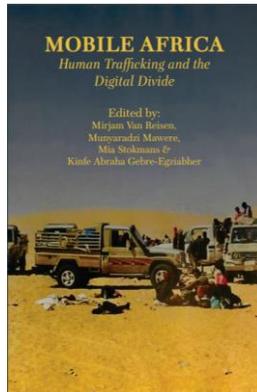


Israel's 'Voluntary' Return Policy to Expel Refugees: The Illusion of Choice

Yael Agur Orgal, Gilad Liberman & Sigal Kook Avivi

Chapter in: **Mobile Africa: Human Trafficking and the Digital Divide**

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Table of Contents

Preface by Chief Fortune Charumbira	ii
Acknowledgement	ix
A Word on the Review Process	x
Acronyms	xi
Preamble	xiii
Part I. Theoretical Perspectives	1
Chapter 1: Black Holes in the Global Digital Landscape: The Fuelling of Human Trafficking on the African Continent.....	3
<i>By Mirjam Van Reizen, Munyaradzi Mawere, Mia Stokmans, Primrose Nakazibwe, Gertjan Van Stam & Antony Otieno Ong'ayo</i>	
Chapter 2: Network Gatekeepers in Human Trafficking: Profiting from the Misery of Eritreans in the Digital Era.....	33
<i>By Mirjam Van Reizen, Klara Smits, Mia Stokmans & Munyaradzi Mawere</i>	
Chapter 3: Bound Together in the Digital Era: Poverty, Migration and Human Trafficking.....	63
<i>By Munyaradzi Mawere</i>	
Chapter 4: Tortured on Camera: The Use of ICT's in Trafficking for Ransom.....	91
<i>By Amber Van Esseveld</i>	
Part II. Traumatizing Trajectories	113
Chapter 5: 'Sons of Isaias': Slavery and Indefinite National Service in Eritrea.....	115
<i>By Mirjam Van Reizen, Makeda Saba & Klara Smits</i>	
Chapter 6: Journeys of Youth in Digital Africa: Pulled by Connectivity.....	159
<i>By Rick Schoenmaeckers</i>	
Chapter 7: Not a People's Peace: Eritrean Refugees Fleeing from the Horn of African to Kenya.....	187
<i>By Sophie Kamala Kuria & Merhawi Tesfatsion Araya</i>	

Chapter 8: Israel's 'Voluntary' Return Policy to Expel Refugees: The Illusion of Choice.....	209
<i>By Yael Agur Orgal, Gilad Liberman & Sigal Kook Avivi</i>	
Chapter 9: The Plight of Refugees in Agadez in Niger: From Crossroad to Dead End.....	239
<i>By Morgane Wirtz</i>	
Chapter 10: Lawless Libya: Unprotected Refugees Kept Powerless and Silent.....	261
<i>By Mirjam Van Reisen, Klara Smits & Morgane Wirtz</i>	
Chapter 11: The Voices of African Migrants in Europe: Isaka's Resilience.....	295
<i>By Robert M. Press</i>	
Chapter 12: Desperate Journeys: The Need for Trauma Support for Refugees.....	323
<i>By Selam Kidane & Mia Stokmans</i>	
Chapter 13: Identifying Survivors of Torture: "I Never Told What Happened to Me in the Sinai".....	353
<i>By Sigal Rozen</i>	
Part III. Psychological Impact of Ongoing Trauma	393
Chapter 14: Refugee Parenting in Ethiopia and the Netherlands: Being an Eritrean Parent Outside the Country.....	395
<i>By Bénédicte Mouton, Rick Schoenmaeckers & Mirjam Van Reisen</i>	
Chapter 15: Journeys of Trust and Hope: Unaccompanied Minors from Eritrea in Ethiopia and the Netherlands.....	425
<i>By Rick Schoenmaeckers, Taba Al-Qasim & Carlotta Zanzottera</i>	
Chapter 16: Refugees' Right to Family Unity in Belgium and the Netherlands: 'Life is Nothing without Family'.....	449
<i>By Mirjam Van Reisen, Eva Berends, Lucie Delecolle, Jakob Hagenberg, Marco Paron Trivellato & Naomi Stocker</i>	
Part IV. Problem Framing	495
Chapter 17: The Representation of Human Trafficking in Documentaries: Vulnerable Victims and Shadowy Villains.....	497
<i>By Nataliia Vdovychenko</i>	

Chapter 18: Language Dominance in the Framing of Problems and Solutions: The Language of Mobility.....	527
<i>By Munyaradzi Mawere, Mirjam Van Reisen & Gertjan Van Stam</i>	

**Part V. Extra-territorialisation of Migration and International
Responsibilities557**

Chapter 19: The Shaping of the EU's Migration Policy: The Tragedy of Lampedusa as a Turning Point.....	559
<i>By Klara Smits & Ioanna Karagianni</i>	

Chapter 20: Sudan and the EU: Uneasy Bedfellows.....	593
<i>By Maddy Crowther & Martin Plaut</i>	

Chapter 21: Uncomfortable Aid: INGOs in Eritrea.....	631
<i>By Makeda Saba</i>	

Chapter 22: Complicity in Torture: The Accountability of the EU for Human Rights Abuses against Refugees and Migrants in Libya.....	673
<i>By Wegi Sereke & Daniel Mekonnen</i>	

Chapter 23: Playing Cat and Mouse: How Europe Evades Responsibility for its Role in Human Rights Abuses against Migrants and Refugees.....	697
<i>By Annick Pijnenburg & Conny Rijken</i>	

About the Authors	727
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Chapter 8

Israel's 'Voluntary' Return Policy to Expel Refugees: The Illusion of Choice

Yael Agur Orgal, Gilad Liberman & Sigal Kook Avivi

"We have expelled about 20,000 and now the mission is to get the rest out."

