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EGYPT: NEW RUSHED ASYLUM LAW AFFRONT TO REFUGEE RIGHTS

Egypt's President Abdel Fattah al-Sisi must not ratify a new asylum law approved by parliament, which undermines the right to seek asylum, fails to prohibit refoulement and lacks due process guarantees, said Amnesty International.

If enacted, the bill will establish, for the first time, a national asylum system in Egypt, transferring the registration of asylum-seekers and the determination of refugee status from the United Nations High Commissioner for Refugees (UNHCR) to the Egyptian government. While the bill includes some provisions that align with of Egypt's legal obligations under the 1951 Refugee Convention, its 1967 Protocol and the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa of 1969, it falls far short of complying with Egypt's international obligations under refugee and human rights law. Notably, it allows for the arbitrary detention of asylum-seekers and refugees solely on migration grounds, unduly restricts the right to seek asylum, enables unlawful returns without procedural safeguards and does not explicitly prohibit refoulement. It also includes discriminatory provisions restricting refugees' and asylum seekers' freedom of movement, and fails to fulfil their rights to education, housing and social security.

The government drafted the law in secrecy, without consultations with key stakeholders such as civil society organizations or the refugee community, and without making the draft public. A leaked draft was [circulated](#) by media on 2 November 2024, and was heavily [criticized](#) by Egyptian human rights and refugee rights organization. On 22 October 2024, a parliamentary subcommittee [gave](#) its initial approval to the draft proposed by the Cabinet of Ministers in June 2023. The full parliament swiftly adopted the law on 19 November 2024.

The asylum law comes against the backdrop of a rise in racist and xenophobic online speech against refugees and an ongoing nationwide campaign of mass arbitrary detention and forced returns of Sudanese refugees by police and the EU-funded Egyptian Border Guard Forces, which has intensified since September [2023](#). It also comes amid deepening cooperation over migration and border control between Egypt and the EU, including to prevent irregular departures to Europe, following the signing of a new [Strategic and Comprehensive Partnership](#) between both sides in March 2024.

Amnesty International calls on President Abdel Fattah al-Sisi not to ratify the law and to return it to parliament for amendment. In adjusting the draft, parliament must initiate meaningful and inclusive consultations with all stakeholders, including the refugee community and human rights NGOs. Members of the parliament must introduce amendments to bring the law in line with Egypt's obligations under international human rights and refugee law.

Amnesty International reviewed the leaked draft law in light of international refugee and human rights law and standards. This public statement does not provide a comprehensive analysis of the 39 articles of the draft bill. Rather, it focuses on key provisions undermining refugee rights, including the right to seek asylum, the right not to be arbitrarily detained, protection against refoulement, and socio-economic rights.

BACKGROUND

Egypt is a state party to the 1951 Refugee Convention and its 1967 Protocol, as well as the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa. The Egyptian constitution recognizes the right to "political asylum" for foreign nationals who are persecuted for defending human rights, peace and justice, and prohibits the extradition of "political refugees".¹ Prior to the adoption of the asylum law by parliament on 19 November 2024, Egypt has never had any legislation regulating asylum. To fill that gap, the UNHCR has been carrying out registration of asylum-seekers and refugee status determination in Egypt on the basis of a memorandum of understanding with the Egyptian government signed in 1954.²

¹ Arabic Republic of Egypt, Constitution, 2014, <https://sschr.gov.eg/en/the-egyptian-constitution/>, Article 91.

² The Memorandum of Understanding between UNHCR and Egypt acquired the force of law in 1954.

As of [October 2024](#), 800,000 refugees and asylum seekers were registered with UNHCR, with Sudanese nationals representing more than half of all those registered, followed by Syrians, South Sudanese and Eritreans, respectively. The number of people fleeing Sudan to Egypt proliferated after the armed conflict broke out in Sudan in April 2023. As of October 2024, 765,000 people, who were forced to flee Sudan, have approached UNHCR for registration, with 58% registered and the remainder awaiting their registration appointments. Egyptian officials have consistently [conflated](#) the numbers of refugees, asylum-seekers and migrants and [maintained](#) that Egypt hosts 9 million refugees, costing the country around [USD 10 billion](#).

