.

6 **Breaking Their Spirits. Israeli Detention of African Asylum Seekers**

The aim of the detention of asylum seekers “is not punitive, but preventative, i.e., to insure the departure of a person from Israel after a deportation order has been issued” (Guthmann, Rozen 2019, 9). More precisely, detention is meant to work as both “a deterrent to potential ‘infiltrators’ by incarcerating those whom it is widely understood the state cannot deport” (Berman 2015, 64) and “a method of organisation, management and deterrence of migrants and asylum seekers from remaining in Israel, and as means to exercise pressure and coerce detainees to leave the country” (Guthmann, Rozen 2019, 54).

An infamous example of the dire living conditions and constant psychological pressure that asylum seekers endure while detained in Israel was the Holot Open Detention Facility, whose importance when it comes to understanding the many subtle ways in which asylum seekers are tortured in Israel will be at the core of this section.

Opened in the Negev Desert near the Israeli-Egyptian border, Holot started its operations in 2013, in the wake of the then-recently-approved amendments to the *Prevention of Infiltration Law*. Israeli authorities described Holot as

a residence for infiltrators who received a detention order from a border control officer, where they are provided with appropriate living conditions and their needs are met with health and welfare services, voluntary employment, job training and educational and leisure activities. (quoted in Guthmann, Rozen 2019, 5)

The centre was closed in 2018, but it is still interesting to refer to the practices carried out in the facility, for they provide very telling examples of how asylum seekers are treated. In order to under-

stand what life was like in Holot, some key features of the detainees' lives will be sketched, proposing a refutation of the previously quoted statement.

First of all, even if Holot was an 'open detention centre' - rather than a 'residence' -, it was actually nothing but a prison in which people were detained until they agreed to be deported from Israel. Not surprisingly, albeit being defined an 'open centre', Holot was managed by the Israeli Prison Service and its characterising features were little different from those of an actual penitentiary.

The 'appropriate living conditions' to which the authorities referred to were that of a structure divided into blocks composed of 28 rooms each, each room containing five bunk beds and ten lockers without locks. Upon their arrival, prisoners were given a blanket, a roll of toilet paper and sometimes a towel. Detainees were also required to take part in three daily roll calls, reporting at their designed office in order to provide their identification card to an employee of the Israeli Prison Service (arbitrary sanctions were applied to those who missed a single one of them).

Asylum seekers were not allowed to work, and they received a monthly pocket money of 16 NIS (approximately €4) per day (about half the minimum hourly wage in Israel), with which they had to pay for buying basic goods and the bus tickets to go to the city.⁶ Going out from Holot was nonetheless almost impossible, for the office in which requests had to be made for a temporary leave was often closed, and when operating it failed to provide the answers to many of them.

When it came to answering the needs of the detainees things were by no means better: there were serious problems concerning the quality of the food served (aliments lacked in both variety and freshness, they did not meet the basic nutritional standards and were sometimes served uncooked, raw or rotten), healthcare assistance was poor (a general doctor was on service only for five days a week, and detainees had often to personally travel to the city to receive the care they needed, paying for those expenses with their own money) and educational and social activities were insufficient and childish.

As stated in *The Labyrinth* report, "The true purpose of the facility, in addition to isolating asylum seekers from Israeli society, [was] to apply pressure on them to leave the country 'by will' by *breaking their spirits*" (Berman 2015, 68; emphasis added). While Holot was operational, asylum seekers who were summoned there received a paper proposal of a 'voluntary leave' programme, offering them a plane ticket to their home countries plus \$3,500 if they agreed to leave the country. Those who did not accept and were detained in Holot re-

⁶ Bus fares were as high as 19 NIS, and therefore it was very hard for them to leave the facility, given the impact of that expense.

ceived a 'voluntary leave' booklet instead, in which the possibility was offered to go to Eritrea, Uganda or Rwanda and receive \$3,500. The booklet also warned them that if they still did not agree they would have faced open-ended detention (see Kovaliyov-Livi, Rozen 2014, 20).

Another kind of 'encouragement' came from the people working in Holot: inspectors from the Immigration Authority were reported by the migrants to be walking around the facility in July 2014 recommending the detainees to sign up for voluntary repatriation by the end of the following month, while it was still possible to do so and receive the money.