Prime Minister Netanyahu, 3 January 2018 (Heller, 2018)

Introduction

Many African asylum seekers, almost exclusively from Eritrea and Sudan, arrived in Israel through the Egypt-Israel border in the Sinai Peninsula between 2006 and 2013. Sudanese refugees mainly fled following the Mustafa Mahmoud Square massacre in December 2005 (Whitaker, 2005); Eritrean refugees arrived later, as the refugee and trafficking routes consolidated around 2007/08. The closure of the Libyan route and the strengthening of the kidnapping and trafficking networks resulted in the arrival of many Eritrean refugees. Many of these refugees had suffered extreme conditions and torture on route and in the torture camps in the Sinai

(Aid Organization for Refugees and Asylum Seekers in Israel, 2014,

Under Israel's Anti-Infiltration Law, more than 2,000 people have been deported to Eritrea, 4,500 to Sudan, and 5,400 to Rwanda and Uganda. Although 'true consent' is required under Israeli law, the voluntary nature of such returns is dubious, with deportees being given a choice between indefinite detention and deportation. The deportees leaving in this way risk imprisonment, slavery and persecution in their countries of origin or third countries. Some flee again, often through Sudan, Libya and the Mediterranean Sea to Europe, perilous journeys that are driven by lack of choice and often facilitated by state-sponsored smugglers.

p. 3). In mid-2012, Israel constructed a fence along its border with Egypt, which dramatically reduced entries by 2013 and stopped them completely by the end of 2016. In total, 64,736 asylum seekers have crossed to Israel through the Sinai since 2005. As of January 2019, there were 33,627 African asylum seekers in Israel, consisting of 24,007 Eritrean and 6,594 Sudanese (Population, Immigration and Border Authority, 2019). Eritreans and Sudanese make up the vast majority of the group derogatorily referred to as ‘infiltrators’ under Israeli legislation. In a bid to rid itself to what it perceived as a problem, the Israeli government set up a scheme for what it called ‘voluntary’ repatriation. To what extent this policy is indeed ‘voluntary’ and what its implementation means in the lives of the refugees is researched in this study.

The situation in Israel

Although Israel has signed and ratified the 1951 Refugee Convention, it has not embedded it in its national legislation and, at the time of writing this chapter, Israel has no refugee law. In the absence of such a law, the government, the Prime Minister and the Minister of Interior Affairs enjoy few legal restrictions on determining who is a refugee, how the asylum system is built and functions, the rights and obligations of refugees, and the status individuals will hold until their application is ruled upon. Since the late 2000s, the same Prime Minister has been in office in Israel, with similar governments, and their attitude toward asylum seekers has been consistent – to get rid of them by different mechanisms of deportation (Heller, 2018). The first deportation was as early as 2007 under the so-called ‘Hot Returns’ policy, under which asylum seekers were pushed back at the Israel-Egypt border into the arms of the Egyptian army and Bedouin smugglers (Hotline for Refugees and Migrants, 2008, p. 49). After this policy was renounced, Israel built its border fence, which effectively stopped the entry of new refugees. The focus then shifted to the population already in Israel. A double-headed approach was put in place: first, to make the daily lives of refugees impossible by imposing different sanctions, including incarceration under an amendment to the Anti-Infiltration Law, which was introduced in 2011, and, second,

to pressure them to leave Israel under the Voluntary Return mechanism introduced in 2012. The former (indefinite or prolonged detention) was used to encourage the latter (voluntary return).

The sanctions Israel has put in place to push the asylum seekers out include geographic restrictions; detention for a long duration; denial of access to a functioning asylum system; absence of social care or any integration scheme; denial of any permanent or long-term visa; requirement to renew ‘conditional release visa’ every 1–3 months through a humiliating and time consuming process; denial of a work permit; and extreme taxation (Rozen, 2014; Birger, Shoham & Bolzman, 2018). These measures have led to the removal of more than 30,000 persons since 2013 (Population, Immigration and Border Authority, 2019).

Severely traumatised survivors of torture camps in Sinai, who have survived torture and human trafficking for ransom, succumb more easily to pressure from immigration officials to leave the country. These survivors owe money to members of their family or community who paid their ransom for release from the torture camps and cannot afford to stop working. It is, therefore, reasonable to assume that since 2013, there are numerous survivors, who should have been protected in Israel under Israeli law and international law, are among those who left ‘voluntarily’ to third countries (Drori Avraham, Rozen & Avigal, 2015; Rozen, 2015; Rozen & Michaeli, 2015).

Current and accurate information regarding those removed from Israel is scarce. Following a freedom of information request in 2015, the Ministry of Interior reported that 4,608 Sudanese were deported to Sudan, 1,059 Eritreans to Eritrea, and over 4,200 asylum seekers to third countries up until August 2015 (Ziv, 2015). Recent data published by the Population, Immigration and Border Authority reveals that, between 2015 and 2018, 2,228 Eritreans and Sudanese were deported to their home countries, 3,376 were deported to third countries (Rwanda and Uganda), and 6,049 left to other, mostly western, countries. Among the rest of the uncounted deportees from

Israel are also around 1,500 South Sudanese who were deported to South Sudan in 2012 (cited in Bras, 2018).

This research focuses on Israel's Voluntary Return mechanism, which has been in place since 2012, and asks questions about its 'voluntariness' from a legal perspective. The research is based on the Israeli Supreme Court's criteria for voluntary consent, as set out in the case *Elmasgad v. Minister of Interior*, also known in legal terms as 'truthful consent', namely, that the consent must be 'free' and 'knowledgeable' (Supreme Court of Israel, 2017, para 120). Based on the testimonies of deportees gathered for this research we argue that under the sanctions Israel put in place since 2012, these two criteria could not have been met. All of the interviews were conducted by the authors,¹ while additional information was gathered from government resources, the media, non-governmental organisations (NGO) reports, academic research and the refugee community in Israel and abroad. Accordingly, it answers the following research question: *Is Israel's Voluntary Return mechanism truly voluntary in practice, or are refugees and migrants being pushed out, and what is the situation of deportees after they have been deported to countries of origin and third countries?*

This chapter is organised as follows: first, we contest the concept of 'free consent' based on the testimonies of those deportation from incarceration, and describe the main mechanism used to push refugees out of Israel. Israel's secret third-country agreements are described next, along with the promises made to the refugees before deportation to dispute the existence of 'knowledgeable consent'. This is followed by a description of the reality for refugees after

¹ More than 20 refugees from Eritrea and Sudan who were deported to Rwanda and Uganda were interviewed in person by Sigal Kook Avivi and Yael Agur Orgal in Uganda in October 2016 and the interviews documented on film. Further interviews were conducted with NGOs and UNHCR officials. Several interviews with refugees were carried out in person in the Netherlands by Gilad Liberman in July 2017. More than 10 refugees were interviewed in person in Switzerland and 2 in Germany by Sigal Kook Avivi and Gilad Liberman in October 2017. Several of those interviews were documented on film and several written. Further interviews were conducted over the phone with refugees in Europe, Uganda and Egypt, and notes taken. One refugee sent a recorded audio testimony using an online messaging system. All interviews were conducted in either Hebrew or English.

deportation in their countries of origin and in third countries, Rwanda and Uganda. The consequences of deportation are briefly described, before the conclusions are presented.