The asylum law was initially proposed by the Cabinet of Ministers in June 2023, shortly after the armed conflict erupted in Sudan, forcing hundreds of thousands to seek safety and refuge in Egypt. It was approved by the parliamentary Defence and National Security Committee on 22 October 2024 and by full parliament on 19 November 2024. It was never officially made public; it was leaked and [published](#) by media in November 2024. Neither the government nor the parliament conducted meaningful consultations with affected communities, human rights NGOs, or other stakeholders during the drafting process of the law or during parliamentary discussions.

Amnesty International has [documented](#) how Egypt's EU-funded Border Guard Forces operating under the ministry of defence as well as police operating under the ministry of interior have intensified their mass arbitrary arrests of Sudanese people since September 2023, and held women, men and children in cruel and inhuman conditions pending their forced return to Sudan without giving them the opportunity to seek asylum. Arbitrary arrests and unlawful deportations continue, with an estimated 18,000 people forcibly returned to Sudan from Egypt between January and October 2024, according to information obtained by Amnesty International from protection actors. Despite this, the EU announced in March 2024 a strategic partnership agreement with Egypt, involving a €7.4 billion aid and investment package that seeks, among other things, to deepen cooperation over migration and border control, [dismissing](#) concerns about Egyptian authorities' ongoing violations against refugees and others.

HUMAN RIGHTS CONCERNS IN THE ASYLUM LAW

REFUGEE DEFINITION, EXCLUSION CLAUSES AND REVOCATION OF STATUS

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

2- This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations." **The Universal Declaration of Human Rights, Article 14**

"The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that:

He has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes." **The 1951 Convention relating to the Status of Refugees, Article 1(f)(a)**

The asylum law recognizes the right to seek asylum, and includes a definition of "refugee" as a:

"foreign national being outside their country of origin or country of habitual residence due to serious and well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, or because of aggression or external occupation, or other events that seriously threaten general security in the country whose they carry its nationality or the country of their habitual residence, and is unable or, owing to such fear, is unwilling to avail themselves of the protection of that country, and not having a nationality and being outside the country of their former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it".

This definition is largely in line with the 1951 Refugee Convention, with the exception of the additional requirement for the individual's fear of persecution to be "serious" as well as "well founded" to be recognized as a refugee.

Under the asylum law, the Permanent Committee for Refugees' Affairs (PCRA), a committee composed of representatives from the ministries of interior, justice, foreign affairs and finance and operating under with prime

minister's office, will be responsible for refugee status determination. Article 7 of the law sets the timeframe of six months for the committee to process asylum applications for individuals who entered the country regularly, and one year for those who entered irregularly. This discrepancy in the processing times of asylum claims discriminates against refugees who enter Egypt irregularly, even though individuals fleeing life-threatening situations should never be penalized for irregular entry as they might not have had access to legal and safe pathways to seek asylum or might have been unable to access or renew relevant travel documents.

The asylum law also establishes criteria by which individuals may be excluded from international protection (known as exclusion clauses) beyond those foreseen under the 1951 Refugee Convention and fails to enshrine procedural safeguards, hindering the ability of individuals in need of international protection to be granted asylum.

Permissible exclusions from international protection under refugee law are listed exhaustively in the 1951 Refugee Convention. These include instances where a refugee has committed serious "non-political crimes" in their country of origin or another country, other than the country of refuge. Individuals may also be denied asylum if they have committed war crimes, crimes against humanity, or acts that are contrary to the purposes and principles of the United Nations.³

According to Article 8 of the asylum law, individuals can be denied refugee status for committing "a serious crime" before entering Egypt, without excluding "political crimes". In practice, this provision could prevent individuals in need of international protection from being recognized as refugees if they were convicted of committing acts protected under international human rights law or unjustly convicted of unfounded and politically-motivated charges in their country of origin.

The same article denies individuals the right to acquire refugee status if they were "added to terrorist entities' and terrorists' lists within the Arab Republic of Egypt," in accordance with the Law 85 of 2015 on Regulating Terrorist Entities and Terrorists. Amnesty International has long raised concerns about counter-terrorism [legislation](#) in Egypt applying an overly broad and vague definition of "terrorism" not meeting the principle of legality, and its misuse in practice to [punish dissent](#). Law 85 of 2015 allows prosecutors to submit to courts lists of designated "terrorists," without needing to provide evidence that a "terrorist act" had occurred. Furthermore, courts can order such designations without any due process or allowing affected individuals to challenge the designation. Over the past decade, thousands of people have been included on "the list of terrorists" without due process including human rights defenders, political activists, opposition politicians, journalists, and other peaceful dissidents.

