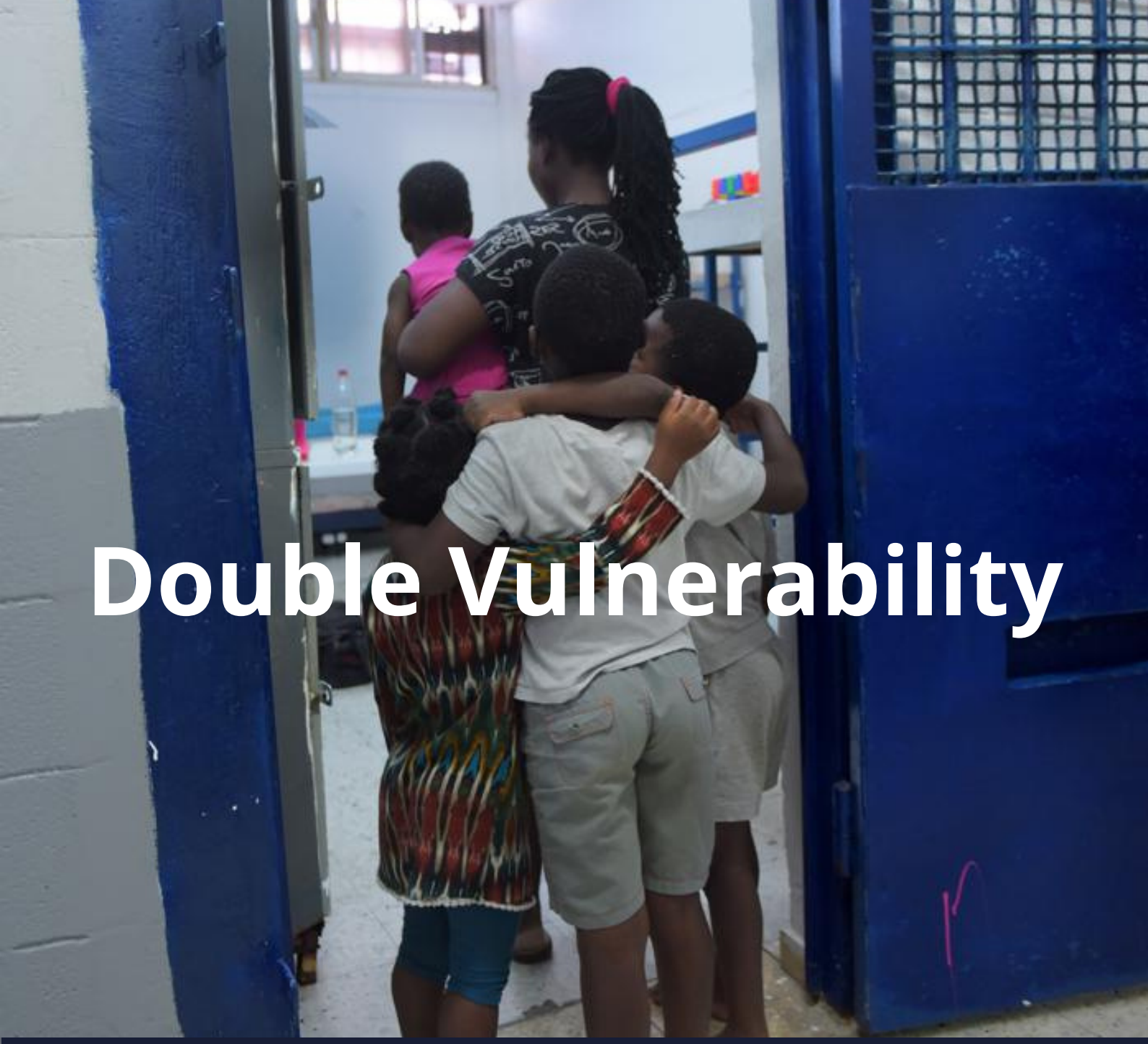


Double Vulnerability

Women and LGBTQI Refugees and Migrants in the Israeli Migration System

Hotline for Refugees and Migrants

Double Vulnerability

Women and LGBTQI Refugees and Migrants

in the Israeli Asylum and Immigration System

March 2023

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The Hotline for Refugees and Migrants is a non-partisan non-profit human rights organization that aims to protect and promote the human rights of refugees and migrants and prevent human trafficking in Israel. The organization acts through the provision of legal information, advice, and representation; visits to immigration detention facilities; and through public campaigns and initiatives.

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Abbreviations

FGM – Female Genital Mutilation

HCJ - High Court of Justice

HIAS - Hebrew Immigrant Aid Society

HRM - The Hotline for Refugees and Migrants

IPS - Israeli Prison Services

LGBTQI - lesbian, gay, bisexual, transgender, and queer people

MPSG - Membership of a Particular Social Group

PIA – Population and Immigration Authority

RSD – Refugee Status Determination

The Tribunal - The Detention Review Tribunal of Undocumented Migrants

TIP – Trafficking in Persons

UNHCR – United Nations High Commissioner for Refugees

Preface: The Istanbul Convention Affair and Israel's refusal to acknowledge gender-based vulnerability

On November 23rd, 2021, a hearing was conducted at the Committee on Status of Women and Gender Equality in the Israeli Knesset.[1] The committee concluded that Israel is willing to join the Council of Europe Convention on preventing and Combating Violence Against Women and Domestic Violence (The Istanbul Convention).[2] Article 4 of the convention encourages member states to implement the convention "without discrimination on any ground" *inter alia* discrimination based on national or social origin, or migrant or refugee status. Articles 59, 60, and 61 refer specifically to status-less women and LGBTQI. They refer respectively to granting legal status to victims married to nationals, gender-based violence as a form of persecution, and implementing the non-refoulment principle on victims of violence.

Shortly after the committee hearing, the Ministry of Interior showed significant resistance to ratifying the Istanbul Convention and conditioned it with the exclusion of articles that might grant rights to migrant and refugee women. On May 18, 2022, the former minister of interior, Ayelet Shaked, wrote a detailed letter to the former minister of justice, Gideon Saar, to warn him from joining the Istanbul convention due to "serious challenges that could be put on Israel's ability to enforce immigration laws and policy".[3] The former minister of interior's main concerns was fear of the influx of women claiming asylum in Israel. She was unwilling to collaborate with civil organizations, reluctant from strict and thorough supervision, and concerned about the unknown financial burden of the reporting mechanism to the UN inspecting body.[4] Following the former minister's objection, Israel retracted from its intention to sign the convention, and on December 28, 2022, the coalition agreements strictly announced that the incoming government will not allow Israel to join the convention.[5]

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[1] The Knesset, Protocol no. 20 of the Committee on Status of Women and Gender Equality, November 23, 2021.

[2] Council of Europe Convention on preventing and combating violence against women and domestic violence, Istanbul, May 11, 2011.

[3] Bar Peleg and Noa Shpiegel, Under Conservative Pressure Israel Delays Vote on Joining Gender Violence Treaty, Haaretz, May 26, 2022.

[4] Ibid.

[5] See article 106 to The coalition agreement between the Likud party and the Religious Zionism party, December 28, 2022. https://main.knesset.gov.il/mk/government/Documents/CA37-RZ.pdf.

The price of not joining the convention will be paid by vulnerable Israeli women as well. The same fear of the obligation to defend migrant women or LGBTQI migrants and refugees and grant them status has been the driving force of the Israeli immigration policy, and the subject of this report.

This report is the first to provide a complete, and coherent analysis of the effects of gender on the treatment of people with no legal status in Israel throughout the different phases of the asylum and immigration process. It joins our 2018 report "You Shall Not Mistreat Her",[6] which focuses on the effects of the family unification procedure for migrant victims of domestic violence, and Yonatan Berman's 2016 article "LGBT Refugees in Israel."[7], in mapping out the effects of Israel's migration policy on women and LGBTQI migrants and asylum seekers. The report complements several initiatives promoted by the Hotline for Refugees and Migrants (hereafter: HRM) in the last couple of years, focused on providing better assistance to women and LGBTQI clients. Since the beginning of 2022, HRM has conducted designated office hours for women in its Tel Aviv office and visits to peripheral cities, including Eilat, in attempt to assist more asylum-seeking women. In the first half of 2022, 30% of HRM's total clients were women.[8] Through this attention to gender, HRM staff was able to identify reoccurring challenges faced by status-less women in Israel.

By understanding the unique experiences and risks faced by women and LGBTQI people in Israel's asylum and immigration systems, we can offer needed adjustments and policy changes to protect these groups from discrimination, sexual exploitation, and infringement of their most basic rights. While part of the information laid out in this report has appeared elsewhere in previous reports and documents published by HRM, this report is the first to provide a complete and coherent analysis of the effects of gender on the treatment of people with no legal status in Israel.

[6] Hotline for Refugees and Migrants and Israeli Religious Action Center report: You Shall not Mistreat Her, August 2018.

[7] Yonatan Berman, **LGBT Refugees in Israel,** LGBTQ Rights in Israel: Gender Identity, Sexual Orientation and the Law (Einav H. Morgenstern, Yaniv Lushinsky, Alon Harel Eds., 2016).

[8] Hotline for Refugees and Migrants, Mid-year Activity Report 2022, p. 4.

Basic Information - Women and LGBTQI Migrants in Israel

Towards the end of 2022, it is estimated that there are more than 51,000 migrant women in Israel who hold no stable legal status. 20% are under threat of arrest and deportation, while the other 80% have some sort of temporary protection as they sought asylum in Israel due to violent wars and conflicts in their homelands. Nevertheless, even of those who are temporarily safe from deportation, only 10% to 20% hold a valid staying permit in Israel (a 2A5 conditional release permit). The rest are protected from deportation by relying on temporary court orders, internal administrative procedures, or ad-hoc announcements made by the government. [9]

2A5 status means that a deportation order was issued against the woman holding the permit, but since it is impossible to deport her for various reasons (including a possible danger to her life or liberty, a reason which should have granted her a refugee status), she is released from detention under specific conditions. The conditions appear on the permit and might change over the years. It is always stated that the holder of the permit must cooperate with her deportation when it will be possible. According to a procedure published by the Population and Immigration Authority (Hereafter: PIA) in June 2022 and might come into effect in February 2023, most of the status-less women will not be able to work in the main 17 cities that provide work for migrants unless they manage to find work in construction, agriculture, caregiving or the hotels' sector.[10] The vast majority of asylum seeking women do not hold any valid documents issued by the Immigration authority. Their arrest and deportation are prevented only due to changing declarations and internal procedures of PIA.[11]

While it is reasonable to assume that LGBTQI is frequent in African communities as much as it is in western societies, very rarely Africans dare to declare publicly that they belong to the LGBTQI community, as most of them continue to manage strict Christian or Muslim lives that reject the type of life the western LGBTQI community conduct.[12] After arriving in more tolerant countries like Israel, more Africans dare to live as LGBTQI. Yet, the percentage of the LGBTQI community

[9] The changing instructions of PIA regarding the entrance of and condition of Ukrainian refugees can be found in PIA website at: https://www.gov.il/he/departments/topics/ukraine_updates/govil-landing-page

[10] PIA, Notice to the public regarding the procedure for determining conditions regarding geographical demarcation and occupation with the licenses of asylum seekers and infiltrators, June 30, 2022.

[11] The changing instructions of PIA regarding the entrance of and condition of Ukrainian refugees can be found in PIA website at: https://www.gov.il/he/departments/topics/ukraine_updates/govil-landing-page

[12] Oluwafemi Adeagbo, and Kammila Naidoo, Africa's LGBT Movement and Interest Groups, November 19, 2020.

among Africans is still extremely small, in a way that prevents even estimations. Therefore, we included in the data section below only the known or estimated data of women. According to PIA, between 2014 and 2019, there were 230 asylum requests of LGBTQI, most of them from Ukraine and Georgia. **Four** of them received refugee status.[13] The status-less women and LGBTQI in Israel are comprised of the following groups:

Ukrainians fleeing the war (About 30,000 women) – Most Ukrainians who managed to flee the ongoing conflict with Russia are women, since men are not allowed to leave Ukraine due to their military conscription. Ukrainians started arriving in Israel in large numbers via Ben Gurion Airport at the end of February 2022. Various and varying quotas and barriers restricted their entry. Those who were denied entry suffered from the harsh conditions at the Yahalom Detention Facility at the Airport and limited access to appeal proceedings. These who managed to enter Israel were granted a temporary tourist visa.[14] Since July 2022 PIA regularly publishes updated policies regarding citizens of Ukraine on its website. According to the most recent announcement, whoever arrived from Ukraine after September 30, 2022, will not be allowed to work at all, and there will be enforcement on their illegal employment.[15] Since the outbreak of the war between Russia and Ukraine and until the beginning of November 2022, 59,200 Ukrainians arrived in Israel, of whom 1,250 were denied entry. Of the Ukrainians who have arrived in Israel, 23,986 have left the country already.[16] Roughly, remained in Israel about 14,000 women who escaped the war in Ukraine, in addition to a similar number of women who arrived in Israel from Ukraine prior to the war.

