

A Critical Analysis of the Draft Refugee Law in Egypt

**Challenges to Protection, Legislative Gaps, and
Recommendations in Line with International
Standards**



A Critical Analysis of the Draft Refugee Law in Egypt: Challenges to Protection, Legislative Gaps, and Recommendations in Line with International Standards

Introduction

Migration and asylum are global issues of increasing significance due to the escalation of armed conflicts, climate change, and economic crises that force millions of people worldwide to seek safety and stability in new countries. Egypt, with its strategic geographical location connecting the continents of the Old World, is one of the key host countries for refugees and asylum seekers. According to the United Nations High Commissioner for Refugees (UNHCR), Egypt hosts more than 288,000 refugees and asylum seekers as of 2023, originating from countries such as Syria, Sudan, South Sudan, and Yemen.

Despite governmental and international efforts to support refugees, these individuals face mounting challenges due to the absence of a structured legal framework, leaving them vulnerable to various social, economic, and legal violations. In this context, the proposed new Refugee Law represents an attempt to regulate these situations. However, the draft law has faced significant criticism for its textual gaps and shortcomings.

This paper aims to provide a comprehensive analysis of the draft Refugee Law, highlighting its strengths and weaknesses, comparing it to international standards such as the 1951 Geneva Convention, and offering recommendations to enhance the text to ensure more comprehensive protection for refugees.



The Situation of Refugees and Migrants in Egypt: Challenges in Numbers

1. Education: A Missed Opportunity for Refugee Children

According to UNICEF's 2022 report, approximately 40% of refugee children in Egypt are excluded from the formal education system. These children face administrative barriers, high tuition fees, and a lack of schools willing to enrol them. This not only affects their right to education but also impairs their ability to integrate socially and build a stable future.

2. Healthcare: Basic Services Out of Reach

A 2021 report by UNHCR revealed that 70% of refugees struggle to access basic healthcare services, including mental health support, particularly for women and marginalized groups.

3. Employment: Legal Restrictions and Exploitation

According to a study by the International Labour Organization (ILO), 85% of refugees in Egypt work in the informal economy, making them vulnerable to exploitation and abuse. This reflects the lack of legal frameworks allowing them to work in a dignified and lawful manner.

4. Gender-Based Violence: A Constant Threat

Refugee women and girls in Egypt face a risk of sexual violence 40% higher than the global average, as noted in Amnesty International's 2022 report. This stems from the absence of adequate legal and social protection mechanisms.

5. Discrimination and Hate Speech

A 2023 report by Human Rights Watch (HRW) indicated that 60% of refugees in Egypt experience discrimination in public spaces, leading to social isolation and increased psychological distress.



Comprehensive Compilation of Articles: Texts, Comments, Recommendations, and Conclusions

Article (2): Establishment of the Permanent Committee for Refugee Affairs

- **Text:**

“A committee called the ‘Permanent Committee for Refugee Affairs’ shall be established, possessing legal personality, and shall report to the Prime Minister. Its headquarters will be in Cairo...”

- **Challenges:**

1. Centralization of the Committee in Cairo:

Concentrating the committee’s operations in Cairo imposes an additional burden on refugees in other regions, who may need to travel to submit their applications or follow up on their cases.

2. Lack of Independence:

Placing the committee under the direct authority of the Prime Minister raises concerns about its independence, potentially undermining the fairness of its decisions.

3. Absence of Operational Mechanisms:

The text lacks sufficient details on how the committee will execute its tasks and coordinate with other entities.

- **Recommendations:**

1. Decentralization of Services:

Establish regional branches of the committee in various areas to ensure easier access for all refugees.

2. Strengthen Independence:

Create an independent authority to manage refugee affairs without direct intervention from executive entities.

3. Clear Operational Framework:

Define specific and transparent mechanisms for the committee to carry out its functions and coordinate with relevant stakeholders.



Article (3): Formation of the Specialized Committee

- **Text:**

“The specialized committee shall be formed from representatives of the Ministries of Foreign Affairs, Justice, Interior, and Finance. Membership shall last for four years.

The Prime Minister shall issue a decision within three months of the enactment of this law to appoint the committee chair and members, define its operational framework, and determine the financial arrangements for the chairperson and members. The chairperson shall represent the committee in legal proceedings and external relations.”