Under Article 8 of the asylum law, individuals may also be denied refugee status if they have committed "any acts that interfere with national security or public order", terms that are vague and overly broad, and therefore open to abuse. The provision also fails to specify whether this exclusion applies to acts allegedly committed in the country of origin, Egypt or a third country. In the case of Egypt, Amnesty International has long [documented](#) the justification of restrictions on the exercise of the rights to freedom of expression, association and peaceful assembly on "national security" grounds.

Another concerning requirement in the asylum law is for individuals seeking protection to submit applications within a certain timeframe to be eligible for consideration for refugee status. Article 31 stipulates that asylum seekers, who entered Egypt irregularly, must submit claims for asylum within 45 days of their entry into the country, without considering individual circumstances, such as lack of information about their right to seek asylum, the availability of legal counsel or access to documentary evidence. No exceptions are made for individuals in situations of vulnerability including survivors of trafficking or individuals arbitrarily detained for entering the country irregularly. Amnesty International has consistently [documented](#) how detaining authorities in Egypt, including the police and border guards, deny foreign nationals in their custody due to their migration status the possibility to claim asylum or to contact their families, lawyers or UNHCR. An automatic application, regardless of individual circumstances, of the 45-day time limit, contravenes the 1951 Refugee Convention.⁴

³ Article 1f of the Refugee Convention says that the Convention "shall not apply to any person with respect to whom there are serious reasons for considering" that: (a) he [or she] has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes; (b) he [or she] has committed a serious non-political crime outside the country of refuge prior to his [or her] admission to that country as a refugee; or (c) he [or she] has been guilty of acts contrary to the purposes and principles of the United Nations.

⁴ 1951 Refugee Convention, Article 31

The asylum law fails to provide essential procedural safeguards. For instance, it fails to guarantee the right of refugees and asylum seekers to access legal counsel, including at the expense of the state for those unable to afford legal representation, to assist them in preparing and submitting their asylum applications or in appealing decisions made by the PCRA.

The law also fails to ensure that asylum seekers are provided with interpretation services so that they are able to submit their applications and undergo the refugee determination status process in a language that they understand. It also fails to guarantee asylum-seekers' right to access UNHCR to seek advice or other support. Amnesty International has long documented how the Egyptian authorities routinely deny detained asylum seekers' and refugees' access to the agency.

The law also lacks other important safeguards to ensure adequate time and facilities to prepare asylum applications, including to compile evidence.

According to the law, PCRA's decisions can only be appealed before administrative courts, which have jurisdiction over administrative matters including complaints against decisions by government officials. There are no designated chambers for asylum and migration, and judges in administrative courts do not have the required expertise on asylum.

Revocation of status

Revocation of refugee status under international law and standards refers to the exceptional withdrawal of status when the recognized refugee engages in certain conduct, such as the commission of war crimes, crimes against humanity or acts contrary to the purposes or principles of the United Nations, as specified in the 1951 Refugee Convention.⁵ The asylum law includes several circumstances in which refugee status may be revoked that go beyond grounds permissible under refugee law.

Another reason outlined in the asylum law for revoking refugee status is the refugee's failure to "respect the values and traditions of Egyptian society," terms that are not defined. Such vague provisions contradict the principle of legality, which requires that restrictions be based on clear and precise legal provisions. This lack of clarity opens the door for misuse and arbitrariness. Egyptian authorities have a history of using similarly [vague legal terms](#), such as ["violating family principles and values"](#), to restrict freedom of expression and other human rights, in particular targeting individuals not adhering to dominant social norms.

According to Article 9 of the asylum law, refugee status can also be revoked on the grounds of participation in "any political or partisan work, work in syndicates, or the founding, joining, or participating in any form of political parties." These acts fall under the peaceful exercise of the rights to freedom of expression, association and participation in political life, protected by international human rights law.

