

In the Name of National Security

Vague Provisions and Security Oversight in the Proposed Asylum Law

ECRF Commentary



Introduction

Although Egypt has a long history of hosting refugees, dating back to the events of World War I and II, as well as during periods of international and regional conflicts such as the Sudanese civil war in the 1980s and the Iraq War, the influx of refugees significantly increased after the 2011 uprisings. Refugees from Syria, Yemen, Libya, and several other countries arrived, and most recently, tens of thousands of Sudanese refugees fled to Egypt following the armed conflict in Sudan. According to the latest statistics from the United Nations High Commissioner for Refugees (UNHCR), there are 792,000 registered refugees and asylum seekers in Egypt from 62 different nationalities.¹ Meanwhile, the government has frequently claimed, on various occasions, that the number exceeds nine million refugees, conflating the terms refugee, migrant, and resident foreigner.

This reality, characterized by the presence of such significant numbers, necessitates legislative intervention to regulate the legal, humanitarian, and procedural aspects of the issue and to address the legislative gaps exposed by the current situation. It has become a matter that affects the lives of hundreds of thousands of people living within Egyptian society—individuals who both influence and are influenced by their environment. It requires a framework to address their needs for livelihoods, employment, education for their children, and their relationship with the host state, particularly in terms of the rights granted to them and the obligations they must fulfill. This would serve as a cornerstone for social harmony, equality, and coexistence.

To date, there are no laws in Egypt specifically regulating the protection of refugees, asylum seekers, or migrants. The current Egyptian legislation relevant to the rights and duties of refugees is limited to:

- **International and regional agreements** ratified by the Egyptian government and incorporated into domestic law following the constitutional procedures outlined in Article (93) of the 2014 Constitution, as amended in 2019.² These agreements are subject to reservations made by the Egyptian government, the most notable being:
 1. The 1951 International Convention on the Status of Refugees (Geneva Convention).³
 2. The 1969 Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa.⁴
- **Laws related to the status of foreigners in Egypt** and their implementing decisions, covering areas such as nationality and residency laws, personal status laws, property laws, labor laws, social insurance, education, healthcare, housing, and private associations.

¹ <https://www.unhcr.org/eg/ar/about-us/refugee-context-in-egypt>

² Article 93 of the Egyptian Constitution, "The state shall adhere to the international agreements, covenants, and conventions on human rights that Egypt ratifies. These shall acquire the force of law after being published in accordance with the prescribed procedures." <https://dostour.eg/2013/topics/rights-freedoms/Legislative-18-3/>

³ <https://www.hlrn.org/img/documents/Refugee%20Convention%201951%20ar.pdf>

⁴ <https://www.unhcr.org/ar/53588b376>

The Need for Comprehensive Refugee Legislation

ECRF has repeatedly called for adopting the most appropriate principles to draft comprehensive legislation that ensures social harmony, preserves the rights of refugees, and defines their obligations. The current legislation, while incomplete and insufficient, is also outdated and entangled with numerous decisions and laws.

Most recently, in June, ECRF issued a report titled "*Towards Comprehensive Legislation for Refugees and Migrants in Egypt*,"⁵ offering numerous proposals and recommendations based on legal research and the study of hundreds of cases involving individuals from various nationalities.

ECRF has emphasized the urgent need for such legislation to address the pressing issues related to refugee flows and their conditions. Such a law could strike a balance between providing humanitarian protection and safeguarding Egypt's national interests. The timing for issuing a refugee law is critical for several reasons related to regional and international transformations and internal dynamics.

It is not just about the increasing number of refugees and migrants but also about maintaining internal stability. The presence of large numbers of refugees can strain infrastructure and services such as education, healthcare, and housing. A refugee law would facilitate better management of this pressure and help regulate the situation to ensure social stability.

Compliance with international standards is another crucial factor. Egypt is a signatory to several international agreements on refugee rights, including the 1951 Refugee Convention. This legislation could enhance Egypt's commitment to these standards and foster international cooperation.

Issuing clear national legislation would make it easier for Egypt to collaborate with international organizations like the United Nations High Commissioner for Refugees (UNHCR). It could also help secure financial and technical support from these organizations to assist refugees in Egypt.

Moreover, such a law would have a positive impact on economic development. Regulating the status of refugees could facilitate their integration into the local economy, enhancing economic opportunities and creating additional benefits for the country.

In Secrecy and Exclusivity, Without Consultation: The Government Submits a Controversial Draft Law

The Egyptian government, in a repeated disregard for public opinion, has a well-established habit of drafting legislation without community consultation with experts and relevant stakeholders, relying instead on assured parliamentary approval. In this instance, the government has unilaterally and secretly submitted its controversial proposal without consulting any of the stakeholders. Despite a year of deliberations in the House of Representatives, neither the Egyptian government nor the parliament shared the draft law with the public or civil society organizations, nor was it subjected to public discussion through national dialogue sessions.

⁵ <https://www.ec-rf.net/%d8%a7%d9%84%d9%85%d9%81%d9%88%d8%b6%d9%8a%d8%a9-%d8%a7%d9%84%d9%85%d8%b5%d8%b1%d9%8a%d8%a9-%d8%aa%d8%b7%d9%84%d9%82-%d8%aa%d9%82%d8%b1%d9%8a%d8%b1%d9%87%d8%a7-%d9%86%d8%ad%d9%88-%d8%aa%d8%b4%d8%b1/>

The first signs of the draft law surfaced when some media outlets published a limited number of its articles⁶ after it was announced at the end of October that the Defense and National Security Committee of the Egyptian House of Representatives had approved the government's proposal for a law regulating the asylum of foreigners. The remaining articles, however, remained inaccessible, shrouded in secrecy and ambiguity until they were published several days later.

After finally obtaining access to the draft law, which consists of 39 articles, ECRF analyzed several provisions of the law from legal and procedural perspectives, examining their feasibility, implementation, and impact. The analysis revealed significant negative implications for refugees and asylum seekers in Egypt, undermining the country's international and humanitarian obligations towards its refugee neighbors. Additionally, the provisions raise concerns about Egypt's international reputation if they are found to conflict with international law.

ECRF presents its reservations on the draft law, whether interpretive, amendatory, or recommending exclusion of certain provisions. This underscores the urgent need for a comprehensive review of the draft law based on recommendations, expertise, and participation from international organizations, civil society, and the target groups of refugees and asylum seekers whom the law aims to address. Adequate time must also be allocated for public and community discussions to ensure the legislation is crafted with the most precise and substantive provisions.