- **Challenges:**

1. **Lack of Expertise in Refugee Rights:**

The text focuses on ministry representatives without specifying the inclusion of experts specialized in refugee issues and human rights.

2. **Membership Duration:**

The four-year membership period may lead to delays in renewal and a loss of institutional knowledge if clear mechanisms for member renewal or continuity are not stipulated.

3. **Lack of Transparency:**

The text does not clarify how members are selected or the criteria for appointment, potentially resulting in inefficiency and lack of competency.

- **Recommendations:**

1. **Inclusion of Specialists:**

Incorporate human rights experts and representatives from civil society organizations and the UNHCR in the committee’s composition.

2. **Clear Selection Criteria:**

Establish transparent and specific criteria for selecting committee members to ensure competence and representation.

3. **Performance Evaluation Mechanisms:**

Include a provision for regular evaluation of the committee’s performance and that of its members to maintain accountability and efficiency.



Article (5): Resources of the Specialized Committee

- **Text:**

“The resources of the specialized committee consist of the following:

- Allocations designated by the state in the general budget.
- Grants, donations, gifts, aid, and loans received or arranged in accordance with established rules and provisions, provided they align with the committee’s objectives and are approved by the relevant ministries and state authorities.”

Challenges:

1. Lack of Transparency in Resource Management:

The text does not specify mechanisms for financial oversight or how the funds will be utilized.

2. Reliance on Donations and Grants:

Heavy reliance on external funding sources could compromise the committee’s sustainability and limit its ability to perform effectively during financial shortfalls.

3. Absence of Accountability Provisions:

There is no mention of entities responsible for auditing accounts or ensuring transparency in resource management.

Recommendations:

1. Establish an Independent Financial Oversight System:

Create an independent body to monitor and ensure transparency in the management of resources.

2. Develop a Sustainable Funding Plan:

Allocate fixed and adequate funding from the state’s general budget to ensure the committee’s sustainability and operational efficiency.

3. Mandate Periodic Financial Reporting:

Require the committee to submit regular financial reports for review by independent regulatory authorities to promote accountability and transparency.



General Conclusions

Strengths:

1. The establishment of the committee is a positive step toward organizing refugee-related issues and coordinating efforts among various entities.
2. The articles provide the committee with broad powers to collaborate with international and local entities.

Weaknesses:

1. The articles lack specialization and transparency in the committee's operations.
2. Centralization and the committee's subordination to the Prime Minister may affect its efficiency and independence.
3. There is insufficient detail on resource management and the role of the technical secretariat.

Comprehensive Recommendations:

1. Enhance Independence and Transparency:
 - Introduce oversight and accountability mechanisms to ensure the committee operates transparently and independently.
2. Broaden Representation:
 - Include human rights experts and representatives from civil society organizations in the committee's structure.
3. Decentralize Operations:
 - Establish regional branches to ensure refugees across Egypt have access to the committee's services.
4. Implement a Clear and Sustainable Financial System:
 - Develop a sustainable funding model with fixed allocations from the state budget and implement a transparent financial management framework.



Article (7): Procedures for Submitting Asylum Requests and Responsibilities of the Specialized Committee

Third Paragraph of the Article:

“The specialized 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 informed of the committee’s decision.

Until the asylum request is decided, the committee may request any measures or procedures it deems necessary regarding the asylum seeker, based on considerations of national security and public order.”

Challenges:

1. Ambiguous and Undefined Terms: “National Security” and “Public Order”
 - The article grants the committee the authority to impose “necessary measures” on asylum seekers based on broad terms like “national security” and “public order.”
 - These undefined terms may lead to overly broad and arbitrary interpretations, potentially justifying detention or restrictions on freedom of movement even in the absence of a genuine threat.
 - The lack of clear definitions contradicts international standards that emphasize transparency and precision in laws affecting refugees.
2. Lack of Details on “Necessary Measures”:
 - The article does not specify what measures or procedures the committee may impose or set limits on their scope.
 - Such ambiguity could allow measures like detention or mobility restrictions, which conflict with the principle of non-arbitrary detention outlined in the 1951 Geneva Convention.
 - The absence of detailed provisions raises concerns about excessive use of these powers to restrict the rights of asylum seekers.
3. Conflict with Human Rights Principles:
 - Granting the committee authority to impose measures based solely on “considerations” without requiring concrete evidence or independent review could lead to human rights violations.