Imprisonment – The illusion of choice

For the time being, I plan to lock them up. This I can do without anyone's authorization. I am doing it for the good of the State of Israel... I have asked the Treasury for a budget increase to build more detention facilities, and until I can deport them I'll lock them up to make their lives miserable.

(Eli Yishai, Minister of Interior, cited in Efraim, 2012)

Before the fence along Israel's border with Egypt was constructed in the Sinai in 2012, virtually stopping the arrival of African refugees, all refugees who entered Israel were held in detention for anything ranging from hours to years, under the Law of Entry. The Third Amendment to the Anti-Infiltration Law, which came into force in 2012, enabled the detention of new persons arriving through the Sinai border for a minimum of three years. By the end of 2013, the law was amended again allowing refugees who were already in Israel to be 'summoned' to detention (Drori-Avraham, Rozen, & Avigal, 2015).

The incarceration of refugees was coupled with a mechanism for their 'voluntary' return – since the end of 2012 from Saharonim Penitentiary and since December 2013 from Holot Facility. This mechanism is based on an individual 'agreeing' to leave Israel, distancing the procedure from forceful deportation, according to the Government of Israel. However, under Israeli law, in order for there to be true consent there must be 'free consent', which means: "consent that reflects the true and free will of a person. Free consent can occur only where a person is sovereign to make a knowledgeable and aware decision out of a few choosable options" (Supreme Court of Israel, 2017, para. 120).

The Supreme Court has clearly stated that if a person is faced with two options – leaving Israel or being imprisoned – there is no element of free consent, because imprisonment cannot be considered a

‘choosable’ options (Supreme Court of Israel, 2017, para. 121). As seen in the testimonies of people deported, many were forced to make this exact choice. Under the theory of planned behaviour (Ajzen, 1991), social pressure in the form of motivation to comply with immigration officers, who have broad control over the person’s fate, both in prison and outside; motivation to avoid mistreatment and the fate of indefinite or prolonged imprisonment; and expected opportunity in the form of future safety from persecution in the new country, all render the person’s attitude irrelevant – these factors negate the element of choice.

Saharonim

*Agreement to return to Eritrea under a jail ultimatum
cannot be considered voluntary by any criterion.*

(UNHCR to Haaretz newspaper, cited in
Schwartz & Hetfield, 2013)

Saharonim Penitentiary is located in the Israeli desert, just a few kilometres from the Egypt-Israel border and is equipped with immigration personnel. Detainees in Saharonim are locked inside the facility 24-hours a day and locked in their cells for a variable number of hours, ranging from only at night up to 22 hours a day. They are not allowed to have phones and do not receive visits, except from close family, United Nations High Commissioner for Refugees (UNHCR) personnel, lawyers and volunteers from the Hotline for Refugees and Migrants (Rozen, 2012, pp. 6–8). The Third Amendment to the Anti-Infiltration Law, which enabled their detention, was finally abolished on September 2013 after an appeal was lodged with the Israeli High Court of Justice in October 2012. As an intermediary order was not accepted, until the amendment was abolished it was applied to newly-arriving asylum seekers, who were imprisoned in Saharonim for up to two years, until being moved to Holot (Kovaliyov-Livi & Rozen, 2014).

According to Israel’s Population, Immigration and Border Authority, 1,687 Sudanese and 268 Eritreans left Israel in 2013 (Population, Immigration and Border Authority, 2014, table 4). The vast majority

of them are assumed to have been refouled to their country of origin, as deportation to a third country only started in 2014 and was not systematised at that time. Leaving to other (mostly Western) countries was also rare. According to the Hotline for Refugees and Migrants Report from November 2013, and based on information provided by the Population, Immigration and Border Authority to a Knesset committee, more than 800 Sudanese and at least 14 Eritreans have been deported to their country of origin from detention in Israel until 2013 (Human Rights Watch & Hotline for Refugees and Migrants, 2013).

BG,² a refugee from Darfur, entered Israel in 2012 and was immediately incarcerated in Saharonim. There, he witnessed people breaking due to the long imprisonment and agreeing to leave Israel. He reported that in January 2013, after being imprisoned for a long time, the detainees decided to go on a hunger strike. Immigration officials tried to convince the detainees to end the strike, and when that failed, they called the police:

[On] 5 May 2013, when the police were entering Saharonim, agaf [wing] 7, I saw the violence of the police of Israel. They beat us like dogs. They beat us and put handcuffs, some were injured, some vomiting, it was like we were animals in the forest, some even got out naked. ...They came with dogs, handcuffs, all that... It was after this that people left. The government beat us like we are not human beings. ...It was horrible. ...it was the first time I had handcuffs in my life, and a lot of people were like me. And you say, oh my God, we have to get back. Everyone has his own problems, from my point of view, that made a lot of people go back. ...They put pressure, pressure, pressure and they went back [to their home countries]. People said "no, we waited for so long, we are fed up, we would like to get freedom, we cannot stay anymore". (BG, interview with Gilad Liberman, by phone, 2018)

Many months of struggle later, BG decided he could not stand the pressure in the Israeli prison anymore and that it was better to risk his

² All names of interviewees have been anonymised for their safety, as some are still in vulnerable situations.

life by going back to Sudan. He was promised by the immigration authorities that he would be safe, but the reality was different:

When I got out of the plane, there is a connection between the Government of Israel to the Government of Sudan. When we just arrived, around 20 persons, they took our passports. The National Security took our passport and they put us in a big car, like a bus. They took us to the office of the National Congress Party. They asked us a lot of questions, like where you are coming from. At first we tried to say Turkey, but they knew exactly where we came from, because they have connections with the Government of Israel... When we were coming from Ben-Gurion airport, there were some people, Israelis, who were joining us until Turkey. I'm sure there was a connect, because when we arrived, there were other people, but they knew us, the names. They had a list and they knew who came from Israel. You can't deny it. They know every single detail.