Commentary on Key Articles of the Draft Law

Under Article 1, the Ministry of Interior is designated as the authority responsible for implementing the provisions of the law based on the powers granted to it. The article also adopts the same definition of "refugee" as stipulated in the 1951 Refugee Convention. Article 2 introduces a new mechanism for managing refugee affairs in Egypt, referred to as the "Permanent Committee for Refugee Affairs." The article states:

Article (2): Establishment of the Permanent Committee for Refugee Affairs and Its Role
"A committee named 'Permanent Committee for Refugee Affairs' shall be established, with legal personality, reporting to the Prime Minister, and headquartered in Cairo. The committee shall be the competent authority for refugee affairs, including statistical information and data on refugee numbers. It shall undertake the following responsibilities:

- 1. Deciding on asylum applications in accordance with Article 7 of this law.*
- 2. Collaborating with the United Nations High Commissioner for Refugees (UNHCR) and other international organizations concerned with refugee affairs, in coordination with the Ministry of Interior.*
- 3. Coordinating with administrative authorities in the state to ensure the provision of all forms of support, care, and services to refugees."*

The committee is not independent, as it is subordinated to the Prime Minister. This allows the government to control the committee's decisions according to its policies, which may lead to

⁶ Asharq Al-Awsat - [Egypt: Government Talks on Amending "Expat" Laws Amid Calls to Stop "Abuses"](#) - Published October 3, 2024.

misuse of authority or biased implementation without proper oversight. Moreover, the implementing authority, the Ministry of Interior, per Article 1, will be responsible for sensitive executive matters concerning refugees and asylum seekers. The committee should have been granted full independence in its operations, with its sole reference being the constitution and Egypt's international commitments to asylum seekers.

This raises concerns about violations of constitutional protections and fundamental freedoms guaranteed by the Egyptian Constitution, which ensures that everyone residing on Egyptian territory, even if not Egyptian, has the right to protection. The constitution also explicitly protects individuals who seek refuge in Egypt for humanitarian reasons, such as wars or fear of persecution due to political opinions.⁷

Secondly, as per the article, the committee assumes responsibility for deciding asylum applications, effectively sidelining the UNHCR's role in Egypt. This creates procedural complications, as it conflicts with the agreement between the Egyptian government and the UNHCR Office signed in Cairo on February 10, 1954, and enacted under Law No. 172 of 1954.⁸ Article 4 of this agreement outlines the UNHCR's responsibility for managing and monitoring the implementation of operational activities under the UN program.⁹

According to the UNHCR's official website, the organization has been operating in Egypt since 1954 under a memorandum of understanding with the government.¹⁰ This memorandum mandates the UNHCR to provide protection services, including registration, documentation, refugee status determination, and resettlement. It remains the formal bilateral agreement governing cooperation between the Egyptian government and the UNHCR.¹¹

It is unclear whether the government coordinated this shift with the UNHCR or how the transfer of responsibilities will occur, for example:

- The Permanent Committee is expected to review asylum applications. However, the committee's structure and technical capacity lack the necessary expertise to handle such responsibilities effectively.
- How will existing files be transferred to the committee? How will pending applications and urgent cases involving vulnerable groups or victims of violations be handled? Will this transition affect the stability and rights already secured by refugees?

Article (3): Formation of the Committee

⁷ Article 91 of the Egyptian Constitution: "The state may grant political asylum to any foreigner persecuted for defending the interests of peoples, human rights, peace, or justice. The extradition of political refugees is prohibited, all in accordance with the law."

⁸ The approval of the agreement concluded between the Egyptian government and the United Nations High Commissioner for Refugees (UNHCR).

https://www.google.com/url?q=https://manshurat.org/node/35145&sa=D&source=docs&ust=1731515032880188&usg=AOvVaw31FbzgDI_-7TiujPlqVBF

⁹ <https://manshurat.org/node/36332>

¹⁰ <https://www.unhcr.org/eg/ar/what-we-do>

¹¹ <https://www.unhcr.org/ar/countries/egypt>

"The competent committee shall consist of representatives from the Ministries of Foreign Affairs, Justice, Interior, and Finance. Membership shall last for four years. The Prime Minister shall issue a decree naming the chairperson and members of the committee, defining its operational procedures and determining the financial compensation for its chairperson and members within three months from the date this law comes into effect. The chairperson shall represent the committee in legal matters and external relations. The Prime Minister may include representatives from other relevant ministries and entities in the committee. Additionally, the committee may invite experts and specialists in its field to attend its meetings as needed."

This article highlights several concerns:

The committee's formation, as per the article, includes representatives from the Ministries of Foreign Affairs, Justice, Interior, and Finance. This creates a predominantly security and administratively focused structure, neglecting the inclusion of representatives from essential entities such as the Ministry of Social Solidarity, the Ministry of Health, and specialized national councils responsible for protection. These are critical omissions given the law's implications on refugees' humanitarian needs and protection. While the article allows the Prime Minister to include representatives from other relevant ministries and entities or invite experts and specialists to attend meetings, this is optional. The law does not mandate their inclusion, leaving the matter solely to the Prime Minister's discretion. Instead, the committee's composition should have included these parties by default, alongside representatives from civil society and international organizations working in migration and asylum, to benefit from their expertise and insights. Limiting the committee to security agencies undermines its ability to assess vulnerabilities or address humanitarian considerations effectively. The committee, dominated by security agencies and under the jurisdiction of the Ministry of Interior, raises serious doubts about its ability to operate impartially. A realistic look at the Ministry of Interior's current practices, even without these extensive powers, reveals consistent unlawful and arbitrary actions against refugees and asylum seekers, such as: detaining refugees without filing charges or allowing them access to legal counsel or family, deporting large numbers of refugees regularly in violation of the law,¹² coercing detained refugees or those seeking residency renewal to sign false declarations of voluntary departure under duress.

These practices, thoroughly documented through hundreds of cases, testimonies, and reports by local and international organizations, make it challenging to trust decisions made by a committee with such a composition.

