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URGENT APPEAL

GROWING THREATS TO REFUGEES IN EGYPT

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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.

ABOUT THE COMMITTEE FOR JUSTICE (CFJ)

The Committee for Justice (CFJ) is an independent association for the defense of human rights established in 2015 by a diverse group of human rights advocates in Geneva, Switzerland. It seeks to defend victims of and persons vulnerable to human rights violations with a focus on the MENA region.

URGENT APPEAL: GROWING THREATS TO REFUGEES IN EGYPT

I. INTRODUCTION

As the conflict in Sudan continues to spiral out of control with recent reports of massacres and widespread starvation, Egypt is poised to adopt a new asylum law that will threaten access to protection for those desperately fleeing the neighbouring country as well as for refugees from other countries in the region. It will also allow for arbitrary detention and refolement based on migration status and without full consideration of a person's individual protection needs. These developments could lead to massive increases in Egypt's ongoing detention and deportation efforts—which have already ensnared thousands of Sudanese children, women, and men since late 2023—and further fuel Sudan's humanitarian crisis.

Despite these growing threats to refugees, the European Union continues to expand its engagements with Egypt on migration matters, as reflected in the signing of a new Strategic and Comprehensive Partnership early this year,¹ which reportedly includes more than 7 billion EUR in aid over the next few years.

The Global Detention Project and Committee for Justice urge the international community to:

- Call on the Egyptian president to not ratify the asylum law, adopted recently by Parliament, and to work to amend the law to bring it in line with Egypt's international obligations.
- Enact pressure to persuade Egypt to immediately reform its aggressive, enforcement-focused response to the humanitarian crisis on its border. Egypt must: cease all deportations of refugees and asylum seekers to Sudan; end all arbitrary detention of refugees and asylum seekers; enable access to detention centres by the international community to undertake transparent screening procedures; and ensure that immigration detainees are able to challenge the grounds of their detention before a court or other competent, independent, and impartial authority, and be provided legal assistance.
- Together with leaders in Brussels and across Europe, scrutinise efforts to “externalise” EU migration controls to ensure that financing provided to Egypt cannot be used to harm refugees, asylum seekers, or migrants, and for the European Commission to leverage its financial assistance to Egypt by insisting on an immediate end to violations of refugee rights in the country.

¹ European Council, “10th EU-Egypt Association Council Meeting: Joint Press Statement by Egypt and the European Union,” 23 January 2024, <https://www.consilium.europa.eu/en/press/press-releases/2024/01/23/10th-eu-egypt-association-council-meeting-joint-press-statement-by-egypt-and-the-european-union/>

II. NEW ASYLUM LAW

On 19 November 2024, Egypt's House of Representatives approved a national asylum law containing provisions that violate the 1951 Convention Relating to the Status of Refugees. If implemented, the law will usher in a period where access to asylum and meaningful protection is subject to discretionary powers of the executive authority.

Central to the new law would be the establishment of a system for processing asylum claims, replacing UNHCR. However, the new governmental body charged with asylum processing (the Permanent Committee for Refugee Affairs), as established by the law, must apply a discriminatory timeline for considering asylum claims that differentiates between claimants who enter irregularly (six months) and those who enter regularly (12 months). As Amnesty International has noted, "This discrepancy in the processing times of asylum claims discriminates against refugees who enter Egypt irregularly, even though individuals fleeing life-threatening situations should never be penalized for irregular entry as they might not have had access to legal and safe pathways to seek asylum or might have been unable to access or renew relevant travel documents."²

There are in fact several critical shortcomings in the proposed asylum law that significantly hinder refugees' ability to seek and secure protection, including: the introduction of overly broad exclusion criteria for international protection that go well beyond the narrowly defined provisions of Article 1(F) of the 1951 Refugee Convention; the imposition of an unreasonably short 45-day deadline for irregular entrants to submit asylum applications, disregarding personal circumstances that may delay timely filing and providing no exceptions for vulnerable individuals or those at heightened risk; the failure to enshrine the right to legal counsel or access to interpretation services as procedural guarantees; the denial of access to the UNHCR, contrary to established international norms; the absence of clearly defined legal procedures and specialized forums for appealing negative asylum decisions, relegating these appeals to administrative courts that lack expertise in refugee law; and the inclusion of ambiguous and potentially expansive criteria for revoking regular refugee status, such as the subjective failure to "respect the values and traditions of Egyptian society." These shortcomings collectively violate international standards on refugee protection, particularly under the 1951 Refugee Convention, and exacerbate risks of injustice, discrimination, and abuse for asylum seekers.

