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SPECIAL RAPPORTEUR ON MINORITY ISSUES
UN HIGH COMMISSIONER FOR REFUGEES
INTERNATIONAL ORGANISATION FOR MIGRATION

THE DETENTION AND REFOULEMENT OF SUDANESE REFUGEES IN EGYPT

Submitted in April 2024 by:

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ABOUT THE GLOBAL DETENTION PROJECT

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

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

ABOUT THE COMMITTEE FOR JUSTICE (CFJ)

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

To the attention of:

- **European Commission & Parliamentary Members**
- **UN Working Group on Arbitrary Detention**
- **UN Subcommittee on the Prevention of Torture**
- **UN Special Rapporteur on the Human Rights of Migrants**
- **UN Special Rapporteur on Minority Issues**
- **UN High Commissioner for Refugees**
- **International Organisation for Migration**

With the escalating conflict in Sudan between the Sudanese army and opposition paramilitary forces entering its twelfth month, the humanitarian crisis in the country continues to deteriorate, with important spill-over effects into neighbouring Egypt. As large numbers of Sudanese refugees have entered Egypt, Egyptian authorities have responded by ramping up arrests, arbitrary detentions, pushbacks, and *refoulements*, in breach of Egypt's obligations under international refugee law and its international human rights commitments. Critically, these violations are occurring at a time of increased support from the European Union aimed at boosting Egypt's migration management operations, which raises concerns about Europe's potential culpability in abuses committed against vulnerable refugees and asylum seekers in the region.

The power struggle in Sudan, which erupted into a full-scale conflict in April 2023, has led to massive displacement, exasperating long-standing instability in the country where nearly 25 million people—more than half of Sudan's population—are thought to be in urgent need of humanitarian aid.¹ While this crisis has struggled to get adequate international attention as conflicts flare in the Middle East, Ukraine, and elsewhere, what little attention it has received has largely failed to take into account Egypt's draconian response along its southern border, which violates fundamental human rights and humanitarian norms and principles.²

Since the start of the conflict in Sudan, Egypt has seen the number of immigration-related detentions skyrocket—particularly those on the grounds of irregular entry and exit. The majority have targeted Sudanese refugees entering Egypt to escape the ongoing conflict who, due to the challenges in obtaining an entry visa to Egypt, enter the country irregularly. Recorded arrests during the year were 42 percent higher than in 2022, totalling as many as 5,200 arrests in comparison to 2022's 3,800 arrests. Reports of arrests in January 2024 already indicate that increased detention rates will continue: in January 2024 alone, more than 990 individuals were arrested. Prior to the conflict, meanwhile, detentions in Egypt averaged approximately 300 per month. These numbers, however,

¹ International Rescue Committee, "Crisis in Sudan: What is Happening and How to Help," 14 December 2023, <https://www.rescue.org/eu/article/fighting-sudan-what-you-need-know-about-crisis>

² There are some exceptions, such as this statement from the Refugees Platform in Egypt: "Joint Statement: Egyptian Authorities Must End Arbitrary Detention and Forced Deportations of Sudanese Refugees and Asylum Seekers," 27 March 2024, <https://rpegy.org/en/editions/joint-statement-egyptian-authorities-must-end-arbitrary-detentions-and-forced-deportations-of-sudanese-refugees-and-asylum-seekers/>

do not reflect de facto arrests and detentions, which reports suggest could be occurring on a large scale, underscoring the urgency for the international community to address this situation.

The increase in detentions has also been accompanied by an unprecedented rise in incidents of *refoulement*, particularly to Sudan, an active conflict zone, demonstrating a clear shift in Egyptian authorities' policies towards deportation in comparison to previous years. In previous years, authorities funded and enforced deportations at a more limited scale—not exceeding 500—to Eritrea, as previously reported by the Global Detention Project, and South Sudan. Before 2021, authorities almost never funded or enforced deportations, instead leaving those who were unwilling to return to their countries to linger in indefinite administrative detention. In 2023, information shared with refugee protection partners indicated that more than 3,300 individuals were forcibly removed, including over 40 group deportation incidents. As with the arrest and detention numbers, however, these statistics likely do not take into the account potentially large numbers of unreported or unobserved pushbacks that are also likely occurring along the border.