Article (4): Implementation of the Committee's Tasks

"The competent committee shall have a technical secretariat. The Prime Minister shall issue a decision defining its responsibilities, operating system, the appointment of its chairperson, the duration of the position, financial compensation, and specific duties. The chairperson of the technical secretariat shall be assisted by a sufficient number of employees seconded to the competent committee from state administrative bodies after obtaining the approval of the relevant authorities."

¹² Amnesty International, "They Shackled Us Like Dangerous Criminals: Arbitrary Detention and Forcible Return of Sudanese Refugees in Egypt", published on June 19, 2024. Available at: [Amnesty International](#)

In this article, the legislator opts to employ administrative systems that have repeatedly proven ineffective in managing matters of significant humanitarian sensitivity, such as refugee issues. The technical secretariat serves as the operational arm of any committee, tasked with implementing the policies established by committee members in accordance with the executive regulations of the law. The secretariat will also handle direct interactions with refugees and asylum seekers.

Assigning seconded employees from state administrative bodies to manage cases and determine the fate of individuals fleeing humanitarian disasters and wars is an illogical approach, as this method has already demonstrated its failure in similar contexts. Under this article, employees could potentially be seconded from irrelevant departments, such as local licensing offices or traffic management departments, to handle critical tasks such as determining refugee status, assessing needs, and granting residency and protection.

These responsibilities have traditionally been handled by trained staff within the United Nations High Commissioner for Refugees (UNHCR), who possess expertise in humanitarian work and operate under specific codes of conduct and systems designed to safeguard privacy and protect sensitive data—competencies often lacking among state employees. It would have been more appropriate for the technical secretariat to consist of trained personnel with expertise in humanitarian work, migration, and asylum.

Articles (5) and (6): Committee Resources and Oversight of Its Funds¹³

Article 5 states that the resources of the competent committee shall consist of allocations from the state's general budget, as well as grants, donations, gifts, aid, and loans that it receives or enters into agreements for, while Article 6 stipulates that the committee's funds shall be subject to oversight by the Central Auditing Organization (CAO).

Despite the provision for oversight by the Accountability Stat Authority, doubts remain about the effectiveness and integrity of this oversight due to the ASA's lack of true independence. Several factors cast doubt on the ASA's autonomy, the most significant being the approval by the House of Representatives of a law issued by Abdel Fattah El-Sisi in July 2015. This law grants the president the authority to dismiss heads of independent oversight bodies, a dangerous precedent that undermines the independence of regulatory authorities.¹⁴

Article (7): Procedures for Asylum Applications

One of the most significant articles in the draft law is Article 7, which outlines the procedures for asylum applications. The text is as follows:

"An asylum seeker, or their legal representative, shall submit an asylum application to the competent committee. The committee shall decide on the application within six months from the

¹³ Egyptian Commission for Rights and Freedoms Commentary on the Prime Minister's Decision on Regulating the Anti-Illegal Migration Fund and Protecting Migrants and Witnesses.

<https://www.google.com/url?q=https://www.ec-rf.net/%25d8%25aa%25d8%25b9%25d9%2584%25d9%258a%25d9%2582-%25d8%25a7%25d9%2584%25d9%2585%25d9%2581%25d9%2588%25d8%25b6%25d9%258a%25d8%25a9-%25d8%25a7%25d9%2584%25d9%2585%25d8%25b5%25d8%25b1%25d9%258a%25d8%25a9-%25d8%25b9%25d9%2584%25d9%2589-%25d9%2582%25d8%25b1%25d8%25a7%25d8%25b1-%25d8%25b1%25d8%25a6%25d9%258a%25d8%25b3-%25d9%2585/&sa=D&source=docs&ust=1731515032872631&usg=AOvVaw3xLhvim1MAnYrS-N3PysTt>

¹⁴ <https://www.shorouknews.com/news/view.aspx?cdate=11072015&id=669ea644-bd1d-4b15-90a9-7a6438813a37>

date of submission if the asylum seeker entered the country through lawful means. If the entry was through unlawful means, the decision shall be made within one year from the date of submission. Priority in processing and review shall be given to asylum applications submitted by persons with disabilities, the elderly, pregnant women, unaccompanied minors, or victims of human trafficking, torture, and sexual violence. The competent committee shall issue its decision to grant refugee status or reject the application. In the latter case, the committee shall request the relevant ministry to deport the asylum seeker from the country, and the asylum seeker shall be notified of the committee's decision. Until a decision is made, the committee may take necessary measures and actions regarding the asylum seeker for reasons of national security and public order, as stipulated in the executive regulations of this law."

This article is highly concerning as it establishes procedures that determine the fate of asylum applications under the new system the government seeks to introduce. The fundamental premise of this system is government control over the mechanisms for submitting and deciding on asylum applications. When the article addresses the adjudication of new asylum applications, it differentiates between two cases: individuals who entered the country lawfully, whose applications are to be reviewed within six months of submission, and those who entered the country unlawfully, whose applications are to be reviewed within one year of submission.

The use of the term "unlawful entry" in the article is problematic. It would be more appropriate to adopt the term "irregular entry," as the former implies criminalizing migrants who are often compelled to migrate under exceptional circumstances. This language criminalizes their actions, framing them as offenders deserving punishment.

This differentiation contradicts Article 32 of the same draft law, which states: *"Anyone arriving from territories where their life or freedom was at risk shall not be held civilly or criminally liable for unlawful entry or presence on the territory of the Arab Republic of Egypt, provided they surrender themselves immediately upon arrival to any governmental authority."*

The reason for distinguishing between lawful and unlawful entry is unclear, except as a form of punishment or discrimination based on the method of arrival. This unjustified differentiation could result in an asylum seeker fleeing war or persecution and entering irregularly having to wait up to a year for their application to be processed. Such individuals, arguably the most in need of urgent protection, could be deprioritized compared to someone who entered lawfully.

This provision appears discriminatory against vulnerable groups, contradicting the law's stated intent to prioritize such cases. While the draft law adopts some concepts from international conventions, these concepts do not seem to align with the law's spirit or the legislator's intent.

The article raises several critical questions, including:

- 1. The law does not clarify the status of an asylum seeker during the waiting period, particularly for cases requiring a year for adjudication. This prolonged period leaves asylum seekers vulnerable to deportation or detention while depriving them of essential protection, assistance, and basic services for themselves and their families. It is unclear whether the committee will provide any form of support during this time or**

whether the asylum seeker will face deportation if apprehended. These ambiguities in the law could significantly impact the lives of asylum seekers.

