

The Path of Death

Syrian Immigration to Egypt

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INTRODUCTION

Egypt has witnessed in recent years the influx of refugees from Africa and the Arab region, following the outbreak of wars in their countries or the existence of threats to human rights, and this has been both official and unofficial.

With the changing international policy of receiving refugees and the outbreak of wars in many areas that are considered as transitional stops for migrants from Africa to Europe asylum seekers (Libya, for example), new routes have emerged for unofficial immigration that passes through the territory of the Arab Republic of Egypt.

In mid-2013, unofficial immigration trips by Syrian asylum seekers through Egypt's southern border with the Republic of Sudan began with the hope of reaching Egypt, motivating them to take dangerous roads and routes.

This report highlights the unofficial immigration of Syrian asylum seekers to Egypt, and the reasons for the increase in rates in recent years (mid-2013 to April 2018) despite the strict measures taken by the Egyptian government to pass laws to criminalize unofficial immigration, the imposition of a security fence around the border, and the issuance of Presidential Decree 444 of 2014¹.

The report also links the Egyptian government's decisions in recent years to Syrians wishing to enter Egyptian territory, and the increased demand unofficial immigration. The report also traces the journey of the Syrian migrant from the country of origin or the first country of asylum to Egypt, explaining the motives for the migration of Syrian asylum seekers to Egypt, and monitors the risks of the journey and the fate of the migrants.

The report also tracks what happens with migrants arrested on the Egyptian border and the conditions of their detention and trial.

The report as well highlights the role of the Office of the United Nations High Commissioner for Refugees (UNHCR) in Egypt in providing assistance and support to Syrians arrested during an attempt to enter Egypt unofficially.

The report concludes with the recommendations of the Egyptian Commission for Rights and Freedoms (ECRF) on how to face the crisis.

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¹ A presidential decree issued by the current Egyptian President, Abdel-Fattah Al-Sisi, on the determination of areas adjacent to the border, published in the Official Gazette in Issue No. 48 bis (A) of Nov 29th 2014.

METHODOLOGY OF THE REPORT

In this report, the researcher used the qualitative descriptive methodology to achieve the research objectives. Where the researcher presented and reviewed each of the following to develop a framework and a general background for the report:

- Egyptian domestic laws related to unofficial immigration.
- Decisions of the Egyptian government regarding the reception of asylum seekers of Syrian nationality, and dealing with unofficial immigration.
- International treaties and conventions signed and ratified by Egypt concerning unofficial immigration and refugee rights.
- Studies and reports of international organizations dealing with refugee issues from 2013 to 2018.
- UNHCR statistics on the number of refugees in Egypt and their situation.

In order to reach the search results, direct and in-depth interviews were conducted with:

- Syrian asylum seekers (who came to Egypt unofficially via the southern border of Egypt with Sudan), who are aged between 15 – 65 years old when they arrived in Egypt and the date of their arrival in Egypt between August 2013 – April 2018. The interviews took place in May 2018. The aim of the interviews was to know the motivation behind their arrival in Egypt and how and why they took the unofficial immigration journey through Sudan, the details of the journey from the beginning of their movement from the country of origin or the state of asylum to Egypt, and the impact of the experience on their lives so far.
- Syrian asylum seekers (who came to Egypt unofficially through the southern border with Sudan) who were arrested by the Egyptian border guards between January 2014 and March 2018, ranging between 18 – 58 years old when they came to Egypt. Interviews were conducted between mid-April and mid-May 2018. The interviews aimed to find out when they entered Egypt unofficially, and where and how they were arrested. The interviews also included documentation of the violations that occurred, the conditions of their detention and trial, and the support provided by the UNHCR.
- Persons who worked as middle people in the unofficial immigration process for Syrians arriving in Egypt unofficially through the southern border of Sudan during the period from August 2013 until March 2017, whose nationalities are Egyptians and Syrians. The interviews aimed to find out how the unofficial immigration of Syrian asylum seekers to Egypt was coordinated, the cost of the trip for the individual, and the communication with migrants at different stages of the journey.
- Lawyers who provided legal support to Syrian asylum seekers arrested during unofficial immigration from Sudan to Egypt during the period from August 2013 to April 2018 in the Aswan, Qena and the Red Sea. The interviews were conducted between April 15th – May 14th 2018, aiming to determine the extent of legal support provided to Syrian asylum seekers arrested during the attempt to enter Egypt through Sudan, and what moves lawyers in such cases, documenting the conditions of

detention of those arrested, their trials and their legality, and what usually happens with those arrested.

TERMINOLOGY:

Asylum Seeker: An individual who seeks international protection. The asylum seeker is the person whose application hasn't been yet decided by the State to which he has applied for asylum. At the end, not every asylum seeker is considered a refugee; however, each refugee was initially an asylum seeker².

Refugee: Refugees are persons, who are outside their country of origin and seek international protection for reasons of fear of persecution, on the basis of race, religion, nationality, political opinion, belonging to a particular social group or because of conflict and generalized violence, or other circumstances and disputes, forcing them to flee. The Refugee Convention defines the rights of refugees and the responsibilities of States, where s/he is considered an asylum seeker until being identified as a refugee in accordance with national and international law. This process is called "refugee status determination" and is implemented by UNHCR and/or the states³.

State of origin: It is a neutral and precise term referring to the countries from which the asylum seeker or refugee has originated. It is preferable to use this term rather than "sending State", "exporting State" or "Mother State".

State of destination: or state of destination, the most neutral and precise terms to refer to the state in which one intends to live or work⁴.

State of transit: is the state in which the migrant passes during the journey, whether official or unofficial, not intending to reside in it, but is a stop on the way between the state of origin and destination, also called transit state.

Mixed Migration: Mixed migration arise is a term used to describe when people seek to escape conflict, violence, persecution, disruption of public order, economic hardship, or famine, to join family members abroad, and better livelihoods and opportunities for life

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² Glossary of Migration Terminology for Media in the Middle East issued by the ILO Organization on Jan 20th 2017 within the ILO Regional Project on Fair Migration in the Middle East.

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³ In accordance with the 1951 UN Convention and the 1967 Protocol relating to the Status of Refugees

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⁴ ILO Migration Glossary for Media in the Middle East, Jan 20th 2017. ILO Regional Project on Fair Migration in the Middle East, p.

abroad. Mixed migration refers to complex population movements that include flows of refugees, displaced persons, asylum seekers, workers and others.

This migration is a widespread global phenomenon that poses significant challenges in ensuring equal protection for all migrants who are in the same moving method but move for different reasons. This group shares patterns of migration and is subject to study as a single category⁵.

Regular / customary migration: This is the migration that occurs through legally recognized channels.

Irregular / non-customary migration: This migration occurs through channels that are not legally recognized, such as crossing the border without a permit or crossing the sea to the destination country.

Illegal entry: crossing borders without complying with the necessary conditions for legal entry into the receiving State⁶.

Irregular/ Non-customary migrant: A person who, having entered the country illegally, lacks the legal recognition in the country of transit or host. The term applies to immigrants who violate the rules of admission to the country and any other person who is not authorized to remain in the host country (also known as a secret / illegal / undocumented migrant or an immigrant who applies irregular or non-customary migratory conditions).

Economic Immigrant: The categorization of "economic" is not legal; it is a comprehensive term for a wide range of people moving from one state to another to enhance their economic and professional opportunities. This term is used to identify migrants who are refugees, asylum seekers and forcibly displaced within mixed migratory flows on a larger scale. It often refers to unskilled and semi-skilled persons from the least developed or conflict-affected States.

Smuggling of migrants: Smuggling is the unauthorized transfer of a person, with his/her consent, across the internationally recognized borders of a state, in which that person is not a national or permanent resident. Smuggling unlike trafficking, does not require exploitation or coercion⁷.

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⁵ International Migration Report 2015, issued by the International Organization for Migration (IOM) and the United Nations.

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⁶ Article 3B United Nations Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 2000.

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⁷ United Nations Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 2000.

Smuggler: A person who works to transport people according to an agreement between them, to transport them illegally across the borders of an internationally recognized state.

Child: An individual under the age of eighteen, unless under applicable and effective law, has reached the age of adulthood early⁸.

Egyptian Border Guards: Egyptian army forces responsible for border control, drug control, and smuggling prevention. The border guards are divided into land and coastal battalions and brigades depending on the nature of their presence.