Similarly to concerns outlined above on expansive criteria by which individuals may be excluded from international protection, Article 9 allows for the revocation of refugee status for those found to "have committed serious crimes before entering Egypt", without excluding "political crimes" as required by the 1951 Refugee Convention. Refugee status can also be revoked for individuals "added to terrorist entities' and terrorists' lists inside the Arab Republic of Egypt," or individuals who had committed "any acts that interfere with national security or public order."

Among the grounds listed for revoking refugee status is "omitting any basic information or data" in the initial asylum claim, without specifying that the information in question had been decisive in the granting of refugee status. While such an omission may warrant a re-assessment of the person's need for international protection, this act should not lead to the automatic revocation of status without allowing concerned individuals to challenge the decision.

Furthermore, Article 9 of the asylum law allows the PCRA to request the ministry of interior to remove the individual, whose refugee status was revoked, from the country, without guaranteeing the individual's right to appeal the removal decision.

Recommendations for parliament to amend the asylum law:

⁵ 1951 Refugee Convention, Article 1F(a) and (c)

- Ensure that everyone has the right to seek asylum without undue time restrictions and regardless of whether they entered Egyptian territory regularly or irregularly.
- Ensure that the grounds under which individuals might be denied refugee status (exclusion clauses) are limited to the exhaustive grounds permissible under international refugee law.
- Ensure that rigorous procedural safeguards are in place throughout the asylum process, including adequate access to legal counsel, competent interpreters and UNHCR; adequate time and facilities to prepare and submit asylum claims; and right to appeal decisions before competent tribunals.
- Ensure that the grounds for revoking refugee status are strictly limited to the “exclusion clauses” outlined in Article 1 (F) of the 1951 Refugee Convention, established in law, proportionate, necessary and subject to due process, including appeal before competent tribunals.

RIGHT TO LIBERTY

“The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who [...] enter or are present in their territory without authorization [...].” **International Convention Relating to the Status of Refugees, Article 31**

“Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his or her liberty except on such grounds and in accordance with such procedure as are established by law.” **International Covenant on Civil and Political Rights, Article 9**

The asylum law criminalizes irregular entry to or stay in Egyptian territory contrary to international human rights law and standards; and allows for the arbitrary detention of refugees and asylum-seekers solely based on their migration status.

Article 32 of the law stipulates that individuals “who come directly from territories where their life or freedom were threatened are neither criminally nor civilly liable for the reasons of irregular entry or stay in Egypt as long as they present themselves immediately to the authorities,” without making any provisions for mitigating circumstances as per international refugee law. According to Article 31 of the 1951 Refugee Convention, refugees should not be penalized for irregular entry or stay as long as they present themselves “without delay” depending on individual circumstances and provide “good cause” for their irregular entry or stay.

Moreover, UNHCR has clarified that the term “directly” in reference to arrivals of asylum seekers from places where their life or freedom were at risk should be interpreted broadly and “include those who have merely transited through an intermediate country or countries, as well as those who have stayed in an intermediate country or countries”.⁶

The asylum law does not specify the penalties stemming from the criminal or civil liability of people who fail to present themselves “immediately” to the authorities upon their irregular entry to Egypt. Irregular entry to and stay in Egypt is governed by Law [89 of 1960](#) on the Entry and Residence of Foreigners in the Territory of Egypt and Exit from it.⁷ Under this law, irregular entry to Egypt by foreign nationals is punishable by up to six months imprisonment and/or a fine, while irregular stay is punishable by a fine.

Article 39 of the asylum law further stipulates that individuals who meet the “substantive conditions” for asylum seeker status, which the law fails to define, must submit their applications within 45 days of their irregular entry to Egypt or face a penalty of at least six months in prison and/or a fine, a punitive measure and penalty imposed on the grounds of irregular entry and prohibited under refugee law.

The asylum law fails to specify whether asylum claims, submitted after the 45-day deadline, would be considered, and the fate of asylum seekers after they would have served their sentences and/or paid their fines.

⁶ UN High Commissioner for Refugees (UNHCR), Guidelines on International Protection No. 14: *Non-penalization of refugees on account of their irregular entry or presence and restrictions on their movements in accordance with Article 31 of the 1951 Convention relating to the Status of Refugees*, HCR/GIP/24/14, 23 September 2024, <https://www.refworld.org/policy/legalguidance/unhcr/2024/en/148632>

⁷ Egypt, [*تعديل بعض أحكام قانون دخول وإقامة الأجانب بالقانون 88 لسنة 2005*] Amendment of some provisions of the Law on the Entry and Residence of Foreigners by Law 88 of 2005], 8 May 2005, <https://manshurat.org/node/7356> (in Arabic).