2. **The law provides no clarity on how the committee, given its described composition, will determine whether an applicant meets the international definition of a refugee.** There is a risk that the committee could adopt narrow or biased interpretations of persecution, influenced by governmental policies. For instance, individuals considered political opponents in the context of a regime opposing the asylum seeker's home country might not be recognized as political refugees but labeled as subversives or terrorists. Past actions by the government, such as the deportation of Uighur asylum seekers to their home country where they faced immediate detention, demonstrate a lack of concern for the risks asylum seekers face upon return.¹⁵ This approach undermines the very essence of international conventions designed to protect refugees and creates significant risks for individuals fleeing persecution. Additionally, the law's provisions granting the committee full control over the asylum application process, combined with the long decision-making timelines, raise concerns about potential violations of asylum seekers' rights.
3. **Another unanswered question is whether the committee's decisions will be final, with the law allowing appeals only through the courts, or if there will be mechanisms to request a review or submit new evidence or documentation.** Will asylum seekers have the opportunity to engage directly with the committee, present reports, or include recommendations from the UNHCR?

Lack of Expertise to Address Vulnerable Cases

There is serious doubt that a committee composed primarily of security personnel can professionally assess and prioritize asylum applications submitted by vulnerable groups, such as individuals with disabilities, the elderly, pregnant women, unaccompanied minors, and victims of human trafficking, torture, and sexual violence. Furthermore, the article fails to specify a maximum timeframe for adjudicating the cases of those most in need or at risk, leaving a significant gap in addressing urgent humanitarian concerns.

Authority to Deport or Expel Refugees¹⁶¹⁷

¹⁵ ECRF Press Release, July 2017: Around 100 Members of the Persecuted Uyghur Minority in China Face the Risk of Deportation from Egypt to China Following a Wave of Arrests Among the Muslim Minority Residing in Egypt. <https://www.google.com/url?q=https://www.ec-rf.net/%25d8%25ad%25d9%2588%25d8%25a7%25d9%2584%25d9%258a-%25d9%2585%25d8%25a7%25d9%2582%25d9%2584%25d9%258a%25d8%25a9-%25d8%25b4%25d8%25ae%25d8%25b5-%25d9%2585%25d9%2586-%25d8%25a3%25d9%2582%25d9%2584%25d9%258a%25d8%25a9-%25d8%25a7%25d9%2584%25d8%25a5%25d9%258a%25d8%25b1-%25d8%25a7%25d9%2584%25d9%2585%25d8%25b6%25d8%25b7%25d9%2587/&sa=D&source=docs&ust=1731515032878830&usg=AOvVaw2C-hfG2Aii0DQw985vHam4>

¹⁶ ECRF Report: Obstacles Facing Refugees, Migrants, and Foreigners in Obtaining Residency Permits in Egypt - December 2019. <https://www.google.com/url?q=https://www.ec-rf.net/%25d9%2581%25d9%258a-%25d8%25a7%25d9%2584%25d9%258a%25d9%2588%25d9%2585-%25d8%25a7%25d9%2584%25d8%25b9%25d8%25a7%25d9%2584%25d9%2585%25d9%258a-%25d9%2584%25d9%2584%25d9%2585%25d9%2587%25d8%25a7%25d8%25ac%25d8%25b1%25d9%258a%25d9%2586-%25d8%25a7%25d9%2584%25d9%2585%25d9%2581%25d9%2588%25d8%25b6%25d9%258a%25d8%25a9-%25d8%25a7/&sa=D&source=docs&ust=1731515032876864&usg=AOvVaw3vnRgokVQta9uMRZkylFbM>

¹⁷ Sudan. Condolences for the victims of thirst and heat escaping the civil war and recommendations to prevent deaths at the Egyptian Sudanese border <https://www.google.com/url?q=https://www.ec-rf.net/sudan-condolences-for-the-victims-of-thirst-and-heat-escaping-the-civil-war-and-recommendations-to-prevent-deaths-at-the-egyptian-sudanese-border/&sa=D&source=docs&ust=1731515032877423&usg=AOvVaw292uqWCEJP7rT-tC22Whu->

A particularly concerning provision in Article (7) is that if the committee decides to reject an asylum application, it may request the relevant ministry—namely, the Ministry of Interior—to deport the asylum seeker from the country. The applicant will be informed of the decision, and the committee may, pending a final decision, take any measures or actions deemed necessary to protect "national security and public order."

This raises several critical objections:

- The committee should be legally obligated to provide a detailed explanation for rejecting an application, and the asylum seeker must be formally notified of the decision in writing. As a constitutional and general legal principle, decisions should not be immune to appeal. Applicants must have the right to challenge the decision within a specified period, and no adverse actions should be taken against them until a final ruling is issued.

Ambiguity of "Measures to Protect National Security and Public Order"

A particularly alarming aspect of this article is the broad authority granted to the committee to take any measures it deems necessary to protect "national security and public order" while an application is under review. This provision effectively grants the government unchecked power that could undermine the neutrality, non-discrimination, and equality principles that should govern the asylum process.

The article employs vague and undefined terms such as "necessary measures and actions," leaving room for wide-ranging interpretations depending on the government's preferences. For example, the committee—dominated by security forces—could decide that detaining an asylum seeker is a "necessary measure," thereby granting law enforcement broad discretion to detain applicants without clear legal limits.

Such an approach not only contradicts constitutional protections and international agreements but also risks enabling the misuse of power to arbitrarily detain or expel asylum seekers.

Legal texts must be drafted with precision and clarity, leaving no room for ambiguity or overreach. However, the legislative trend in Egypt since 2013 has been to introduce vague and overly broad provisions, ostensibly to legitimize repressive practices and human rights violations. Terms like "national security and public order" are often used as pretexts to justify arbitrary actions.

Under this article, deportation, expulsion, or detention could become legally permissible at the sole discretion of the committee. The ambiguous language allows for expansive interpretations of terms like "national security and public order," which significantly increases the risk of abuses, especially in the absence of robust accountability mechanisms or avenues for reviewing decisions, apart from those outlined in Article (35) of the draft law.