Migrant worker caregivers (about 12,000 women) – According to PIA, at the end of 2021, there were 47,909 migrant women employed as caregivers and additional 688 women employed in the agriculture sector.[17] In addition, 14,039 workers in the care-giving sector lost their legal status and continued to work illegally in the country.[18] By September 2022, the number of caregivers who lost their legal status increased to 14,609.[19] PIA did not specify how many of them are women, but since the vast majority of caregivers in Israel are women, it is safe to assume that most of these 14,609 undocumented migrants are women.

[13] PIA Freedom of Information reply dated June 10, 2019 to Liat Bar Stav from Mako.
[14] Bar Peleg, "I don't recognize my life", Haaretz, August 26, 2022
[15] PIA, The Updated Policy of the Minister of Interior regarding Citizen of Ukraine, December 26, 2022.
[16] Bar Peleg, More Ukrainians denied entry after court lifts restrictions, Haaretz, November 13, 2022.
[17] PIA, Foreign Workers Statistics in Israel, Summary of 2021, February 2022, p. 25.
[18] Ibid, p. 21.
[19] PIA, Foreign Workers Statistics in Israel, Third Quarter 2022, October 2022, p. 5.

Most of them are from the Philippines, while the rest are from Nepal, India, and the ex-Soviet Union countries.[20]

Female worker migrants face alerting rates of gender-based violence, especially in the nursing and agriculture sectors. According to Kav Laoved (the Worker's Hotline), this violence is a direct outcome of Israel's policy and procedures regarding migrants and due to a lack of enforcement on abusive employers.[21]

Eritrean asylum seekers (Close to 5,000 women) – According to estimations, about 5,000 women from Eritrea live in Israel today, all of whom entered the country prior to 2016, and most of them reside in the country for more than a decade. Most of these women escaped the military slavery-like service in Eritrea, a service that forces many of them into sex-slavery. Despite that, not more than three Eritrean women received refugee status in Israel so far.[22]

Ethiopian asylum seekers (about 4,000 women) - According to PIA, at the end of 2020, there were about 4,000 women from Ethiopia in Israel, and 640 minors that their gender was not specified, so it is fair to estimate that about half of them are probably girls. From that group, 358 women had an open asylum claim, some of them since 2013. At that time, PIA rejected and closed 279 asylum files of Ethiopian women who stayed in the country illegally. Since the Tigray War erupted in November 2020, Israeli human rights organizations, led by HRM, addressed PIA to prevent the arrest and deportation of Ethiopians from the Tigray region. In November 2021, the Israeli government agreed to provide protection to residents of the Tigray region who reside in Israel and grant those who addressed PIA a 2A5 conditional release permit.[23] The number of recognized refugee women who escaped Ethiopia in unknown.

Sudanese asylum seekers (About 300 women)**:** There are 7,150 Sudanese in Israel, most of them (5,170) escaped the genocide in Darfur, the Nuba Mountains, and the Blue Nile regions. Among them, only about 300 are women. 2,445 Sudanese, among them some women as well, were supposed to receive A5 temporary residency status following the decision of the Tagal legal case at the of the High Court of Justice (Hereafter: HCJ) up until the end of 2021.[24] Only in the last week of 2021 PIA started summoning them for the first months of 2022. Throughout 2022, 120 Sudanese who were supposed to receive A5

[20] Ibid.
[21] For updated information see Kav l'aoved newsletter dated 2-08-2022 "The Hidden Sexual Harassment of Migrant Women Employed in Caregiving and Agriculture".
[22] PIA Freedom of Information reply dated September 20, 2022, to Adv. Inbar Barel from the HRM.
[23] Bar Peleg, Israel to reconsider refused Tigrayan asylum pleas, Haaretz, November 7th, 2021.
[24] High Court of Justice case 4690/18 Adam Gobara Tagal and others vs. the Minister of Interior and others (April 25, 2021).

according to Tagal verdict but did not receive an invitation to submit documents and receive their A5 status, addressed HRM. Others addressed private lawyers for the same reason. In addition, many others were assigned appointments to check their papers and receive their A5 in 2023, more than a year after the last date that the HCJ set for the Immigration Authority to grant them this status. According to PIA, only two or three Sudanese received refugee status. It is unknown if there were women among them.[25]

Congolese asylum seekers (About 200 women)**:** On April 6, 2022, the Minister of the Interior Shaked announced the removal of the group protection from about 400 Congolese citizens living in Israel, many of them for over twenty years. Among them, the HRM is aware of 82 children. A petition was filed by the human rights organizations, led by HRM and HIAS, against the decision. In a court hearing held on September 8, 2022, the Judge advised the petitioners to withdraw the petition after PIA guaranteed that all Congolese, who did not do so up until now, will be able to apply for asylum, that the group protection will not be lifted off children and their families and that Congolese will continue to receive the same status they hold until the rejection of their asylum claim.[26] The number of recognized refugee women who escaped Congo in unknown.

[25] PIA Freedom of Information reply dated September 20, 2022, to Adv. Inbar Barel from the HRM. There is a contradiction in the numbers provided by PIA and therefore we cannot be sure if there are two or three Sudanese who received refugee status. Please note that the number 3,651 represents only the Sudanese who are still holding 2A5 conditional release, since those who received the A5 temporary residency are taken off the periodic list of "infiltrators" published by the Ministry of the Interior.

[26] Bar Peleg, Court blocks Israel Lifting of deportation ban on Congolese asylum seekers, Haaretz, May 3, 2022.

Women and LGBTQI refugees in the Asylum Process

HRM regularly publishes periodic reports covering the flaws of Israel's asylum system.[27] Thus, in this report, we will focus only on the flaws directly impacting women and LGBTQI asylum seekers.

The Refugee Status Determination (Hereafter: RSD) Unit in the Israeli Immigration Authority is in charge of receiving, interviewing, processing, rejecting, or accepting asylum applications.[28] The RSD Unit operates according to the Procedure for Treatment of Political Asylum Seekers in Israel (hereafter: "RSD procedure"), updated lately in March 2022.[29] The procedure explains in detail how to apply for asylum in Israel and identify, interview, and determine an asylum seeker's status. However, as described in previous HRM's reports, the RSD Unit is significantly failing to apply and adhere to the Refugee Convention.[30] Despite thousands of people applying for asylum in Israel each year, the RSD Unit granted refuge to less than 1%. Refugee status provides asylum seekers with social and other legal rights and the right to work legally. Without refugee status, asylum seekers' rights are constantly compromised by new policies, and changing decrees.

According to PIA's data, 872 women applied for asylum in 2020, 648 (74%) of whom are from the Ex-Soviet Union.[31] In 2021, 668 women applied for asylum, 170 (25%) of whom are from the Ex-Soviet Union. In 2020, the advisory committee on refugee affairs to the Minister of Interior (Hereafter: The Advisory Committee) recommended that eight women will be recognized as refugees, all of whom are from Eritrea. Nevertheless, the Minister of Interior, who holds the authority to make the decision, decided to grant refugee status to only one of them. In 2021, the Advisory Committee recommended that five women will be recognized as refugees (two Eritreans, one Nigerian, and two from other unspecified countries). Yet, the Minister decided to grant refugee status to only two of them.[32] According to PIA, while 1,540 women applied for asylum during

[27] Hotline for Refugees and Migrants, Trapped in Limbo – Israel's Policy of Avoiding Making Decisions In Well Founded Asylum Claims, September 2020. Falling on Deaf Ears – Asylum Proceedings in Israel, October 2018. No Safe Haven, December 2014. Detained Asylum Seekers Pressured to Leave, March 2013. Until our Hearts are Completely Hardened, March 2012.

[28] For more on the structure of Israeli asylum system at the time, see: Until Our Hearts are Completely Hardened, footnote 1, p. 12-15.

[29] PIA, Procedure no. 5.2.0012 for Treatment of Asylum Seekers in Israel, Last edit: March 21, 2022

[30] As detailed in five of the Hotline for Refugees and Migrants' reports. See footnote 35.

[31] PIA Freedom of Information reply dated September 20, 2022, to Adv. Inbar Barel from the HRM.

[32] Ibid.

2020 – 2021, only three women were granted refugee status during these years.[33]

In this chapter, we will try to identify some of the systematic failures that lead to these results, according to which is it nearly impossible for a woman to be recognized as a refugee in Israel.

Flaws in the ability of women and LGBTQI refugees to properly present their asylum case

The RSD procedure formally gives specific attention to the gender vulnerabilities of women and LGBTQI refugees. Article 1.1 of the procedure, titled "gender sensitivity in asylum procedures" states that when conducting RSD interviews, the interviewer must be sensitive to gender aspects that might affect the behavior, feelings, or testimony of an interviewee.[34] If further states that special attention should be given to victims of gender-based violence, including sexual violence, and that the interviewers should take into account the possible psychological effects of trauma or cultural perceptions of women in the country of origin while assessing the testimony given by the interviewee. Sub-article 1.1.A.(2)D warns the interviewer from inflicting repeating trauma on the asylum seeker during the interview, for example, by demanding the interviewee provide an extensive description of a traumatic event when it is unnecessary in order to determine the applicant's case. [35] Sub-article 1.1.A.(2)a, states that the asylum seeker may ask for a same-gender interviewer and interpreter, and their request will be met, taking into consideration staffing limitations. However, despite the detailed articles on the procedure, HRM's experience shows that the necessary sensitivity is not always applied during RSD interviews.

A.O., a Nigerian lesbian refugee, was persecuted in her homeland because of her gender identity. She fell victim to repeated sexual violence and rape both in Nigeria and in Israel. A.O. approached HRM's Crisis Intervention Center in 2019 after her asylum request was rejected. Since then, HRM's legal department has been accompanying her in her efforts to re-open her asylum request and has worked to prevent her arrest and deportation. Between 2019 and 2021, A.O. was requested to undergo three invasive and aggressive interviews as part of her asylum case.[36] In all these interviews, A.O. was asked to describe in detail, again and again, the rape and sexual violence she went through in Israel, even

[33] PIA Freedom of Information reply dated September 20, 2022, to Adv. Inbar Barel from the HRM
[34] PIA, Procedure no. 5.2.0012 for Handling Political Asylum Seekers in Israel, Last edit: March 21, 2022
[35] Ibid.
[36] Up until May 26, 2021, A.O. was interviewed three times by the RSD unit officers.

though this information was irrelevant to her asylum request. Revisiting this experience frequently has caused A.O. psychological and mental distress and added to her traumatization. A.O. felt she was unable to refuse answering such questions out of the fear that her asylum request would be rejected due to "lack of cooperation", despite the specific instruction of article 1.D.

Another example of a faulty interview is of M.B., a women refugee from Eritrea who survived the Sinai torture camps. In her RSD form, M.B. indicated that she would like to be interviewed by a woman due to the traumatic experiences she endured in Sinai by men. However, a year later, as she was invited to undergo the interview, she discovered that a man would interview her. At the beginning of the interview, she expressed distress and repeated her request for a woman interviewer. The man interviewer explained to her that such a demand would result in delaying her interview. Out of fear of losing her chance for an interview, especially after waiting for so long, M.B hesitantly agreed to go through with the interview. During the interview, the interviewer asked her invasive questions regarding the sexual violence she fell victim to in Sinai. He demanded details on the number of times she was raped, despite her reluctance to answer such questions, and even though it had no relevance to her asylum request.

Unwillingness to Consider Gender-based Asylum Claims

According to Article 1 A,2 of the Refugee Convention, a refugee is a person who escaped his home country "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, **membership of a particular social group** or political opinion, […]". The definition of Membership of a Particular Social Group (MPSG) is internationally debated and can include various interpretations. However, the United Nation High Commission for Refugees (Hereafter: UNHCR) clearly states that MPSG "means a group of people who share some characteristic that distinguishes them from society at large. That characteristic must be unchangeable, either because it is innate or otherwise impossible to change or because it would be wrong to require the individuals to change it."[37]

MPSG is widely acknowledged to include asylum seekers from the LGBTQI community who are persecuted in their own society.[38] Nevertheless, up until

[37] [1999] 2 W.L.R. 1015; [1999] INLR 144. Also reprinted in the International Journal of Refugee Law, vol. 11, at 496 (1999).
[38] In Re Kasinga, Int. Dec. 3278 (B.I.A. 1996)

2014, PIA rejected even the most convincing asylum cases of LGBTQI.[39] Since then, according to our knowledge, several Eritrean asylum seekers were recognized as refugees on the base of their sexual orientation.[40]

In regard to women, in its 1985 conclusion on Refugee Women and International Protection, the Executive Committee recognized that "women asylum-seekers who face harsh or inhumane treatment" owing to acting against, or different from their society's norms, may be considered as MPSG.[41] The UNHCR's Handbook further suggests that while in some cases, the women will need to couple MPSG with other forms of persecution to provide a sufficient ground for claiming refuge, there might be "special circumstances where mere membership can be a sufficient ground to fear persecution." Nevertheless, the RSD unit is reluctant to grant refugee status to women due to gender-based claims, even when other persecution grounds are presented.