An asylum seeker detained in Holot described the following situation:

During the interviews in prison, they put pressure on me to go back to my country, to sign. They insult us, saying "Israelis don't like you, they don't want to see you because of your color" and other things that I don't dare repeat. They call me to the office and start asking again and again if I want to go back. If not, they say I will stay in prison for ever. In Saharonim they called me for such "persuasion talks" about twice a week. I'm in Holot less than a week now and they already called me twice. (quoted in Kovaliyov-Livi, Rozen 2014, 19-20)

Violent behaviours against the detainees were also not infrequent against Holot detainees, one of the most famous episodes being the reaction of the police to the June 2014 protests of the asylum seekers held in the facility.

After the transfer of some detainees to Saharonim, approximately 750 asylum seekers walked out from Holot on 27 June 2014, declaring they would not return to the detention facility. The protesters reached Nitzana forest, where they built a camp after the IDF force prevented them to reach the Egyptian border. After two days, they were surrounded by Immigration Authority inspectors and members of the Police Special Forces, who ordered them to disband and to board the buses which would have carried them back to Holot. When they refused, their resistance was met with the use of excessive force by the police:

The police and Immigration people started using force to put us on the buses. Four of them grabbed me and demanded I get on the bus. I refused and answered that I had not come all this way just to go back to Holot. I grabbed a big stone jutting out of the ground while two of them held my legs, two others my arms. Two other inspectors or policemen joined them to separate me from the rock and carry me towards the bus. They pushed me to the ground and sat on me. They clutched my arms and legs strongly, pushed their knees into my belly, and handcuffed me. They then started beating

me in the face, forehead and nose. They mashed my face into the ground with their knees. Others were kicking me in the stomach at the same time. Even now, a week after the assault, the signs of the beating are visible on my stomach, eyes, forehead, and arms. I still suffer also from harsh pain in my ribs. The officers put me on the bus and one of them slapped me hard in the face. I was saved from his blows by the people who were already on the bus and called out to him to stop beating me. My nose was bleeding furiously and I could feel that my ribs had broken. (asylum seeker testimony; Kovaliyov-Livi, Rozen, Malikovsky 2014, 22-3)

Several other asylum seekers were taken to the hospital, and legal hearings were hastily carried out against the marchers, who were sentenced – without even being able to state their claims – to three to six months of detention in prison for their participation in the protests (see Sabar, Tsurkov 2015, 16).

Even if Holot has closed, asylum seekers and refugees are still detained in Israel, and the living conditions they experience have dramatic consequences on their psychological health and well-being. The stressful environment in which asylum seekers are confined can result in the development of medical conditions such as generalised anxiety disorder, depression, post-traumatic stress disorder and psychosis (see Kovaliyov-Livi, Rozen, Malikovsky 2014, 32), even in people who never previously suffered mental health problems. The following is a testimony of an unnamed Holot detainee:

The most terrible thing in Holot for me is that I am in prison more than two years. The most terrible thing is that it is unlimited, this is the problem. I am a human being. I cannot spend my entire life in prison. This is indignity to people. Holot is located at the middle of the desert, we are being separated from our community in Israel and from anything that can enable us to communicate with society in Israel. This is hard. We are being downgraded to an in-human degree; we cannot talk with other people. I am depressed, very angry. I feel that I am not a human being. I have done nothing in my life that justifies being in prison even for one second. This is what I think. I know where I came from and I think that everybody knows. I feel here that I am not a human being. If I would have been a human being they wouldn't have treated me like that. (Kovaliyov-Livi, Rozen 2014, 21)

Asylum seekers held in administrative detention are caught between a rock and a hard place: on the one hand they know that they could be indefinitely imprisoned if they do not agree to leave Israel; on the other they are aware that doing so would put their lives at risk. These feelings are exacerbated by the continuous pressure by Israeli immi-

gration inspectors to convince them to leave the country and the stories they hear about people who, having done so, disappeared or were arrested and tortured after their deportation. In spite of that, Holot's infamous reputation is one of the key factors which persuaded many asylum seekers to leave Israel, as proven by the following account:

When I received the order I told them that there are two things I would not do: go to Holot, or go back to Sudan. *I knew Holot is not a place to be in. People in Holot are losing their minds; they get problems in their heads.* But I also did not want to go to court. This never changes anything anyway. I decided to leave so I can go and asylum somewhere. (IRRI 2015, 11-12; emphasis added)

As summarised by a report by Hotline for Refugees and Migrants,

The inability to exit the detention center and forced idleness of the detainees leads to depression and hopelessness that can be felt upon entering the prison. From talking to prisoners, it becomes clear that the endless bureaucracy, the long hours of standing in lines, the lack of control regarding any aspect of their life, the inability to bring in most personal belongings, the lack of privacy, the uncertainty regarding the regulations of the place and the unlimited period of the prison time, crush the spirit of the detained asylum seekers. (Kovaliyov-Livi, Rozen 2014, 24)

7 Visa Renewal Process and Psychological Pressure

Life is not easier for those obtaining a conditional release from detention. Conditional release is granted only for a very short time, and consequently asylum seekers live in the constant fear that their papers may not be renewed, which would in turn result in their detention and ultimately in their deportation from the country.

Asylum seekers are therefore forced to periodically go to PIBA offices in order to renew their visas, but the process is extremely stressing and time-consuming: visas lasting only a few months require long hours waiting in queues outside MoI offices without the guarantee of being received, with people also testifying that they had to wait for hours only to be told to go to another less crowded office instead, or to come back at another time.

The renewal procedure seems also to be designed so as to deliver the greatest possible degree of abuse to the asylum seekers: in a report by the Hotline for Refugees and Migrants, the Association of Civil Rights in Israel (ACRI) and Physicians for Human Rights - Israel it is clearly stated that on those occasions

The treatment of asylum seekers [...] is degrading, and the atmosphere is difficult, tense, and disrespectful. The various demands placed as conditions for renewing temporary stay permits include documents that are impossible to obtain, and responding to intrusive, vexing and deliberately confusing questions designed to trip them up. Hearings are conducted rudely and in a humiliating and offensive manner. (Berman 2015, 53)

Things are particularly harsh for married couples, for they are subjected to humiliating and pervasive interviews whose stated aim to verify the 'truthfulness' of their relationship. People are interviewed separately but not privately, for different interviews are contemporarily carried in the same room, and questions are asked about minute details of the couple's life: even slight differences in the answer of the couple can result in the deportation of the male partner to a detention centre.

Moreover, many questions go far beyond any reasonable investigation standard, violating the interrogees' privacy to the point of asking them private details of their sexual life and humiliating them in front of other people (see Berman 2015, 53; Tsurkov 2015, § 5).

A very interesting article documenting all the aforementioned and other misbehaviours appeared on the newspaper *Haaretz* on 1st September 2014. After waiting for nine hours, the Author - an Eritrean asylum seeker - and her husband were admitted to the interview room where "All of the clerks were shouting simultaneously at the people opposite them, and inside that closed room there was nowhere to escape from the noise and the aggression" (Asylum Seeker from Eritrea 2014, § 5). During their several-hours-long interview racist comments were not spared, and pressure was made in order to convince the woman to return to Africa (the clerk offered to 'help' the Author by sending her "back to Africa with a lot of money - to Rwanda, Uganda, Sudan"). This dialogue, writes the Author, "took place at high volume, with fist-banging on the desk and threatening hand gestures. *The clerk did everything he could to scare, embarrass and humiliate me. He did so deliberately*, for hours, with all his might" (Asylum Seeker from Eritrea 2014, § 14; emphases added).

The woman had also the possibility to overhear other questioning sessions which were held at the same time, and the following excerpt is quite telling about the behaviour of interrogators:

"In what position do you have sex?". A clerk shouted at a woman sitting near me. "Is the woman on top or the man?". The clerk did not let up even when the woman began quietly to sob. He shouted that he did not believe that she and her husband were really married to each other. He told her he would be issuing her husband a summons to Holot. The woman burst out crying. (Asylum Seeker from Eritrea 2014, § 17)

This episode confirms the harshness of the treatment that asylum seekers have to undergo in order to renew their permits described by the reports of several NGOs, and it portrays a condition of constant stress and fear by the asylum seekers which has a profound impact on their lives. Even if one does not intend it as a form of torture, the psychological pressure exerted on the asylum seekers is nonetheless extreme to the point of surely resembling it.