This provision directly threatens the lives and safety of refugees and asylum seekers, violating the 1951 Geneva Convention, which explicitly prohibits refoulement or expulsion.¹⁸

¹⁸ Human rights organizations condemn the arbitrary detention of asylum seekers from the Uyghur minority studying at Al-Azhar and the initiation of their deportation. <https://www.google.com/url?q=https://www.ecrf.net/%25d9%2585%25d9%2586%25d8%25b8%25d9%2585%25d8%25a7%25d8%25aa-%25d8%25ad%25d9%2582%25d9%2588%25d9%2582%25d9%258a%25d8%25a9-%25d8%25aa%25d8%25af%25d9%258a%25d9%2586-%25d8%25a7%25d9%2584%25d8%25a7%25d8%25ad%25d8%25aa%25d8%25ac%25d8%25a7%25d8%25b2->

Article (8): Authority to Deny Refugee Status Without Clear and Substantial Grounds

Article 8 of the proposed law introduces additional restrictions, stating:

An asylum seeker shall not acquire refugee status in any of the following cases:

1. If there are serious grounds to believe that they have committed a crime against peace, a crime against humanity, or a war crime.
2. If they committed a serious crime before entering the Arab Republic of Egypt.
3. If they engaged in acts contrary to the purposes and principles of the United Nations.
4. If they are listed as a terrorist or associated with terrorist entities in the Arab Republic of Egypt in accordance with Law No. 8 of 2015 on the Regulation of Terrorist Entities and Terrorists."

The text does not specify what constitutes "serious grounds" for believing that the applicant has committed a crime. These grounds must be clearly defined and based on reliable and multiple sources of evidence, such as verified testimonies and documented witness accounts. Additionally, there should be final judicial rulings, with an assessment of the independence of judicial institutions in the applicant's country of origin and the extent to which their judicial system adheres to the principles of judicial independence.

It is essential to stipulate that if such grounds are confirmed, forcible deportation or expulsion to the applicant's country of origin must be prohibited. Instead, the applicant should have the right to choose another country to seek residence and must not be forced to return to their country of origin.

Moreover, the text continues to suffer from the habitual use of vague language by the legislator, such as "acts contrary to the purposes and principles of the United Nations." As previously noted, this creates the potential for misuse and arbitrary interpretation, allowing such terms to be used as a pretext for denying refugee status without substantive justification.

Article (9): Revocation of Refugee Status

"The competent committee shall issue a decision to revoke the refugee status in any of the following cases:

1. If the refugee status was obtained through fraud, deceit, or omission of any essential data or information.
2. If it is proven that the refugee has committed any of the acts mentioned in Article (8) of this law.
3. If it is proven that the refugee has violated any of the obligations stipulated in Articles (28), (29), and (30) of this law.

The competent committee shall request the relevant ministry to deport the individual from the country upon issuing a decision to revoke the refugee status, as regulated by the executive regulations of this law."

Risk of Arbitrary Use of the Authority to Deny or Revoke Refugee Status

The government, as the legislator, did not limit the committee's authority to deny an applicant refugee status solely based on actions that threaten national security or public order. It also granted the committee the right to revoke refugee status at any time, as stipulated in Article (9). This article allows the committee to strip an individual of refugee status if they are found to have committed any of the acts listed in Article (8). Consequently, refugees remain under constant threat of losing their status whenever the committee decides to invoke this justification.¹⁹

Under any circumstances, deportation should only occur following a final judicial ruling that is not subject to appeal. Furthermore, deportation must not involve returning the individual to their country of origin. Judicial review, in line with constitutional provisions and relevant laws, must serve as the ultimate authority in determining the legality and validity of all deportation and expulsion decisions.

This safeguard is essential to prevent misuse of the law's provisions, ensuring that refugees are not subjected to arbitrary decisions that could jeopardize their safety and violate international principles such as non-refoulement.

Article (10): "Measures" Against Refugees Under the Pretext of National Security and Public Order

The legislator continues to use vague language to grant the governmental committee unchecked authority through Article (10), which states:

"The competent committee, in times of war, as part of the measures taken to combat terrorism, or in the event of serious or exceptional circumstances, may request the implementation of what it deems necessary measures and actions against refugees for considerations of protecting national security and public order, as regulated by the executive regulations of this law."

Concerns Over Vague Language Enabling Abuse of Authority

The use of ambiguous and elastic terms like *"affecting national security and public order"* raises significant concerns about the potential for abuse of power. Such terms leave room for subjective interpretation, potentially leading to actions that jeopardize the lives and safety of asylum seekers and refugees. These fears are further substantiated by the established practices of the authorities, where policies often involve repression and violations of personal rights as outlined in the Egyptian Constitution and law.

¹⁹ Determination of Refugee Status under the Mandate of the United Nations High Commissioner for Refugees – UNHCR Publications, <https://www.google.com/url?q=https://www.unhcr.org/resettlement-handbook/ar/1-refugee-status-and-resettlement/1-2-%25D8%25AA%25D8%25AD%25D8%25AF%25D9%258A%25D8%25AF-%25D9%2588%25D8%25B6%25D8%25B9-%25D8%25A7%25D9%2584%25D9%2584%25D8%25AC%25D9%2588%25D8%25A1-%25D8%25A8%25D9%2585%25D9%2588%25D8%25AC%25D8%25A8-%25D9%2588%25D9%2584%25D8%25A7%25D9%258A%25D8%25A9-%25D9%2585%25D9%2581%25D9%2588%25D8%25B6%25D9%258A%25D8%25A9-%25D8%25A7/&sa=D&source=docs&ust=1731515032879702&usg=AOvVaw0c2TofoalPibCFwo8Lh0YO>

The Ministry of Interior, often acting on directives from the ruling authority, has a history of targeting individuals who express dissenting opinions or seek to participate in political or social activities. These actions are frequently justified under the pretext of "threatening national security and disturbing public order." Many of these cases result in arbitrary arrests and detentions, with tens of thousands reportedly imprisoned under such loosely defined accusations.

Article (12): Travel Documents

The article grants refugees the right to obtain a travel document issued by the Ministry of Interior after approval by the competent committee. However, it restricts this right, effectively nullifying it, by allowing the committee the authority to withhold the issuance of such documents based on the same vague pretexts frequently used: "national security and public order." The article states:

"The competent committee may, for reasons related to national security or public order, decide not to issue a travel document to the refugee."