A.T. is a refugee from Liberia who belongs to the Mandinka ethnic group, a Muslim ethnic group that performs Female Genital Mutilation (Hereafter: FGM) on young women. The FGM procedure is taboo in the Mandinka community and rarely challenged. A.T. herself went through the brutal FGM procedure as a young woman. Immediately after her genitals were mutilated, A.T. was married off to someone significantly older than her. When the first war in Liberia erupted, her husband ran away, leaving her alone to face her fate. At this time, both her parents were killed. Fearing for her life, A.T. fled to a non-official refugee camp in the Ivory Coast, where she performed household tasks for locals. Being an unescorted, status-less woman in the Ivory coast was challenging for her; she was sexually molested there until she decided to run away again.

In 2005, A.T. entered Israel after being told that her husband resided there. Indeed, A.T. was united with her husband in Israel, and in 2006, she gave birth to twin daughters. A.T.s husband was violent towards her and their daughters and harmed her in various ways. In 2007, the temporary group protection given to Liberians in Israel was lifted, resulting in the rejection of A.T.s asylum request and the deportation of her husband back to Liberia.[42] Over the coming years, A.T. tried tirelessly to regulate her and her daughters' legal status in Israel out

[39] Yonatan Berman, **LGBT Refugees in Israel,** LGBTQ Rights in Israel: Gender Identity, Sexual Orientation and the Law (Einav H. Morgenstern, Yaniv Lushinsky, Alon Harel Eds., 2016).
[40] Asaf Zagrizak, Gay Eritrean Granted Asylum in Israel, Ynet News, October 12, 2016.
[41] Refugee women and international protection 1985 (No.39(XXXVI))- Paragraph (k). https://www.refworld.org/pdfid/5a2ead6b4.pdf
[42] Jonathan Saul, Liberian Refugees in Israel Face Deportation, Reuters, March 15, 2007.

of fear of deportation. HRM staff met A.T. for the first time in 2021. She expressed her angst about returning to Liberia, especially with her daughters, who were then at the same age as her when she went through FGM. According to the UNHCR, "the practice of female genital mutilation, which results in permanent disfiguration and poses a risk of serious, potentially life-threatening complications, can be the basis for a claim of persecution".[43] HRM helped A.T. re-open her asylum case, and it is still pending.

A.T.'s case might be affected by the Minister of the Interior's recent decision to reject an asylum case of a woman who feared she'd undergo FGM. In her decision, the minister questions the mere ability to consider women as a member of a particular social group. Even though the entire advisory committee members on the case thought that the woman deserved asylum, the minister rejected her request. The minister tries to create a distinction among various forms of FGM and generally argues that asylum cannot be given to any woman subject to a practice that is widespread in the developing world.[44]

S.B. is an Eritrean refugee and a victim of human trafficking (Hereafter: TIP victim). She was forced to flee Eritrea due to persecution based on her attributed political opinion: S.B.'s husband fled Eritrea's obligatory military service and made his way out of Eritrea. Consequently, Eritrean soldiers arrested, and held her in abusive conditions. S.B. endured torture, rape, and other forms of sexual violence in a military prison for several weeks. Her release was conditioned on her service as a sex slave to her husband's commander. She was violently raped multiple times by five different men and got impregnated, a pregnancy she succeeded in terminating independently. Out of fear of being captured again by her husband's commander and his soldiers, S.B. fled to Sudan, where she was captured and trafficked to the Sinai torture camps.

S.B. was held in two torture camps in Sinai for three and a half months. Besides forcing her to cook for the entire camp, her captures violently raped her, sometimes publicly, which left her with severe and dire physical and mental conditions. S.B. arrived in Israel in March 2012 and managed to apply for asylum in 2015. In 2019, HRM filed a request to the Israeli Police Anti-Trafficking Squad (Hereafter: the police squad) to recognize S.B. as TIP victim. The request was denied two months later. In November 2020, following two HCJ rulings that

[43] UNHCR Asylum Lawyers Project, UNHCR's Views on Asylum Claims based on Sexual Orientation and/or Gender Identity, December 2016.
[44] Bar Peleg, Israel Interior Minister rejects asylum request of a woman facing female genital mutilation, Haaretz, November 29, 2022.

clarified the criteria for recognition of TIP victims,[45] HRM filed a request for reconsideration of S.B.'s case. In February 2021, she was finally recognized as a TIP victim.

S.B.'s asylum request is that of gender-based and political persecution. However, the RSD Unit has not yet determined S.B.'s asylum status. For the past ten years, S.B. has been holding a "conditional release permit" according to article 2A5 to the Entry to Israel Law,[46] which doesn't provide her with fundamental social rights or income security. Her health insurance is dependent on her employment. The fact that S.B.'s asylum application is still pending induces her feelings of uncertainty and helplessness, which intensify her post-traumatic symptoms, anxiety, depression, and mistrust.

Greater vulnerability of women and LGBTQI refugees to the legal limbo and unstable visa regime

Refugees, in general, are inherently vulnerable due to the persecution they fled and the fact that many of them suffered torture and dire detention conditions or lost family members to the conflicts they fled. Israel's policy of avoiding making decisions in well-founded cases intensifies their vulnerability and deprives them of their rights for years or decades.[47] This vulnerability is amplified for women and refugees who are LGBTQI. Asylum-seeking women who fled their home countries, and are not accompanied by a male relative, are at constant risk on the way and even upon arrival to Israel. The delay in deciding on their asylum claims endangers these women and causes them further mental and physical harm, as well as drives them to extreme poverty.[48] LGBTQI suffer from alienation and reluctance of their traditional religious societies to accept them. Moreover, asylum seekers who are pending decisions in their cases are required to regularly renew their visas, having to endure long queues for many hours at a time.[49] Frequently within the last decade, the facility was closed or unavailable, leaving thousands of asylum seekers, among them many women, unable to retrieve their salaries from their bank account or work legally.

[45] HCJ 687/20 John Doe v. the Israeli Police, (June 16, 2020) and HCJ 1591/18 Jane Doe v. the Minister of Justice (September 17, 2020).
[46] Entry to Israel Law, 1952.
[47] See HRM, Trapped in Limbo: Israel's Policy of Avoiding Making Decisions in Well-Founded Asylum Claims (2020)
[48] See HRM, Trapped in Limbo, pp. 19-20.
[49] For details see: Hotline for Migrant Workers, Managing the Despair, November 2014. Streamlining the Process, March 2014.

L.T. was born in 1955 in Zaire, now the Democratic Republic of the Congo (DRC). She entered Israel in 1998 with a diplomatic passport, following her sister, who then worked in the DRC's embassy in Israel. In 2001, L.T.'s sister passed away, and in the same year, both her parents were murdered due to their political identification with the back-then government. From 1998 to 2001, the second Congo war took place, resulting in the death of millions. In 2001, Joseph Kabila overthrew President Mobuto, and a spree of signaling and murdering Mobuto's supporters was unleashed. L.T. understood that if she would go back to DRC, she would be persecuted based on her attributed political activity as her sister worked for Mobuto's government, and her parents lost their lives as they supported it. In the same year, L.T. applied for asylum in Israel.

Today, 25 years after L.T. entered Israel and 22 years after she applied for asylum, L.T. still received no answer to her asylum application. According to the RSD Unit, her application is still open and under processing. Meanwhile L.T. became older, unable to work, homeless, and suffered physical injuries. She was diagnosed with depression due to a lack of a support system. Living alone in Israel as an older woman with old-age-related disabilities without receiving any social or medical benefits has aggravated L.T.'s already-severe conditions. Despite of HRM, ASSAF, and Physicians for Human Rights (PHRI) attempts to assist L.T., the absence of legal status continues to conduce to her vulnerability.

H.A. is a refugee from the Nuba mountains in Sudan. As a young woman in Sudan, she was raped by a person she did not know, and as a result, her family married her off to someone significantly older than her. They had three children before he died of old age. A few years later, the war erupted in the Nuba region; the Janjaweed militia, backed by the Sudanese government, attacked, and burnt H.A.'s village. H.A. fled these austerities to Egypt, where she was captured and tortured in the torture camps in Sinai.

In 2012 H.A. was able to enter Israel through the Sinai border. Immediately after entering Israel as a single woman, she understood that she must rely on other Sudanese men in Israel in order to survive. Now, when she is over 50 years of age, H.A. suffers from PTSD and is in acute need to see her children who stayed back in Sudan. A refugee status would have allowed her family reunification, and an opportunity to live in dignity at her age. Due to the Israeli faulty RSD system, HRM staff assists H.A. in a resettlement process via UNHCR.

F.H. is a refugee from Eritrea. F.H. arrived at HRM offices in 2017 and told one of the staff members that they arrived at the office many times before but did

not dare to enter since so many Eritreans were in the office and they were afraid of them. F.H said quietly to the HRM representative in tears: “I have a problem that no one else in the world has: I’m nothing. I’m not a man and not a woman. I’m nothing.” F.H. was dressed like a man and tried to create an impression that they were a man but had a woman voice and a feminine appearance. F.H. told HRM staff that only their mother knew about their “situation” and hid it even from the rest of their family. F.H.'s mother treated them as a boy, dressed them like a boy, and F.H. learned how to hide their body from all eyes. Hiding their body became a more difficult task as they grew older and an impossible task in the harsh conditions of the Eritrean military service. It was then that F.H. understood that they must run away from the country. HRM's representative explained to F.H. that their “situation” has a name: Intersex,[50] and that one of about every 2,000 people in the world is in the same situation: a variety of conditions in which a person is born with reproductive or sexual anatomy that doesn’t seem to fit the typical definitions of female or male.[51] F.H. was shocked by this revelation and was even more amazed when they watched the film “Third Body” by Sharon Luzon, a documentary about intersex in Israel.[52] The representative connected F.H. with one of the movie heroes, and they later wrote to HRM: “I thought I was alone. But there are people like me. Thank you.”

HRM connected F.H. with HIAS, a partner NGO, who submitted an asylum claim on F.H.’s behalf. With time, F.H. decided that she feels more like a woman and wants to be addressed as a woman. Only in July 2019, F.H. received her refugee status, after two years of invasive interviews and the obligation to renew her conditional release permit every few months in PIA’s overcrowded Bney Brak office. The lack of psychological treatment and social rights during a decade in Israel impacted F.H.'s mental stability even though she was finally recognized as a refugee.

H.B. is a refugee who entered Israel as a minor after fleeing Eritrea out of fear of persecution. As a kid, she suffered from sexual violence in her homeland, and later, in her journey, she was sexually assaulted in the Sinai torture camps. In Israel, she had tried to build a “normal” life for herself. She met and married an Eritrean man, and they had two sons together. A few years ago, H.B. and her husband separated, and he refused to pay allowance for his children. Unable to find employment, H.B. resorted to survival sex to be able to provide for her children. As a result of all that she went through, H.B. developed social anxiety,

[50] Intersex Society of North America Website.
[51] Ibid.
[52] Third Body, Sharon Luzon, 2015.

PTSD, depression, and suicidal thoughts. Going to Bnei Brak to renew her permit even once every six months posed a severe challenge for her. Apart from her social anxiety, going to Bnei Brak meant she needed to face the risk of meeting men from her community who might have known her. HRM staff scheduled a meeting for her to renew her visa when no one else from her community was present. Organizing such a meeting requires massive efforts, and it must be done every time H.B. is supposed to renew her visa. Despite the prevalence of similar cases, PIA has not yet addressed or found a solution for these delicate situations.

K.L. is a transgender asylum seeker from Jamaica. K.L. suffers from diabetes and a leg injury that prevents her from standing for long hours, a task she is obligated to perform while waiting her turn to renew her permit in Beni Brak. Moreover, the massive crowd of people in Bnei Brak and the stigma associated with transgender people makes K.L. feel unsafe in such settings. In 2019, she was referred to HRM by ASSAF organization, and HRM filed a special request for her to renew her visa in a different location. PIA agreed to the request and set an appointment for her in their office at Salame, where two HRM representatives accompanied her. Upon arriving, K.L. was denied entry to the office. Instead, one of HRM's representatives was requested to enter and renew her visa for her while she stood outside, humiliated, and exposed to catcallers on the street. With the assistance of UNHCR, K.L. was resettled to Canada where she received a permanent status with full social rights and a possibility to choose where to live, away from communities that are not tolerant towards transgender people.