Exclusion of Key Stakeholders

The draft law was introduced without consulting international organizations, civil society, or legal experts, violating Article 34 of the 1951 Refugee Convention, which calls for collaboration with international bodies to strengthen refugee protection policies. This exclusion resulted in a law narrowly focused on security concerns while neglecting human rights and the practical realities faced by refugees.

² Amnesty International, "Egypt: New Rushed Asylum Law Affront to Refugee Rights," 3 December 2024, <https://www.amnesty.org/en/documents/mde12/8804/2024/en/>

Legislative and Procedural Gaps Jeopardizing Refugees

By failing to provide a transitional framework between the UNHCR-led system and the proposed national system, the law creates a legal void that leaves thousands of refugees in limbo. This lack of clarity directly contravenes Article 16 of the 1951 Refugee Convention, which ensures access to justice and legal protection.

Overburdening Asylum Seekers with Unjustified Criteria

The law imposes an unnecessarily high burden of proof by introducing terms like "serious fear" into the refugee definition, deviating from the language of Article 1(A)(2) of the 1951 Convention. This addition complicates asylum claims, particularly for individuals displaced under chaotic and violent circumstances who often lack complete documentation.

Excessive and Vague Powers for the Permanent Committee

The Permanent Committee is granted undefined authority to act on broad concepts such as "national security" and "public order." When combined with the lack of legal safeguards, such as the right to legal counsel or clear procedures for appeal, these powers can lead to arbitrary decisions that violate Article 33 of the 1951 Convention, which prohibits refoulement.

Discriminatory Practices Against Irregular Entrants

The imposition of a 45-day deadline for asylum applications from irregular entrants ignores the realities of displacement and unfairly penalizes those unable to meet the timeframe. This violates Article 31 of the 1951 Convention, which prohibits penalizing refugees based on their mode of entry into the host country.

Failure to Guarantee Appeals and Procedural Fairness

The lack of specialized adjudication forums for asylum appeals and the absence of clear appeal procedures contravene Article 16 of the 1951 Convention. Refugees are instead relegated to administrative courts that lack the necessary expertise, denying them adequate legal recourse and protection against wrongful deportation.

Expanding Grounds for Revoking Refugee Status

The law introduces new, ambiguous criteria for revocation, such as inclusion on terrorist lists or failure to "respect societal values." These provisions far exceed the limited grounds permitted under Article 1(F) of the 1951 Convention and invite misuse, particularly against politically or socially marginalized refugees.

Restricting Religious Freedom and Freedom of Movement

The law restricts the exercise of religious practices to adherents of "heavenly religions" and imposes limitations on refugees' freedom of movement. These restrictions violate Article 18 of the Universal Declaration of Human Rights and Article 26 of the 1951 Convention, hindering refugees' ability to integrate into host communities.

Inadequate Protection of Personal Data

The absence of a legal framework for managing and safeguarding refugee data violates Article 17 of the International Covenant on Civil and Political Rights, which guarantees privacy rights. This gap exposes refugees to the risk of data breaches or misuse, potentially compromising their safety and security.

Weak Protections Against Expulsion and Refoulement

The draft law fails to establish robust safeguards to prevent expulsion or refoulement, violating Article 33 of the 1951 Convention. Refugees are left vulnerable to being returned to territories where their lives or freedoms are at risk, undermining the core principle of non-refoulement that forms the foundation of international refugee protection.