Egypt's draconian response to the crisis in Sudan is occurring at the same time that it has successfully negotiated major financial agreements with the European Union to assist "migration management," which threaten to undermine the EU's commitment to human rights values. In March 2024, the EU announced an EUR 7 billion aid package for Egypt, which reportedly includes at least 200 million for boosting Egypt's migration controls.³ While some EU leaders, like Italian Prime Minister Giorgia Meloni, regard these deals as "the best way to address migratory flows," to the extent such support enables Egypt's violations of fundamental human rights and humanitarian norms, they may also implicate Brussels and all EU countries in these violations. We urge the international community and leaders in Brussels and across Europe to scrutinise efforts to "externalise" EU migration controls to ensure that financing provided to Egypt cannot be used to harm refugees, asylum seekers, or migrants.

1. LEGAL FRAMEWORK IN SUMMARY

Egypt is a signatory to the 1951 Convention Relating to the Status of Refugees and has ratified several relevant international human rights instruments, which provide important protections for refugees, asylum seekers, and migrants. These include legal obligations to guarantee the right to asylum, to prevent *refoulement*, to not punish non-citizens for irregular entry or presence in Egypt, and to uphold the right to liberty and security of persons of all people—citizens and non-citizens alike.

In 2004, Egypt and Sudan also signed an agreement, the so-called "Four Freedoms Convention," allowing the free movement of citizens between both countries. With the eruption of the armed conflict in April 2023, Egypt was therefore naturally perceived as the primary destination for refuge given the

³ P. Werr, "EU Pledges Billions of Euros for Egypt as it Seeks to Curb Migration," 17 March 2024, <https://www.reuters.com/world/eu-bolster-egypt-ties-with-billions-funding-2024-03-17/>

long intricate history between the two countries.⁴ This was also emphasised in UNHCR's Position on Returns to Sudan published in May 2023, which stipulates that Egypt has an obligation to suspend the forcible return of any Sudanese to Sudan considering their apparent international protection needs and eligibility for refugee status.

Despite these legal obligations however, on 7 June 2023 the Egyptian authorities harshened their position by issuing a decision requiring women, children under 16, and men over 50 to obtain entry visas to cross into Egypt. This agreement was issued on the same day that the Egyptian Cabinet announced its approval of a draft law on foreign asylum, the details of which remain unknown to this day. Moreover, since the eruption of the conflict in Sudan, Egypt has engaged in detention and deportation of thousands of Sudanese refugees, in addition to large numbers of non-Sudanese seeking to transit Sudan en route to Egypt and other destinations.

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

Overall, authorities have in practice largely chosen not to press criminal charges for immigration-status violations, including irregular entry, exit, or unauthorised residence despite different legal provisions in the 1960 Law No. 89 on Entry and Residence of Aliens in the Territories of the United Arab Republic and their Departure, therefrom (amended by Law No. 88 in 2005) which regulates foreigners' entry, stay, and exit from Egypt.⁵ Instead, authorities have used administrative detention for migration-related violations. The main use of administrative detention is to enforce the removal of non-nationals.⁶

- **For UNHCR registered individuals:** If an individual is arrested and detained by Egyptian authorities for migration related-infractions while registered with UNHCR, the Passport and Foreign Emigration Administration will verify their registration with UNHCR. UNHCR will confirm the detainees' registration as an asylum-seeker or refugee and their entitlement to reside in Egypt in accordance with the 1951 Convention Relating to the Status of Refugees. Once registration with UNHCR is confirmed, the case is then referred to Egyptian National Security for further security clearance, after which Egyptian authorities allow for the individual's release from detention within an overall average of two to three weeks.

