



EGYPT

SUBMISSION TO THE UN COMMITTEE ON THE RIGHTS OF THE CHILD

96TH SESSION (State Reports) May 2024

ISSUES RELATED TO THE DETENTION AND FORCED RETURN OF CHILD REFUGEES FROM SUDAN

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ABOUT THE GLOBAL DETENTION PROJECT

The Global Detention Project (GDP) is committed to ending arbitrary and harmful migration-related detention practices around the world, and to ensuring respect for the fundamental human rights of all migrants, refugees, and asylum seekers. To achieve this, we seek to:

- Increase public knowledge and awareness of immigration detention policies.
- Expand coverage of immigration detention by human rights monitoring bodies and other international agencies.
- Expand partnerships with local and international civil society organisations working to end arbitrary and harmful immigration detention practices.
- Strategically target research and advocacy so that it effectively challenges arbitrary and harmful detention laws and policies.

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Issues Related to the Detention and Forced Return of Child Refugees from Sudan

This submission provides context for assessing Egypt's claims in its State report for to the Committee on the Rights of the Child, submitted on 9 February 2023. The submission focuses particularly on evidence developed by parents on the ground in Egypt who have observed and received evidence of Egypt's treatment of refugees fleeing Sudan, which includes reports of arbitrary detention and forced return of child refugees and their families. The submission underscores the importance of the Committee on the Rights of the Child's (CRC) authoritative General Comment No. 5 on migrants' rights to liberty and freedom from arbitrary detention,ⁱ as well as the joint CRC/Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) General Comment No. 23 (2017)/No. 4 (2017) on "State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return."ⁱⁱ

1. CONTEXT AND KEY CONCERNS

1.a In its State party report, Egypt says (paragraphs 203-205) that it abides by its domestic legislation and Constitutional guarantees concerning the treatment of all foreigners including child refugees and political refugees, in addition to its obligations under the 1951 Refugee Convention and its 1954 agreement with UNHCR. It also states that despite the intensifying conflicts in nearby countries, which have added considerable pressure on Egypt, it nevertheless ensures that all refugees in the country, including children, enjoy all the basic services that are available to all Egyptian citizens.

1.b However, with the escalating conflict in Sudan between the Sudanese army and opposition paramilitary forces entering its twelfth month, there have been important spill-over effects into neighbouring Egypt, whose response to these challenges undermine its claimed commitments in its State report. As large numbers of Sudanese refugees have entered Egypt, Egyptian authorities have responded by ramping up arrests, arbitrary detentions, pushbacks, and *refoulements*, in breach of Egypt's obligations under international refugee law and its international human rights commitments.

1.c Since the start of the conflict in Sudan, Egypt has seen the number of immigration-related detentions skyrocket—particularly those on the grounds of irregular entry and exit. The majority have targeted Sudanese refugees entering Egypt to escape the ongoing conflict who, due to the challenges in obtaining an entry visa to Egypt, enter the country irregularly. First-hand accounts confirm the detention and deportation of women and children—amongst them both accompanied and unaccompanied children. There are also reports among protection organisations of increasing numbers of children detained in southern Egypt, with a recent monthly report estimating the detention of more than 100 children.

1.d There has also been unprecedented rise in incidents of *refoulement*, particularly to Sudan. Before 2021, authorities almost never funded or enforced deportations, instead leaving those who were unwilling to return to their countries to linger in indefinite administrative detention. In 2023, information shared with refugee protection partners indicated that more than 3,300 individuals were forcibly removed, including over 40 group deportation incidents. As with the arrest and detention numbers, however, these statistics likely do not take into the account potentially large numbers of unreported or unobserved pushbacks that are also likely occurring along the border.

2. POLICY CONTEXT

2.a In 2004, Egypt and Sudan also signed an agreement, the so-called “Four Freedoms Convention,” allowing the free movement of citizens between both countries. With the eruption of the armed conflict in April 2023, Egypt was therefore naturally perceived as the primary destination for refuge given the long intricate history between the two countries.¹ This was also emphasised in UNHCR’s Position on Returns to Sudan published in May 2023, which stipulates that Egypt has an obligation to suspend the forcible return of any Sudanese to Sudan considering their apparent international protection needs and eligibility for refugee status.