Deportation: Expulsion of foreign nationals from the country, either to the State of origin or to another State. While migrants must always have legal representation and opportunities to challenge their deportation with pending execution, and these procedural guarantees are always guaranteed, in some cases, migrants are deported by force or other coercive forms⁹.

Detention of migrants: Detention of individuals who have no regular migration status in prisons and detention centers, temporarily or for indefinite periods of time, while their cases are being processed by the authorities or the courts.

According to the international human rights standards, the law should provide a text in case of detention of migrants and it should be the last resort, only for the shortest period of time, and when there is no other less restrictive procedure.

States should take steps to implement alternative measures to detain migrants.

Children should not be detained on the basis of their status as migrants or illegal entry into the country. Under refugee law, refugees and asylum-seekers should not be subject to penalties, fines or imprisonment for their illegal entry or presence¹⁰.

UNHCR: The United Nations High Commissioner for Refugees (UNHCR), a United Nations organization established to protect and support refugees, assists them in their registration process, asylum applications, and provides legal, food and health assistance in camps and asylum countries in 125 countries around the world. It also contributes to the voluntary return of refugees to their homelands, integration into the receiving societies, or resettlement to a third country. The headquarters is located in Geneva, Switzerland, with representation offices in many countries of the world, including the Arab Republic of Egypt.

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⁸ 1989، معاهدة الأمم المتحدة لحقوق الطفل لعام 1 مادة رقم

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⁹ Glossary of Migration Terminology for Media in the Middle East, January 2017, International Labor Organization.

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¹⁰ Ibid page 29

I. BACKGROUND OF THE REPORT

General Background:

Egypt and the reception of refugees in the region and Africa in modern history:

Egypt has been a country of destination and transit for refugees of different nationalities (African and European) throughout modern history, since the asylum of (Armenians) to Egypt escaping death after the massacre of 1915 which is the oldest in modern history, Egypt then received Palestine refugees after the 1948 war, a flow of Sudanese after 1983 because of the Second Civil War, in the 1990s, the most prominent refugees who fled to Egypt were from the countries of the Horn of Africa (Sudan, Ethiopia, Eritrea and Somalia) because of the wars there, and in 2005, Egypt received Iraqis fleeing the US-led coalition forces.

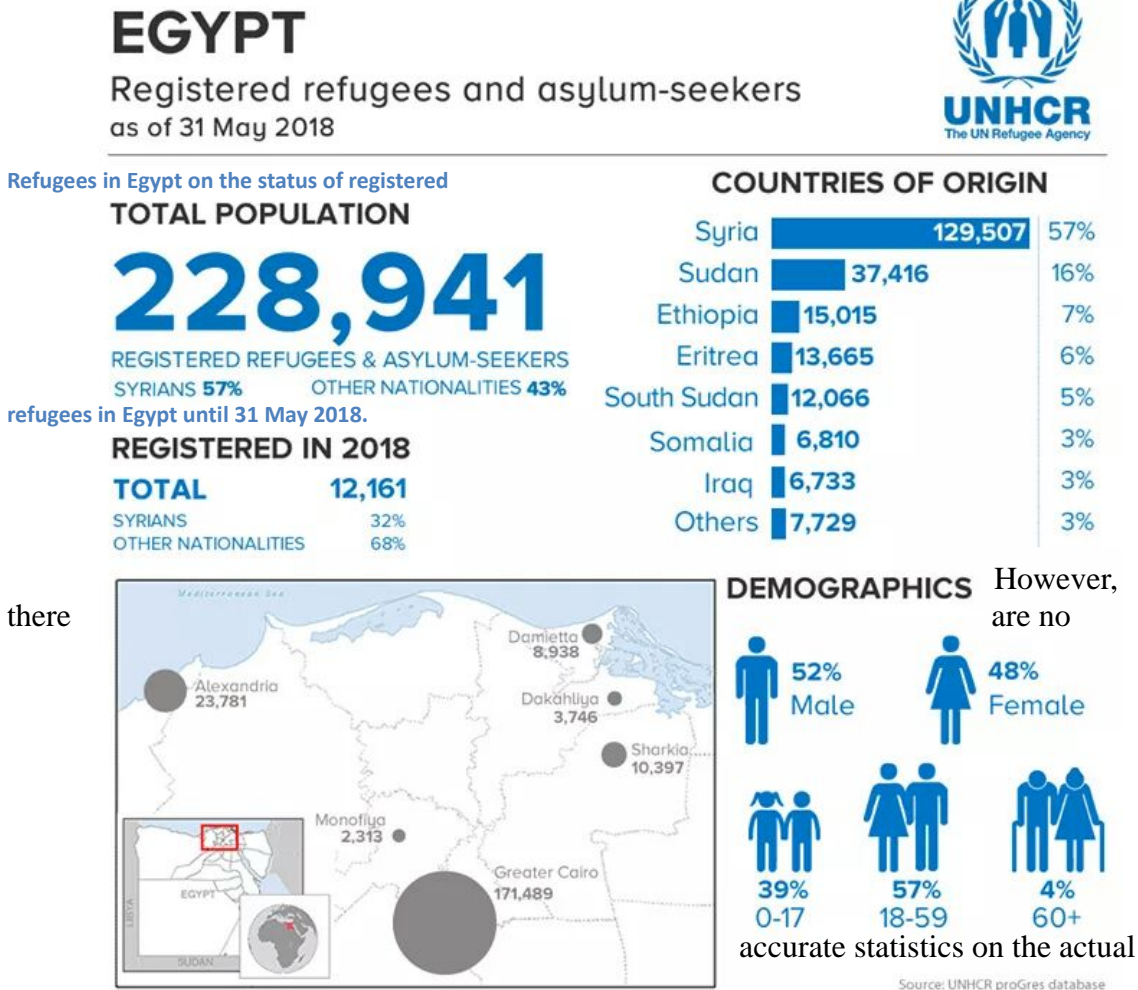
Since 2011 Egypt has received displaced people from Libya after the outbreak of war and the high frequency of armed operations after the popular revolution against the Gaddafi regime, and in the same year, Egypt also received Syrians fleeing the conflict in the Syrian Arab Republic in the wake of the Syrian revolution, with the continuation of flows of asylum seekers from some African countries.

At the end of September 2017, UNHCR issued a statement on the increase in the number of refugees and asylum seekers in Egypt registered with it, to reach 211,104 thousand at the end of August, an increase of 1,136 thousand compared with the end of July of the same year, which amounted to 209,968 thousand, the increase rate was 0.54%.

The total number and number of registrants this year, UNHCR statistics indicate that the number of refugees registered with its office in Egypt until May 31st 2018 reached 228,941 of all nationalities of asylum. Their ratios are distributed among nationalities as follows: Syrians 57%, Sudanese 16%, Ethiopians 7%, Eritreans 6%, followed by South Sudanese 5%, Somalis and Iraqis 3% and other nationalities by 3%.

The following statistics are available:

Figure 1: (1) Source: Report of the Office of the United Nations High Commissioner for



number of refugees in Egypt due to the presence of more unregistered refugees. There is no specific mechanism for counting the real number, and the figures announced by the Egyptian government are inconsistent with what is authorized by the UNHCR in Egypt.

Special Background:

General Legal Status of Syrian Refugees in Egypt:

Egypt was one of the Arab countries participating in the drafting of the Universal Declaration of Human Rights, which provided for the right to asylum in the first paragraph of Article 14, which states:

Everyone has the right to seek and to enjoy in other countries asylum from persecution.

At the international level, Egypt acceded to the United Nations 1951 Convention relating to the Status of Refugees in accordance with resolution 331 of 1980 of the President of the Arab Republic of Egypt, on the approval of the Convention signed at Geneva on 28/7/1951 - published in the Official Gazette on Nov. 26th 1981 - Issue No. 48, Egypt

approved the Protocol to Amend the Convention 1967 by Presidential Decree No. 333 of 1980 published in the Official Gazette on Nov. 5th 1981 - Issue 45.

At the regional level, Egypt has accepted the 1969 OAU Convention, which governs the aspects related to refugee problems in Africa by Decree of the Minister of the Interior No. 332 of 1980, and was published in the Official Gazette on May 20th 1982 and ratified the Arab Convention on Refugees, issued by the League of Arab States in 1994.