⁴ It is important to note, however, that with the escalation of violence in Sudan and the influx of displaced individuals heading to Egypt, crossing procedures became extremely slow. According to accounts from Refugees Platform in Egypt (RPE), "many displaced individuals [contracted] diseases, with some of them dying after the deterioration of their conditions" due to the waiting area being largely unequipped to accommodate large numbers of displaced individuals.

⁵ The American University in Cairo, "Refugee Entitlements," February 2020, (p.248), <https://documents.aucegypt.edu/Docs/GAPP/Refugee-Entitlements-Report%202.0.pdf>

⁶ The American University in Cairo, "Refugee Entitlements," February 2020, (p.248), <https://documents.aucegypt.edu/Docs/GAPP/Refugee-Entitlements-Report%202.0.pdf>

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

Foreigners who are detained cannot avail the guaranteed rights provided under Criminal Procedure Law, including access to legal counsel or the limitation of detention periods, because they do not face criminal charges and are detained as a result of an executive order. Therefore, holding individuals under administrative detention for migration-related infractions creates a loophole in which refugees and migrants are unable to access legal representation or challenge decisions. In theory, Egyptian law entitles any person to appeal against decisions by administrative/executive bodies through Administrative Courts “on the grounds of lack of jurisdiction, or defect in legal form, or violation of laws or regulations, or error in their application and interpretation.”⁷ Therefore, the law entitles refugees to appeal their deportation order, even if they are unable to challenge their detention itself. However, the State Council only accepts appeals submitted by those who are personally impacted by the executive decision.⁸ While they are detained, refugees lack the legal status to provide power of attorney for a lawyer to act on their behalf to file a lawsuit against the deportation decision and cannot be physically present to file the lawsuit themselves.

As a standard, prior to 2021 Egyptian authorities did not cover the expenses of deportation and individuals unable to cover their own expenses or unwilling to avail of their national governments due to a well-founded fear of persecution were instead left in indefinite administrative detention. However, between 2021 and 2022, an increasing number of deportations of Eritreans, covered by Egyptian authorities, took place, marking a shift in the authorities’ approach to detention.⁹ This was highlighted by the GDP in an 2021 Urgent Appeal.¹⁰ There were also multiple reports of South Sudanese being deported, including a group of South Sudanese students.¹¹

In 2023, the rate of detentions for immigration violations significantly increased, including deportations, showing a deteriorating protection environment for refugees, especially those fleeing the war in Sudan.

⁷ The American University in Cairo, “Refugee Entitlements,” February 2020, (*supra* note 1, p. 277), <https://documents.aucegypt.edu/Docs/GAPP/Refugee-Entitlements-Report%202.0.pdf>

⁸ *The State Council Law, Law No. 47 for 1972*, available at: <https://static1.squarespace.com/static/554109b8e4b0269a2d77e01d/t/554b8c3fe4b05198a8a4eb53/1431014463746/State+Council+Law-Arabic.pdf> [accessed 23 December 2021] (available in Arabic).

⁹ Refugees Platform in Egypt, “Facts Report: Arbitrary Detention and Forcible Deportation of Eritrean Asylum Seekers from Egypt,” August 2022, <https://rpegy.org/en/editions/facts-report-arbitrary-detention-and-forcible-deportation-of-eritrean-asylum-seekers-from-egypt/>

¹⁰ Global Detention Project, “Urgent Appeal: The Case of Egypt and Eritrea,” 20 December 2021, <https://www.globaldetentionproject.org/urgent-appeal-the-case-of-egypt-and-eritrea>

¹¹ Voice of America, “Egypt to Deport More South Sudanese Students,” 25 October 2022, <https://www.voafrika.com/a/egypt-deports-south-sudanese-students-/6804966.html>

2. CONTEXT: THE CONFLICT IN SUDAN AND ACCESS TO EGYPT

In May 2023, following the onset of the conflict in Sudan, UNHCR issued a non-return advisory note for Sudan.¹² UNHCR called on “all countries to allow civilians of all nationalities fleeing Sudan non-discriminatory access to their territories” and for “States to suspend the forcible return of nationals and stateless persons who were habitual residents of Sudan, including those who have already had their asylum claims rejected.”¹³