All of us they took to prison, but I spent one month and when I got out other people stayed in prison. They did not release us at one time. I was very lucky. I was one of the first ones out. During the first 30 days [in prison] they come to insult you, they tell you "you are from Darfur and you join the rebel group, and why you came to Israel, and you know in the passport we can't go to Israel". They put water on you. They try to force you to talk. [They ask questions like] what do you know about Israel and how did you get there... (BG, interview with Gilad Liberman, by phone, 2018)

MH entered Israel in June 2012 and was imprisoned in Saharonim under the Third Amendment to the Anti-Infiltration Law. He spent a year and a half there, until he was moved to Holot under the Fourth Amendment, which was passed in December 2013. He never left Israel, but witnessed many of his community members break under the pressure to leave:

I personally knew over a 130 people who were deported from Saharonim, all of them Sudanese. Almost all of them were deported to Sudan, via Jordan or Turkey. The first ones deported that I remember, in December 2012 or January 2013, were a group of 30 Sudanese. The authorities in prison put a lot of pressure on them to leave – they shouted and cursed. They said you can either spend a life in prison in Israel or leave to another place. The pressure was too much for anyone. I am not even

sure that Israel told them they will go back to Khartoum. Maybe some of them believed they will leave to an Arab country. The second group was in January 2013, they were over 100 people. The immigration authority then said that if we won't leave they will take us to a worse prison. They said "now you have the chance to leave the prison and go back to your country, but later you won't have that option to leave and you will be stuck in prison for the rest of your life". They always lied to us. Always.

The way they put pressure on people was: call you every week to the office of the immigration official and conduct an interview where they said you have a way to go out of the prison, or stay in prison for life. They cursed a lot, making fun of our situation, stating that we were 'not men' for leaving our country, that we were worth nothing because we ran away from our families. They always found the small things that really make a person upset and used them. The conditions of imprisonment also made us despair. Every three days or week they would change our prison cell and move us from one place in prison to another. It was during the winter, and we were in tents. Everything always was cold and wet. We tried to put fabric around the bed to keep in the heat, but they said it was not allowed. Imagine yourself in the winter in the desert, every hour of every day outside in the cold. They changed our places so much that we did not even organise our things. Everything was packed and we could not have any stability – we were always ready to move again. I am sure it was all used to make us suffer and despair and leave Israel. (MH, interview with Yael Agur Orgal, face-to-face, Jerusalem, January 2018)

Holot

The indefinite detention of asylum seekers in Holot detention centre started on 13 December 2013 under the Fourth Amendment to the Anti-Infiltration Law, which was enacted three days earlier. This was after completion of the fence on the Egypt-Israeli border and the number of new arrivals had dropped to virtually none. The Fourth Amendment laid the foundation for the indefinite detention of asylum seekers already in the country at an 'open' detention centre. Holot is located in the Negev desert, more than 50 kilometres from the nearest Israeli city, Be'er Sheva. It is on the other side of the road from Saharonim Penitentiary, where detainees in Holot were sometimes transferred as a punitive measure. Detainees in Holot were barred from working, they were locked in their wing (28 containers of 10 persons each) at night time, from 10 pm to 6 am, and had to

sign-in 3 times a day. The rest of the time they were allowed to stroll in the nearby desert (Guthmann, 2018). Holot was closed in March 2018, in conjunction with the launch of the new forced deportation policy by the Government of Israeli (Zur, 2018).

Holot had the capacity to hold 3,300 persons in containers with a small cell space per detainee. The criteria for being 'summoned' to Holot has changed over the years. Initially, it was duration of stay in Israel, and those who had been in Israel the longest were the first to be detained. This policy mainly targeted the Sudanese population. However, that emphasis shifted as the population of Sudanese refugees was reduced by deportation (Rozen, 2014, p. 4). From December 2013 to September 2014, Holot was the main tool used to coerce people to leave Israel. Detention at Holot at this time was indefinite, and the population detained and threatened were all (single men) Eritrean and Sudanese asylum seekers, not only newcomers.

Confronted with prolonged or indefinite detention many refugees accepted deportation. After five years in Israel, TGS was 'summoned' to Holot. He described that moment and the fear of the mental effects that imprisonment would have on him, as the reason he agreed to leave Israel:

I was in Israel for 5 years and several months, I had a 'conditional release' visa, which I renewed every 3 months. Suddenly one day they wrote there that I have to enter Holot within one month [for an indefinite time]. I did not want to enter Holot; Holot is a prison, also it made me stressed to be in prison. I was 5 years in Tel-Aviv, and also to return to prison, it's hard for me. So, it is better, I've decided, to leave the country and go to Rwanda... (TGS, interview with Sigal Kook Avivi and Gilad Liberman, face-to-face Zurich, October 2017)

MSY was summoned to Holot in October 2015. He did not work the few months prior due to a work injury. His friends helped pay his expenses, including his medical insurance, and when he was summoned to Holot he asked to have his detention cancelled or delayed in order to keep receiving treatment. His request was refused and MSY never received the medical treatment he needed in Holot.

Eventually, out of fear that if he stayed, he would suffer long-term damage, he agreed to leave Israel:

It was in winter, which is very terrible for my muscles, because I cannot stay in the cold... So when I went there [to Holot], I asked them, because I gave them all my [medical] documents... but they only picked a few papers and refused to take everything. They gave me back all the documents... I asked them for medication, but they never cared about it... They sent me to Soroka [a hospital], but over there, she gave me only three pills, tablets. I shouted and really refused, because she was the secretary and she decided to give me this kind of advice. I was very nervous at that time, because this is psychological abuse. Because they want us to leave... I understood this is bad for my health... So I tried again to go back to Holot and asked them for the tablets, and they said "no problem, we will see". I asked "how long?" This is physical damage, but they don't care... they don't want to give you any service, any respect. They just want you to leave soon. I tried to think about my future and I thought that there is a great threat to me, so I decided to leave Israel. (MSY, interview with Sigal Kook Avivi and Yael Agur Orgal, face-to-face, Kampala, October 2016)

While MSY was denied medical treatment and agreed to leave Holot, many, such as MuSY, left after being summoned to Holot, but before entering the facility. MuSY spent his time in Israel trying to get into higher education. It was clear to him in January 2014 that Holot was now the future and that he could either forsake his dreams and be imprisoned for life, or take the risk and be deported back to his country of origin:

They decided to send people who had lived in Israel four years, or more than four years, to Holot. And, actually I was shocked... but no one is above the law, and of course no one is going to stop them if this is their decision [the government, to imprisoned people]. We are going to Holot, or another choice, you can leave the country. Where will you leave to? You leave to Sudan... In January 2014, my visa was over and I went to renew it. They said that now you have to go to Holot. So I said okay. I went home and thought about it. And I decided that if I go to Holot I don't know when I will get out of Holot. Four years I was struggling to go to college, but Israeli government did not allowed me to go to college... So I had to go back to Sudan. I knew 80% if I go back to Sudan they will put me in prison... They

[Israeli authorities] promised me that nothing will happened to me. (MuSY, interview with Sigal Kook Avivi and Yael Agur Orgal, face-to-face, Kampala, October 2016)

MuSY, was indeed put in prison in Khartoum upon his arrival.