What are these reasons? What constitutes public order? Who defines what is contrary to public order? Is it solely the competent committee that determines the parameters of public order? These questions should not arise in legislation, which must employ precise language that leaves no room for multiple interpretations. Therefore, we reject all vague terms frequently used by the government in numerous articles to retain the ability to act arbitrarily and unfairly against individuals. We believe that any such decision must be grounded in clear legal guarantees, such as being based on a reasoned judicial ruling.

Article (18): Recognizing Refugees' Right to Work

The article states: *"A refugee has the right to work and receive fair remuneration for their work. They also have the right to practice freelance professions if they hold a recognized certificate, after obtaining a temporary permit from the competent authorities in the country, in accordance with relevant laws."*

This article, along with others in the law, strongly demonstrates the validity of our demand for consultations with experts, the target group, and stakeholders to hear their perspectives. If the purpose of these provisions is not merely to include them in legislation, the article overlooks several details that hinder its implementation and prevent refugees from exercising this right effectively.

For instance, practicing freelance professions does not merely require a permit; membership in a professional syndicate is also necessary to practice professions such as medicine, law, engineering, or trade. Syndicates often require reciprocity agreements or restrict membership to Egyptian nationals under current laws.

Another obstacle is that individuals with recognized qualifications must first undertake studies to have their degrees accredited.²⁰ This process involves significant financial costs, numerous procedures, and considerable time, making it challenging for refugees to access their right to work.

²⁰ The Egyptian Commission for Rights and Freedoms Issues a Policy Paper on Postgraduate Studies as an Obstacle to Refugee Integration in Egypt - June 2019, <https://www.google.com/url?q=https://www.ec->

payment for residency fees, overstay penalties, and costs for issuing residency cards, converted from U.S. dollars or equivalent foreign currencies. The decree also mandates the regularization of residency status, considering the presence of an Egyptian sponsor²¹ and the payment of administrative fees equivalent to USD 1,000 deposited into the designated account.²²

Article (24): Voluntary Return

"A refugee shall have the right at any time to voluntarily return to the country of their nationality or habitual residence. The competent committee shall coordinate with the United Nations High Commissioner for Refugees (UNHCR) and the country of the refugee's nationality or habitual residence to take the necessary measures for voluntary return."

Comment:

It is essential to define "voluntary return" precisely and ensure verification of its conditions. Adequate guarantees must be in place to ensure that refugees are not coerced or pressured into returning voluntarily under any circumstances. It should also be confirmed that the primary reasons for seeking asylum, or the fear experienced by the refugee, have entirely ceased. This determination should be based on data and standards approved by the United Nations, with assurances that the return does not endanger the refugee's life and is carried out of their own free will.

Article (29): Prohibitions with Potential for Misuse

"A refugee is prohibited from engaging in any activity that undermines national security or public order, conflicts with the objectives and principles of the United Nations, the African Union, or the League of Arab States, or any organization in which Egypt is a member, or committing any hostile act against their country of origin or any other state."

Comment:

The broad interpretation of "hostile act against their country of origin" is concerning, as actions such as filing a complaint against their government with the International Criminal Court could be considered hostile by the committee, even though it is a legal and legitimate act by the refugee. This opens the door for misuse and misinterpretation, potentially penalizing legitimate activities like utilizing international mechanisms, expressing opinions, journalistic opposition, participating in protests, or speaking out against violations committed by their home governments. This concern becomes more alarming given that Article (38) of this draft imposes penalties of imprisonment for not less than three years and fines of no less than 100,000 Egyptian pounds for violating Article (29).

²¹ The Egyptian Commission for Rights and Freedoms' Commentary on Repeated Increases in Residency Fees for Migrants and Asylum Seekers in Egypt: The Financial Drain Continues – September 2024,

<https://www.google.com/url?q=https://www.ec-rf.net/%25d8%25aa%25d8%25b9%25d9%2584%25d9%258a%25d9%2582-%25d8%25a7%25d9%2584%25d9%2585%25d9%2581%25d9%2588%25d8%25b6%25d9%258a%25d8%25a9-%25d8%25a7%25d9%2584%25d9%2585%25d8%25b5%25d8%25b1%25d9%258a%25d8%25a9-%25d8%25b9%25d9%2584%25d9%2589-%25d8%25a7%25d9%2584%25d8%25b2%25d9%258a%25d8%25a7%25d8%25af%25d8%25a7%25d8%25aa-%25d8%25a7%25d9%2584%25d8%25a3%25d8%25b2%25d9%2585%25d8%25a9-%25d8%25a7%25d9%2584%25d8%25a3%25d8%25b2%25d9%2585%25d8%25a9-%25d8%25a7%25d9%2584%25d8%25a7%25d9%2582%25d8%25aa%25d8%25b5%25d8%25a7%25d8%25af%25d9%258a/&sa=D&source=docs&ust=1731515032871943&usg=AOvVaw1WCLPgujDHO18wvMZLkMIA>

²² ECRF Report: "In Search of Dollars - The Impact of the Economic Crisis on Refugees and Migrants in Egypt",

<https://www.google.com/url?q=https://www.ec-rf.net/%25d8%25a7%25d9%2584%25d8%25a8%25d8%25ad%25d8%25ab-%25d8%25b9%25d9%2586-%25d8%25a7%25d9%2584%25d8%25af%25d9%2588%25d9%2584%25d8%25a7%25d8%25b1-%25d8%25a3%25d8%25ab%25d8%25b1-%25d8%25a7%25d9%2584%25d8%25a3%25d8%25b2%25d9%2585%25d8%25a9-%25d8%25a7%25d9%2584%25d8%25a7%25d9%2582%25d8%25aa%25d8%25b5%25d8%25a7%25d8%25af%25d9%258a/&sa=D&source=docs&ust=1731515032871267&usg=AOvVaw0oQislgg59-0XGwyGdValx>

Article (31): Illegal Entry

"Anyone who enters the Arab Republic of Egypt illegally and meets the substantive conditions for asylum shall voluntarily submit their application to the competent committee within forty-five days of their entry."

Comment:

As noted in Article (39) of this draft, violators of this timeframe will face imprisonment of no less than six months and a fine of up to 10,000 Egyptian pounds. It is crucial that the law accounts for cases of force majeure and allows migrants the right to provide evidence in such cases.

Article (32): Non-Liability for Irregular Entry

"A person who arrives directly from regions where their life or freedom was at risk shall not be held civilly or criminally liable for illegal entry or presence in the territory of the Arab Republic of Egypt, provided they surrender themselves upon arrival to any governmental authority."