Despite this, two months into the conflict, Egypt suspended visa free entry for Sudanese women and children (including boys under 16 years old), and men over 60. Since June 2023, Egyptian authorities have required all Sudanese arrivals to have an Egyptian visa on a valid Sudanese passport. Immediately following these restrictions on entry, the number of Sudanese entering Egypt from Sudan regularly from the two border crossings (Qustul and Argeen) dropped from a daily average of around 7,000 to a daily average of between 300 and 400. Between 15 April and 29 May, 164,000 Sudanese and 5,565 third-country nationals had entered Egypt regularly; this figure accounts for 44 percent of the total number of Sudanese (370,000) that regularly entered Egypt and 55 percent of the third country nationals (8,504) up to 31 December 2023.

Waiting periods to obtain Egyptian visas from consulates in Sudan range from two to five months, while conditions in border areas such as Wadi Halfa have grown precarious. Many areas are severely overcrowded and resources are limited—particularly for those with severe medical needs.¹⁴ It is reported that the combination of these circumstances and the intensification of violence in Sudan has pushed increasing numbers of people to seek protection in Egypt, even if irregularly.

The risks involved in irregular entry, however, are high. In late December 2023, the Consulate General of the Republic of Sudan in Egypt, which is based in Aswan, issued a statement warning people of the “significant dangers” of entering Egypt “through illegal ways.”¹⁵ Among the risks it lists are “traffic accidents involving vehicles used for smuggling, the threat of robbery and extortion by human trafficking gangs, becoming lost in the desert, and possible arrest and detention.”¹⁶ It highlighted that those able to enter irregularly face ongoing risk of detention and deportation, inability to enroll children in Egyptian schools, and inability to return to Sudan regularly.¹⁷ As well as Sudanese nationals

¹² UNHCR, “UNHCR Position on Returns to Sudan,” May 2023, <https://www.refworld.org/policy/countrypos/unhcr/2023/en/124252>

¹³ UNHCR, “UNHCR Position on Returns to Sudan,” May 2023, <https://www.refworld.org/policy/countrypos/unhcr/2023/en/124252>

¹⁴ Radio Dabanga, “Egypt Asked to Ease Visa for Sudan Transport Drivers and Medical Patients,” 28 November 2023, <https://www.dabangasudan.org/en/all-news/article/egypt-asked-to-ease-visa-procedures-for-sudan-transport-drivers-and-medical-patients>

¹⁵ UNHCR, “Sudan Situation - UNHCR External Update #42,” 8 January 2024, <https://reliefweb.int/report/sudan/sudan-situation-unhcr-external-update-42-26-december-2023-3-january-2024>

¹⁶ UNHCR, “Sudan Situation - UNHCR External Update #42,” 8 January 2024, <https://reliefweb.int/report/sudan/sudan-situation-unhcr-external-update-42-26-december-2023-3-january-2024>

¹⁷ UNHCR, “Sudan Situation - UNHCR External Update #42,” 8 January 2024, <https://reliefweb.int/report/sudan/sudan-situation-unhcr-external-update-42-26-december-2023-3-january-2024>

however, registered refugees and asylum seekers in Sudan have no legal avenue for entering Egypt, leaving them no option but irregular movement or remaining in Sudan, which is becoming increasingly perilous.

Without access to border areas, humanitarian actors have no ability to verify the number of irregular entries arriving from Sudan. Prior to the introduction of visa restrictions, UNHCR reported that less than 30 percent of registered refugees displaced by the conflict in Sudan had entered irregularly. But by October 2023 this percentage had increased to around 50 percent. By early 2024, of the 168,000 that UNHCR had registered after they fled the conflict in Sudan, over 60 percent had entered Egypt irregularly. For those fleeing the conflict in Sudan and who registered with UNHCR in December 2023 and January 2024, the percentage of irregular entries reached 80 percent in each month respectively.