The Anti-Infiltration Law under its different amendments was challenged in court three times, and abolished twice (Ziegler, 2015). The Sixth Amendment was enacted on 11 February 2016 and limited detention in Holot to one year (Guthmann, 2018). Holot was finally closed in March 2018.

Deportation

According to the Israeli Supreme Court, the second criterion needed for true consent is ‘informed consent’. “This is a consent given after a person was informed about all the relevant details in order to make the decision” (Supreme Court of Israel, 2017, para. 120). It is argued in this chapter that under the Voluntary Return mechanism ‘informed consent’ could not have been given, as evidenced by the lies immigration officers told asylum seekers in order to convince them to leave (as elaborated in this section) and the actual conditions they faced upon arrival in Rwanda and Uganda (described in the next section).

Confidential agreements

Israel has agreements with Rwanda and Uganda to take refugees as 'third-countries'. Based on these agreements, Rwanda and Uganda have been receiving refugees and asylum seekers since 2013. The first publications regarding Israel’s agreement with third countries surfaced in March 2013 (Pawle, 2013) and again in August 2013 (Pfeffer & Lior, 2013). The existence of these agreements was also discovered in a process in the Israeli High Court of Justice in July 2013 (Weiler-Pollack, 2013). However, although deportation to the two countries has been underway for more than six years now, there is almost no official information available on the agreements between these countries. These agreements are subject to a confidentiality order dated March 2014 signed by Prime Minister Netanyahu.

According to the Prime Minister, revealing information about the agreement “may harm the State of Israel's foreign relations” (translated from Hebrew, Prime Minister’s Office, 2014). In addition, Uganda has continuously denied having any agreement with Israel, while Rwanda initially did not fully deny having an agreement, but later issued a strong denial (Reuters, 2018; Associated Press & Times of Israel Staff, 2018).

However, while these countries are keeping quiet, more and more deportees are giving testimonies that show the widespread violation of the promises given to them by Israeli officials, including promises that the government gave to the High Court regarding the procedures (Birger *et al.*, 2018; Green, 2017; International Refugee Rights Initiative, 2015). Similarly, promises that cannot be met were given by the Population, Immigration and Border Authority to asylum seekers regarding deportation to home countries, mainly that they will be safe upon arrival.

During an appeal against a deportation order, a request was made to the Supreme Court of Israel to see these agreements, resulting in the expansion of the confidentiality order in September 2015 to include any document relating to the agreements, including the supposed reports and other information held by the state regarding the execution of the agreements and the fate of deportees in those countries (Supreme Court of Israel, 2015). Until the time of writing, neither Uganda nor Rwanda have confirmed having any deal with Israel, or admitted to receiving deportees from Israel.

Promises regarding about third countries

With the launch of the deportation mechanism, asylum seekers in Israel were given an ‘information sheet’ with vague statements about the unnamed third country, promises regarding the issuance of a residence permit in that country, the ability to work, and a local team allocated to help in the first few days after arrival (Population, Immigration and Border Authority, n.d.). The destination country (i.e., Rwanda or Uganda) was usually told to the refugees in person, but never written down.

TGS weighed his options: life-long imprisonment or the promise of a possible future, status and security in Rwanda. He describes the choice as follows:

TGS: They [the immigration authority] also said that in Rwanda you'll have everything – you'll be [treated] as a refugee there, they said. So I went, so that I'll have some quiet [in my head] and be ok, instead of every day being in prison... When I went to Rwanda it was not like they said.

Interviewer: When did you understand that they had lied to you in Israel about having a place and status?

TGS: I knew that they were lying [before I left], but I didn't have a choice; I had no other option, I had to leave the country and go, that is what they wanted. ...Myself, I knew that of course they lied ... but I was thinking Rwanda might be ok. (TGS, interview with Sigal Kook Avivi and Gilad Liberman, face-to-face, Zurich, October 2017)

When taken to the airplane, TGS was given an Israeli travel document, which was his sole form of identification. When he landed in Kigali, he and all the other deportees from Israel were taken to a side room by an official who had a list of their names. As with all of the deportees we interviewed, TGS's travel document was taken from him there, he did not go through border control, and he was escorted out of the airport without any kind of official registration or documentation of his legal presence in the country. Many deportees, both to Uganda and Rwanda, described exiting the airport with no identification document, at which moment they realised that their presence in the new country was illegal. MSY, who was deported to Uganda, had the same experience in Entebbe airport:

They told us to collect the travel documents just for registration... then at that time I tried to explain to my friends in my mother language, but they were not so aware of what will be the consequences at that time. And I told them, from now onwards, if we hand them this one [the travel document] we are not legal entered in Uganda. So take care now, or try to think what we can do when we reach the hotel... When I was not registered in the airport, just from that time, I was not protected by any of the governments of Israel or Uganda. From that time I was illegal, because I did not come legally. Because, they did not sign me in to enter Uganda. (MSY, interview

with Sigal Kook Avivi and Yael Agur Orgal, face-to-face, Kampala, October 2016)

In a verdict given by the District Court in November 2015, it was stated that, during a one-sided session (due to the confidentiality order), the government representative argued that the government had made some changes, including “In contrast to the past, the transit certificate issued to leave the country will remain in the deportee’s hands even after his arrival in the third country and will not be taken from him” (translated from Hebrew, Administrative Court of Beer Sheva, 2015, p. 19). However, testimonies taken from refugees by the authors, as well as a recent report on the testimonies of deportees from Israel who arrived in Europe, indicate that no change took place in practice, and that the documents continue to be taken from the refugees upon entry, leaving them with no identification, protection or legal status in Rwanda and Uganda (Birger *et al.*, 2018). The latest deportee we interviewed, PY, was deported from Israel to Uganda in October 2017. His story is identical to all previous testimonies; he reports that his travel document was taken from him upon arrival in Entebbe (PY, interview with Yael Agur Orgal, by phone, October 2017).