Comment:

The article does not clarify the meaning of "upon arrival," nor does it account for cases of force majeure or the good faith of migrants fleeing conflict zones or facing circumstances that prevented them from approaching the authorities. Additionally, while the article acknowledges the absence of civil and criminal liability for refugees, Article (7) of this draft law discriminates between lawful and unlawful entry when processing asylum applications, favoring those who entered legally. This distinction should be removed as it conflicts with Article (32).²³²⁴

Article (33): Termination of Refugee Status

The article restricts the termination of refugee status to cases such as voluntary return, resettlement, naturalization as an Egyptian citizen, the refugee voluntarily invoking the protection of their country of nationality, voluntary reacquisition of a lost nationality, acquisition of a new nationality, cessation of the reasons for seeking asylum, or departure from the Arab Republic of Egypt for a continuous period of six months without an acceptable excuse approved by the competent committee.

The competent committee shall issue a decision terminating refugee status within five days of verifying any of these conditions and request the relevant ministry to remove the refugee from the country.

Comment:

The article lacks a mechanism for appealing the committee's decision, even when reasonable grounds and evidence are present. It should require that determining the cessation of the reasons

²³ ECRF Condemns the Detention of Syrian Migrants and Asylum Seekers by Egyptian Authorities Amid Fears of COVID-19 Spread in Detention Centers, <https://www.google.com/url?q=https://www.ecrf.net/3374/&sa=D&source=docs&ust=1731515032873452&usg=AOvVaw1O4rUjIJIjErCSgiBGS14a>

²⁴ ECRF Calls for the Release of Syrians Detained in "Marsa Alam and Halayeb and Shalateen Prisons" and Opposes Their Deportation from Egypt, <https://www.google.com/url?q=https://www.ecrf.net/%25d8%25a7%25d9%2584%25d9%2585%25d9%2581%25d9%2588%25d8%25b6%25d9%258a%25d8%25a9-%25d8%25a7%25d9%2584%25d9%2585%25d8%25b5%25d8%25b1%25d9%258a%25d8%25a9-%25d9%2584%25d9%2584%25d8%25ad%25d9%2582%25d9%2588%25d9%2582-%25d9%2588%25d8%25a7%25d9%2584%25d8%25ad%25d8%25b1%25d9%258a%25d8%25a7%25d8%25aa-%25d8%25aa%25d8%25b7%25d8%25a7-4/&sa=D&source=docs&ust=1731515032874125&usg=AOvVaw1NfLmdeB1a27n1Cfo3romW>

for seeking asylum be a matter evaluated by a neutral body, such as the United Nations, based on reports and statistics adhering to standardized criteria to assess risks in the refugee's country of origin and the potential impact on their life if returned. The decision should not be influenced by political considerations, government interests, or internal pressures.

Article (35): Appeals Against Committee Decisions

The article specifies the path for appealing committee decisions: *"Appeals against decisions issued by the competent committee pursuant to the provisions of this law shall be submitted to the Administrative Court of the State Council."*

Comment:

Although this article appears to grant asylum seekers the right to reconsideration of their applications, in practice, this right may be obstructed for several reasons:

- 1. Complexity and delays in the judicial process:**
The Egyptian judiciary is known for its complexity and the prolonged duration of cases. This could expose asylum seekers to risks of deportation, removal, or loss of refugee status before their appeal is resolved. Moreover, procedural barriers, such as the lack of legal residency or official identity documents required to authorize a lawyer, may prevent them from filing an appeal. This issue often arises in notary offices under the Ministry of Justice, where prior legal residency is required to issue a power of attorney to a lawyer.
- 2. Potential detention:**
Asylum seekers may be detained until the court resolves their case, potentially being coerced or pressured into voluntary return as an alternative to prolonged detention in poor conditions.
- 3. Weak enforcement mechanisms:**
The judiciary, including the Administrative Court and its expedited section, lacks the capacity to compel government entities—particularly the Ministry of Interior, which is legally responsible—to comply with and enforce the law. Reports suggest that no individual has succeeded in obtaining a court order to suspend deportation decisions, either because no formal decision exists or because it is inaccessible for submission in court.²⁵
- 4. Lack of specialized expertise in the judiciary:**
The administrative judiciary lacks trained personnel capable of addressing refugee-related decisions, which often require assessing risks in the country of origin and examining each case individually.

Article (37): Penalties

²⁵ ECRF Condemns the Continued Detention of Yemeni Asylum Seeker Abdel Baqi Said and Calls for His Release Amid Fears for His Life Due to Harassment, [https://www.ecrf.net/%25d8%25a7%25d9%2584%25d9%2585%25d9%2581%25d9%2588%25d8%25b6%25d9%258a%25d8%25a9-%25d8%25a7%25d9%2584%25d9%2585%25d8%25b5%25d8%25b1%25d9%258a%25d8%25a9-%25d8%25aa%25d8%25b3%25d8%25aa%25d9%2586%25d9%2583%25d8%25b1-%25d8%25a7%25d8%25b3%25d8%25aa%25d9%2585%25d8%25b1%25d8%25a7%25d8%25b1-%25d8%25ad%25d8%25a8%25d8%25b3-%25d8%25b7/&sa=D&source=docs&ust=1731515032876142&usg=AOvVaw21N_xzqoHJnbMeFtBGd9FV](https://www.google.com/url?q=https://www.ecrf.net/%25d8%25a7%25d9%2584%25d9%2585%25d9%2581%25d9%2588%25d8%25b6%25d9%258a%25d8%25a9-%25d8%25a7%25d9%2584%25d9%2585%25d8%25b5%25d8%25b1%25d9%258a%25d8%25a9-%25d8%25aa%25d8%25b3%25d8%25aa%25d9%2586%25d9%2583%25d8%25b1-%25d8%25a7%25d8%25b3%25d8%25aa%25d9%2585%25d8%25b1%25d8%25a7%25d8%25b1-%25d8%25ad%25d8%25a8%25d8%25b3-%25d8%25b7/&sa=D&source=docs&ust=1731515032876142&usg=AOvVaw21N_xzqoHJnbMeFtBGd9FV)

"Without prejudice to the provisions of labor law, anyone who employs or shelters an asylum seeker without notifying the competent police station within whose jurisdiction the place of employment or shelter is located, and is proven to have been aware of the matter, shall be punished by imprisonment for a term of no less than six months and a fine of no less than fifty thousand Egyptian pounds and no more than one hundred thousand Egyptian pounds, or by one of these penalties."