UNHCR has yet to be given permission to conduct registration at the border or in Aswan. To formally seek asylum, all those fleeing Sudan, regardless of regular or irregular entry, must reach Cairo or Alexandria to register with UNHCR. The sheer length of this journey (more than 1,000 km) leaves asylum seekers acutely vulnerable to detention and deportation: to reach either of these cities, they must pass multiple checkpoints or face ID checks on trains, exposing them to apprehension. Despite UNHCR significantly increasing its registration capacity, the demand for registration continues to increase, also causing delays in waiting periods for registration.¹⁸

3. DETENTIONS AND DEPORTATIONS

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

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

Egyptian authorities have increasingly relied on police stations and security camps scattered across southern and western border areas to hold those detained for irregular entry or exit—with children

¹⁸ UNHCR, "Fact Sheet-November 2023," https://www.unhcr.org/eg/wp-content/uploads/sites/36/2023/11/UNHCR-Egypt-Factsheet_NOV-2023.pdf

included amongst detainees. These sites are particularly difficult to access, and conditions are precarious and not suited to prolonged detention. Observers on the ground in Egypt have received reports of detainees suffering illnesses without any medical care, leading to at least one death.

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

In July 2023, news sources confirmed the deportation of over 2,000 individuals to Sudan that month; this included at least 350 Sudanese miners.¹⁹ Mining in Egypt is heavily regulated and restricted.²⁰ Further reports indicated that non-Sudanese were also being deported to Sudan.²¹ According to firsthand accounts and numerous reports, Sudanese arrested in border areas or in Aswan are processed for deportation within a matter of days and in some cases within 24 hours of their arrest.

- There have been further reports of Egyptian security operations taking place in gold mines in southern Egypt. A report from the Refugees' Platform in Egypt has highlighted that following the security raids of the mine since July 2023, there is evidence of Egyptian authorities deporting scores of Sudanese and other non-Sudanese African nationals across the Asif border crossing, a border crossing usually used for trade vehicles only.²² Some reports from Sudan indicate that up to 7,000 individuals were deported.²³ The report also flags incidents of disappearance, death, and injury of miners.²⁴
- In August, UNHCR reported in its Sudan Situation Report that "UNHCR continues to receive reports that 40 persons are deported daily for illegal entry/stay and criminal acts in Egypt. Intelligence authorities report that they are overwhelmed with the high volume of deportees and urge humanitarian actors to scale up support to relocate individuals deported to their regions of

¹⁹ Sudan Tribune, "Egypt Turns Away More than 2,000 Sudanese," 25 July 2023, <https://sudantribune.net/article275427/> (Arabic)

²⁰ Mada Masr, "Gold War," 13 July 2023, Available at: <https://www.madamasr.com/ar/2023/07/13/feature/%D8%B3%D9%8A%D8%A7%D8%B3%D8%A9/%D8%AD%D8%B1%D8%A8-%D8%A7%D9%84%D8%B0%D9%87%D8%A8/> (Arabic)

²¹ Sudan Tribune, "Egypt Turns Away More than 2,000 Sudanese," 25 July 2023, <https://sudantribune.net/article275427/> (Arabic), Radio Dabanga, "Egypt Deports Hundreds of Sudanese," 27 July 2023, <https://www.dabangasudan.org/en/all-news/article/egypt-deports-hundreds-of-sudanese-via-oseif-border-crossing>

²² Refugees Platform in Egypt, "Gold Struggle over the Bodies of Migrant Workers," 18 August 2023, <https://tinyurl.com/4kjmb49> (Arabic)

²³ Refugees Platform in Egypt, "Gold Struggle over the Bodies of Migrant Workers," 18 August 2023, <https://tinyurl.com/4kjmb49> (Arabic)

²⁴ Refugees Platform in Egypt, "Gold Struggle over the Bodies of Migrant Workers," 18 August 2023, <https://tinyurl.com/4kjmb49> (Arabic)

origin.”²⁵ Those deported included newly arrived as well as those who lived in Egypt for longer periods. This supported previous reports of large numbers being deported via land borders.