2.b On 7 June 2023 the Egyptian authorities harshened their position by issuing a decision requiring women, children under 16, and men over 50 to obtain entry visas to cross into Egypt. This agreement was issued on the same day that the Egyptian Cabinet announced its approval of a draft law on foreign asylum, the details of which remain unknown to this day. Moreover, since the eruption of the conflict in Sudan, Egypt has engaged in detention and deportation of thousands of Sudanese refugees..

2.c Egypt’s domestic laws have in some cases been selectively applied and in others altogether ignored during its response to the humanitarian crisis spilling across its border. Several legal provisions are relevant to immigration-related detention in Egypt. Applications of the law vary depending on factors such as; where the person is arrested, the apprehending authority, and their immigration status, including their registration with UNHCR.

2.d Overall, authorities have in practice largely chosen not to press criminal charges for immigration-status violations, including irregular entry, exit, or unauthorised residence despite different legal provisions in the 1960 Law No. 89 on Entry and Residence of Aliens in the Territories of the United Arab Republic and their Departure, therefrom (amended by Law No. 88 in 2005) which regulates foreigners’ entry, stay, and exit from Egypt.² Instead, authorities have used administrative detention for migration-related violations.³

- **For UNHCR registered individuals:** If an individual is arrested and detained by Egyptian authorities for migration related-infractions while registered with UNHCR,

¹ It is important to note, however, that with the escalation of violence in Sudan and the influx of displaced individuals heading to Egypt, crossing procedures became extremely slow. According to accounts from Refugees Platform in Egypt (RPE), “many displaced individuals [contracted] diseases, with some of them dying after the deterioration of their conditions” due to the waiting area being largely unequipped to accommodate large numbers of displaced individuals.

² The American University in Cairo, “Refugee Entitlements,” February 2020, (p.248), <https://documents.aucegypt.edu/Docs/GAPP/Refugee-Entitlements-Report%202.0.pdf>

³ The American University in Cairo, “Refugee Entitlements,” February 2020, (p.248), <https://documents.aucegypt.edu/Docs/GAPP/Refugee-Entitlements-Report%202.0.pdf>

the Passport and Foreign Emigration Administration will verify their registration with UNHCR. Once registration with UNHCR is confirmed, the case is then referred to Egyptian National Security for further security clearance, after which Egyptian authorities allow for the individual's release from detention.

- **For unregistered individuals:** The Director of the Passport and Foreign Emigration Administration will issue a deportation order in accordance with Article 31 of Law No. 89, while the Ministry of Interior will order their “temporary” detention until deportation in accordance with Article 25 of the same law. The “temporary” detention ordered by the Ministry of Interior has no time limit.

2.e Foreigners who are detained cannot avail the guaranteed rights provided under Criminal Procedure Law, including access to legal counsel or the limitation of detention periods, because they do not face criminal charges and are detained as a result of an executive order. Therefore, holding individuals under administrative detention for migration-related infractions creates a loophole in which refugees and migrants are unable to access legal representation or challenge decisions. In theory, Egyptian law entitles any person to appeal against decisions by administrative/executive bodies through Administrative Courts “on the grounds of lack of jurisdiction, or defect in legal form, or violation of laws or regulations, or error in their application and interpretation.”⁴ The law entitles refugees to appeal their deportation order, even if they are unable to challenge their detention itself. The State Council only accepts appeals submitted by those who are personally impacted by the executive decision.⁵ While they are detained, refugees lack the legal status to provide power of attorney for a lawyer to act on their behalf to file a lawsuit against the deportation decision and cannot be physically present to file the lawsuit themselves.

3. DETENTION AND DEPORTATIONS OF REFUGEES INCLUDING CHILDREN

3.a According to information shared with refugee protection agencies, detentions in 2023 increased by 42 percent compared to 2022; totaling ‘as many as’ 5,200 detentions in comparison to 3,800 detentions in 2022. The majority of those detained are Sudanese, and only approximately a third were registered with UNHCR at the time of their arrest.

3.b UNHCR and other humanitarian actors are unable to access any detention centres in Egypt, leaving UNHCR unable to assess detainees’ international protection claims. As such, detention reports are based on community members informing service providers or UNHCR. UNHCR’s lack of access to detention facilities and the lack of a systematic monitoring mechanism of detentions makes it increasingly difficult to track detentions and deportations. Instead, much information is provided by community members. However many detentions are taking place in Aswan, with refugees arrested and detained simply for being in the area. With the city becoming a highly securitised environment since the conflict erupted in Sudan, it has become increasingly challenging for community members to document detention-related information.