The Constitutions of 1923, 1930, 1971, 2012, and finally 2014, provided for the rights of asylum in Article (91). However, till now there has not yet been a law in Egypt that regulates the existence of refugees, their lives, relations, personal status and issues of their own.

Therefore, they are subject to their rights as stipulated in the agreements signed by Egypt in this regard, which Egypt is obliged to implement in accordance with Article 93 of the Constitution, stating that:

(The State shall abide by the international conventions and treaties on human rights ratified by Egypt which have the power of law after their publication in accordance with the law).

The Egyptian government signed a memorandum of understanding with the UNHCR, which was signed on Feb 10th 1954 and promulgated by Act No. 172 of 1954, determining the terms of reference of the office of UNHCR in Egypt and the limits and scope of its work in terms of registration of asylum-seekers (by requesting an appointment from the office in Cairo, and on that appointment the asylum seeker comes where an interview is undergone with him, and he's given the yellow temporary asylum seeker card)

It is also the duty of UNHCR in Egypt to decide on their requests and to provide legal, food, health, psychological, urgent relief and other services to them, as well as cooperation with the Egyptian government in the development of relief and rescue plans and partnership in projects for refugees, in addition to receiving requests for reunification and resettlement in a third country and voluntary repatriation to the motherland.

Despite the first law on unofficial immigration in Egypt in 2014, Law No. 62 of 2016 was promulgated and published in the Official Gazette in issue no. (44a bis) on Nov. 7th 2016 (Law against Illegal Immigration and Smuggling of Migrants), however, Human Rights Watch also criticized the law for not talking about refugees coming to Egypt to seek asylum, ignoring any guarantees of the rights of asylum seekers or freedom of movement, nor did it include protection from forcible return, namely, the deportation of migrants to a country where they might be in grave danger. It also ignored a framework that distinguishes between economic migrants and asylum seekers, and did not prohibit detention of asylum seekers, or de facto refugees based on humanitarian law¹¹.

As for unofficial immigration to Egypt, for both Syrians and those from the Horn of Africa, it is carried out through the southern border of Egypt with Sudan. The border areas became military zones, according to the Presidential Decree 444 of 2014, on the determination of areas adjacent to the border military zones. And despite the appeal filed by Nubians, demanding that the decision be overturned before the Administrative Court, based on the text of Article 236 of the Egyptian Constitution, while the Administrative Court referred the case to the Board of State Commissioners, to prepare a report containing its recommendation to the Court, which was released in August 2014, including consideration of the decision administratively and recommending its abolition, however, migrants in mixed migration flows during an attempt to enter Egypt unofficially including asylum seekers, are detained and charged with military charges and referred to trial before the military courts on charges of contravening Resolution 444 of 2014.

The changes in the Egyptian policies towards the asylum and reunification of Syrians in Egypt and its correlation with the numbers of Syrians in Egypt and the way they enter:

Since there is no legal framework for the presence of asylum seekers and refugees in Egypt, their legal status and conditions of entry into Egypt change in accordance with changing government decisions from time to time.

The best explanation for this is the changing situation of the Syrian refugees according to the orientations of the political administration in Egypt and its agenda towards international and regional issues, which has changed in the past eight years more than once without a clear framework for the entry and establishment of Syrians in Egypt.

Since the beginning of events in Syria, Syrians fleeing the conflict sought refuge in neighboring countries. Since then, Egypt has witnessed the entry of a large number of Syrian asylum seekers in 2011, UNHCR recorded 1,921 Syrian asylum seekers in Egypt. The number rose in 2012 due to the intensity of the armed conflict there, where the UNHCR in Egypt registered 50,564 thousand Syrian asylum seekers. At that time, the Egyptian government allowed entry to the Syrians without requiring an advance visa.

Then, through the ousted President Mohamed Morsi's ruling, which lasted from June 2012 until June 2013, the Government provided many facilities for entry and residence, and a presidential decree was issued to treat them as equals to nationals in terms of education, health and the use of public facilities, which motivated even larger numbers of Syrians to come to Egypt, where UNHCR recorded 100,133 thousand applications for asylum from Syrians.

Then in July 2013 after the overthrow of ousted President Mohamed Morsi, the Egyptian government imposed a visa with the condition that a security permit is to be obtained for Syrian entry into Egypt. In a process described at its time by the Egyptian Foreign Ministry as "temporary" due to the security conditions in the country, and the authorities returned back large numbers of Syrians who were on their way to Egypt, so the number

of Syrian asylum seekers who applied for registration at UNHCR in 2014 has dropped to 6.216 thousand Syrian asylum seekers.

Since then, the phenomenon of unofficial immigration to Egypt has been activated through Sudan among the Syrian community as an alternative to official immigration.

In 2015, the number of Syrian asylum seekers registered with UNHCR increased slightly, where UNHCR received 7.232 thousand applications for asylum from Syrians.

At the same year, the Egyptian authorities issued an exceptional decision to allow residents of Egypt with Syrian citizenship who have an annual residence to apply to the Immigration Department in Cairo to apply for a visa for their first degree relatives with papers proving the degree of kinship, in a process characterized by the slow pace of procedures, disabling, and obtaining the visa even after the completion of the required papers and waiting for security approval is very difficult.

However, at the beginning of July 2017, this decision was suspended, after the discovery of cases of fraud by brokers manipulating the papers in order to profit in cooperation with Egyptian officials, and instead of punishing officials involved, all Syrians who want to come to Egypt have been punished and the facility has been suspended until today.

In August 2016, Egyptian newspapers published a report by the Egyptian Chamber of Travel and Tourism Agencies stating that Egyptian authorities allowed Syrian and Iraqi citizens (residents of the European Union or the Gulf States) a tourist visa for a non-renewable month,

The Syrian or Iraqi citizen holds the state of the European Union or the Gulf States.

The Syrian citizen is coming from the state with permanent residence (the Gulf States and the European Union) and not from Syria.

Persons coming from EU countries should use the foreign passport granted to residents of Europe for asylum purposes.

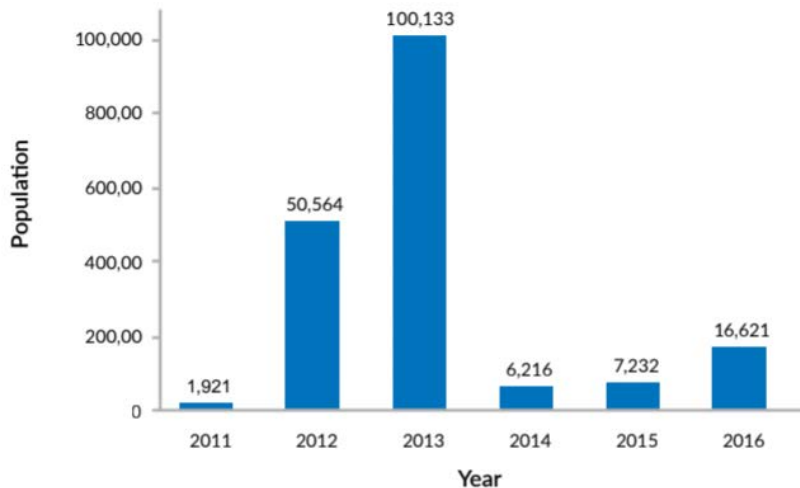
The application for a visa for collective tourism purposes must be through one of the approved tourist travel offices and within tourist groups.

Despite the arbitrariness of the conditions imposed, Syrian activists deny that the Egyptian authorities allow the Syrians to enter the Egyptian territories in this manner.

Even after the completion of the procedures, the visa issuance for Syrian citizenship applicants is pending for security approval, which leads them to behave in other informal ways.

At the end of 2016, the UNHCR in Egypt received 16,621,000 Syrian asylum applications.

The following statistics show the difference in the number of registered with UNHCR in Egypt each year between 2011 and 2016:



In December 2017, Egyptian Ambassador to the Syrian regime, Ambassador Mohamed Tharwat Salim, said that Egypt had begun procedures to reunite the Syrians with their families. He attributed the delay in the issuance of visas to the examination of requests for family unification.

As of April 2018, most visa applications to Egypt had been rejected, in the period before the Egyptian presidential elections, Egyptian embassies told Syrian applicants that their papers were complete, but the security clearance is lacking and will not be issued until after the presidential elections in Egypt in April 2018.