It also remains unclear in the asylum law whether individuals risk being subjected to any form of detention or deprivation of liberty after they “present” themselves to the authorities and while their asylum claims are being processed.

Amnesty International is concerned that in practice individuals who enter Egypt irregularly and are unable to submit their applications within 45 days, may be subjected to detention, pending their deportation as permissible under the Law 89 of 1960, which grants extensive powers to the minister of interior to order the “temporary detention” of individuals subject to removal until the removal process is complete. However, Law 89 of 1960 does not establish any maximum duration for such detention, nor does it provide mechanisms for detainees to challenge the lawfulness of their detention, or ensure that other procedural safeguards such as access to legal representation and interpretation services are in place.

The right to liberty, as stipulated in the International Covenant on Civil and Political Rights (ICCPR), to which Egypt is a state party, can only be restricted in specific and the most exceptional of circumstances. Migrants, refugees and asylum-seekers, like everyone else, must benefit from a legal presumption of liberty and, as a consequence, if they are subject to any deprivation of liberty, this must be clearly prescribed by law, strictly justified by a legitimate purpose, necessary, proportionate and non-discriminatory.

Detention solely for migration-related purposes is only permissible in the most exceptional of circumstances and must always be based on a detailed case-by-case assessment of the personal circumstances of the individual, including factors such as their personal history, age, health condition and family situation. Recognized refugees, pregnant people, children, people with mental and physical disabilities or serious physical or mental conditions, older persons, and survivors of trafficking and torture, should never be detained solely due to their migration status.

Recommendations for parliament to amend the law to:

- Ensure that refugees and asylum-seekers are protected from arbitrary arrest and detention solely based on their migration status or their irregular entry to and stay in the country.
- Include a presumption of liberty in the draft legislation and ensure that any deprivation of liberty is established by law, used as a measure of last resort, proportionate, necessary, and subject to judicial oversight.
- Prohibit the detention of recognized refugees, children, families with children, pregnant people, people with mental and physical disabilities or serious physical or mental conditions, older persons, and survivors of trafficking and torture.

LACK OF PROTECTION AGAINST REFOULEMENT

“No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion”. **The 1951 Convention relating to the Status of Refugees, Article 33 (1)**

The asylum law does not explicitly prohibit refoulement or the return of individuals, regardless of their status, to places where they might face persecution or other serious human rights violations. While article 13 of the law prohibits the extradition of “recognized refugees” to their country of origin or habitual residence, other articles implicitly permit exceptions under the guise of overly vague “national security and public order” grounds without due process safeguards.

Article 7 of the law grants the PCRA the power to request that the ministry of interior take unspecified “measures and procedures” towards asylum seekers, whose claims are being processed, deemed necessary for the protection of “national security and public order”, an overly vague and broad undefined concept open to abuse. Amnesty International is concerned that, contrary to international law, removal from territory could be one such “measure and procedure”, given that under the Egyptian law, the ministry of interior has the authority to order and carry out removals of foreign nationals from Egyptian territory and place them in indefinite arbitrary detention pending the removal. Additionally, the law does not guarantee the right of asylum seekers to challenge the application of the “measures and procedures” taken by the ministry of interior against them at the request of the PCRA before a competent judicial authority and have legal representation, and access to interpreters.

Unlike the 1951 Refugee Convention that allows states, in times of "war" or "other grave and exceptional circumstances," to take provisional measures against individuals pending the determination of their refugee status (referring to asylum-seekers),⁸ Article 10 of the asylum law permits, the implementation of "any measures and procedures" against recognized refugees to protect "national security and public order" during times of war or in the framework of state efforts to combat "terrorism". The failure to specify that such measures be "provisional" raises concerns that they could include removal from Egypt. Concerns are further heightened given the overly broad and vague definition of a "terrorist act" in Egyptian legislation, not meeting the principle of legality, and the well-documented misuse of counter-terrorism legislation by the Egyptian government to crack down on dissent and violate the rights to freedom of expression, association and peaceful assembly.