RECOMMENDATIONS

- Ensure that the legislative framework for asylum is in line with Egypt's legal obligations under the 1951 Convention.
- Ensure meaningful consultations with civil society and international organisations in the development of the executive regulations for the national asylum law.
- Review and amend national legislation to ensure that exclusion from and revocation of refugee status are limited to the criteria identified in the 1951 Convention Relating to the Status of Refugees in line with Egypt's legal obligations.
- Ensure that the right to appeal in asylum processing is guaranteed in law and in practice.
- Ensure that Egypt's asylum legislative framework provides unimpeded access to territory and asylum processing for those irregularly entering Egypt after fleeing territory where their lives and/or freedom is at risk.
- Ensure that the asylum legislative framework does not exacerbate tensions between refugee and host communities by introducing reporting requirements for using and/or sheltering asylum seekers.
- Review and amend the national asylum law to remove criminal liability for acts exclusively criminalised when committed by refugees and asylum seekers.
- Ensure close coordination with UNHCR and civil society for a successful transition to a state-led asylum system that respects Egypt's legal obligations.

III. SPIRALLING DETENTIONS AND DEPORTATIONS

During Egypt's review before the Committee on Migrant Workers on 3-4 December 2024, members of the Egyptian delegation flatly denied that the country was undertaking mass expulsions of Sudanese, denied that it was operating facilities to detain migrants and refugees, and claimed that it has procedures in place to prevent abuses and ensure accountability.³ However, a considerable body of evidence has been compiled over recent

³ United Nations TV, Live Streaming of the 575th Meeting, 39th Session of the UN Committee on Migrants Workers, 4 December 2024, <https://webtv.un.org/en/asset/k11/k11nz4uvp9>

months that directly contradicts these claims, pointing instead to unprecedented increases in arrests, arbitrary detentions, pushbacks, and refoulement of refugees and migrants, in breach of Egypt's obligations under international refugee law and human rights commitments.

According to the Egyptian government, some 1,267,000 refugees have crossed into Egypt through border crossings the eruption of the conflict in Sudan in April 2023. As of 15 October 2024, 767,700 refugees fleeing the conflict had approached UNHCR for registration. Most of these people, at least 80 percent, indicate having entered Egypt irregularly. As the numbers of people seeking protection in Egypt have risen, so too have the number of reports revealing detention in often makeshift facilities, abuses, organised mass deportations, and pushbacks. Based on testimonies of victims and observations from on-the-ground protection actors, a growing number of reports about these violations have been released by human rights organisations,⁴ the international press,⁵ and refugee platforms.⁶

Deportations. Most of the detention and deportation reports are almost exclusively based on community members, as protection and humanitarian actors have no access to detention centres or border areas in Egypt. Without a systematic monitoring mechanism, it is increasingly difficult to track detentions and deportations. Despite the absence of comprehensive or official data on detentions and deportations, reports from different sources indicate sharp spikes in their use. The vast majority of deportations in 2023 and 2024 were to Sudan, an active conflict zone for which UNHCR has issued a global non-return advisory.⁷ However, partners in Egypt have also recorded deportations to Eritrea, South Sudan and, in a handful of cases, to Yemen. In some cases, media sources have confirmed the push back of non-Sudanese refugees into Sudan. These reports indicate an exponential expansion in the use of deportations of refugees and asylum seekers from Egypt, evidenced through a rise in both the *number of deportation incidents* (15 in 2022; 44 in 2023; and 121 thus far in 2024) and *number of refugees and asylum seekers deported* (124 in 2022; 6,321 in 2023; and 18,750 as of October 2024).

In examining deportation figures from 2022 to 2024, an upward trend in the deportation of refugees and asylum seekers who are registered with UNHCR Egypt shows signs of erosion of international protection standards. In most cases, those deported hold valid documentation

⁴ Amnesty International, "Handcuffed Like Dangerous Criminals": Arbitrary Detention and Forced Returns of Sudanese Refugees in Egypt," 19 June 2024, <https://www.amnesty.org/en/documents/mde12/8101/2024/en/>; Global Detention Project and Committee for Justice, "Written Communication: The Detention and Refoulement of Sudanese Refugees in Egypt," April 2024.