8 'Voluntary Return' and Deportation

In order to permanently 'solve' the asylum seeker 'issue', the Israeli establishment has been enacting deportation-like policies for years, even in the subtle form of the so-called 'voluntary returns', according to which asylum seekers are 'invited' to leave the country on their own will. To promote this policy, Israeli authorities employ a series of 'incentives' to 'persuade' the refugees to act so: they can either decide to quietly leave the country or to be detained indefinitely until they are deported by the State.

That of South Sudanese nationals is a good example to understand how these policies work.

On 31 January 2012, a few months after South Sudan had declared its independence, PIBA released a document which read:

[N]ow that South Sudan has become an independent State, it is time for you to return to your homeland. While this is not a simple move, the State of Israel is committed to helping those who wish to return voluntarily in the near future. (quoted in ARDC, HMW 2013, 6)

South Sudanese were then no longer entitled any form of protection by the State, and their visas were not renewed, resulting in the loss of their jobs. The consequent fear pushed many South Sudanese to leave Israel, and interviews carried out by the African Refugee Development Centre revealed that "living conditions, violence towards asylum seekers, and the rhetoric of Members of the Knesset [...] made most South Sudanese decide to register for voluntary return out of fear and uncertainty" (ARDC, HMW 2013, 10).

Meanwhile, the government stated that money would have been given to all the South Sudanese voluntarily leaving Israel prior to 31 March 2012, whereas arrest and deportation were awaiting all the others. When their collective protection policy definitively ceased, many South Sudanese asylum seekers submitted their protection request on an individual basis, but they were later informed by the MoI that they did not have the rights or the option to do so. Moreover, during this process

some [asylum seekers], already in the process of RSD, said that they were repeatedly called by an official from the MoI's Voluntary Return Department and told that if they signed up they would receive 1,000 Euro for each child rather than the 500 euros previously offered. Families claim that they were harassed by phone on several occasions and told to leave the country. (ARDC, HMW 2013, 21)

Those who managed to file their requests were no luckier, for their applications were dismissed after a very short interview, and they received rejection letters informing them that they had only seven days to leave the country. Starting from April 2012, a nationwide wave of mass arrest was carried out by the Israeli authorities, and the detained South Sudanese and were airlifted to their newly-born country as a part of the *Operation Returning Home*, during which several violations of freedom, dignity and property rights were reported by the arrested people.

In 2015 Israel also enacted a plan of forced deportation to third countries deemed to be suitable places for the asylum seekers to live a safe and dignified life. Even if the High Court expressed its opposition, the Israeli government declared that it would have enforced measures aimed at fostering the departure of Eritrean and Sudanese nationals from the State.

In spite of the reassurances by the Israeli establishment, many testimonies of deported asylum seekers prove that people did not receive the necessary support from the target countries and actually in many circumstances their money and papers were confiscated as soon as they arrived there, where they were once again not allowed to apply for asylum and did not receive employment or residency rights.

In short, the only clear thing is that

the promises made to those 'voluntarily' departing are not kept, and more so, the implementation of the 'Regulation of Removal to Third Countries' gravely endangers the mental health, safety and life of men, women and children, and has already cost the lives of an unknown number of human beings. (Birger, Shoham, Bolzman 2018, 5)

But more importantly, the role that the conditions to which asylum seekers are subjected to while in Israel play in this respect is also undeniable, for

findings show that the two main factors that push asylum seekers to leave Israel are the country's detention policy and the inability of asylum seekers to acquire a status that will ensure their rights and give them stability. Almost two thirds of the asylum seekers who were interviewed by IRRI and who have left Israel

with the assistance of Israel's 'voluntary return unit' have done so as a result of their detention or upon receiving a detention order. (IRRI 2015, 2)

9 Conclusions

'Hostile' is perhaps the adjective which better describes the attitude of the Israeli political establishment towards asylum seekers; an attitude which has extremely strong consequences when it is translated into policies aimed at dealing with the recognition of refugee status.