3.c Egyptian authorities have increasingly relied on police stations and security camps scattered across southern and western border areas to hold those detained for irregular entry or exit—with children included amongst detainees. These sites are particularly difficult to access, and conditions are precarious and not suited to prolonged detention. Observers

⁴ The American University in Cairo, “Refugee Entitlements,” February 2020, (*supra* note 1, p. 277), <https://documents.aucegypt.edu/Docs/GAPP/Refugee-Entitlements-Report%202.0.pdf>

⁵ *The State Council Law, Law No. 47 for 1972*, available at: <https://static1.squarespace.com/static/554109b8e4b0269a2d77e01d/t/554b8c3fe4b05198a8a4eb53/1431014463746/State+Council+Law-Arabic.pdf> [accessed 23 December 2021] (available in Arabic).

on the ground in Egypt have received reports of detainees suffering illnesses without any medical care, leading to at least one death.

3.d The increase in detentions in 2023 was also accompanied by an unprecedented rise in confirmed cases of *refoulement*. Although official data on deportations is publicly unavailable, there have been increasing reports of deportations in the media or public humanitarian sphere to provide evidence of the changing shifts in deportation. In observing publicly available sources on deportations from Egypt in 2023, they confirm concerns that the numbers of deportation incidents are higher than those recorded by observers.

3.e In July 2023, news sources confirmed the deportation of over 2,000 individuals to Sudan that month; this included at least 350 Sudanese miners.⁶ Mining in Egypt is heavily regulated and restricted.⁷ Further reports indicated that non-Sudanese were also being deported to Sudan.⁸ According to firsthand accounts and numerous reports, Sudanese arrested in border areas or in Aswan are processed for deportation within a matter of days and in some cases within 24 hours of their arrest.

- There have been further reports of Egyptian security operations taking place in gold mines in southern Egypt. A report from the Refugees' Platform in Egypt has highlighted that following the security raids of the mine since July 2023, there is evidence of Egyptian authorities deporting scores of Sudanese and other non-Sudanese African nationals across the Asif border crossing, a border crossing usually used for trade vehicles only.⁹ Some reports from Sudan indicate that up to 7,000 individuals were deported.¹⁰ The report also flags incidents of disappearance, death, and injury of miners.¹¹
- In August, UNHCR reported in its Sudan Situation Report that "UNHCR continues to receive reports that 40 persons are deported daily for illegal entry/stay and criminal acts in Egypt. Intelligence authorities report that they are overwhelmed with the high volume of deportees and urge humanitarian actors to scale up support to relocate individuals deported to their regions of origin."¹² Those deported included newly arrived as well as those who lived in Egypt for longer periods. This supported previous reports of large numbers being deported via land borders.
- In a UNHCR Sudan Situation response report, UNHCR indicated that "close to 1,600 people, including documented refugees were reportedly deported from Egypt" in

⁶ Sudan Tribune, "Egypt Turns Away More than 2,000 Sudanese," 25 July 2023, <https://sudantribune.net/article275427/> (Arabic)

⁷ Mada Masr, "Gold War," 13 July 2023, Available at: <https://www.madamasr.com/ar/2023/07/13/feature/%D8%B3%D9%8A%D8%A7%D8%B3%D8%A9/%D8%AD%D8%B1%D8%A8-%D8%A7%D9%84%D8%B0%D9%87%D8%A8/> (Arabic)

⁸ Sudan Tribune, "Egypt Turns Away More than 2,000 Sudanese," 25 July 2023, <https://sudantribune.net/article275427/> (Arabic), Radio Dabanga, "Egypt Deports Hundreds of Sudanese," 27 July 2023, <https://www.dabangasudan.org/en/all-news/article/egypt-deports-hundreds-of-sudanese-via-oseif-border-crossing>

⁹ Refugees Platform in Egypt, "Gold Struggle over the Bodies of Migrant Workers," 18 August 2023, <https://tinyurl.com/4kjmdb49> (Arabic)

¹⁰ Refugees Platform in Egypt, "Gold Struggle over the Bodies of Migrant Workers," 18 August 2023, <https://tinyurl.com/4kjmdb49> (Arabic)