N.M. is a refugee from Cameroon who recently arrived in Israel. N.M. was born in Bamenda, a city belonging to Cameroon's Anglophone side. The government persecuted her for hiding secret documents of a politically active relative against the Anglophonic oppression in Cameroon. N.M. entered Israel as a tourist, and immediately after her arrival, she asked HRM's help in applying for asylum. At the beginning of March 2022, HRM staff helped her submit an asylum request.

According to the RSD procedure, asylum seekers are eligible for a visa that allows them to work if three months have passed since the submission of their asylum request and they have not yet received a decision.[53] But due to long queues at the Immigration registration office, the procedure is being violated often, and N.M., like many others, had to wait almost eight months until she received a visa that allowed her to work. For these long months, N.M. had to survive on the goodwill of others, unable to buy essential products, like food or sanitary

[53] PIA, Procedure no. 5.2.0012 for Handling Political Asylum Seekers in Israel, Last edit: March 21, 2022.

products. HRM's staff wrote several times to PIA, explaining the dangerous situation N.M. is in. Not until HRM's legal department threatened PIA with a legal intervention that PIA agreed to issue N.M. a visa that did not prohibit her employment.

Enforcement – Arrests and Hearings of Women and LGBTQI Migrants

Violence by Immigration Officers

HRM regularly reports incidents in which Immigration officers use violence against migrants, but Israeli authorities fail to provide adequate responses to these incidents. In 2015, HRM and the Association for Civil Rights in Israel (ACRI) published a report focused on the violent conduct of PIA officers. The report, entitled "Who Inspects the Inspectors," ended with a call for establishing an external review body.[54] In June 2017, HRM addressed the minister of interior and the attorney general, requesting that they set a narrow and precise definition of the term "reasonable force," which officers are allowed to use during the arrest of migrants, set specific mechanisms for preventing a conflict of interests, establish an external oversight body to oversee the work of the inspectors, set clear disciplinary rules, and develop a more extensive professional training program. Despite repeated reminders of this appeal and documentation of new incidents of violence, no response was received. The Israeli Police did not question the victims, and those responsible were not held accountable.

S.H. is an asylum seeker from Ethiopia whose asylum claim was rejected. S.H. endured beatings and humiliation at the hands of Immigration officers during her arrest. Over a decade after arriving in Israel, S.H. was arrested during a routine action by PIA officers at an office she was cleaning. She hid in the bathroom, but they barged in searching for her. "The officers dragged me from the stall. They grabbed me by force and tied my hands behind my back while shoving my face against the wall and door. I started bleeding from my head and hand due to the beatings. I cried and screamed and asked them to stop." S.H. recounted. She was brought to Beit Dagan, where she described that "they kept on asking me why I'm working. There were three officers in the room. I explained

[54] The HRM and the Association for Civil Rights in Israel, "Who Inspects the Inspectors? On Violence of Immigration Inspectors toward Migrants," 2015. (Hebrew)

to them that I was working because I needed to help my family. They yelled at me that we procreate like cockroaches."

S.H. showed the facility director, Galit Ben Shmuel, the marks left by the inspectors' violent treatment, and according to her testimony, the official told her "It'll pass." The inspectors were angry that she complained about them and cursed at her, "your mother's c***" and "trash." Later, she was asked to sign a document in Hebrew, a language she did not speak. S.H. felt reluctant to sign a paper without understanding its content. According to her testimony, the director repeatedly arrived and asked why she would not sign the document. S.H. told the director that she wanted to understand what the paper said. To which the director answered: "sign. It is the law that you must sign." Then the director told the inspectors, "If she doesn't sign, take her to prison with the children." S.H. stated in her affidavit that she: "thought they'll separate me from my children. The experiences I've had at PIA offices as an undocumented migrant were intolerable. I thought I was going to kill myself and end my life."[55] It is important to note that S.H. felt so threatened, that she only agreed to provide the affidavit after knowing that her request to immigrate to Canada had been granted and the date of her flight was known to her. Even then, S.H. only allowed the HRM to use her affidavit after she left Israel.

Lack of Protection for Women and LGBTQI Migrants in Immigration Hearings

The PIA office in Beit Dagan (hereafter: Beit Dagan) serves as the enforcement facility for PIA, and its personnel conducts both regular monitoring of immigrants released on bail from detention, as well as interviews and hearings for migrants who are subject to arrest and deportation. Migrants who do not comply with or refuse to attend hearings or monitoring sessions risk arrest and deportation.

Migrants who are conditionally released from detention are required to report to Beit Dagan frequently, usually once a week, but sometimes twice a week, for as long as they stay in Israel. During that time, their staying visa states that they are not allowed to work and that their employers face fines if caught employing them. Migrants who live in the north or south of the country, must travel long distances for many hours in order to show up for monitoring sessions, in which many times they face inhuman and degrading treatment. For vulnerable women and LGBTQI, the regular hearings might even present a threat to their physical and mental health.

[55] From an affidavit of S.H., dated November 19, 2019, to Adv. Inbar Barel of the HRM.

Accessibility and safety: Up until 2019, to reach Beit Dagan, migrants were forced to walk on the edges of the highway without a sidewalk, risking their safety. In winter, significant sections of the road were covered with water, and to avoid stepping in the water, migrants had to climb a nearby fence. Pregnant women, women with baby strollers, or mothers compelled to bring their children with them, were especially at risk. On March 20, 2019 HRM submitted a request to PIA to improve the physical accessibility of the facility. Following HRM's request, some of the issues were addressed. However, migrants are still compelled to walk on the edges of the highway to reach Beit Dagan, which endangers their and their children's lives.

A second safety threat was posed in November 2019, as Beit Dagan remained open despite the instructions of the Home Front Command that declared the area at risk of rocket attacks at the time. Out of fear of arrest for violating the terms of their release, migrant women came to the facility despite the threat. When the sirens cried, they were compelled to seek shelter in the open field outside the facility. HRM wrote an urgent letter to PIA demanding their compliance with the emergency guidelines, but PIA responded only after the threat was lifted.

Degrading and insensitive treatment: Often, migrant women in Beit Dagan are ill-treated, with no sensitivity to their gender-based vulnerabilities (unlike the RSD procedure, the hearings procedure includes no orders relating the gender sensitivity).[56]

H.F. is an Ethiopian citizen of Tigray ethnicity**.** She was born in Sudan after her parents fled Ethiopia due to the drought-induced hunger crisis. When H.F. was two years old, her father passed away. At age five, she moved back with her mother to Ethiopia and lived in the Tigray region. At seven years old, H.F.'s mother died, and her aunt took her in and treated her as her own daughter. When H.F. turned 17, her aunt's husband raped her several times. When she confided in her aunt, H.F. was faced with disbelief and lack of support, which led her to run away from home. A few years later, H.F. moved to Sudan, and after a year in Sudan, she made her way to Israel due to the difficulties there. When she was in Sudan, H.F. met an Eritrean man who later became her husband. On her way to Israel, H.F. fell into the hands of Bedouin smugglers, who held her for two weeks under severe torture, hunger, and inhuman conditions until she

[56] See Procedure for Initiating Deportation and Detention Orders according to the Entrance to Israel law (27.7.2020).

managed to recruit the ransom they demanded for her release. On December 16, 2009, H.F. entered Israel, and upon her arrival, she was held in detention for a cumulative period of three years.

Even though H.F.'s husband was already in Israel, and as an Eritrean national, he held a 2Ag5 conditional release permit, she could not obtain a similar status as his wife. Therefore, she was repeatedly detained. On September 28, 2014, she was released after two years due to special humanitarian reasons because of the rape she endured in Ethiopia. On April 29, 2015, H.F. was arrested again by Immigration officers, despite disclosing that she was pregnant. She was detained for almost a week until she was rereleased because of her pregnancy.

During all these years, every time H.F. was released from detention, she was requested to go to Beit Dagan to renew her visa. Frequent hearings took place, where she had to retell her story, again and again, talk about the rape incident, face apparent insensitivity by Beit Dagan officers and fear the uncertainty of her freedom. HRM lawyers accompanied H.F. in her visits to Beit Dagan and witnessed the humiliating treatment firsthand. Even when her case rested in court, and H.F. arrived in Beit Dagan with a letter from HRM explaining that there was a legal process in her regard, PIA officers did not even look at the letter and at one time decided to hold a sudden hearing for her without a presence of her lawyer or a translator. Despite H.F.'s lawyer's attempts to postpone the hearing, Beit Dagan officers carried it out aggressively.

The conduct of the hearings and the frequent demands of H.F.'s presence in Beit Dagan have startled her mental health direly. Going in and out of detention, suffering cruel treatment from PIA's personnel, and being asked to talk about traumatic events repeatedly and with no preparation, have contributed to her fragility. Lately, H.F. was finally granted a 2A5 conditional release visa because of the decision, following HRM's request, to grant Ethiopians of Tigray ethnicity protection in Israel under the non-refoulment principle due to the continued war in the region.

Detention of Women and LGBTQI Migrants

Migrants and refugees who have entered Israel through a non-regulated border, e.g., smuggled through the Sinai desert, are detained upon their arrival to Israel under the Anti-Infiltration law.[57] Migrants who entered Israel legally under a B2

[57] UNHCR Israel, Unofficial Translation of the Anti-Infiltration Law, August 2018.

tourist permit or a B1 work permit and overstayed their permit or violated its conditions, can be detained under the Entry to Israel Law.[58] As legally, the sole purpose of immigration detention is to facilitate migrants' deportation from the country, long periods of incarceration are not the norm, and PIA is required by law to do whatever in its power to remove the person from the country in the earliest opportunity.[59] Nevertheless, some migrants still face lengthy detention periods.[60]

Migrants, in general, are inherently vulnerable as detainees, due to language barriers. Women and LGBTQI detainees are even more susceptible to inordinate incarceration periods, as they are more prone to gender-based violence and suffer excess mental harm in detention. Due to the high levels of mental distress and self-harm among refugee women and LGBTQI in detention, many argue worldwide that the use of immigration detention for these populations should be reduced to a minimum.[61] Even the UK, known for its strict immigration policy among European countries, developed special criteria for women's detention facilities.[62] The UN rules for the treatment of female prisoners and the use of non-custodial measures, known as the 'Bangkok Rules', adopted in 2010, also stress the heightened risk to women detainees and the importance of creating alternatives to incarceration of women, especially of pregnant women and mothers of small children.[63] While the rules relate to women who are criminal prisoners, many of their provisions are relevant to women in immigration detention as well. Nevertheless, almost no concern is given to gender-based vulnerabilities in Israel's immigration enforcement system, from the arrests to the detention and deportation.

Risk of Sexual Harassment of LGBTQI Detainees

J.A. is a lesbian asylum seeker from Nigeria. Upon her arrival in Israel in February 2019, PIA made a violent attempt to deport her back to her homeland, an

[58] Entry to Israel Law, 1952.
[59] Entry to Israel Law, 1952.
[60] See HRM's Annual Detention Monitoring reports.
[61] Nina Rabin, Unseen Prisoners: A Report on Women in Immigration Detention Facilities In Arizona, Southwest Institute for Research on Women, College of Social and Behavioral Sciences Bacon Immigration Law and Policy Program, James E. Rogers College of Law, January 2009. Available at: https://live-uazlaw.pantheonsite.io/sites/default/files/Unseen_Prisoners.pdf , Alice Gerlach, Dignity, Women, and Immigration Detention (forthcoming, 2023). Available at: https://www.routledge.com/Dignity-Women-and-Immigration-Detention/Gerlach/p/book/9781032410814
[62] UK's Chief Inspector of Prisons "Expectations for immigration detention" document, 4th edition, 2018: https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2018/03/Immigration-Expectations-FINAL.pdf
[63] Bangkok rules: https://www.penalreform.org/issues/women/bangkok-rules/

attempt that was prevented due to her strong willpower and tremendous fear of returning to her home country. J.A. was transferred to the immigration detention facility in Givon. During the first six months of her detention, J.A. was sexually harassed and assaulted by a guard in the migrant women's section in Givon. J.A. did not know who to approach with a complaint, as the focal point for complaints in prison is a man who does not speak English. So, adding to the inherent power imbalance in prison, her inability to communicate with guards due to language barriers has added to her gender and cultural vulnerability. Therefore, J.A. kept a secret diary in which she wrote everything that happened to her, along with dates and locations. Only in August 2019, after the guard was transferred to another section in Givon, J.A. finally found the courage to complain to a female warden who spoke English about the sexual assault she endured. On this account, an investigation was adequately initiated by the police. During the investigation, other testimonies emerged against the same prison guard, one from another status-less female detainee and another from a female colleague of his. Apparently, his behavior was already known to his supervisors, but none of them initiated an investigation or tried to end his employment. Despite the wealth of evidence, the attorney general's office decided not to prosecute the guard due to a "lack of sufficient evidence". With the help of HRM's legal department, J.A. appealed the attorney's office's decision, and the appeal was accepted (Only 1% of appeals on decisions not to press charges in sex offenses are accepted).[64] Two years after her complaint, in August 2022, the guard was convicted[65] and in October 2022, he was sentenced to 30 months imprisonment and a compensation of 35,000 NIS to J.A.[66] It took the braveness of a status-less woman to put an end to his illegal conduct. Nowadays, J.A. lives in Australia after she was resettled there by the UNHCR. Nonetheless, the trauma of the sexual violence during her 22 months of imprisonment still haunts her in her new home. [67]