Based on the above, the critical situation of the Syrian family residing in Egypt is evident, as the rest of the family is elsewhere (Syria / other country of asylum). Family members living in Syria or countries of asylum cannot see or visit the rest of the family residing in Egypt, due to the difficulty of obtaining an official visa for the rest of the family or any Syrian to enter Egypt since mid-2013, and at the same time, the Syrians in Egypt cannot leave because of the difficulty of returning or impeding it in the present circumstances.

This is a situation of humanitarian need and continuous disability experienced by Syrians who want to come to Egypt from mid-2013 and their families.

Therefore, the phenomenon of unofficial immigration to Egypt has emerged through Sudan since the end of 2013 and until now, despite the tightening of security measures and the issuance of the President's decision no. 444 on the considering areas adjacent to the border as military areas, which puts those arrested on the borderline or adjacent area to the military trial. Still, Syrian flows through unofficial immigration continue as UNHCR recorded 4628 Syrian asylum seekers registered in Egypt who arrived in Egypt through unofficial immigration from the beginning of 2016 until the end of September 2016¹².

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¹² Regional Response Plan to Support Refugees and Empower Host Communities, OHCHR, Egypt, 2017-2018

The unofficial immigration route between Egypt and Sudan:

Sudan has been a country of origin, destination and transit for migrants and refugees from Central African States, where conflicts have led to waves of refuge and forced migration across North Africa, especially Sudan, Libya and Egypt since the 1990s.

When the conflict erupted in southern Sudan in late 2013, it pushed 470,000 people to flee to neighboring countries in late 2014, and more than 130,000 people in Sudan sought assistance from the UNHCR until April 2015.

Previous conflicts in Chad, the Central African Republic and the Democratic Republic of the Congo have displaced large numbers of people to neighboring countries, a certain population group sought refuge in Sudan, Libya and other countries in North Africa.

North African countries are also a major destination for mixed migratory movements, where it is difficult to distinguish between refugees and migrants for whom they are a transit point to Europe and where they are detained.

The tightening of border controls has led many migrants from North African countries to remain there for many years and also difficult to distinguish between unofficial and official migrants, so they end up in unofficial situations.

In Sudan, which is a transit country as well as a sending country, migrants rely on migration routes northward to Libya, Egypt, Europe and east to the GCC countries. As for migrants from the Horn of Africa, especially from Eritrea, they often pass through either Sudan before traveling north to Libya or to travel to Europe or through Egypt as a destination or station to reach Europe or Israel as it used to be in the past¹³.

Therefore, the unofficial immigration path between Egypt and Sudan is witnessing a mixed migration movement between asylum seekers and economic migrants, whether Egypt is the destination or a station for reaching Europe or Israel.

Migrants escape through intermediaries and guides who know the desert roads, where migrants are transferred to Egypt then to Sinai and then crossing the border into the occupied Palestinian territories (Israel)¹⁴.

And in recent years due to the military operations in North Sinai and the forced transfer of refugees from Africa by the Israeli Government, there has been a reduced turnout on this road, and all the refugees from Africa turn to Europe via Egypt or Libya through Sudan.

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¹³ International Migration Report, "Migration, Displacement and Development in the Arab Region," published by the International Organization for Migration (IOM).

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¹⁴ Human Rights Watch Report "Traders and Torture of Eritreans in Sudan and Egypt"

The unofficial immigration routes of human migration between Egypt and Sudan are also witnessing informal trade such as the smuggling of calves and meat from Sudan to Egypt and the transfer of funds to and from Sudan.

II- Research Results:

Based on what has been monitored and documented from the cases of Syrian refugees survivors of the experiences of unofficial immigration to Egypt through Sudan during the period from the end of 2013 to April of this year 2018, both males and females, whose ages and places of origin vary, in addition to documenting the testimonies of lawyers who provided legal support to Syrian refugees who had been arrested during an attempt to enter Egypt unofficially, as well as interviews with persons who had engaged in smuggling operations as intermediaries between smugglers and migrants, to the motives of unofficial immigration to Egypt, how to migrate through Sudan, the risks that may befall the immigrant during the trip and after arrival, arrests and detention of refugee migrants through Sudan.

To analyze and understand the issue more deeply to come out with recommendations to resolve the crisis taking into account all the data.

Migration motives:

The motives of the Syrians, who came to Egypt in recent years, according to the monitoring of cases during this report are different, especially for Syrians coming to Egypt unofficially through the southern border of Egypt with Sudan.

Some of them came to Egypt because they have first class relatives, who live in Egypt and cannot reach them by official means. Others come for the first time because of the stability of the situation in Egypt for Syrians, the possibility of finding a job, and living among the communities since most of them have friends and acquaintances from the Syrians who had come to Egypt during the period from 2011 to mid-2013.

Some come to Egypt for temporary settlement then migrate to another State for asylum, weather officially through UNHCR or unofficially through unofficial immigration in the Mediterranean to Europe or to Libya, including to the coasts of Europe.

The journey of Syrians from Syria and neighboring countries to Egypt

The Egyptian government declares that it does not prevent Syrian citizens from entering Egypt, but at the same time, thousands of Syrians are unable to obtain official visas from the Egyptian authorities since the visa was imposed in mid-2013 until now.

As the entry of Syrians to Egypt at the present time is limited to two ways; The first is to pay for a visa, which according to interviews conducted by UNHCR, costs between \$3500-5000 per capita according to the location from the visa was requested, paid to intermediaries Syrians and Egyptians who work on all official procedures by their relations with people in the Egyptian authorities, and the report was unable to follow up how to extract official papers quickly through these intermediaries. Of course, the Syrian family, which intends to migrate to Egypt cannot afford this cost, especially if they were

more than one member of the family, so they resort to the second way which is unofficial immigration through Sudan because of the low cost.

The following is an explanation of the process of unofficial immigration in all its details and the fate of the migrants.

Unofficial immigration to Egypt through Sudan:

The Egyptian government's decision for an entry visa to allow Syrians to enter Egyptian territory is the main reason for the unofficial immigration of Syrians from Sudan to Egypt, where Syrian's unofficial immigration to Egypt did not appear until the end of 2013.

The obstruction of visa procedures and the rejection of requests for family reunification led to the influx of more Syrians through unofficial outlets, in addition to closing all the official ports of most countries in front of them.

More recently, unofficial outlets have also been shut down by force from countries that Syrian refuge to, such as Turkey and Europe, making their options very limited.

With the need to migrate to Egypt whatever the motive and the closure of official ports and the high cost of obtaining a visa through brokers, and the need for another and a less expensive way to enter Egypt, the unofficial immigration has begun through Sudan, which allows Syrians to enter its territory without a visa application, its laws do not penalize migrants smuggled in unofficial immigration, and its border with Egypt converges from the south and unofficial immigration has been active in Egypt and Libya for decades.

"The overall situation and the protective environment remained stable even in 2016, and the visa requirements for Syrians entering Egypt are still in place, although there has been a significant increase in the number of unofficial arrivals across the land borders from Sudan, as UNHCR registered 7210 new Syrian arrivals at the end of September 2016, 4628 of them crossed the border from Sudan to Egypt unofficially, and Syrians arriving in Egypt by air or land without a valid visa or residence permit or have forged false documents have been arrested, although in most cases they were released and allowed to legalize their residence, UNHCR helps newcomers to legalize their residences if they face problems.¹⁵"

According to the report of the journey of many Syrian refugees to Egypt through Sudan from August 2013 until April of this year 2018, the journey of unofficial immigration from Egypt to Sudan is as follows:

Details of the trip:

Trip cost:

- Per capita: from the State in which he resides officially to Sudan 250 USD.
- From Sudan to Egypt unofficially (the cost ranges from 500 - 1500 USD) as agreed with the smuggler.

Therefore, this method is the most cost-effective for all Syrians coming to Egypt.

The trip is divided into two parts:

Part I:

The journey from the country in which the migrant is located (whether it is the mother country Syria or another country of asylum such as Lebanon and Jordan) to of Sudan:

The immigrant begins to try to reach one of the mediators in Sudan, which isn't difficult at all, since the culture of unofficial immigration to Egypt is spread through Sudan among Syrians, so certain jobs have emerged from unofficial immigration among the Syrian societies, where a Syrian person arranges for the flight and works as an intermediary with the smugglers who organize and manage the flight.

The immigrant agrees with the mediator before moving to Sudan on the details of the trip and its cost, begins his journey from the country he's in, whatever it is to Sudan, and from there he is received by one of the workers who work with the smugglers who organize and run the trip.