- In a UNHCR Sudan Situation response report, UNHCR indicated that “close to 1,600 people, including documented refugees were reportedly deported from Egypt” in November 2023.²⁶ This is already some 13 times higher than the number of reported deportations in all of 2022—with UNHCR reporting that 124 deportations took place throughout 2022.²⁷
- According to information shared with protection partners, UNHCR verified the deportation of more than 40 unregistered individuals and 50 registered individuals. Verified cases refer to those that UNHCR is able to identify by name and case. The disparity in numbers between verified cases and those reported by UNHCR, and the reports in the media, indicate a large and concerning gap. Lack of access to detention sites and systematic monitoring systems compound this gap in a time when increasing trends of *refoulement* are taking place.

Without access, there are no means to confirm age and gender breakdown of those deported. However, firsthand accounts confirm the detention and deportation of women and children—amongst them both accompanied and unaccompanied children.

- There are also reports among protection organisations of increasing numbers of children detained in southern Egypt, with a recent monthly report estimating the detention of more than 100 children. In 2022 and 2021, the highest number of children detained during a period/month was approximately 70.
- In January 2020, the National Council on Children and Motherhood (NCCM) published SOPs that it developed with UNICEF, IOM, and Save the Children over 18 months on the Protection and Assistance of Child Asylum-Seekers, Refugees and Victims of Migrant Smuggling and Trafficking in Persons.²⁸ The SOPs prohibit immigration detention for children and identify the process to refer them into alternatives to detention. However, since the adoption and publication of the SOPs, no refugee child has been released from immigration detention or referred into any alternatives to detention, as the SOPs have not been implemented for non-Egyptian children to date.

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

²⁵ UNHCR, “Sudan Situation - UNHCR External Update #21, 1 – 7 August 2023,” 9 August 2023, <https://reliefweb.int/report/sudan/sudan-situation-unhcr-external-update-21-1-7-august-2023>

²⁶ UNHCR, “Sudan Situation - UNHCR External Update #38,” 7 December 2023, <https://reliefweb.int/report/sudan/sudan-situation-unhcr-external-update-38-28-november-4-december-2023>

²⁷ UNHCR, “Egypt Detention Prevention and Response,” November 2022, <https://reliefweb.int/report/egypt/unhcr-egypt-detention-prevention-and-response-november-2022>

²⁸ NCCM, “Standard Operating Procedures for the Protection and Assistance of Child Asylum-Seekers, Refugees and Victims of Migrant Smuggling and Trafficking in Persons,” January 2020, <https://tinyurl.com/2aajvtyr>

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

The gap between the number of verified incidents of *refoulement* and the actual number of incidents of *refoulement* has been widening this year, as indicated above. Authorities do not release data on immigration detention or deportations and UNHCR is not systematically notified of the detention of refugees, regardless of their UNHCR registration status. In addition, UNHCR and partners have no access to those in detention. Both UNHCR and other protection partners have primarily relied on community reporting to identify cases in detention and those at risk of *refoulement*. Deportations to Sudan are particularly difficult to monitor as they are happening swiftly, within less than a week and in some cases within 24 hours of the arrest directly from Aswan to the border.

4. SUMMARY OF KEY OBSERVATIONS

- The rising trends of immigration detention cases reveals Egypt's use of detention as a means to control the large influx of refugees—Sudanese and otherwise—escaping the war in Sudan.
- Despite the lack of concrete publicly available data, reports from the community, media, and UN agencies indicate that thousands have been subject to *refoulement*.
- With the vast majority of deportations taking place to Sudan (despite UNHCR's Non-Return Advisory clearly highlighting the clear international protection needs of Sudanese refugees and the legal ban on their forced return to Sudan), these incidents are in direct violation of the obligation of *non-refoulement* enshrined in the 1951 Convention Relating to the Status of Refugees and the 1969 Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa.
- A 1000-fold increase in cases of *refoulement* among registered refugees and asylum-seekers indicates a departure from years-long policy or upholding international protection principles for those who formally apply for asylum by registering with UNHCR Egypt.
- The prevalence of women and children among those who are increasingly facing *refoulement* is indicative that Egyptian authorities are not employing detention and deportations to address security concerns regarding certain profiles, but as a tool of managing the influx of refugees.
- Police stations and security camps used to hold refugees and migrants lack basic infrastructure and deny access to any humanitarian actors, leaving refugees and migrants in unsanitary, unhealthy, and degrading conditions.
- Without the release of official data pertaining to immigration detention and deportation and without access to police stations where refugees are detained, community reporting continues to be the primary source of information on immigration detention and those at risk of *refoulement*. Since the eruption of the conflict in Sudan, Aswan has become highly securitised