Deportation to Rwanda

Various reports and press articles have been published about the deportations to Rwanda, including interviews with deportees. The earliest investigation was conducted in 2015 by Galia Sabar (Lior, 2015b) and the latest in early 2018 by a ‘fact-finding mission’ from the Israeli opposition party Meretz (Ziv, 2018). All evidence shows that the (very few) persons who were able to stay in Rwanda were the first deportees. They received temporary documents while there was a legal case in Israel regarding the forced deportation procedure to Rwanda. However, afterwards, these deportees found that they could not renew their documents.

SSG is the first deportee to Rwanda we know of. He arrived in Israel in December 2007 at the age of 16, where he attended school. He was deported to Rwanda in March 2013. According to his testimony, he

was the second person to be deported from Israel to Rwanda. At that time, it seems that the Israeli immigration was ‘testing’ the deportation procedure to Rwanda in a non-systematic way. He describes being almost kidnapped and deported to Rwanda:

I worked at the corner of Begin Road and Hashmonaim Street. One day there was a brawl there, which had nothing to do with me at all, and I went outside. The police came with horses and cars, and checked the identity cards of everyone. I forgot my visa at home that day. They took me directly to the police station. They left me there for several hours. They put me in an interrogation room. I didn't sleep all night. My phone battery drained. I could not call anybody and they did not let me. The same night, at around 10 pm, they told me that either I return to my country or I'd go to jail for three years. I told them I can't. They treated me very harshly. Pressured me. They told me to wait all day. Locked me in the room. In the morning they gave me coffee and food. At the end three men came and took me in a car. A normal car with a beacon light. A green car. They took me to my apartment in Pardes Katz; They wanted my identity card and I gave them my visa. It was in effect. They told me to take only the important things, and that I will not return there. My flatmates were not at home and I couldn't tell them nothing. Nobody knew what happened to me. ... They took me to prison [probably Yabalom facility] ... They told me there that there's an option to go to Rwanda or Uganda. They told me that Eritreans get a visa there... There they made me sign a paper. Everything was in Hebrew. They told me sign here. I did not know what I was signing. They forced me to sign. I was so full of hate for Israel. From there I did not come back home. (SSG, interview with Sigal Kook Avivi and Gilad Liberman, face-to-face, Lausanne, October 2017)

Once the mechanism for deportation from Rwanda to Uganda was systemised, all testimonies revealed the same process. Upon arrival at the airport in Kigali, as the plane lands, a person called ‘John’, a Rwandan dressed in what is perceived to be an official uniform, receives the deportees from Israel, calls them and separates them from the rest of the people arriving. The group of deportees is then led by him out of the airport, without passing through any passport control, into several private cars, which take the group to a villa in Kigali. The documents given to them by the Israeli authorities are taken from them, either in the airport or in the villa. Most are

confined to the villa and forbidden to step outside. The villa is guarded, and some interviewees mentioned that the guard was armed and did not speak English or Tigrinya. Then the deportees reported being pressured to leave Rwanda. After some time, between a few hours to several days, they were told that they have to leave to Uganda and that they need to pay USD 100 (the sum varied between interviewees, but USD 100 was a common figure) to 'John', and were taken in the afternoon towards the Rwanda-Uganda border, where they arrived at night. There, they had to cross by foot, quietly. Upon arrival on the Ugandan side, they reported being taken in private cars, by smugglers who were waiting for them, to Kampala. They needed to pay an additional USD 150 (in most cases) to the smugglers on the Ugandan side.

The testimonies regarding Rwanda are very consistent. All respondents reported passing through the same villa. In her investigative trip to Rwanda, Sabar found the villa and took a photo of it (Lior, 2015b). We showed that photo to the deportees we met and they all confirmed that it was the place they stayed in Rwanda. TGS gave the following testimony about coming to Rwanda by plane and having his documents taken from him:

You don't ask them. You don't even have time to ask them. You give them and straight away another person tells you "come, come", and you go directly to the car. When everyone is in the car, they tell you, we take you to one place, we take you to a hotel now, we don't know what's going on, but meanwhile we take you to a hotel. After that no one comes to speak with you, to ask you. We were 2–3 days there in the hotel; you have a bed to sleep in and food, that's it. You are not allowed to go outside. Then somebody comes and tells you, tomorrow you're going to Uganda, prepare USD 250. (TGS, interview with Sigal Kook Avivi and Gilad Liberman, face-to-face, Zurich, October 2017)

In this part of the route, the trafficking is state-sponsored, the ransom is fixed and it is relatively safe. As the refugees are completely vulnerable, without documents, under the supervision of a person who is either an officer or acting under the guidance of the Rwandan government, the amount of actual brutality needed is minimal. For

most of the refugees this was their first time on an airplane and they arrived in Kigali after a long flight, tired and afraid. And so, after a few questions left unanswered, the refugees are quietly and forcibly trafficked to Uganda.

Deportation to Uganda

Similarly to the testimonies of those deported to Rwanda, the testimonies of those deported to Uganda are also consistent. Upon arrival in Entebbe international airport, a Ugandan in official clothes separates them from the rest of the arrivals, takes the documents given to them by Israel, and leads them out of the airport, bypassing passport control. They are then taken to one of several hotels (notably, Forest Cottages and Fairway Hotel & Spa). While the deportation from Rwanda to Uganda is conducted by Rwandan officials, those who are deported directly to Uganda have no further contact with Ugandan immigration officials after they leave the airport. Instead, they are handed to smugglers through the following system: the deportees arrive to a pre-paid hotel in the early morning (sometimes as early as 4 am), where the reception clerk tells them their rooms will be ready later (usually between 10 am and 12 pm) and that they should wait in the lobby. It is during this waiting time that the smugglers arrive at the hotel, sometimes within minutes of the deportees' arrival. If the deportees from Israel are Eritrean, a Tigrinya-speaking smuggler arrives; if they are Sudanese, an Arabic-speaking smuggler greets them.

MSY, who left Israel after being denied medical treatment in Holot, discovered upon arrival that none of what he had been told in Israel was true:

We entered Uganda at 3 am at night... 2 persons came, black people, Ugandans, I don't know... [They said] "Don't go there!", where other good people go, with passports, having it [stamped], "Don't go there! Give me your visa! Give me! Give me!" What is that?