Some migrants tried to end the procedures and enter Egypt officially and failed, others did not try because of what they had heard about the complexity of the procedures and that there was no way to travel to Egypt except unofficially from Sudan.

Part II:

Storage in Sudan and the journey from Sudan to Egypt:

- ❖ After receiving the immigrant he is accompanied – or they are if they are a group, a family or a group – to a place on the edge of Khartoum two hours from the airport. This stage is usually in a car that is air conditioned, from where they are placed in one of the places hidden from the eyes until the preparation of the rest of the trip and assembling the group that will travel together.
(This phase is called *storage stage*. In some cases they stay inside an abandoned apartment, and other times, in cattle farms, time ranges from 1 to 12 hours)
- ❖ In some cases, the migrants move from Khartoum to Port Sudan.
- ❖ After finishing the travel arrangements, migrants are transferred from the storage area to other vehicles other than the ones that escorted them from the airport. (Sometimes cars or microbes and sometimes quarter-ton trucks where immigrants sit in the trunk of the car), the cars move to the coastal city of Port Sudan, from where the journey to cross the Egyptian border begin.

- ❖ The distance from Khartoum to Port Sudan is approximately 830 km, and the journey from Khartoum to Port Sudan takes about 13 hours depending on the conditions of the road.
- ❖ Migrants from different locations and through different brokers are assembled in another storage area in Port Sudan, and the storage in the city ranges from 3 hours to 3 days depending on what the smugglers decide.
- ❖ The journey begins from Port Sudan in a quarter-ton trucks, where the driver is in front and next to him is the guide who knows the mountainous and desert routes in the region, reaching the border with Egypt in Halaib and Shalatin. In the trunk, migrants of whatever nationality or age sit lowering their heads without any security measures, they range from 5 to 15 people per car, and they are warned not to stand in the trunk of the car or raise their heads. The smugglers do not allow them to excrete or sleep until they reach the border or a new storage area in the desert. In any case, whatever happens, the cars do not stop except in areas designated by smugglers.
- ❖ The vehicle moves a long distance between the mountainous and rocky tracks so quickly in order not to be monitored by Sudanese border guards and Sudanese security forces or bandits who kidnap migrants and ransom their families or sell them to human organ dealers stationed along the mountain road of the trip.
- ❖ Sometimes smugglers make another storage point inside the mountain passes before reaching the border with Egypt, if the vehicles to which the migrants would be transferred were not prepared or were exposed to Egyptian border guards.
- ❖ No cases of arrest or detention by Sudanese security forces or Sudanese border guards have been monitored for unofficial migrants, as all cases in which the Sudanese army or Sudanese police have arrested get released and allowed to cross after paying an amount agreed upon with the broker.
- ❖ One case of a migrant being arrested Sudanese security was monitored, and after investigating, the officer in charge of the investigation gave them money so that they could complete the journey.
- ❖ Cars loaded with migrants coming from Sudan do not cross the Egyptian border, but stop at the border at areas determined by the smugglers and at different points for each trip. At these points, the Sudanese smugglers meet with the Egyptian smugglers, who work in coordination with them and migrants are transported from Sudanese cars to Egyptian cars (also quarter-ton trucks) driven by Egyptians.

- ❖ The points of contact between the smugglers on the Egyptian border in the years preceding 2014 were extended along the Egyptian-Sudanese border and there was more than one way to enter. But after 2014, the only route used is the parallel route to the Red Sea coastline with Egypt and Sudan, thus, the points of convergence in the triangle Halaib and Shalatin. The cars then move from the border area (Egyptian / Sudanese) into Egyptian territory via mountain passes that are difficult to see by the Egyptian border guards with guides that know mountain roads.
- ❖ Due to the difficulty of the roads inside Egyptian territory, and due to increased security restrictions on the Egyptian border to prevent smuggling, as well as the deployment of army forces everywhere along the mountain road, and after the issuance of resolution 444 of 2014 on the considering areas adjacent to the border as military zones, which increased the intensity of the deployment of army forces deep inside the territory of Egypt, which is the way to enter irregular migrants.
- ❖ If migrants succeed in crossing the border area and the military zone adjacent to the border, the journey of the smuggled migrant may last for approximately three days, which may increase or decrease in some cases depending on the conditions of the road, from the city of Port Sudan to the populated areas of Egypt, and from there they can travel inland to reach the accommodation of their families residing in Egypt.
- ❖ As part of the agreement between migrants and smugglers a specific access point is agreed to be either:
 - 1- Aswan, where migrants take the train heading to Cairo in the economic class which is usually crowded so as not to be noticed by the security staff at the station.
 - 2- At other times, Qena, especially recently with the tightened security control in Aswan and the arrests for those who are noted not to be Egyptian, and from Qena immigrants take buses or trains to Cairo.
 - 3- At other times, Cairo in order for the migrant to protect himself against the dangers of the road, the possibility of arrest by the security, and demand being dropped off at his relatives. While the greater the distance the greater the cost.

Trip Risks:

Unofficial immigration trips between Egypt and Sudan are fraught with many dangers for migrants, from the first moment and even after its end.

The risk to migrants on the mountain roads between Egypt and Sudan is different after crossing the border to:

I- The risk of death:

It is possible that a migrant or one of his companions may be killed for more than one reason, according to the testimonies of the survivors whose testimonies were documented during this report. Among these reasons:

- Lack of sufficient food and water to withstand the hardship of the journey.
- Dispute with the smuggler if an increase in the agreed cost is imposed during the trip, he will remove the migrant from the car and leave him in the desert alone.
- Injury by being shot in the desert by border guards or smuggling gangs. In the event of the death of a migrant on a journey, smugglers drop the body and leave it in the desert or bury it in the sand.

II- Health Risks:

Of the testimonies of survivors as mentioned earlier, the routes in the journey will be mountainous and untamed desert, the journey is done by quarter-ton trucks traveling very fast, and the number of migrants per car (between 5 to 15), which makes the probability of infection very high.

Several of the most frequent injuries were documented:

- Bone fractures: Three cases of hand's bone fractures were documented and two fractures in the pelvic bones, one of which was a child.
- Sunburn due to direct exposure to sun in the desert, especially during the summer.
- Wounds in the body as a result of the continuous impact during the transmission of the trucks in the non-paved mountain pistons.

III- Psychological Risks:

The experience of unofficial immigration is the most difficult experience in the life of a refugee, because it contains risks from the beginning of the journey to its end, where the desert, fear and tension during the trip affect the psychological security of the immigrant refugee.

- All the survivors in this report who are Syrian refugees who have lived through the experience, are still struggling with the symptoms and psychological trauma caused by the trip, and they all remembered during their interviews all the details they had gone through.
- During the report, one case of a Syrian woman was documented who while crossing the desert from Sudan to Egypt, completely lost her memory, and is still going through psychological rehabilitation.
- Children are the most vulnerable to psychological setbacks during and after the trip.
- Overcoming the psychological effects of the journey takes a long time for the survivors, and is done with help through international organizations and civil institutions that provide psychological support to refugees.

Detention of Syrian asylum seekers arriving unofficially to Egypt and presenting them to military trial:

The arrest of Syrian refugees during the unofficial immigration trips on the southern Egyptian border with Sudan inside Egyptian territory:

The cases of detention of unofficial Syrian refugees to Egypt vary according to the circumstances and place of detention.