and refugees may be arrested and detained simply for being in the area, particularly as it is more difficult for refugees to have valid residency. With the majority of detentions and deportations taking place here, it has become an increasingly challenging environment for community members to visit and document information.

- Deportations to Sudan are particularly difficult to monitor as they may occur swiftly. In the past, for other nationalities, they are usually transferred to Cairo before deportation, allowing community members to visit or communicate with those detained.

5. RECOMMENDATIONS

We urge the international community—including representatives of human rights monitoring bodies and relevant international organizations—as well as EU officials and elected representatives to raise these concerns with their counterparts in Egypt and to make several critical recommendations, including:

- **Cease de facto and arbitrary detention operations in border regions** and ensure that all apprehended refugees, asylum seekers, and migrants in these areas are provided proper medical attention and assistance, as well as information about their rights, as per the recommendations of the UN Working Group on Arbitrary Detention (WGAD) in its *Revised Deliberation No. 5 on the deprivation of liberty of all non-citizens*, which stipulates that “Arbitrary detention can never be justified, including for any reason related to national emergency, maintaining public security or the large movements of immigrants or asylum seekers” (Paragraph 8).
- **End immigration detention for children and their families in line with recommendations** issued by the Committee on the Rights of the Child (CRC) in light of the “best interests” principle enshrined in the Convention on the Rights of the Child, as per the joint CRC/Committee on Migrant Workers in General Comment No. 23 (2017)/No. 4 (2017) on “State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return.”²⁹
- **Ensure that detainees are able to challenge the grounds of their detention before a court or other competent, independent, and impartial authority, and provided access to legal aid**, as per the WGAD’s *Deliberation No. 5, paragraph 30*, which states that “Any detention in the course of migration proceedings that makes it impossible to mount an effective challenge to the continued detention is arbitrary.”

²⁹ UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, “Joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return,” CMW/C/GC/4-CRC/C/GC/23, 16 November 2017, <https://www.refworld.org/docid/5a12942a2b.html>

- **Remove visa requirements for those fleeing the conflict in Sudan** in line with Egypt's obligation under the 1951 Convention Relating to the Status of Refugees and Egypt's obligation of *non-refoulement* under international law.
- **Suspend all deportations to Sudan** in line with UNHCR's Advisory Opinion on Returns to Sudan and Egypt's obligations under the 1951 Convention Relating to the Status of Refugees.
- **Establish procedures that guarantee access to fair and efficient asylum proceedings for all those who are in Egyptian territory and claim asylum**, including immigration detainees, in line with the 1951 Convention Relating to the Status of Refugees and the
- **Suspend the enforcement of penalties on refugees coming directly from a territory where their life or freedom was threatened on account of their illegal entry or presence in Egypt** In line with Article 31 of the 1951 Convention Relating to the Status of Refugees.
- **Grant access to UNHCR and humanitarian organisations to border areas where large influxes of refugees are occurring and guarantee the right to access detention centre for independent institutions** such as the national human rights commission and civil society organisations as per *WGAD Revised Deliberation No. 5, paragraph 47*: "The Office of the United Nations High Commissioner for Refugees, the International Committee of the Red Cross and other relevant organizations, including national human rights institutions, national preventive mechanisms and international and national non- governmental organizations, must be allowed free access to the places of detention where those detained in the course of migration proceedings are held."
- **Provide data on immigration detention and deportations to ensure transparency and accountability.**