Isolation of Transgender Detainees in Detention

In 2017, a transgender asylum seeker whose application was denied was detained in Givon and eventually deported from Israel. The detainee was held in isolation for over a month due to an IPS regulation which stated at the time

[64] Or Kashti, Just one percent of appeals against closing sex offenses cases are accepted, Haaretz (Hebrew), March 3,2017.
[65] Hadar Gil-Ad, An IPS Guard was convicted in Sexual Harassment of an Inmate, Y-Net (Hebrew), August 3, 2022.
[66] Aviad Glikman, 30 Months of imprisonment, sentence to a section manager in IPS after harassing an inmate, Channel 13, October 21, 2022.
[67] J.A. arrived in Israel and was transferred to prison on February 23, 2019. She was released on December 10, 2020, after almost two years.

that “when admitting a prisoner whose [gender] identity is not unequivocal, holding them separately is required due to fear of harm to the detainee or the detainees and their surroundings.”[68] This meant that transgender prisoners who did not undergo or have not completed their gender reassignment procedure were held by the IPS in solitary confinement. During her detention in Givon, the asylum seeker was not allowed to take the hormones she would take regularly, and she was also not allowed to wear women’s clothes or a wig. The prison guards with whom the representative of HRM spoke insisted on referring to the detainee as a male, thus disregarding her gender identity. This was the second detention stretch for the woman, who was arrested and released by the Detention Review Tribunal in late 2016 after she had filed an asylum claim in Givon.[69]

The Tribunal addressed her detention conditions in its decision dated November 28, 2016: "I agree with the arguments of the representative of the Hotline regarding the harsh detention conditions of the female detainee. Since we are talking about a transgender [person], who is being held in isolation, in a separate cell, and she basically has no contact with the rest of the detainees. She also does the stroll in the yard separately from the other detainees. In effect, the isolation conditions in which the detainee is being held are solely due to her being transgender. There is no doubt that the detainee is discriminated against relative to the other detainees in the facility, whose detention conditions are significantly less harsh. Under these circumstances, my position is that there is no justification for authorizing the continuous holding of the detainee beyond a maximum period of three weeks, this is especially since there is no way to currently remove the woman from Israel.”

The HCJ also addressed the matter of detention of transgender prisoners in isolation in a verdict given in a criminal proceeding: "The right to equality of transgender people, similarly to the constitutional right to equality of members of the LGBTQI community, is a protected constitutional right under Basic Law: Human Dignity and Liberty. Therefore, the transgender prisoner has the right to be incarcerated in identical conditions to any other prisoners as much as possible. The protection offered by the right to equality encompasses not just those who completed their gender reassignment process. The social and legal challenges facing transgender people are unrelated to completing the physiological gender reassignment process. The mere lack of recognition of a

[68] From the State response as cited in the ruling in the Criminal Appeal 5833/12 Jane Doe vs. the State of Israel from September 12, 2013 (published in Nevo in Hebrew).
[69] See the Hotline for Refugees and Migrants, Immigration Detention in Israel: 2016 Annual Monitoring Report, March 2017, p. 21-22.

person's gender identity, the way he sees it, is a violation of the right to equality."[70]

When referring to the mental harm that may be caused by detention in solitary confinement, Justice Hendel cited the opinion of the head of the legal psychiatry at the IPS' Center for Mental Health: "The isolation or separation of the detainee involves, on top of his stay in detention, restricting him to an even more limited space, drastically reducing the scope and range of his activities, depriving him of interactions with other people, etc. As a result, isolation or separation may have more dire effects than the incarceration itself."[71]

In a statement of the UN Special Rapporteur on torture, Juan Méndez,[72] he asserts that "indefinite and prolonged solitary confinement, in excess of fifteen days, should also be subject to an absolute prohibition […] Considering the severe mental pain or suffering solitary confinement may cause" noting that scientific studies have established that some lasting mental damage is caused after a few days of social isolation. The special rapporteur added that "considering the severe mental pain or suffering solitary confinement may cause, it can amount to torture or cruel, inhuman or degrading treatment." Therefore, holding transgender prisoners in isolation worsens their detention conditions, denies them their right to equality, and may cause severe mental harm that at times amount to torture and inhumane treatment. This harm is especially unjustifiable and grave when it involves the detention of migrants awaiting deportation.

A year later, as a result of a petition to the HCJ of an Israeli transgender who was detained in isolation as well, IPS stated to the court that a new policy paper was formed, according to which "the circumstances of each transgender will be carefully checked and the decision regarding his/her terms of confinement will be taken based on his/her appearance, the way he/she defines oneself and his/her stage in the gender transformation."[73]

[70] See ruling in Criminal Appeal 5822/13 Jane Doe vs. the State of Israel from September 12, 2013, paragraph 5 to the verdict of Justice Joubran (Published in Nevo in Hebrew).
[71] Ibid., paragraph 6 of Justice Hendel's ruling.
[72] Office of the United Nations High Commissioner for Human Rights (OHCHR), UN Special Rapporteur on torture calls for the prohibition of solitary confinement, October 18, 2011.
[73] HCJ 5480/17 Dorin Bilia at Al. vs. IPS, 4.7.2018.

Mothers and Children in Detention

Since 2013, asylum-seeking women who reside in Israel under a group protection policy (citizens of Eritrea and Sudan, and until recently of the Democratic Republic of Congo) are not subject to imprisonment.[74] However, the Entry to Israel Law allows for the detention and deportation of undocumented migrants, whether they arrived as legal migrant workers or tourists. Undocumented women migrants usually arrive in Israel either with a legal working visa as caregivers or as tourists who overstay their tourist visas. Legal caregivers are deprived of their fundamental right to fall in love and establish a family. When a woman gets pregnant while employed, her visa will not be renewed, and she will be at risk of arrest and deportation together with her child. The law allows the arrest and deportation of children with their mothers.[75]

Detaining mothers and their children risk both the mothers' and the children's mental states. Multiple studies show that even brief periods in detention are harmful to children's psychological and physical well-being. The impact of incarceration may last a lifetime: the mental effect on children of being forced to observe their parents in a state of distress and helplessness is destructive. The detention undermines their sense of security, which is necessary for proper development.[76] The impact on the mothers who must see their children detained and deprived of their freedom is dire, as a Philippine mother disclosed for Yediot Ahronot: 7 days journal while sharing her experience as a detainee with her daughter. She explains how the harsh rules in the detention facility forced her to scold her daughter for being loud and happy while playing in the detention facility. She describes that this caused her feelings of pain. [77]

J.D. arrived from the Philippines to Israel in 2004 to work as a caregiver. In 2007 she was unable to renew her visa as she got pregnant and gave birth to her first daughter. In 2009, she gave birth to her second child. On August 27, 2019, when her daughter was twelve and her son was ten years old, she was arrested on the street by Immigration Authority officers. Upon her arrest, J.D. was requested to disclose the location of her children so they would be detained and later

[74] As a result of the HRM's Administrative Appeal (Beer Sheva District Court) 44920-03-13 Tadesa et Al. v. Ministry of Interior (April 29, 2013).
[75] Entry to Israel Law, 1952.
[76] The HRM, the Association for Civil Rights in Israel, Physicians for Human Rights-Israel, "Alternatives to Detention of Migrant Children," January 2014. (Hebrew)
[77] Dana Spector, The Toddler's Section, Yediot Ahranot: 7 Days, November 14, 2019.

deported with her. Out of fear for her children's well-being and hope to spare them the trauma of detention and deportation, J.D. refused to disclose the information.
A day later, J.D. was transferred to the Givon detention facility. On August 29, 2019, Adv. Ishay Sarid, who agreed to represent J.D. pro-bono, appealed to the court of appeals against her deportation. On September 10, 2019, the court ruled that J.D. would be deported to the Philippines without her children if she refused to disclose their location to the authorities. A day later, Sarid submitted an appeal to the Tel Aviv district court, where the former decision was refuted.[78]

After a month in detention, and after paying an extremely high bail to secure her appearance in front of the authorities when demanded, J.D. was released. Her case is still pending, as are many other cases of mothers of school-age children who were arrested for illegal stay in the country in 2019 and released as a result of legal proceedings. For over three years, all of these mothers have been requested to report weekly to the Immigration office in Beit Dagan. J.D., her children and all the other mothers and children are still uncertain of their future.

Detention of Women in Yahalom Detention Facility for Migrants who are Denied Entry

The Yahalom Detention Facility, located at the Ben Gurion Airport, is the only detention facility in Israel that is managed by the Ministry of Interior and not by the Israeli Prison Services. The facility was designed to hold migrants and tourists whose entry to Israel is denied for several days until they can be deported back to their home country. However, hundreds of cases have been documented in which migrants and their children were detained in Israel and transferred to Yahalom ahead of deportation and were held there for weeks or even months before their flight. The detention conditions in the facility, even for short periods, do not meet the requirements set in the law due to overcrowding and the lack of ability to schedule routine visits to the yard. The lack of regular external inspection of Yahalom (as is performed in all other detention facilities) makes it almost impossible to adequately monitor and improve the conditions there.

Women are often detained in Yahalom. In 2020, 4,089 people were denied entry to Israel. Of those, 1,258 were held in Yahalom prior to their deportation. Of them, there were 487 women and 15 children. Women in Yahalom suffer

[78] Administrative Appeal (TA District Court) 27147-09-19

mistreatment like that of other migrants but are at greater risk of being exploited. They are denied access to the asylum system, have no access to information concerning their rights to appeal the deportation decision, and are deprived of privacy while meeting their legal representatives, if they manage to contact and hire an attorney. Up until March 2022, there were no female employees in Yahalom.[79] Detained women with requests regarding sanitary products may feel uncomfortable asking these from male guards, and if these women are to undergo body examinations, they are performed by men due to the lack of female personnel.

The risk to women in Yahalom was most apparent when Ukrainian women were detained in Yahalom after the war in Ukraine erupted in February 2022. Ukrainian women fleeing for their lives who arrived in Israel following the invitation of friends and relatives who hoped to provide them shelter, were held in Yahalom and asked to pay significant amounts of bail to be released to the country. Not only did the prolonged detention in Yahalom after their war-induced trauma harm them but demanding substantial amounts of bail put them at greater risk of human trafficking and exploitation. Looking for the "first" option to break free can be easily exploited by pimps and others aware of these women's vulnerabilities. Several human rights organizations have appealed to PIA to lower the bail amount and allow these women to work legally in order to minimize the chances that they will be forced to work in prostitution.

Some of the women arriving in Israel were unaccompanied minor girls. On March 23, 2022, the Knesset Special Committee for Foreign Workers held a hearing to discuss Yahalom Detention Facility considering the Ukraine crisis. According to the information presented in the hearing, several unaccompanied girls arrived in Israel. PIA representatives first denied the existence of such a phenomenon, but later admitted that there was no set procedure in place to deal with unaccompanied minors. While article 5.8.9 of the procedure of Operating the Custody Facility in Ben Gurion orders that unaccompanied children will not be held in the same rooms with adults and that determining their detention conditions should be in accordance with the Procedure for Treating Unaccompanied Foreign Minors[80] published on July 1, 2011, the information presented in the hearing suggests that the officers in Yahalom do not comply with this procedure to such an extent that the Committee concluded that there was a need to publish a new and more Yahalom-specific procedure.

[79] The Knesset Migrant Workers Committee, Protocol no. 34 dated March 23, 2022.
[80] PIA Unaccompanied Foreign Minors Procedure no. 10.1.0016 dated July 1, 2011.

The Detention Review Tribunal Inadequate protection of women and LGBTQI migrants

The Detention Review Tribunal oversees monitoring the detention of immigration detainees. There are no signs that the Tribunal adjudicators make special efforts to protect vulnerable women and LGBTQI detainees. The failure of the Detention Review Tribunal to recognize and treat women with vulnerabilities, such as women with mental health disorders or TIP victims, contributes to these women's risk and deepens their trauma.

Even in cases where detained women articulate their vulnerabilities in words, the Immigration officers who meet them within 24 hours and the adjudicator at the Detention Review Tribunal who meets them within 96 hours do not take action to provide them with the appropriate and necessary protection. Therefore, PIA usually manages to deport these women before ensuring their vulnerabilities and claims are inspected.