This is divided into three possibilities:

	If they are caught at the borderline or the area adjacent to the border near Aswan	If they are caught at the borderline or the area adjacent to the border near Red-Sea	If caught after crossing the border area adjacent to it
The forces responsible for the arrests and preliminary investigations	The Border Guards forces handle the process of arresting, and detaining, while conducting an initial investigation with the detainees is done by the officer in charge of the area and the Military Intelligence Service of the Egyptian Armed Forces	The Border Guards forces handle the process of arresting, and detaining, while conducting an initial investigation with the detainees is done by the officer in charge of the area and the Military Intelligence Service of the Egyptian Armed Forces	Civilian police force sometimes arrests and detains them and sometimes accompanied by members of the National Security Service. The preliminary investigation is conducted by the Criminal Investigation Department and the National Security Service of the Ministry of the Interior
Prosecutors responsible for the investigation	Aswan District Military Prosecution	Hurghada Military District Prosecution	Competent Public Prosecution
Access to Legal Support	Legal aid is not allowed to the arrested persons during the attempt to enter Egypt unofficially, during interrogation by the Military Intelligence. No information is allowed. In the investigation stage before the Military Prosecution, the detainee can sometimes contact his relatives to hire a lawyer. A freelance	The situation is similar to that in Aswan in terms of access to legal support for detainees in the investigation and trial stages	Legal aid is allowed after the investigation of the detainee is completed by the national security. However, with the interruption of communication between the detainee and his or her family, it becomes difficult for a lawyer to appear in the preliminary investigation before the

	<p>lawyer costs L.E.3, 000 – 5,000 for the defense of each detainee.</p> <p>There are no NGOs in the region providing legal support to refugees and no legal support from the UNHCR.</p> <p>Some of the volunteer lawyers interviewed during this report said that the delay of access to legal support by them had been due to to the delay in knowledge of the arrest of refugees.</p> <p>There are no civil society organizations providing legal support to refugees detained in Aswan</p>		<p>Public Prosecution, in the trial period if the detained asylum seeker can afford to hire a private lawyer</p> <p>(Varies according to the place of detention)</p> <p>The court allows lawyers to be present to defend them, of whom some are provided by UNHCR and international organizations which provide refugees in Egypt legal support.</p>
<p>Location of Detention</p>	<p>At the beginning of detention & preliminary investigation, the arrested migrants are detained at the nearest point (from the place of arrest) of the military intelligence or border guards, and then they are presented to the military prosecution in Aswan and then to the official detention center either the Central Security Forces camp in the Shallal area, or police station in Aswan and its centers.</p> <p>After the decision of the court, they are detained by the National Security Agency for interrogation before the decision is issued whether legalizing their status or deportation to another country.</p>	<p>At the beginning of detention & preliminary investigation, the arrested migrants are detained at the nearest point (from the place of arrest) of the military intelligence or border guards, and then they are presented to the military prosecution in Aswan and then to the available detentions locations (Qusseir – Hurghada – Halaib – Shalatin).</p> <p>After the decision of the court, they are detained by the National Security Agency at the agency’s centers or police stations.</p>	<p>The arrested migrants are detained at the nearest point (from the place of arrest), and the interrogation is done by the competent National Security officer.</p> <p>(The interrogation sometimes take place in police stations of centers of National Security in governorates)</p>

The Specialized Court	They are referred by the Aswan Military District Court through a recommendation from the Assiut Military Court to the Military Court in Qena	They are referred by the Aswan Military District Court through a recommendation from the Assiut Military Court to the Military Court in Qena	The competent court according to subject and a place
The Court decision	One year imprisonment with suspension and a fine of 500 pounds.	One year imprisonment with suspension and a fine of 500 pounds.	

The Charges they face:

In most cases of arresting Syrian refugees in the border area or areas adjacent to the borders specified by Presidential Decree No. 444 of 2014 on the identification of areas adjacent to the border as military zones, the arrested is presented to the competent military prosecutor in question (Aswan in the case of his arrest near Aswan, Hurghada in case of arrest near the Red Sea coast), after the investigation from the competent officer of the military intelligence, then they are held in custody by a decision of the Military Prosecution for a period ranging from one week to one month depending on the circumstances of the incident, until the end of the investigations and presenting the case to the Prosecution Department in Assiut, which orders the transfer of the case to the military court by an indictment of the arrested immigrants who are refugees of Syrian nationality.

And these charges include: The presence in a military zone without a permit in violation of the Presidential Decree No. 444 of 2014 regarding the identification of areas adjacent to the border as military zones, and the commission of the crime of entering the territory of the Arab Republic of Egypt for non-Egyptians with neither a passport nor a document issued by the competent authorities of their country other than the places specified for this and without the consent of the employee responsible for the inspection in violation of articles 3.41 of Law No. 89 of 1960 on the entry and residence of foreigners in the territory of the Republic.

The military trial lasts from 7 – 45 days, and the detainees throughout this period remain in custody on the case, until the verdict, which in most cases is imprisonment for one year and a fine ranging between L.E. 500 – 1000 and the court orders to suspend the execution of the sentence.

Comments on military investigation, military trial and detention of unofficial immigrants:

- The military trial of civilians is an exceptional situation, and therefore the detention of unofficial migrants by an exceptional trial is a violation of the rights of refugees.
- The military trial of civilians lacks the minimum conditions of fair and just trials and is contrary to the principle of separation of powers. The trial is carried out by an executive officer, not an independent natural judicial authority. The judgment is issued only after ratification by the commander-in-chief of the armed forces or his representative, which is an interference with the work of the judiciary.
- The transfer of those arrested in the mixed migration flows on the southern border of Egypt with Sudan to military trials is based on Presidential Decree 444 of 2014 on the determination of the areas adjacent to the border military areas, although the decision is challenged by the court of administrative justice by the Nubian people for violating Article 236 of the Egyptian Constitution, and in August 2014 the Board of Commissioners of the State Council recommended to cancel the decision and considered it an administrative decision.
- In the initial investigation before the Military Prosecution, in most cases, those arrested on Syrian immigration cannot communicate with their families and if they are able to do so, it is impossible for a lawyer to attend the investigation due to the distance, so the Public Prosecution completes the investigation without the presence of a lawyer for the arrested, which is a violation of the investigation procedures that requires the presence or providing a lawyer when interrogating the arrested.
- The Military Prosecution is based on issuing indictments and pre-trial detention, as well as the military court in its rulings; on the provisions of Law No. 82 of 2016 on the issuance of the law against unofficial immigration and smuggling of migrants:
There shall be no criminal or civil liability for the smuggled migrant for the offenses of smuggling of migrants provided for in this law, and the satisfaction of the smuggled migrant or the consent of the person responsible for him or his representative in the smuggling provided for in this law shall not be taken into consideration.
- The detention and trial of refugees for unofficial entry into the territory of the Egypt is contrary to Article 31 of the UN Refugee Convention, 1951, which states:

Refugees existing unofficially in the country of refuge
Contracting States shall refrain from imposing penal sanctions, due to their illegal entry or presence, for their illegal entrance or presence, who are directly coming from a territory in which their lives or liberties are threatened within the meaning of article 1, provided they submit to the authorities without delay to prove the reasons for their illegal entry or presence.

Syrian asylum-seekers have good reasons to flee their country and resorting to Egypt doesn't need proof.

- The UNHCR "Guidelines on Detention" states that:
 - Asylum-seekers are detained only "as a last resort" when it is absolutely necessary and consistent, and to achieve a legitimate legal purpose, and that States should not detain asylum-seekers for deportation purposes.
 - Detention is allowed only for a short period of time to verify a person's identity or for longer periods only if it is the only means of achieving greater objectives such as protecting a national interest or public interest, since there are measures other than detention of asylum seekers for Syrians who come to Egypt in an unofficial manner and can be applied until their identity is verified and their applications considered.
- The judgments of the military court do not guarantee the status of smuggled migrants who are asylum seekers coming to Egypt, whether their situation will be legalized, or they will be deported, making the matter in the hands of the executive as follows:

After the Military Court ruling:

The ruling of the Military Court to suspend the execution of the sentences of the unofficial migrants of Syrian nationality seeking asylum in Egypt is a decision to release the accused, in this case, however, the Military Court ignores in its rulings the determination of the conduct taken with the refugees or asylum-seekers after the decision of the Court, as in will they be allowed into the country? And how will their status be regulated? Or will they be deported?

In violation of the international conventions signed by Egypt, the decision is made by the competent security authority, the National Security Agency of the Ministry of the Interior, which determines who will be allowed to enter Egypt and who will be issued a deportation decision.

The decision of national security in this case:

There is no standard in the evaluation of cases considered by national security to be decided, but what happened with the cases monitored by the report, the decision of the National Security Service was as follows:

- If the arrested persons are from one family or individual whose relatives reside in Egypt, they are held for a period until the investigation and confirmation of their statements and then allowed temporary entry granted temporary residence until the legalization of their status and the issuance of official residence.
- If the person arrested is an alone male without a family or is an unaccompanied child and has no relatives in Egypt, the decision is to deport

him from Egypt at his own expense, and if he is late in booking a ticket to another country he remains in detention during the period.

Time for National Security Decision:

The national security decision regarding Syrian refugees arrested is taken within a period of 7 – 45 days, during which the arrested persons are detained, in violation of the international covenants signed and ratified by Egypt.