Comment:

The severity of the punishment is disproportionate to the violation, and the article fails to consider circumstances of force majeure or good faith. This could deter individuals from assisting or welcoming asylum seekers, placing them under suspicion simply for interacting with refugees. This approach weakens efforts towards integration and social harmony. The article should be reconsidered to address these issues.

Article (38): Penalties

"Anyone who violates the provisions of Article (29) of this law shall be punished by imprisonment for a term of no less than three years and a fine of no less than one hundred thousand Egyptian pounds and no more than five hundred thousand Egyptian pounds, or by one of these penalties."

Comment:

This article concerns actions deemed to "threaten national security and public order," exposing refugees to harsh penalties based on a broad and vague interpretation of such terms by the authorities.

Article (39): Penalties

"Without prejudice to the provisions of the Anti-Smuggling and Illegal Migration Law No. 82 of 2016 and Article 32 of this law, anyone who violates the provisions of Article (31) of this law shall be punished by imprisonment for a term of no less than six months and a fine of no less than ten thousand Egyptian pounds and no more than one hundred thousand Egyptian pounds, or by one of these penalties."

Comment:

This penalty, as previously noted in Article 31, applies to failing to voluntarily submit an application to the committee within 45 days. The law fails to account for cases of force majeure or exceptional circumstances, making the punishment unnecessarily rigid.

General Commentary and Recommendations

The law imposes restrictions and obligations while undermining rights, offering services that are either nonexistent or difficult to access.

Based on the analysis of the provisions in the proposed Migration and Asylum Law, **the Egyptian Commission for Rights and Freedoms (ECRF)** calls for a comprehensive review of the draft law. This includes addressing provisions that, in their current form, enable the government to expand its violations of refugee rights and misuse power against them. Moreover, the timing of the law's passage should be reconsidered to allow for public debate and societal participation, thereby mitigating the transitional impact on registered refugees. There is also a pressing need to address the flaws in the draft and the risks it poses to the lives and freedoms of refugees.

ECRF urges the adoption of a **humanitarian approach** that minimizes restrictions on freedoms while ensuring the protection and rights of refugees. Below are the recommendations:

1. **Stop enacting laws without public consultation:** The government’s tendency to pass laws aligned with its political and economic agendas, without considering individual interests, relies on a compliant parliament that rubber-stamps all legislative proposals.
2. **Conduct extensive consultations:** Engage civil society organizations and human rights experts before finalizing amendments to the draft law to ensure meaningful societal participation.
3. **Develop a detailed and transparent implementation plan for the transitional phase:** This plan should address the current refugee files and outline steps to maintain stability and protection, in coordination with UNHCR.
4. **Form a diverse and genuinely independent committee:** Include representatives from human rights, healthcare, and civil society sectors to ensure inclusive representation for vulnerable groups.
5. **Ensure precise legal language:** Legal texts should clearly define the authority to grant or revoke refugee status and decisions on deportation, avoiding ambiguous terms that could lead to executive abuse.
6. **Eliminate vague phrases:** Phrases like “national security considerations” or “public order” must be avoided as they can justify violations of refugee rights.
7. **Include expedited and effective appeal mechanisms:** Refugees must be given the right to challenge administrative decisions, ensuring access to justice.
8. **Enhance collaboration with UNHCR:** Review the law’s provisions to align with international agreements obliging the government to provide refugee protection.²⁶
9. **Establish mechanisms for implementing rights:** Ensure practical measures to guarantee refugees' access to rights stipulated in the law.
10. **Allocate sufficient resources for implementation:** Resources must be allocated to support the law’s provisions, particularly for basic refugee rights like healthcare and education, ensuring these do not remain unenforceable promises.
11. **Activate independent oversight:** Ensure independent oversight of the committee’s activities, financial resources, and expenditures, safeguarding autonomy from executive influence.
12. **Build the capacity of personnel, especially the technical secretariat:** Train staff in institutions dealing with refugee matters to improve their skills.

²⁶ ECRF Report: Policies of the UNHCR in Egypt Amid Global Crises, <https://www.google.com/url?q=https://www.ecrf.net/%25d8%25b3%25d9%258a%25d8%25a7%25d8%25b3%25d8%25a7%25d8%25aa-%25d9%2585%25d9%2581%25d9%2588%25d8%25b6%25d9%258a%25d8%25a9-%25d8%25a7%25d9%2584%25d8%25a3%25d9%2585%25d9%2585-%25d8%25a7%25d9%2584%25d9%2585%25d8%25aa%25d8%25ad%25d8%25af%25d8%25a9-%25d9%2584%25d8%25b4%25d8%25a6%25d9%2588%25d9%2586-%25d8%25a7%25d9%2584%25d9%2584/&sa=D&source=docs&ust=1731515032875458&usq=AQvVaw2v8wmTuOS2goTMTxkUZ0m>

13. **Decentralize service points for residence applications:** Establish offices across governorates for submitting or renewing residence permits, and implement an online system to reduce congestion and save refugees' time.
14. **Ensure transparency in statistics and information:** Publish accurate and transparent data to facilitate collaboration between the committee, civil society, and refugee rights organizations.
15. **Create a specialized division within the Administrative Judiciary:** Establish a dedicated division to handle appeals filed by refugees and asylum seekers against decisions by the permanent committee. Train this division to address humanitarian cases promptly.
16. **Uphold the Anti-Smuggling and Illegal Migration Law:** Ensure adherence to Law No. 82 of 2016, which exempts migrants from criminal or civil liability for smuggling-related offenses, reinforcing migrants' rights.
17. **Facilitate family reunification:** Address the lack of legal mechanisms for family reunification, which drives irregular migration, by introducing provisions that simplify the process and ensure the right to reunite with family members.
18. **Adhere to the principle of non-refoulement:** Include explicit provisions prohibiting forced return or expulsion, ensuring respect for refugees' rights to remain.
19. **Activate fair and independent judicial oversight:** Ensure judicial review of executive actions, including those of the Public Prosecution. Protect refugees and asylum seekers from arbitrary administrative or security decisions that exceed legal limits.