¹¹ Refugees Platform in Egypt, "Gold Struggle over the Bodies of Migrant Workers," 18 August 2023, <https://tinyurl.com/4kjmdb49> (Arabic)

¹² UNHCR, "Sudan Situation - UNHCR External Update #21, 1 – 7 August 2023," 9 August 2023, <https://reliefweb.int/report/sudan/sudan-situation-unhcr-external-update-21-1-7-august-2023>

November 2023.¹³ This is already some 13 times higher than the number of reported deportations in all of 2022—with UNHCR reporting that 124 deportations took place throughout 2022.¹⁴

- According to information shared with protection partners, UNHCR verified the deportation of more than 40 unregistered individuals and 50 registered individuals. Verified cases refer to those that UNHCR is able to identify by name and case. The disparity in numbers between verified cases and those reported by UNHCR, and the reports in the media, indicate a large and concerning gap. Lack of access to detention sites and systematic monitoring systems compound this gap in a time when increasing trends of *refoulement* are taking place.

3.f Without access, there are no means to confirm age and gender breakdown of those deported. However, first hand accounts confirm the detention and deportation of women and children—amongst them both accompanied and unaccompanied children. There are also reports among protection organisations of increasing numbers of children detained in southern Egypt, with a recent monthly report estimating the detention of more than 100 children. In 2022 and 2021, the highest number of children detained during a period/month was approximately 70. In January 2020, the National Council on Children and Motherhood (NCCM) published SOPs that it developed with UNICEF, IOM, and Save the Children over 18 months on the Protection and Assistance of Child Asylum-Seekers, Refugees and Victims of Migrant Smuggling and Trafficking in Persons.¹⁵ The SOPs prohibit immigration detention for children and identify the process to refer them into alternatives to detention. However, since the adoption and publication of the SOPs, no refugee child has been released from immigration detention or referred into any alternatives to detention, as the SOPs have not been implemented for non-Egyptian children to date.

3.g A further concerning development has been the increasing *refoulement* of registered refugees and asylum seekers. By the end of 2023, reports by UNHCR indicated that more than 50 registered refugees had been deported; a figure that represents a 1000 percent increase from the five registered refugees deported in 2022. Such an increase is indicative of a shift in policies around the protection extended to refugees, and further indicates that even with formalised access to asylum, the risk of *refoulement* is growing, particularly for Sudanese refugees.

3.h In previous years, deportations of registered refugees were made on the grounds of national security concerns including criminal charges, or targeted specific protection profiles. In 2023 however, some of the deportations of registered refugees were on lack of residency grounds and included women and children who pose no apparent security threat. In addition, there have been a number of cases in which registered refugees and asylum seekers have been arrested under criminal charges which were quickly dropped, but they have still been issued immediate deportation orders.

3.i The gap between the number of verified incidents of *refoulement* and the actual number of incidents of *refoulement* has been widening this year, as indicated above. Authorities do not release data on immigration detention or deportations and UNHCR is not systematically notified of the detention of refugees, regardless of their UNHCR registration status. In addition,

¹³ UNHCR, “Sudan Situation - UNHCR External Update #38,” 7 December 2023, <https://reliefweb.int/report/sudan/sudan-situation-unhcr-external-update-38-28-november-4-december-2023>

¹⁴ UNHCR, “Egypt Detention Prevention and Response,” November 2022, <https://reliefweb.int/report/egypt/unhcr-egypt-detention-prevention-and-response-november-2022>

¹⁵ NCCM, “Standard Operating Procedures for the Protection and Assistance of Child Asylum-Seekers, Refugees and Victims of Migrant Smuggling and Trafficking in Persons”

UNHCR and partners have no access to those in detention. Both UNHCR and other protection partners have primarily relied on community reporting to identify cases in detention and those at risk of *refoulement*. Deportations to Sudan are particularly difficult to monitor as they are happening swiftly, within less than a week and in some cases within 24 hours of the arrest directly from Aswan to the border.

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- i “General Comment No. 5 (2021) on Migrants’ Rights to Liberty and Freedom from Arbitrary Detention,” CMW/C/GC/5, 23 September 2021.
 - ii “Joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return,” CMW/C/GC/4-CRC/C/GC/23, 16 November 2017.