I.M. was identified in the Tribunal hearing transcripts as a citizen of the United States. Nevertheless, according to the transcripts, due to her mental health condition, PIA could not incontrovertibly identify her as a citizen of the United States, and therefore she could not be deported there. PIA turned to the representative diplomatic consulates of various countries, attempting to identify I.M.'s country of citizenship, but was unsuccessful. I.M. rarely cooperated at hearings and refused to attend many of them. The IPS' representatives who appeared at the hearings described her behavior in prison as out of the ordinary. Other detainees in touch with HRM representatives told us that she did not speak to anyone in jail and was totally isolated.

In February 2019, after over a year in detention, during which I.M.'s country of citizenship remained a mystery, and her deportation from Israel remained a remote possibility, HRM representatives addressed the Tribunal on her behalf. They asked that she will be appointed counsel by the legal Aid Bureau. In a hearing held for I.M. on March 13, 2019, a day after her case was discussed on the radio show "Seder Yom", the Adjudicator, Dvir Peleg, forwarded his decision and the details of the case to the Legal Aid Bureau at the Ministry of Justice, asking them to consider appointing legal representation for her. In November 2019, the Legal Aid Bureau hired adv. Michal Pomerantz to represent her. After almost two years in detention and without being identified by PIA, I. M. was released after the District Court ruled that she suffers from a mental disorder and her place is not in prison.

H.S. arrived in Israel from Nigeria to work for the Nigerian embassy. Her visa was valid until January 2nd, 2020. Two weeks after her visa expired, she was arrested by PIA officers and taken to the Givon detention facility. On her first hearing, H.S. explained to the tribunal her working conditions in a way that made it evident that she was held in slavery-like conditions. She worked for one year and two months at the embassy of Nigeria without receiving payment. Moreover, when she asked for payment, she was locked down by "her aunt," who worked at the same embassy. H.S. revealed an intention to complain to the police about her mistreatments, which the tribunal's Adjudicator, Raja Marzuq, properly handled by transferring the case to the attention of the police. On January 26th, 2020, a police inspector arrived in Givon to investigate H.S.'s claims. The police inspector later reported that it was impossible to investigate her adequately as she did not speak English, H.S., on the other hand, argued that the investigation did not take place at all, and that instead, she was requested to submit her complaints in writing. On February 2nd, 2020, a social worker from the Givon detention facility contacted H.S.'s lawyers and warned them that a proper investigation of her allegations had never occurred, and H.S.'s lawyers' demands for a formal investigation were not answered. H.S. was deported shortly after, without proper consideration of her complaints ever taking place.

I.Z. is a citizen of Ethiopia. I.Z. entered Israel in 2008, and applied for political asylum; in 2012, her request was rejected. In 2015, she married an Ethiopian refugee living in Australia and began a family reunification procedure, seeking to join him in Australia, but her efforts failed due to her inability to obtain identifying documents from Ethiopia. As part of her efforts to obtain these documents, I. Z. turned to the Ethiopian embassy in Israel, which refused to provide her with documents other than a one-time travel document to be used only to return to Ethiopia, to which she feared to return. In June 2017, she was arrested for residing in Israel without a valid permit and was detained in Givon prison for more than 20 months. Since I. Z. refused to return to her homeland - which she fled - she was considered a detainee who was "not cooperating with her removal" under the provisions of the Entry to Israel Law. During her time in detention, I. Z. hired the services of an Attorney. Adv. Michal Pomerantz turned to the RSD Unit and asked the Immigration Authority to re-examine I.Z.'s asylum claim. Adv. Pomerantz also reached out to the Voluntary Departure Unit at the Immigration Authority, asking for assistance in allowing I.Z. to move to Australia. These efforts proved unsuccessful, and after 21 months in detention, I. Z. called a friend in Israel and told her that on March 1st, 2019, Immigration Authority

officers forcibly transferred her to the Egyptian authorities across the southern border, from where she was directly deported to Ethiopia.

Inadequate Protection of Women and LGBTQI migrants as Crime Victims

Risk of domestic violence and nonenforcement of family law responsibilities

Women and LGBTQI migrants with no legal status are victims of crimes and face violence too often. Sometimes they face violence from extreme Israeli groups or from men in their own communities. According to a report published by ASSAF – Aid Organization for Refugees and Asylum Seekers, almost 60% of asylum-seeking single mothers have experienced one form of violence from their partners or ex-partner.[81] 25% of the interviewees reported that their partners have abruptly left them without providing any financial assistance to their joint children. HRM staff encountered similar cases where men applied for a sponsorship program in Canada or even left the country, without notifying their spouses. In many cases, PIA clerks refuse to register migrant fathers in notifications of birth documents for their children at the hospitals, despite HCJ's verdicts obliging them to do so.[82] The result of this infraction of the law is that many fathers cannot prove their relationship to their children, and on the other hand, PIA has no registration of their relationship with their children. Therefore, when they approach the Assisted Voluntary Return Department of PIA, to leave Israel, the unit fails to assess the situation correctly and assists these men to leave Israel without taking into consideration their responsibility for their left-behind family.

Inability of Migrant Crime Victims to Seek the Assistance of the Police

In order to be able to seek protection from the police, migrants must know that approaching the police will not result in their arrest and deportation. Today, they have no reassurance that if they approach the police to file a complaint against a crime made against them, they will not face arrest and deportation. That risk adds to the fear women who engage in survival sex or sex work, transgender women, and asylum-seeking women have of authorities in general, including the police, due to previous experiences in their native countries. The

[81] Adi Drori – Avraham, **Abandoned**, ASSAF – Aid Organization for Refugees and Asylum Seekers, March 2016.
[82] HCJ 10533/04 Weiss v. Minister of Interior, (June 28, 2011) and HJC 6946/17 John Doe v. the Minister of Interior (November 22, 2018)

result is that they usually avoid seeking the assistance of the police, even when they fall victim to severe crimes. Without an official procedure that guarantees their protection, status-less women and LGBTQI migrants will continue to fear complaining to authorities, making them even more vulnerable to crimes.

In order to prevent this reality, HRM reached an understanding with the police back in 2002, that the police would not transfer to the Immigration authority undocumented residents who came to file a complaint about a crime that was committed against them.[83] Nonetheless, many testimonies have reached our office, in which status-less persons, especially women, feared imprisonment and deportation while approaching the police to file a complaint about a crime against them, mostly as that historical agreement is not set in any publicly-available procedure. In addition, HRMs staff learned from Isha Le-Isha staff that Palestinian women who reside in the country illegally are regularly detained and deported to the occupied territories when they reach out to the police to complain about crimes committed against them.

In December 2021, HRM addressed with this issue Yael Sinay, the former gender advisor to the Minister of Public Security at the time, Omer Bar-Lev. HRM asked that the police publish an official public procedure that will include an article in which the police would refrain from arresting undocumented residents approaching them to file a complaint. Despite Sinay's willingness and best efforts, until the end of the Minister's term, a year later, no official procedure was published by the police, nor was one disseminated among police officers.

Many status-less women, sometimes victims of serious crimes, refuse to approach the police as they fear arrest and deportation. Their predators left unpunished and free, endanger others as well. Such is the example of Noam Levi, an Israeli citizen who served as CEO of a personnel company that recruited personnel for cleaning services. He was sentenced in November 2021 to eight years in prison following his sexual assault of nine status-less women immigrants from eastern Europe, some of them deaf.[84] Leve exploited and sexually attacked these women for a long period, taking advantage of their fear to turn to the police for help.

In some cases, even when status-less women find the courage to approach the police, their complaints are not taken seriously.

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[83] Letter from superintendent David Mantsur, the Commander of Yiftach Region at the Police, to Adv. Nomi Levenkron, HRM's legal advisor, dated March 24, 2002.

[84] Yoram Yarkoni, Less than Eight Years Imprisonment to an Owner of a Cleaning Company who attacked and Raped Migrant Workers, some of whom were Deaf – Mute, Y-Net, November 11, 2021.

M.M. is a transgender woman from Belarus. M.M. arrived in Israel after suffering gender-based persecution in her home country. A year after arriving in Israel, M.M. successfully applied for asylum and received a 2A5 permit. Yet, whenever she had to renew her permit, she had to face verbal violence and discrimination by PIA officers in Bnei Brak. At some point, she was unable to take it any longer and stopped renewing her permit to avoid this ill-treatment. Having no valid permit, M.M. resided to survival sex. After a while, her landlord started controlling her by threatening to send her back to her country. Her landlord controlled the number of clients she had to receive, transferred her from one apartment to another, and provided her drugs, which kept her drugged and powerless.

At some point, M.M. was able to escape from her landlord's grip. She gathered enough evidence and took them to the police station. When arriving to HRM, M.M. described the disrespectful and dismissive way the police treated her. The evidence she provided was taken from her, and she was told that a complaint was filed, but she never heard back from the police. M.M. returned two more times to the police but never received any information regarding her complaint. To her knowledge, nothing was done in her case, and her landlord was not even interrogated.

Meanwhile, when M.M.'s landlord discovered her attempts to complain to the police, she sent a few men to her apartment to murder her. With the help of a client, M.M. was able to escape. She ended up in Tel Aviv in an organization dedicated to protecting trans women, Bet Lina. As she tried to approach the police again, the police officers told her to go away. HRM made sure that M.M.'s complaint was received by the police squad and assisted her in transferring to a shelter for women who fell victim to human trafficking.

Moreover, in 2020, HRM received several complaints from migrant women who addressed Argaman organization - alliance of Israeli sex workers. According to the complaints, an Israeli man pretended to be a client, but when he was alone with them, he attacked them brutally and left. His photo was circulated for a long time among the sex workers, but not even one of them agreed to officially file a complaint against him. They did not trust the Israeli law enforcement authorities enough and feared arrest and deportation.

Gaps in the Protection Given to Women and LGBTQI Victims of Human Trafficking

In November 2000, the United Nations adopted a protocol to define and combat human trafficking. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.[85] (hereafter: The Protocol) was ratified by Israel on 23 Jul 2008.[86] The first purpose of the protocol is to prevent and combat trafficking in persons, paying particular attention to women and children. Migrants and refugees fleeing austerities in their countries of origin are at augmented risk of being exploited or trafficked. Women on the move are in danger due to their gender. Prostitution and other forms of sexual exploitation are prevalent among female victims. In HRM's report, "20 Years of Trafficking in Persons,"[87] the historical background of the vast and various TIP trends in Israel and the State's treatment are discussed thoroughly. However, in this report we will focus on the contemporary challenges still to be addressed.

At the time of writing of this report, the entity officially responsible for investigating human trafficking allegations and granting victims of trafficking rehabilitation services is the Police Trafficking Unit which consists of two police officers. On March 2022, the Ministry of Justice's unit for coordinating the fight against human trafficking (hereafter: NATU) suggested transferring the mechanism of recognizing a person as a victim of human trafficking to the MOJ (Ministry of Justice), and the recommendation was adopted in Government Decision 1862 published in September 2022.[88] The implementation of the transfer awaits publishing a procedure governing the process.

Insufficient Attention to the Changing Trends of Trafficking in Women

Up until the year 2009, most of the recognized trafficking victims were women who were forced into prostitution by sex traffickers. Many migrant workers outside the sex industry were also held in contemporary slavery-like conditions but were not recognized as such. From 2009 onwards, HRM's staff successfully identified new trends of trafficking and warned the authorities about them, but unlike the overall effective fight initiated against sex trafficking in women, there

[85] https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons.
[86] https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-12-a&chapter=18
[87] Hotline for Refugees and Migrants, 2000 - 2020: Two Decades of Fighting Human Trafficking of Migrants in Israel, November 2021.
[88] Government Decision 1862, Decision Regarding the multi-year implementation of the national plan to fight trafficking for the years 2022-2026 (September 18, 2022).

are still critical gaps in the ability to identify and protect those other survivors – diverse forms of victims to sex trafficking, "mail-order brides", survivors of the Sinai torture camps, and others. We will detail in this chapter several exemplary cases that portray the implications of not identifying victims as such.

Moreover, up until 2019, a primary obstacle to identifying and recognizing survivors as TIP victims was what the police required as a *prima facie* evidence, which amounted to the threshold required in criminal proceedings. Investigation into trafficking allegations was done similarly to criminal investigations without any sensitivity to the victim's mental health. Fewer and fewer victims were recognized until January 2019, when HRM filed a petition to HCJ on behalf of a Sudanese refugee who was rejected by the trafficking unit.[89]Following the successful appeal, in October 2021, the police published a new procedure detailing the process for requesting recognition of a person as a victim of human trafficking.[90] Since then, most victims who apply for recognition have been awarded this status. According to a report published by NATU in December 2022, 74% of the requests for recognition are granted.[91]

In 2019, the HRM staff identified A.B., a Central African Republic (CAR) woman, as a potential TIP victim. A.B. was trafficked from CAR to China as a minor, together with two other minors, for the purpose of prostitution. From China, she was again trafficked to Israel, where her trafficker supplied her with a fake diplomatic passport. Despite the abnormal entrance of A.B. to Israel, none of the Israeli authorities' personnel raised any suspicions. A.B. was then transferred to Bat Yam, where she was forced to work in prostitution.