Lacking any clear standards, the protection granted to asylum seekers lacks in transparency, and it also fails to comply to the minimum requirements of the *Refugee Convention* of which Israel is a signatory. Actually, it seems that the

purpose of the [Israeli] refuge system is not to protect refugees, safeguard their rights and facilitate their rehabilitation, but rather to deport those who are not entitled to refuge (according to PIBA) expeditiously. (Berman 2015, 45)

Further on this point, it has been shown that one of Israeli Immigration Authority's main efforts is that of turning African asylum seekers into 'illegal infiltrators', so as to deal with immigration as a matter of domestic policy and circumventing the necessity to comply with international laws and agreements.

The political panorama outlined in this essay clearly portrays a situation of top-down illegalisation of the immigrants which nowadays represents a common trend all over the world. However, as Anteby-Yemini (2017) maintains, the process of illegalisation that asylum seekers undergo in Israel

is even more iniquitous since they are legally entitled to protection by state-issued visas. This ambiguous policy of repression and humanitarian assistance has led to the emergence of right-less non-citizens who cannot be expelled [...] but who have no possibility of continuing their migration, leaving them *trapped* between the political borders of rights and the territorial borders of the State. (2017, 10; emphasis added)

It is precisely by focusing on the *entrapment* dimension that one can understand the subtle yet specific form of torture that asylum seekers undergo during their stay in Israel. Let us briefly reconsider the already quoted definition of 'torture' provided by the *Convention against Torture*:

[torture is] any act by which *severe pain or suffering, whether physical or mental, is intentionally* inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or *intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.*⁷ (emphases added)

It now becomes clear that, *in addition to being subjected to various forms of physical coercion, the main form of torture that asylum seekers endure in Israel is of psychological nature.*

The way in which asylum seekers are treated meets all the criteria to be qualified as torture: the violence they are victims of is carried out by officials appointed by the government, who aim at coerce them to comply to their (and the government's) will (i.e., the 'persuasion' to 'voluntary' leave the country) by creating extremely tense conditions (via "making they lives miserable" – as Eli Yishai, who was then Israel's Interior Minister, stated in 2012 (see Efraim 2012) – and "breaking their spirits") to achieve that goal. This is true both in the case of those who are held in detention waiting for their deportation and those who live under the constant fear of not having their visas renewed and therefore to be expelled from the country.

The unstable living conditions of asylum seekers are linked to the impossibility to acquire any official recognition of refugee status due to the ever-changing policies employed by the State, as it has emerged from several researches and reports:

The constant changes in laws and regulations confuse many asylum-seekers, who struggle to understand the dynamics between the different centres of power in Israel [...]. Following the abrogation of two laws and the passing of three different version of the Prevention of Infiltration Law, there is a growing sense of wariness, if not outright distrust, of Israel's democratic institutions. A common perception among asylum-seekers is that the racist politicians control everything in the country and therefore that nothing can stop them from achieving their goal – expelling all asylum-seekers from Israel. (Sabar, Tsurkov 2015, 14; emphases added)

⁷ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, December 10, 1984. <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>.

Unsurprisingly the capricious nature of official decisions and constantly changing policies *create*

considerable anxiety and insecurity among asylum seekers. (Yaron, Hashimshony-Yaffe, Campbell 2013, 150; emphasis added)

This has in turn very harsh consequences when it comes to the physical integrity of asylum seekers too, and as Müller pointed out,

a common experience is depression and other psychological problems, ultimately rooted in the denial of a secure status. Yodit, who has developed a number of psychosomatic illnesses, explains in this respect: “Even if I work I am always afraid I might be fired, because my documents do not allow work, it disturbs me, it makes my whole life very stressful”. (2018, 140; emphasis added)

It is then evident that the last criterion for an act to be qualified as a form of torture is met too, for the actions carried out by the Israeli government and its representatives systematically result in an enormous suffering of those who are targeted by them.

In sum, the way in which Israel deals with asylum seekers not only falls short of the international agreements designed to protect them, but it also shows a number of features which are internationally considered core elements of what a torture act is. To tell the truth, one could argue that the entire set of Israeli policies affecting asylum seekers has been deliberately and scientifically shaped with the purpose of torturing them out of the country.

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