We entered the hotel; 2-4 minutes [after] people came there... saying "you want to go to Juba? You want to go to Sudan? You want that?" What is that? We said,

10 persons, we don't want to go to Sudan, Juba, whatever. "Are you crazy? What is there in Uganda? Soon you'll see you'll go to Juba". We said we don't want to... (MSY, interview with Sigal Kook Avivi and Yael Orgal, face-to-face, Kampala, October 2016)

For MSY, the connection between the local authorities, the smugglers and the hotel was obvious from the moment he arrived at the hotel:

When we reached there, they just put us inside the hotel and they disappeared [the people who took them from the airport]. But the most strange thing at that time – we were welcomed by smugglers – one from Sudan and three from Eritrea. They came at night, they were waiting at the hotel..

[The smugglers said] "This hotel is very expensive for you, so we can take you to other very cheap and smuggle you somewhere you want"... We made a very serious disagreement – we told them: "We come here now. Who told you to come before we arrive here? Who is behind this mechanism?"

[The smugglers replied] "No we know, we know this one before. That is why we came too early." We ignored them and kept for registration... when we ask the reception they said "now is not the check in time. You will wait until 10 am".

[MSY replied to the smugglers] "Why such thing? If you are not free why you just demand to have people today? This is another means of action – instead of just to stay here you want us to leave? This is what you want?" (MSY, interview with Sigal Kook Avivi and Yael Orgal, face-to-face, Kampala, October 2016)

Before finally receiving his room at the hotel, MSY tried to strengthen his friends and told them not to listen to the smugglers and not to make any rash decisions. He advised them to rest and only afterwards think together what they should do. In the afternoon, when he got up from his rest, he discovered that five people from his group had left with the smugglers.

Much like in Rwanda, no physical pressure was exerted on the deportees to leave, but the mental pressure is no less powerful: most of the deportees had just taken a flight for the first time in their lives, they had been on the road for two days, without any rest or proper meal, they had just realised they are illegal in a new country, fearful for their safety, forced to wait in the lobby with smugglers who tell

them they are illegal and cannot stay in Uganda. The deportees have a lot of cash on them at that point (money they received from Israeli immigration) and many expressed fear about being easy targets out in the streets of Kampala.

Number of Eritreans and Sudanese deported

In addition to deportation to countries of origin and third countries under the Voluntary Return mechanism, over the years, testimonies of not-agreed-upon deportation to countries of origin have surfaced (Pawle, 2013; Neshet, 2013; TG, interview with Gilad Liberman, by Internet voice messaging, 2016;³ Lior, 2015a; MSY, interview with Sigal Kook Avivi and Yael Orgal, face-to-face, Kampala, October 2016). Figure 8.1 shows the number of Eritrean and Sudanese refugees deported from Israeli to the different destinations between January 2012 and January 2018. The deportations to countries of origin (Eritrea and Sudan) are in black, to Rwanda and Uganda (‘third-countries’) are in grey and to Western countries (resettlement, sponsorship, family reunifications, etc.) are in dotted light grey. The numbers are those given by the Israeli Population, Immigration and Border Authority, which aggregates Eritrean and Sudanese together, and only them (Population, Immigration and Border Authority, 2018).

As mentioned before, by 2015 over 5,400 Eritreans and Sudanese had been deported to their home countries (Ziv, 2015), and over 1,700 individuals were deported to their home countries between 2016 and 2018 (Population, Immigration and Border Authority, 2019, table 3). While the actual number of clear cases of refoulement from Israel to countries of origin or from third countries to countries of origin is unknown, what is known is that the Israeli immigration officers told lies to the refugees and asylum seekers – from the first deportations from Saharonim in 2012 until today, which take place even from outside prison – to push them to ‘agree’ to leave.

³ A full transcript of TG's testimony can be found at: <https://martinplaut.wordpress.com/2016/09/29/israels-role-in-the-enforced-return-of-eritrean-refugees/> and an audio (in Hebrew with English subtitles at: <https://www.youtube.com/watch?v=1JWyXmBPcD0>).

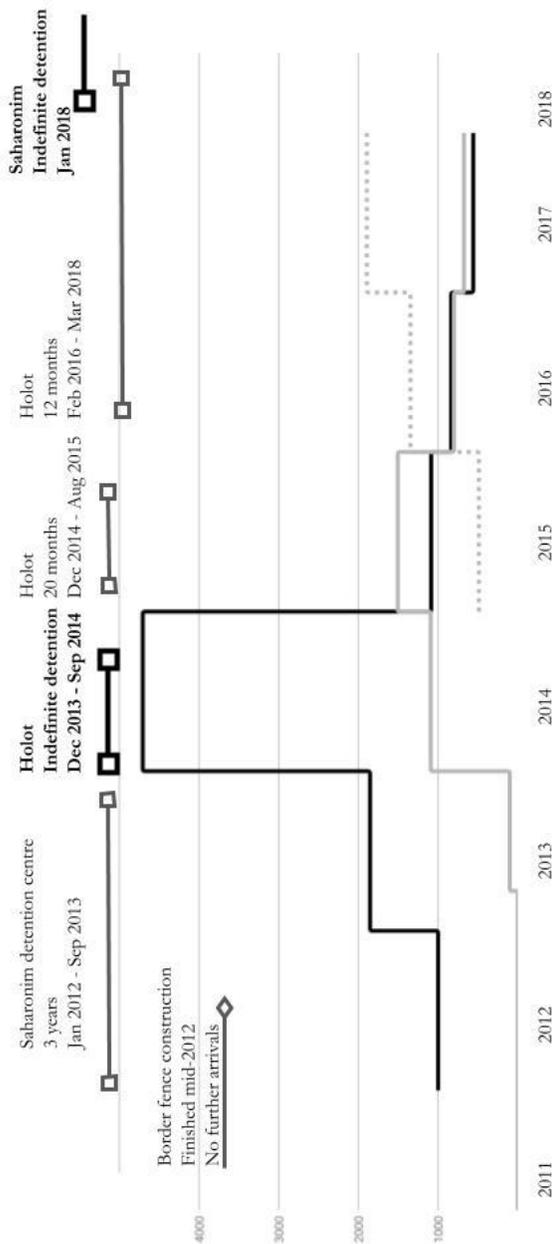


Figure 8.1. Timeline of Israeli legislation allowing refugees to be detained in Saharanim and Holot and number of Eritrean and Sudanese refugees removed