After the deportation decision is issued, the detainees are required to book a ticket for the country to which they will travel, and given the danger of going back to Syria and the fact that countries do not accept the Syrians at the moment, his only choice becomes booking a ticket to return to Sudan.

During this period, detainees and their families continue to communicate with UNHCR to request intervention with the Egyptian government in order to release them or stop their deportation, and usually UNHCR responds that they will communicate with the government and warns the detainees not to book travel tickets to any place. After which, the role of UNCHR stops, and refugees are kept in places of detention that lack any kind of human life without any development, which pushes the refugee to communicate with his family to try to collect enough money to book a ticket to Sudan or Malaysia.

The most recent case of deportation reported in this report was in February 2017, when 10 Syrians were deported to Sudan at their own expense after one month of detention following their unofficial entry into Egypt and UNHCR had not intervened to stop the deportation.

Comment on deportation decisions from national security:

The Executive Committee of UNHCR stated in Conclusion 82 (1997) *a principle of non-refoulement includes the prohibition of "expulsion and repatriation of refugees in any form, whether or not they have officially obtained refugee status"*, and also stated that: *"There's a need for the allowing refugees into the territory of States, including non-refoulement at the borders without fair and effective procedures to determine their status as refugees and to provide due protection measures"*.

Also, from the recommendations of UNHCR to insure:

"Unilateral acts of States are not encouraged to return asylum-seekers to States where they have passed without the consent of other States, because of the risk of initiating a series of deportation and refoulement procedures into situations of persecution in view of the need for international solidarity and burden-sharing among States".

This is not the case with regard to asylum-seekers who are Syrian nationals after being arrested during their unofficial entry through the southern border of Egypt, where deportation decisions are issued after periods of detention in poor conditions and are often returned to Sudan that they came through or any country that allows receiving them.

From the time the court ruled against asylum seekers arrested during an attempt to enter Egypt unofficially, they are detained by the National Security for a period of between 77 – 45 days, during which they are prevented from communicating with their lawyers, knowing their legal status or reviewing the decision issued against them to enable them to appeal against it, which is considered arbitrary detention which the International Covenant on Civil and Political Rights prohibits, as article 9 states that:
"Everyone deprived of their liberty has the right to challenge his detention before a court. The right to effective legal advice is also a necessary component of a person's right to liberty."

For example, the United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment provides that *"a detained person shall have the right to legal aid."*

The UNHCR "Guidelines on Detention" states that:
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Detention is allowed only for a short period of time to verify a person's identity or for longer periods only if it is the only means of achieving greater objectives such as protecting a national interest or public interest, since there are measures other than detention of asylum seekers for Syrians who come to Egypt in an unofficial manner and can be applied until their identity is verified and their applications considered.

Conditions of detention:

During the period of investigation and trial, migrant asylum seekers of Syrian nationality are held in custody pending the verdict.

Age of Detainees:

According to the report of migrants arrested during an attempt to enter Egypt unofficially, the ages of those arrested during this trip and their detention by the Egyptian authorities are different:

From one day to the age of 65 years.

Gender:

During this report, arrests were recorded between male and female members of different ages, among women, girls, youth, elderly and children.

Conditions of detention:

The detained refugees are detained in poor conditions in police stations and central security camps in the Red Sea, Aswan and Qena governorates.

Detention Rooms:

The room is an area of approximately 3X3 m³, with a small bathroom, each room includes 10 – 25 persons, depending on the number of detainees in the detention center. In some places of detention if the entire family is arrested, they are detained together in one room and sometimes two or three families on the same trip are detained in one cell.

Food:

Food is served to them once or twice a day, and the meal is a set of loaves of bread and some cheese or beans.

In addition to the fact that the quantities provided are not sufficient, the quality of the food provided is poor and unreliable, especially that a large proportion of those detained are children at the beginning of growth.

As for water, they are given empty bottles to fill and drink from using the water that is connected to the detention room.

Medical and Health Care:

There is no minimum medical and health care for refugees arrested on unofficial immigration.

The report monitored two births within detention centers, and the woman was transferred to a public hospital and the next day she was returned to the detention center again without proper care for her or her newborn.

The report also monitored injuries in most of the detained cases as a result of exposure to shaking inside the car that transported them in the desert, and medications are prevented for those cases that included the case of a child with a broken hip who was only allowed out of the detention cell for two days to perform surgery in the hospital and was returned again without any post-operative care.

As for women, the majority are not allowed to buy their own medical or sanitation supplies during the menstrual periods, according to testimonies of former refugee women detained in Halaib police station.

Also, lawyers are prevented from supplying the women with those products in most of the cases, in a decision that is made by the officer responsible for the detention center, so the situation varies from one detention center to another.

Lawyers who have worked to provide legal aid to detained Syrian asylum seekers, connected the long distance to the detention centers with the delay of providing them with proper legal aid, deprives them legal representation for a long time allowing being subjected to more abuse at detention centers.

Visitations:

Some of the detention centers in Aswan allow visits to detained persons from refugee families living in Egypt, but some do not allow this.

The recent security restrictions for Syrian refugees has also made detainees' relatives anxious of being arrested or interrogated by the security services if they visit their detained relatives.

At the end of 2013 until mid-2014, some of the detention centers allowed in food and medical aid from self-donations of some Egyptians who knew that there were refugees who were detained or by lawyers providing legal aid to refugees or through some civil community institutions and Charities.

Lawyers who provided legal aid to detainees also confirmed that IOM provided food and medicines during that period.

From mid-2014, a process of tightening up began on detained Syrian asylum-seekers as they attempted to cross the southern border of Egypt to enter unofficially, thus preventing visitations or contacting lawyers at all detention centers.

Case 26 of 2017 Military Offenses in Hurghada as an example:

What happened with the unofficial immigrants of Syrian nationality who were arrested in this case, and the stages they went through, correspond to the survivors' testimonies documented during this report.

Therefore, it can be used as an example to what occurs to most of those arrested while trying to enter Egypt unofficially.

Information about the Arrested Group:

Consists of 13 Syrian individuals, including three families;

- The first family consists of a 41 years old father, a 28-years old mother and five children (3 months, 6 years old girl, 3 boys 6 – 14 years old)
- The second family consists of a 17 years old child with his 51 years old father.
- The third family consists of 16 years old boy, accompanied by his 28 years old mother, along with two young Syrians, one aged 18 and the other 24.

The whole group came from Damascus and its countryside through Jordan and then to Sudan, and all of them carry Syrian passports.

The journey:

Members of the Syrian group have been in contact with intermediaries to the Sudanese people who organize and conduct unofficial immigrations of Syrians to Egypt in cooperation with Egyptian partners, to agree with them on their transfer from Sudan to Egypt through the southern border of Egypt via mountain roads and desert, in exchange of a payment.

They were assembled in a storage area in the city of Port Sudan, on Nov. 22nd 2017.

The group moved from Port Sudan in two quarter –ton trucks, through the mountain roads to the Egyptian border near the coastal strip of the Red Sea to the city of Shalatin southern Egypt.

Each group of Syrian immigrants sits in the trunk of each truck, with a driver and a guide (Sudanese) who is aware of the mountain and desert roads on the borderline near the Shalatin area to meet with the four Egyptian smugglers who will transfer the migrants to Egyptian territory by other trucks, of whom the first and second are the owners of the two trucks, the third is a driver and the fourth is the guide who knows the mountain roads in the area inside Egyptian territory.

Migrants were transferred to Egyptian trucks and then moved.

At 30 km south of the city of Shalatin in Wadi Hamra-Dom, one of the trucks' radiators malfunctioned, forcing them to wait for someone in the smuggling process to come with another truck and a mechanic to repair the malfunctioning radiator.

At that time and during the passage of a patrol of Battalion 108 Coast Guard coasters, they were arrested.

Of the arrested group; 7 were drivers, smugglers, and the mechanic who came to repair the radiator, and 13 more.