As stated above, under article 31 of the asylum law, asylum seekers who were unable to file asylum claims within 45 days of their irregular entry to Egypt are also vulnerable to refoulement.

The law does not explicitly stipulate for the right of asylum-seekers and refugees to challenge decisions to remove them from Egypt in front of a competent tribunal.

Recommendations for parliament to amend the law to:

- Enshrine in the text of the asylum law the respect in all circumstances of the principle of non-refoulement, which prohibits the transfer of anyone to a place where they would be at real risk of persecution or other serious human rights violations.
- Ensure respect for procedural safeguards for all foreign nationals subject to deportation, including: access to fair and transparent procedures; the ability to challenge individually the deportation decision, access to adequate interpretation services and legal counsel, and access to a judicial review of deportation order.

INFRINGEMENT ON THE HUMAN RIGHTS OF REFUGEES

Right to freedom of religion

*"Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching." **International Covenant on Civil and Political Rights, Article, 18(1)***

The asylum law restricts refugees' right to thought, conscience and religion, which encompasses the right of individuals to practice their religion including in public. Article 4 of the law stipulates that "refugees have the right to freedom of religious belief" but only adherents of Islam, Christianity, and Judaism, "have the right to practice religious rituals." These restrictions, which also apply to Egyptian nationals,⁹ violate the right to freedom of thought, conscience and religion enshrined in the Universal Declaration of Human Rights and the ICCPR.

Right to education

*"The Contracting States shall accord to refugees treatment as favorable as possible, and, in any event, not less favorable than that accorded to aliens generally in the same circumstances, with respect to education other than elementary education and, in particular, as regards access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships." **The 1951 Convention relating to the Status of Refugees, Article 22(2)***

"The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to

⁸ 1951 Refugee Convention, Article 9.

⁹ Article 64 of Egypt's constitution stipulates that "Freedom of belief is absolute. The freedom of practicing religious rituals and establishing worship places for the followers of Abrahamic religions is a right regulated by Law."

participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:

(a) Primary education shall be compulsory and available free to all;

(b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;

(c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education." **International Covenant on Economic, Social and Cultural Rights, Article 13**

In a positive step, the law guarantees the right of child refugees to primary education. However, it fails to extend this guarantee to other educational stages, and provides no specific provisions to regulate access of refugees or asylum-seekers to secondary or tertiary education. A decree by [the Ministry of Education and Technical Education](#) introduces discriminatory access to education based on nationality. Foreign nationals who lawfully reside in Egypt generally have access to pre-university level education but they are only entitled to enrol in private schools, with the exception of Jordanian, Sudanese, Saudi and Libyan nationals who are entitled to enrol in public schools conditioned on paying additional fees. All foreign nationals in Egypt are entitled to enrol in public universities, but they have to pay much higher fees than Egyptian nationals.

The right to education is enshrined in International Covenant on Economic, Social and Cultural Rights (ICESC), to which Egypt is a state party. Under international law, the covenant rights should [apply](#) to everyone in the territory of the state party regardless of their legal status and documentation. This includes non-nationals, such as refugees, asylum-seekers, stateless persons, migrant workers and victims of international trafficking.

According to the [UN Committee on Economic, Social and Cultural Rights](#), which interprets states' obligations under the ICESCR, the essential minimum content of each right under the ICESCR should be provided in all circumstances to everyone under the jurisdiction of the state, without exception. The right of each child to education should be recognized by states regardless of the nationality or the legal status of their parents. Moreover, access to education is significant for integration in the host country and will reduce dependence on public support or charity.

Right to freedom of movement

"Each Contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence and to move freely within its territory subject to any regulations applicable to aliens generally in the same circumstances." **The 1951 Convention relating to the Status of Refugees, Article 26**

The asylum law imposes undue restrictions on the freedom of movement of refugees that are not applicable to other foreign nationals in violation to the 1951 Refugee Convention. Article 22 of the law restricts the right to freedom of movement and to choose one's place of residence of refugees staying in the country lawfully during times of war, the imposition of counter-terrorism measures, and other exceptional or grave circumstances. Similar restrictions are not stipulated under Egyptian law for other foreign nationals or Egyptian nationals.