Source: Based on figures from Population, Immigration and Border Authority (2018)

Situation after deportation

By attributing the notion of volition to the action of leaving, Israel is reducing its responsibility for the deportees once they exit the country, thereby minimising its responsibility for the consequences of the deportation. Those who were deported from Israel to third countries were left to a life of persecution and illegality, with no means to support themselves. All the 25 people we met in Kampala lived in fear, hunger and despair. As they had entered Uganda illegally, they had no visa and were unable work legally to provide for themselves. But even those who manage to buy fake visas declared that there are no jobs in Uganda. And, as their access to the Ugandan asylum system is blocked,⁴ they are not eligible for any kind of support from UNHCR. All of the testimonies collected showed that upon arrival, deportees from Israel in Rwanda and Uganda are confronted with two paths: use the money they have to leave Uganda, or remain there and live on their savings. Those who choose the second option were soon left with nothing.

PS was deported to Rwanda in early 2014. He arrived in Rwanda in the early days of deportation, when the mechanism for second-deportation to Uganda was still being fine-tuned. He is one of the few who managed to remain in Rwanda, but he never succeeded in receiving legal status. He is dependent on his relatives in Israel, who send him money every month, but since the Deposit Law they are unable to send as much.⁵ PS is now suffering from starvation and anxiety, and does not know what his future holds (PS, interview with Sigal Kook Avivi, by phone, March 2018).

For those choosing the first option, the journey is not any easier. They find themselves in the hands of smugglers, on a dangerous route to Libya, on which they are extorted for money, tortured and sold into

⁴ For more on of the Ugandan asylum system and its inaccessibility to those deported from Israel see: International Refugee Rights Initiative, 2015, p. 17–19; and Green, 2017.

⁵ Under the Deposit Law in Israel, which came into force 1 May 2017, employers must deposit 20% of asylum seekers salaries into a security deposit. Asylum seekers may receive some of their money back once they leave Israel (Heruti-Sover, 2018).

slavery. Some have died from dehydration and fatigue, and many have drowned in the Mediterranean Sea trying to cross to Europe. Those who survive the journey often suffer from mental distress and anxiety (MG, interview with Gilad Liberman, face-to-face, Limburg, July 2017). Most of those we interviewed in Europe travelled similar routes: Israel–Rwanda/Uganda–Kampala (Uganda)–Juba (South Sudan)–Khartoum (Sudan)–through the Sahara to Izlabya (Ajdabiya, Libya)–Tripoli (Libya)–Mediterranean Sea–Europe.

For those deported to countries of origin, testimonies reveal imprisonment, harsh investigations and even torture. MuSY was deported to Khartoum, where he was imprisoned upon arrival. In Israel, he was promised that no harm would come to him in his home country, but the Sudanese authorities knew he had arrived from Israel and charged him with treason. While he was imprisoned, he was tortured and faced the death penalty. In the end, a family friend helped him out of prison (MuSY, interview with Sigal Kook Avivi and Yael Agur Orgal, face-to-face, Kampala, October 2016). MuSY had enough luck and connections to survive, unlike some of his friends who were deported with him and disappeared upon arrival.

Conclusion

Israeli authorities have denied Eritrean and Sudanese refugees a rational and voluntary choice in relation to deportation from Israel. This research studied Israel's Voluntary Return mechanism and concluded that is not voluntary in practice. The research found that the decision was influenced by pressure from the Israeli legal system and immigration officers, the prolonged and indefinite detention in Israel, and the untruthful information provided about what will happen to the refugees after they are deported.

It is concluded from this research that there is no free consent or knowledgeable consent, and, therefore, the refugees and asylum seekers deported from Israel could not have provided true consent under the law. Hence, it can be concluded that the refugees did not leave voluntarily, but were forcefully deported from Israel. Thus,

Israel has been forcefully deporting refugees and asylum seekers since 2012 from Saharonim, under the Third Amendment to the Anti-Infiltration Law, and since 2014 from Holot, under the Fourth Amendment to the Anti-Infiltration Law. By deporting Eritrean and Sudanese refugees to their countries of origin without their consent, Israel has broken the fundamental principle of customary international law of non-refoulement, as also laid out in the 1951 Refugee Convention, which Israel is a party to.

Under the Anti-Infiltration Law and its amendments, more than 2,000 persons have been refouled from Israel to Eritrea. The fate of virtually all of them is unknown. It is reasonable to assume that many, if not most, of them left Eritrea within months of arriving. For most people, their safety in Eritrea is uncertain, and the number of lives lost, as well as the number of those incarcerated and disappeared, is, at the date of publishing, unknown.

More than 4,500 persons have been refouled from Israel to Sudan. Many of them belong to persecuted populations. Merely being in Israel is a criminal offence in Sudan. Therefore, a 'sur place' refugee status is due. Horrendous testimonials of murders, imprisonment, torture and persecution by the regime upon arrival have been collected by the authors. Many refugees report having to subsequently flee again. The number of deaths is unknown.

More than 5,400 individuals have been refouled from Israel to Rwanda and Uganda, under the confidential agreements Israel has with these countries, in what is nothing less than state-sponsored trafficking (Ziv, 2015; Population, Immigration and Border Authority, 2019). Although Israel has the economic means to pay the two countries for at least a small number of refugees to be absorbed with some legal status, all testimonies collected show that this is not the case. During their journey, the refugees are stripped of their documentation, and they are then nudged or trafficked out of the countries where they were deported to. The evidence, thus, suggests that the role of Rwanda and Uganda in these makeshift agreements is to serve as 'detachment units', relieving Israel from its obligations

under the Refugee Convention (1951), while keeping the consequences unknown and hidden from the judicial system, and from the Israeli and international public.

People deported from Israel leave in fear of imprisonment, slavery and persecution in their countries of origin or in third countries. Being unprotected and unsafe, many continue to flee, usually through South-Sudan, Sudan, Libya and the Mediterranean Sea, to Europe. Given the difficulties of such journeys, the well documented death rate in the Mediterranean Sea, and the murders, deaths and slavery in the Sahara, which was a common theme in the testimonials collected for this chapter, it must be concluded that many have died following their deportation from Israel.

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