Interrogation:

The detainees were transferred to the Intelligence and Security Bureau of the Shalatin Border Guard, and they were interrogated by the officer in charge, after the completion of the intelligence investigation and the next day the detainees were presented to the Military Prosecution of Hurghada, which ordered the detention of all those detained in custody until the end of investigations. The case was issued to Assiut Military Prosecution College, No. 2019/2017, G Assiut Total, which decided to refer the case to the court of military misdemeanors in Qena and accused the 13 Syrian persons of the Syrian nationality as follows in the indictment:

- The presence in one of the locations where the Egyptian authorities banned the presence in, about 30 km south of Shalatin Wadi Hamra-Dom area, which is the responsibility of 108 coastline guards, in 3 vehicles, one of which is a Toyota quarter-ton and the other is a private car, in violation of Presidential 444's decision on the determination of areas overflowing with military zones.
- Entry into Egyptian territory without a passport or a document issued by the competent authorities of their country or any other authority recognized outside the specified places and without the permission of the competent officer in violation of articles 1, 2, 3 and 41 of Law No. 89 of 1960.

The detainees were interrogated without the presence of a lawyer to defend them.

Detention:

On the first day, the detainees were held at the intelligence and security office of the coastal border guards in Shalatin city.

After their presentation to the Hurghada Military Prosecution, they were detained at the Safaga police station in two cells, one of which was for women and children, and the other for men.

Both visits and contact with lawyers or their families were prevented, and UNHCR has not intervened in any way, either by providing legal aid, or by contacting lawyers.

The food offered to them every day was some bread loaves cheese or beans and water, and there was no medical or psychological care for those arrested even children.

Trial:

On Dec. 5th 2017, the first trial session was held before the Military Court of Misdemeanors in Qena in the presence of 5 lawyers, four of whom were in defense of the 7 arrested Egyptians and the fifth for the Syrians who did not have enough money to appoint a lawyer.

The court decided to adjourn the hearing to Dec. 11th 2017, on the basis of defense requests with the continued detention of those arrested.

On Dec. 11th, the court was held again to hear the testimonies of the officers responsible for the investigation and hearing the defense, and then adjourned the hearing to Dec. 19th 2017, to pronounce the sentence with the continued detention of both Syrians and Egyptians.

On Dec. 19th 2017, the court sentenced the Egyptian arrested smugglers to three years imprisonment and a fine of L.E. 100,000 for three of them while the fourth was sentenced

to three years imprisonment, the acquittal of three of them, and the confiscation of the two quarter-ton trucks and the money found with the smugglers, The Syrian defendants were sentenced to one year in prison and a fine of L.E. 500 and the order to suspend the execution of the sentence. The verdict was ratified by the commander of the southern military region in January 2018.

After the decision of the Court:

After the court's decision and its ratification, the Egyptian detainees were transferred to the Qena public prison. The Syrians were transferred again to the Safaga police station until a decision was issued by the national security, which was issued to deport the arrested men who have no relatives in Egypt and did not come with their families and their detention until they booked tickets at their own expense to any country that accepted them., without any intervention from UNHCR to stop the deportation and under the bad detention's conditions and the length of time, they booked return tickets by ferry to Sudan again.

UNHCR's Role in Egypt Providing Legal Aid to Syrian Refugees Arrested during the Attempt to enter Egypt through the Southern Border with Sudan:

- There are no statistics or recommendations from UNHCR in Egypt on the number of asylum seekers who were arrested during the attempt to enter unofficially, the conditions of detention, places of detention and trial, or the number of deportees after arrest during the entry to Egypt.
- In the case of the arrest of Syrian asylum seekers while crossing the Egyptian-Sudanese border to Egypt, according to survivors and lawyers who provided legal support to asylum seekers arrested, the family of the migrant and his family in Egypt or his lawyer are communicating with UNHCR to inform them of the arrest of their relatives and place of detention, but UNHCR does not provide any response to the family and does not provide any legal support or food or medical assistance to those arrested.
- Although some of the Syrian asylum seekers arrested while trying to cross the southern border of Egypt with Sudan hold a temporary asylum card from the UNHCR office in Sudan, the UNHCR office in Egypt refuses to intervene or provide any assistance.
- There are volunteer lawyers in the governorates of Aswan, Qena and the Red Sea providing free legal aid to refugees who are tried militarily against the backdrop of unofficial entry into Egypt, and have failed more than once to communicate or coordinate with UNHCR in Egypt to defend the arrested and communicate with the Egyptian government to facilitate the procedures and release the arrested.
- In the year before last, a new method has begun to urge the UNHCR to intervene in the case of the arrest of a Syrian asylum-seeker and to prove the goodwill to the Egyptian government, by making a reservation at the UNHCR office in Egypt before starting his journey to the desert from Sudan, so if he arrives in Egypt and was arrested, the Egyptian authorities must inform UNHCR to obtain information about them.
- Some cases were documented where police prevented the communicating with the UNHCR office in Egypt.

III Conclusion and recommendations:

After viewing the report results, the humanitarian need is evident for Syrians residing in Egypt and the rest of their families elsewhere who want to come to Egypt, and the actions taken against those arrested are legally challenged and also contradicts Egypt's obligations towards the refugees based on the agreements signed and ratified relating to the status of refugees.

Therefore, ECRF concluded a set of recommendations directed at the legislative, the executive, and the judiciary authorities, as well as UNHCR and the international organizations working to provide assistance to the refugees:

(1) Recommendations to the Legislative Authority:

1. Work on issuing comprehensive legislation clarifying the legal status of refugees and asylum seekers in terms of entry to and residence in Egypt, defining a legal framework for their rights and duties, the criteria for their acceptance as refugees, and the measures taken against them in all cases.
2. To amend Law No. 82 of 2016 on combating unofficial immigration and smuggling of migrants to include a distinction in the definition between economic migrants and migrants escaping a difficult humanitarian situation, to determine the legal status of unofficial immigrants to Egypt, and commensurate with Egypt's international obligations towards refugees.

(2) Recommendations to the Executive Authority:

- 1) To abide by international conventions and treaties Egypt has signed and ratified related to the status and rights of refugees.
- 2) To stop prohibiting the reception of Syrian asylum seekers on a regular basis and at least allow for the start of applications for family reunification for families residing in Egypt and to facilitate the termination of the procedures and the cessation of abuse against Syrian refugees.
- 3) To disclose the number of arrested Syrian asylum seekers during the attempt to enter Egypt illegally and to announce all the legal measures taken against them and the security standards followed by the security services to ensure their safety rights in line with Egypt's international obligations.
- 4) Immediately cease their transfer to military trials, release those still detained for illegal entry to Egypt, give them time to legalize their situation, and prevent deporting those released by court orders.
- 5) The use of alternatives to detention with unofficial immigrants, such as under house arrests or providing facilities that welcomes them till the verifying their identities or legalizing their status, during which they are allowed to communicate with their lawyers and families and contact UNHCR.
- 6) Declare the criteria used by the National Security Apparatus to determine eligibility for legalization of illegal Syrian asylum seekers after the court's judgment, and the deportees.

- 7) Issuing quick government decisions, till reforming the legislative imbalance concerning the status of refugees in terms of entry and residence, to provide exception for asylum seekers from certain laws and decisions on unofficial immigration, regarding entry to Egypt and residence in it, considering their humanitarian situation and in accordance with Egypt's international obligations towards them, since this does not require new legislation.

(3) Recommendations to the Judiciary Authority:

1. Stop turning Syrian asylum seekers into military trials.
2. Quickly take action regarding the ruling on the Presidential Decree 444 of 2014 concerning the determination of areas adjacent to the border military zones, as the implementation of which would result in violations of the right of refugees.
3. Considering Egypt's international obligations stipulated in the international treaties and conventions Egypt has signed with respect to refugees during the interrogation or prosecution of refugees or asylum seekers.

(4) Recommendations for UNHCR and international organizations working in support of refugees:

- 1- UNHCR should do everything in its power to provide legal, nutritional, psychological and health support to the Syrian asylum seekers while crossing the border unofficially, pressure the Egyptian government to abide by the international treaties and conventions signed and ratified by Egypt concerning the status of refugees, and disclose the numbers of detainees, the conditions of their detention and the measures taken against them, and disclose the mechanism and standards of the national security apparatus in decision-making regarding refugees.
- 2- The speed movement by relief organizations and those who work to provide support of all kinds for asylum seekers in Egypt, to open specialized offices in Aswan, Red Sea and Qena, to provide psychological support, legal aid, food and supplies and follow-up actions taken against them by the authorities, to ensure protection against violations of asylum seekers arriving illegally to Egypt and succeeded in entering Egyptian territory or were arrested or injured in the journey.