Right to social security and public relief

"The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." **ICESR, Article 2(2)**

Egypt made reservations to Articles 23 and 24 of the 1951 Refugee Convention, which require states to grant refugees equal access as nationals to public relief and social security benefits because "these articles consider the refugee as equal to the national." However, under the ICESCR, the state still has an obligation to progressively ensure

that all individuals, regardless of their status and documentation, including refugees and asylum seekers, within their territories have equal access to economic, social and cultural rights enshrined in the covenant, including the rights to social security.

According to the UN Committee on Economic, Social, and Cultural Rights, refugees and asylum-seekers and other disadvantaged groups, regardless of their nationality or migration status, should have equal access as nationals to [non-contributory social security programmes](#), including for income support, access to healthcare, and family support.¹⁰

Recommendations for parliament to amend the asylum law:

- Ensure that refugees and asylum-seekers enjoy the right to freedom of thought, religion and conscience without restrictions.
- Ensure that refugees have the right to education beyond primary school without any discrimination.
- Ensure that refugees and asylum-seekers enjoy the right to freedom of movement without discrimination.
- Align the proposed legislation with the Refugee Convention and the ICESR to ensure that refugees have the same access as nationals to social security and public relief, regardless of their nationality or legal status.

NO RIGHTS FOR ASYLUM SEEKERS

The asylum law makes a clear distinction between the rights granted to asylum seekers and refugees. According to the draft, asylum seekers are foreign nationals who submitted an asylum request to the relevant authorities and are waiting for their claims to be processed, while refugees are foreign nationals recognized as refugees by the PCRA. The law creates a critical legal vacuum regarding the status and treatment of asylum seekers awaiting the processing of their claims, which could take up to a year according to the law. It provides no provisions for the rights of asylum seekers during this period, including access to adequate reception, shelter, healthcare, housing, education, or work.

Under international law, being a refugee is a fact-based status, and arises before the official, legal granting of asylum. The rights of refugees must be respected prior to, during, and after the process of seeking asylum. According to the UN Committee on Economic, Social, and Cultural Rights, everyone under the jurisdiction of the state [should enjoy the ICESR rights](#), including asylum-seekers, refugees, and other migrants, even if their presence in the country is irregular.¹¹

While their asylum claims are being processed, asylum seekers should be granted a temporary status to ensure that they can enjoy economic, social and cultural rights without discrimination. The lack of documentation should not be a basis to deprive asylum-seekers or any other individuals under the state jurisdiction from enjoying economic, social, and cultural rights.

Not only does the asylum law fail to include any provisions to guarantee the rights of asylum seekers, but it also imposes harsh penalties on those who provide them with work or accommodation without notifying the authorities. Article 37 stipulates that those who use the labour of or accommodate asylum seekers, without notifying the local police station, will face at least six months of imprisonment and/or a fine ranging between EGP 50,000 (USD 1,005) and 100,000 (USD 2011). Humanitarian assistance actions which are committed without criminal intent should never lead to criminal liability.

According to the prime minister's decision referring the asylum law to parliament, individuals who acquired refugee status before the enactment of the law will continue to be recognized as refugees. The law is silent on the status of asylum seekers who had registered with UNHCR before the law comes into force, but who had not yet had their claims processed. The law fails to specify whether asylum seekers in that category would be able to submit applications to the PCRA, and whether they would be exempt from the obligation to do so within 45 days of their irregular entry to Egypt.

¹⁰ UN Committee on Economic, Social and Cultural Rights, General Comment 19: The Right to Social Security (Article 12), 4 February 2008, UN Doc. E/C.12/GC/19, para. 4(b).

¹¹ UN Committee on Economic, Social and Cultural Rights, Statement: Duties of States towards refugees and migrants under the International Covenant on Economic, Social and Cultural Rights, 13 March 2017, UN Doc. E/C.12/2017/1, para. (3).

Recommendations for parliament to amend the asylum law:

- Ensure that pending a decision on their asylum claims, asylum-seekers are given a temporary legal status and that they have access to economic, social, and cultural rights without discrimination.
- Ensure that asylum-seekers registered by UNHCR are able to submit their claims for asylum to the PCRA when the law comes into force regardless of when they entered Egypt.
- Refrain from criminalizing humanitarian assistance or other support provided to asylum-seekers without criminal intent.