⁵ The New Humanitarian, "Inside Egypt's Secret Scheme to Detain and Deport Thousands of Sudanese Refugees," 25 April 2024, <https://www.thenewhumanitarian.org/investigations/2024/04/25/exclusive-inside-egypt-secret-scheme-detain-deport-thousands-sudan-refugees>

⁶ Refugee Platform in Egypt, "Joint Statement: Egyptian Authorities Must End Arbitrary Detentions and Forced Deportations of Sudanese Refugees and Asylum Seekers," 27 March 2024, <https://www.statewatch.org/news/2024/march/joint-statement-egyptian-authorities-must-end-arbitrary-detentions-and-forced-deportations-of-sudanese-refugees-and-asylum-seekers/>

⁷ UNHCR, "Position on Returns to Sudan," May 2023, <https://www.refworld.org/policy/countrypos/unhcr/2023/en/124252>

that is expected to afford them protection from refoulement in line with the 1954 Memorandum of Understanding between UNHCR and the government of Egypt. As of 2023, deportations of registered refugees and asylum seekers targeted women, children, and those arrested for lack of valid residency; while in previous years, deportations almost exclusively targeted individuals who authorities deemed a security concern, usually due to political activism or religious affiliations.

Detentions. In line with the upward trend in refoulements, reports indicate a growing reliance on the detention of migrants and refugees in Egypt. Based on the partial statistics compiled by protection actors in Egypt, there were no fewer than 3,745 detentions in 2022, 5,319 in 2023, and more than 9,000 as of October 2024. While showing an upward trend, the number of detentions recorded by protection actors is likely representative of only a fraction of the total number of detentions as most deportees are detained for varying lengths prior to their removals and detention appears to be occurring in considerable numbers along borders in ad hoc settings that are not accounted for. Crucially, despite the adoption of the Children on the Move Standard Operating Procedures by Egyptian authorities in 2020, which prohibit the use of immigration detention and require the identification of alternatives to detention for children, reports received by on-the-ground humanitarian partners in Egypt indicate that the number of children detained and deported continues to rise. The deteriorating protection environment is also driving onward movement towards Libya, as demonstrated by an increasing number of detentions for irregular exit towards Libya. Partners have also observed that in 2024, authorities have processed the vast majority of individuals arrested due to attempted irregular exit towards Libya for deportation, regardless of their UNHCR registration status.

RECOMMENDATIONS

DETENTION AND REFOULEMENT

- Uphold Egypt's obligation of non-refoulement by ceasing all deportations of refugees and asylum seekers to Sudan.
- Strengthen the country's asylum legislative framework to ensure that the principle of non-refoulement is fully respected in law and in practice.
- Prohibit the detention of refugee and migrants children, as well as their families.
- End all arbitrary detention of refugees and asylum seekers.
- Allow access to detention centres and establish access to transparent screening procedures to identify those with international protection needs, such as victims of trafficking or migrant smuggling.
- Ensure that immigration detainees are able to challenge the grounds of their detention before a court or other competent, independent, and impartial authority, and provided access to legal aid.

CHILD PROTECTION

- Implement the recommendations pertaining to refugee and asylum-seeking children adopted in the Concluding Observations of the Committee of the Rights of the Child to Egypt⁸ in June 2024.
- Uphold the principle of non-refoulement with regard to children seeking or in need of international protection.
- Ensure that asylum-seeking or migrant children below the age of 18 years and families with children are not detained for immigration purposes.
- Provide all asylum-seeking, refugee and migrant children, irrespective of their country of origin, with unimpeded access to public healthcare facilities and the public healthcare system.
- Provide asylum-seeking and refugee children of all nationalities with access to the public education system on an equal footing with Egyptian children, regardless of the validity of residency permits.
- Ensure universal birth registration for all children, irrespective of the place of birth or their parents' immigration status.

ACCESS TO RIGHTS

- Implement its commitment to provide public services to refugees and migrants on equal footing with Egyptians by ensuring access to public services for refugees and migrants regardless of the validity of residency permits.
- Ensure that emergency healthcare is accessible to refugees and migrants regardless of their immigration status.

⁸ UN Committee on the Rights of the Child, "Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Egypt," CRC/C/EGY/CO/5-6, 20 June 2024, <https://documents.un.org/doc/undoc/gen/g24/088/27/pdf/g2408827.pdf>