HRM staff interviewed A.B. thoroughly to establish *prima facie* evidence. The interview was conducted with a maximum sensibility to A.B.'s situation, considering her young age. She was interviewed in the presence of her social worker in a familiar place. After great attempts to make her feel comfortable, it was apparent that A.B. suffered from trauma and other mental difficulties related to her circumstances.

HRM staff immediately forwarded the incident to the attention of the police squad, asking to acknowledge A.B. as a TIP victim and provide her with the rehabilitation services she direly needed. The police officer in charge at the time refused to ɹacknowledge A.B. as a victim without thoroughly interrogating her.

[89] HRM Website: https://hotline.org.il/legal-action/6595/
[90] https://www.gov.il/he/departments/policies/human_trafficking_and_slavory_status_procedure
[91] See Fighting Human Trafficking in Israel 2017-2022, The Coordination of the Fight Against Trafficking of Human Beings Unit (December 29, 2022)

Despite the protest of HRM's staff to such an interrogation due to the psychological fragility and young age of A.B., the police tried several times to carry on the interrogation. One morning, the police arrived without notice at A.B.'s residence and took her to the police station while she was still wearing her pajamas. Three male police officers attempted to investigate her. The incident left A.B. confused and terrified, and brought to her hospitalization. In May 2019, the squad rejected A.B.'s request to be recognized as TIP victim without reasoning. The Legal Aid Bureau at the Ministry of Justice appealed this decision and established that the trafficking of female minors using diplomatic passports is an internationally known phenomenon. As a result of the appeal, A.B. was recognized as a victim, and with the assistance of the Legal Aid Bureau, was granted a humanitarian status in Israel.

Failure to Identify "Mail-Ordered Brides" as Trafficking Victims

Trafficking in women under the veil of marriage is what we refer to in this report as "Mail-ordered brides". This phenomenon usually consists of Israeli men who exploit African women's vulnerabilities and lack of resources and marry them with a promise of a brighter future in Israel. Sometimes, these marriages are done after striking a "deal" with the woman's family and without her consent. After bringing the woman to Israel, she is held in slavery-like conditions and treated as a sex slave. As legally her status is reliant on the existence of marriage, and she cannot leave. These women meet PIA officers regularly and often, to examine the authenticity of their relationship and renew their staying permit, but very rarely do PIA officers identify them as victims of trafficking.

HRM staff met and identified six women as TIP victims, five of them received formal acknowledgment as victims. The sixth was not formally acknowledged as the anti-trafficking squad confronted her with her violent husband, and she chose not to cooperate, fearing for her life. Although all these women met PIA officers with their Israeli husbands for long interviews frequently, PIA officers did not identify any of them as TIP victims.

In 2018 B.M.,an Ethiopian woman, arrived at HRM's offices and asked for assistance. According to her testimony, she married an Israeli citizen in Ethiopia in 2015. Her family and relatives recommended the marriage. In Ethiopia, whenever her husband came from Israel to visit, she was never left with him alone. Thus, she was unable to get to know him well. In 2016, B.M. arrived in Israel to reunite with her husband and discovered that he was a violent and hot-tempered man. Since her arrival, B.M.'s husband locked her in their house and

did not allow her to leave it. Every day, when he left for work, he locked her in the house without leaving her a key. She was expected to finish the house chores, cook, clean, and wait for his return. Every night he brutally raped her despite her pleadings to stop. He forbade her to work and allowed her to call her family only in his presence. During their two years of marriage, B.M. never left the house without her husband, and she endured severe physical and sexual abuse.

After two years, a neighbor offered B.M. a job in a factory. Her husband reluctantly agreed to let her work. Two weeks later, he stabbed her in the neck with a knife. B.M. was taken by ambulance to the hospital, where it was clear that she could not return home. B.M. was released to a shelter and started a rehabilitation process which ceased when her staying permit expired. Since B.M. did not arrive with her abusive husband to renew her permit, she lost her legal right to remain in Israel. None of those who met B.M. - PIA officers who interrogated the couple, the hospital staff that treated her after her husband attempted to murder her, the social workers at the shelter - identified B.M. as a potential TIP victim. Only after she contacted HRM and HRM's staff submitted a request on her behalf to be recognized as a TIP victim was she identified and recognized by the government.

In 2021, P.A., an Ethiopian woman was addressed to the HRM by a social worker at a domestic violence shelter run by "No to Violence" NGO. P.A.'s family married her off to an Israeli citizen against her will. In 2017, P.A.'s husband arrived in Ethiopia and made a deal with her parents. P.A. was then studying at the University in Addis Ababa, unaware of the marriage proposal. Her family asked her to come for a visit, where she was introduced to her future husband. P.A. opposed marrying him immediately and decided to run away from home. Later, through her uncle, her family was able to persuade her to come back home. They brought her to her future husband, who locked her with him in a hotel room, where he raped her for a whole week. Subsequently, P.A. was forced to marry him against her will. In 2020, her husband flew her to Israel. He forced her to take contraceptive pills, allowed her to work, but confiscated her entire salary, and physically attacked her daily. Ultimately, P.A. informed a colleague at work of her husband's behavior, and the latter advised her to address the welfare department. The social worker at the welfare department directed P.A. to the shelter for battered women. P.A.'s social worker at the shelter approached HRM for help, acknowledging HRM's experience with TIP victims and P.A. was recognized as a TIP victim by the squad.

Yet, despite six victims referred by HRM, PIA had not yet recognized this trafficking pattern and did not take the necessary precautions to identify these women on time, and the police did not prosecute the oppressing husbands for trafficking. Moreover, these women could face deportation after the end of their rehabilitation year as recognized trafficking victims. Sending them back to their families – those who enabled their enslavement in the first place - could endanger these women and deepen their unbearable mental stress and even bring to their re-victimization. The authorities do not offer any solutions to regulate these women's status. On the contrary, it seems that the state is eager to deport them as soon as their rehabilitation year is over.

Failure to Identify Survivors of Sinai Torture Camps as Victims of Human Trafficking

Starting in 2009, refugees from Eritrea and Sudan began to reveal that they were held in torture camps in Sinai. These camps were operated by Bedouins who recognized and exploited the vulnerabilities of people fleeing war, oppression, and persecution in their homelands. The Bedouins captured them and took ownership of their bodies. They profited financially and sexually from these people and left many of them with physical and emotional scars and traumas for the rest of their lives. The risk for women and girls was enormous. Their gender and gender-based vulnerabilities made them "easy" victims for the Bedouin traffickers. Despite the dreadful testimonies of the victims, estimated at more than 3,000 victims, the authorities identified only about 500 survivors of the camps as TIP victims. Others could not provide *prima facie* evidence for delivering services to their traffickers. For many victims of Sinai torture camps, rehabilitation services are essential. Lack of identification and recognition can have harsh effects on them, especially on women who endured long periods of severe sexual torture and rape.

For years, HRM and its partners, Physicians for Human Rights and ASSAF, have been advocating and fighting for rehabilitative services for Sinai torture survivors. Even though in 2018, the government decided to provide certain rehabilitative services to the most vulnerable members of this group (roughly 300 individuals), and the government budget for this plan was secured in the 2021 budget, towards the end of 2022, the rehabilitative services are not yet provided, over a decade since the entrance of the first survivors through the Israel-Egypt border.[92]

[92] Hotline for Refugees and Migrants and Physicians for Human Rights, Tortured in Sinai, Jailed in Israel, October 2012.

S.G. fled Eritrea to the neighboring country Ethiopia. In 2011, due to hardships in Ethiopia, S.G. decided to make her way to Sudan. She was kidnapped on the way and transferred to the Sinai torture camps. She was held captive for a month, endured starvation, physical and mental torture, and was raped systematically multiple times a day by her captives and their relatives. After her mother managed to raise 10,000 USD, the ransom demanded for her release, S.G. was released near the Israeli border. Entering Israel, S.G. was taken by the Israeli soldiers to the detention facility, questioned, and released to the streets after two weeks. She mentioned her experience in Sinai to PIA's inspectors, who interrogated her. Still, nevertheless, she was not identified as a possible victim and was not asked any follow-up questions or offered rehabilitation services. Instead, upon her release, S.G. was taken, together with other asylum seekers, by a bus and was left at the Central Bus Station in Tel Aviv. S.G. was homeless for three days. She did not have any family or acquaintances in Israel to rely on. Her need for shelter and food and her suffering from undealt trauma made her retract to survival sex. For eleven years, S.G. survived only through survival sex, at a high psychological cost to her well-being. At the beginning of 2022, she got pregnant with a baby girl and realized that she needs rehabilitation services to raise her daughter adequately. She approached the Levinsky Clinic and asked for help. The social worker at Levinsky clinic addressed HRM for assistance in submitting S.G.'s case to the police squad, and S.G. was recognized as a TIP victim, 11 years too late.

Failure to identify household workers who were held in slavery-like conditions

At the end of 2021, there were 57,509 caregivers in Israel, among them 47,909 women (83%).[93] Due to the Israeli restrictive employment method, many of them turned to the human rights organization Kav Laoved following a variety of infringements of their rights, starting with the recruitment process in their home country in which they are often required to pay high brokerage fees in order to work in Israel to the strict regulations on changing employers, both making caregivers reluctant to report problems or try to change abusive employers for fear of losing their visa and thus access to employment.[94] Their vulnerability is deepened by the fact that they live in private homes with their patient-employee and have few safeguards for their privacy and well-being. Working around the clock, six days a week (many times seven), they are the primary caretakers for their patients. Caregivers also face restrictions on their right to

[93] PIA Statistic Data of Foreigners for 2021: chart 11, p. 25.
[94] Kav Laoved Website: https://www.kavlaoved.org.il/en/areasofactivity/caregivers/

family life. They are not allowed to bring their children with them to Israel, and if they give birth here, their children must be returned to their country of origin within a prescribed period of time. State regulations also prohibit caregivers from forming romantic relationships with other migrant workers.[95]

I.R. arrived in Israel from Georgia in 2015 to work as a caregiver, or so she was told by the employment agency that arranged her arrival. As soon as she arrived at the airport, she was taken by an agency representative to sign a contract according to which I.R. was supposed to care for a disabled man. However, when she arrived at the house, she discovered that the man did not need any special assistance. Instead, she was required to clean the house and care for the children. Her passport was taken from her, and she was constantly told that significant amounts of money were paid to bring her, and thus she must abide by every order. She was forced to work 15 hours and sometimes even 20 hours a day. According to R.I.'s testimony, she was given only one meal a day and was required to bath in cold water. Her employer sent 1,000 USD a month to her husband in Georgia, a significantly smaller amount than she was promised. She was not paid for extra hours or for working on weekends and was not given any vacations. In addition, I.R. endured constant verbal and physical violence. She endured all of this abuse because she knew that her family in Georgia relied on her for their financial survival. She was mentally exhausted and contemplated taking her own life. After five months of abuse, she decided to escape. Her employer called the police to arrest her. She was interrogated, but the policeman did not notice she was a TIP victim. When HRM's staff met her, they filed a request to the anti-trafficking police squad for her, and I.R. was recognized as a TIP victim and received the rehabilitation services she was in dire need of.

Failure to identify new trends of human trafficking

HRM constantly identifies new patterns of trafficking and reports them to NATU, aiming to minimize the phenomenon's scope. Alerting the authorities assists in identifying more victims as well as bringing traffickers to justice, but at the time of the writing of this report, new victims keep on arriving via the same route.

In 2021, two Ethiopian women of Tigray ethnicity who entered separately and at different occasions to Israel, addressed HRM for assistance. The first woman, L.A., is 21 years old. She fled Ethiopia after her parents tried to marry her against

[95] Ibid.

her will. According to her testimony, she was brought through an employment agency, first to Beirut, Lebanon, and then to Amman, Jordan. In Amman, the agency took her passport upon arrival, and she was sent to work in a house of a family of four. L.A. was required to work every day for long hours, barely allowed to sleep, and did not get paid. At some point, L.A. contacted her employment agency and pleaded with them to allow her to change employers. The agency threatened to send her back to Ethiopia if she left the family. L.A. had no choice but to agree to go back to Ethiopia. She was then taken back to the agency to sign the papers. Throughout this time, L.A.'s passport was held by the agency. L.A. stayed in the agency's office for a few days before being told she would be transferred to another family.

Apparently, the agency transferred her to the city of Jericho in the West Bank. There, L.A. was held in a house with two men who have sexually attacked her. While talking about her encounters with the two men, L.A. lowered her face and voice, and her body shivered. She told HRM staff that the men gave her a room without a lock, and they entered it often at night. She also revealed that they sometimes hugged her from behind while doing chores and talked with her using "sexual words." The house where she was held was locked all the time. Her passport was with them, and they told her that they send her salary directly to her family in Ethiopia. L.A. lost contact with her family in the Tigray region since the eruption of the war, so she could not check if that was true. After a few months, L.A. was able to get the help of an Eritrean asylum seeker in Israel whom she met in one of her prayer groups on WhatsApp and managed to escape to Israel, where she was referred to HRM, and with HRM's assistance, recognized as a TIP victim.

A few months afterward, another woman approached HRM with a similar testimony. M.M. is also an Ethiopian of Tigray ethnicity. She was studying in college when she encountered an advertisement for domestic work in Jordan. M.M. applied for the job and underwent training. The agency promised she could always keep her passport with her, and she would only work nine hours a day and get four days off each month. When she arrived in Amman, Jordan, M.M. was taken to a big house which was a home of a family of nine. Her passport, phone, and all of her belongings were taken away from her. M.M. worked each day from five AM to one AM. She was allowed to take short breaks to eat, but the refrigerator was locked, and she had limited access to it. Twice a week, M.M. was requested to clean another family's house. She received a paycheck only for the first two months of work.

The older son in the house attacked M.M. sexually several times while threatening her with a knife. She told his parents about it, but he continued to attack her while his father was away. Only seven months later, M.M. was able to contact her family via Facebook and ask for their help. Her parents called the agency in Ethiopia and demanded that they find a solution for their daughter. The agency's staff in Jordan arrived at the house and took M.M. with them, confiscating her passport. M.M. notified them of her wish to return to Ethiopia, but they said that she still owes them an immense amount of money and that there was a Palestinian woman who would like to hire her services.

M.M. had to wait for a whole month in the agency's offices before she was transferred to the West Bank. On her way, an Israeli soldier stopped the bus she was on, talked to her in Amhara, checked her papers, stamped them, and let her proceed. Upon arriving in the West Bank, the woman who hired her confiscated all her belongings, including her personal documents and cell phone. She was brought to a huge house full of surveillance cameras and was prevented from looking outside the window. M.M. worked long hours, suffered physical and verbal violence, and was not allowed to leave the house. She did not receive any payment for her work for four months, and then, when the family left the house, M.M. seized the opportunity and escaped. She had no idea where she was, so she ran until she found a hiding place. M.M. observed the street looking for women drivers, and as soon as she found one, she jumped in front of her car, asking her to stop. The woman stopped and agreed to take her to Jerusalem. In Jerusalem, she helped M.M. to contact an Eritrean man she knew, who came to pick her up. That man connected M.M. to HRM.

HRM addressed the police squad on behalf of both women, asking that they will be recognized as TIP victims. They were both recognized and immediately transferred to the shelter and received the rehabilitation services they direly needed, but after a year of rehabilitation in the shelter, PIA issued M.M. a 2A5 conditional release permit which prohibited her from working (both women were not up for deportation as they are asylum seekers due to the war in the Tigray region). As a TIP victim, surviving outside the shelter without a work permit is almost impossible and might lead to re-victimization. HRM addressed the Legal Aid Dept. at the Ministry of Justice, and following their representation of M.M., PIA agreed to issue M.M. a 2A5 permit which does not prohibit working.

In January 2022, a third Ethiopian woman from the Tigray ethnic group arrived at HRM's office with a similar testimony: an Ethiopian agency hired her to work

in Jordan, she was held in Jordan in slavery-like conditions, later transferred to the West Bank to be held there in slavery-like conditions, and later managed to escape and enter in Israel with the assistance of an Eritrean man. The striking similarity with the previous cases urged HRM's staff to write Adv. Dina Dominitz, the head of NATU, a letter urging her to respond to this new pattern of trafficking. Adv. Dominitz replied that an investigation had been initiated, but there were no concrete conclusions to draw from it at the time. Since then, and until the middle of February 2023, HRM already identified 25 women from the Tigray who were trafficked through the same route and arrived separately with no connection between them, to HRM's premises. NATU reacted quickly and the women who wanted it, were quickly transferred to the shelter, yet. Yet, despite the understanding that the number of these victims from the Tigray in Israel is much larger, all victims were identified by HRM. Although some of them were homeless prior to their arrival to HRM's premises, and others might still be homeless in the streets, no policemen or social workers identify any of them as TIP victims.

Flaws in the treatment of women and LGBTQI TIP victims in the shelter

TIP victims who are recognized by the police squad are eligible for a year of rehabilitation in designated shelters for victims of human trafficking. The "Ma'agan" Shelter for women was established in 2004. It is operated by the NGO "Keshet" under the supervision of the Ministry of Welfare and can accommodate up to 35 women, including children. The shelter provides medical and psycho-social services and professional training. The victims are entitled to a B1 work permit, which allows them to work throughout their stay in the shelter.[96] The duration of stay at the shelters can be extended if the victim takes part in legal proceedings against her trafficker or if the shelter's staff recommends the extension based on the victim's rehabilitative needs.

In 2022, HRM managed to obtain, under the Freedom of Information Law, the reports of the supervising body of the Ministry of Welfare regarding the Maagan shelter as well as the Atlas shelter for men. The supervising body issued a monitoring report approximately once a month, from May 2019 to September 2021.

During the entire period, the reports criticize the living conditions in the shelter: Many rooms are not suitable for living and contain mold and broken furniture.

[96] Dr. Daphna Hacker and Dr. Orna Cohen, The Shelters in Israel for Survivors of Human Trafficking report, March 2012.

According to the reports, the families' residence was in the worst shape, and contained beds that were inappropriate for the age of the children who needed to use them. Some of the rooms were too crowded, and lacked privacy, while others allowed less than 4 square meters per person, in violation of the law and regulations. Reports that inspected the kitchens and the food supply describe a shortage of warm meals or a lack of nutrition staples on the products. The Kitchens were maintained in violation of the Ministry of Health's regulations, proposing grave health hazards. Showers contained mold, and in the family residence, showers were not proofed for younger children. During the Covid-19 pandemic restrictions, there was an acute shortage of staff and rapid turnover of key personnel, which caused the residents a feeling of chaos and instability. The reports also criticize the medical treatment as: the family physician's visits stopped during the Covid-19 restrictions in 2020, and she resorted to providing phone consultations alone. During the whole period, no medical prescriptions were given to the residents. In cases of receiving a new resident in an emergency, the physician was usually not present to provide a medical assessment of the new resident. If needed, the latter must wait for her regular visiting hours to start their treatment. Wrong medications were sometimes provided to residents due to confusion in names. A psychiatrist visits the residents only once every three months, and during Covid-19, all her visits were performed via ZOOM.

The shelter does not provide psychological services, and social workers provide the residents with emotional and social treatment. Many victims have PTSD. Nevertheless, the shelter does not provide any treatment for post traumas but only provides treatment for its symptoms. The reports also show that most treatment plans are general plans that do not consider the individual needs of the residents. Moreover, some treatments were not reported, and there was no coherent and transparent reporting of files. In some periods, there was a lack of social workers or lack of translators. The shelter was not able to locate replacements and employ new staff. The reports recommend more professional training for new staff members due to the vulnerabilities of the residents.

In general, it seems like the shelters are not prepared to deal with extreme situations and the inspection reports state that the training to the shelter's employees is not sufficient, mainly due to the frequent turnover of workers there. A lack of training for the staff also emerged after an act of violence was committed by one of the residents, which frightened both the team and the residents. There was no official protocol explaining how to deal with such

situations, and no prior training was given to the staff in this regard. This resulted in more extended periods of unsafety and shaking security.

M.M. is a transgender woman who fell victim to human trafficking and was recognized as a victim following HRM's assistance (see more details of her story above). After HRM's staff examined M.M.'s case and established *Prima Facie* evidence, they immediately contacted the police squad and NATU, asking to transfer M.M. immediately to the TIP victims' shelter, which they thought would be a better fit for her needs than her previous stay at Beit Lina, which is a shelter targeted at transgender women, but does not hold expertise in assisting TIP victims. In response, The TIP victims' shelter manager asked HRM case worker inappropriate and invasive questions regarding M.M., hinting that the shelter is unprepared to receive a transgender woman who did not go through gender reassignment surgery. After the involvement of the head of NATU, M.M. was transferred to the women's shelter.

Sometimes, victims need to wait for lengthy periods of time for an opening at the shelter. S.G., a Sinai torture camps survivor, whose story was described earlier, was not accepted at the shelter despite being recognized as a TIP victim, since she had a child and there was no place at the time in the families' residence. S.G.'s social worker managed to help her rent a room with the financial help of the NGO Lo Omdot Me'negged. To our knowledge, S.G. had to wait several months to be relocated to a shelter, during which she did not receive any rehabilitation or psycho-social assistance.

The scarcity of family-designated rooms in the shelter is a reoccurring problem: In 2020, H.B., a Sudanese victim with three children, was not accepted to the Shelter due to the placement shortage. She and her children remained in a shelter for battered women and were not able to receive the rehabilitation services she needed. H.B. had a language barrier as well, since although the social worker in the shelter spoke Arabic, it was hard for her to understand H.B.'s Sudanese dialect. In 2021, H.M., an Eritrean torture camps survivor, also had to wait after her recognition as a victim, together with her three children, for a place in the TIP victims' shelter.

Lack of procedures for permanent status for victims who are unable to return to their home countries

In 2019, a group of 27 young Ethiopian women arrived at the HRM office. They exposed a horrific story of trafficking, slavery, and sexual torture in the torture

camps in Sinai. The young women were all kidnapped as minors from Ethiopia to Egypt, were held in the camps, and later brought to Israel's border against their will. Most of these women fled their homes for various gender-based reasons such as sexual exploitation, extreme poverty, political or religious persecution, murder of their family members, threats of murder, and forced marriage to an old spouse. They all made their way to Metema region in Ethiopia, an area known as a route of trafficking in search of a brighter future. In 2011, they were kidnapped from Metema to the Sinai torture camps, where they endured dire physical and mental abuse. They were captured for months in starvation, forced labor, and raped daily to pressure their families into paying their ransom. Three to eight months passed before these girls were released and sent to Israel at the beginning of 2012 suffering dire physical and mental conditions. Immediately upon arrival in Israel, and despite their horrible situation, the girls (ages 14-19) were detained in the Saharonim detention facility. Albeit their recognition as TIP victims, the girls remained in detention for extended periods, sometimes for over a year, which aggravated their psychological harm. Only after they had been appointed legal representation by the legal aid department of the Ministry of Justice, were they moved to applicable shelters.

The 27 girls were all recognized as TIP victims almost ten years ago. However, they are still living the brutal consequences of their captivity and the State's treatment of them. In 2021, after HRM wrote the Minister of Interior asking to provide the group with permanent legal status, as they cannot be returned home, they were given only a temporary working visa for a year. HRM appealed this decision requesting they be granted permanent legal status to ensure their rehabilitation, but at the time of the writing of this report, no final decision was made in their regard, and the women are requested to renew their visas once every three months with great difficulties stemming from their post-traumatic conditions and fear of returning to Ethiopia, where they will be, most likely, persecuted and re-victimized.

Conclusion

All refugees and vulnerable migrants need special attention and care due to their life circumstances and traumas. This report shows the extent to which women and LGBTQI refugees and migrants are inherently in greater need of such attention and care, throughout all the phases of the immigration and asylum system. Unfortunately, as the report clarifies, they usually do not receive the treatment they deserve and need, and their rights are constantly violated.

HRM's main recommendation to the Israeli authorities is simple - to comply with the demands of the relevant international conventions that Israel signed and ratified: the Refugee Convention,[97] and the Convention on the Elimination of Discrimination Against Women (CEDAW).[98] Complying with these conventions will oblige Israel to examine asylum requests with the proper attention, recognize refugee women, stop detaining in immigration detention for long periods refugee and migrant women, accept complaints of refugee and migrant women and treat these complaints seriously.

It is also recommended that Israel will sign the Istanbul Convention, an act that will oblige the Israeli authorities to properly fight violence against women in Israel in general.[99] The Israeli conduct regarding the Istanbul convention, as described in the preface of this report, emphasizes the indifference of the present government towards victims of violence.

Complying with these three conventions will enable most vulnerable status-less women and LGBTQI refugees and migrants to acquire legal status and the social rights that accompany it, even if for a limited period.

[97] The International Convention on the Rights of Refugees, 1951.
[98] The International Convention on the Elimination of all Forms of Discrimination against Women, 1981.
[99] Footnote no. 2.