- For example, asylum seekers may be detained for extended periods without trial or clear legal justification.

Recommendations:

1. Clarify Terminology:
 - Provide precise definitions for terms like “national security” and “public order” to align with international standards.
 - These terms should only be applied in proven, specific circumstances posing a real and demonstrable threat.
2. Specify Measures and Procedures:
 - Include clear provisions outlining the types of measures that can be imposed on asylum seekers.
 - Ensure that any restrictive measures are proportional and implemented only after all less harmful alternatives are exhausted.
3. Adherence to International Standards:
 - Emphasize that any actions taken against asylum seekers must comply with the 1951 Geneva Convention, particularly Article 31, which prohibits penalties for refugees entering the host country irregularly when their life or freedom is at risk.
4. Prioritize Refugee Rights:
 - Mandate the committee to respect and uphold the rights of asylum seekers during the evaluation of their applications.
 - Ensure that measures are not used as a pretext for violating fundamental rights.
5. Introduce Oversight and Appeal Mechanisms:
 - Include provisions allowing asylum seekers to challenge any measures or decisions imposed by the committee through an independent judicial or administrative review process.

Conclusion:

In its current form, Article (7) grants the specialized committee broad and unchecked powers, creating significant potential for rights violations against asylum seekers. To strike a balance between safeguarding national security and respecting human rights, the article must be revised to:

- Define terms and procedures clearly.
- Align all measures with international conventions.



- Provide mechanisms for oversight and appeal.

These changes will ensure the protection of asylum seekers' rights while maintaining legitimate security concerns.

Article (8): Conditions for Granting Refugee Status – Rejection of Asylum Due to Terrorist Entities

Text:

Paragraphs 4 and 5:

“4. If the individual is listed on the terrorist entities and individuals registry in the Arab Republic of Egypt pursuant to the provisions of Law No. 8 of 2015 concerning the regulation of terrorist entities and individuals.

5. If the individual has committed acts that undermine national security or public order.”

Challenges:

1. The arbitrariness of Paragraph 4:
 - If an individual is aware of being listed on a terrorist registry, it is unlikely they would seek asylum. The issue arises when the individual is unaware of being listed, particularly if they are a foreigner unfamiliar with Egyptian laws. This renders the provision arbitrary and opens the door to extensive abuses.
 - Reliance on the Terrorist Entities Law, which includes vague definitions, could lead to unjustified rejection of asylum applications.
2. Criticism of the Terrorist Entities Law:
 - The law has faced significant international criticism for its lack of transparency and broad scope.
 - Several of its provisions are under constitutional review, raising concerns about its reliability as a basis for rejecting asylum claims.

Recommendations:

1. Clarify and Limit Application Criteria:
 - Develop precise and transparent standards for implementing this article to avoid arbitrary rejection of asylum applications.
2. Remove Paragraphs 4 and 5:
 - Focus on the first three paragraphs to align the law with international refugee protection standards.



Conclusion:

Article (8) lacks transparency and clear criteria for rejecting asylum applications, leaving room for extensive and serious violations. It requires amendments to ensure fairness and adherence to international standards.

Article (9): Revocation of Refugee Status

Text:

“The specialized committee shall issue a decision to revoke refugee status in any of the following cases...

Clause 2: If it is proven that the refugee has committed any of the acts mentioned in Article (8) of this law.

Clause 3: If it is proven that the refugee has violated any of the obligations stipulated in Articles (28), (29), and (30) of this law.”

Challenges:

1. Potential for Unsubstantiated Accusations:
 - Refugee status can be revoked based on allegations that may lack sufficient evidence, undermining fairness.
2. Conflict with the Principle of Non-Refoulement:
 - Revoking refugee status may lead to deportation, violating the international principle of non-refoulement, which prohibits returning refugees to places where they face persecution or harm.
3. Overlap with Challenges in Article (8):
 - Similar concerns apply regarding the vague and potentially arbitrary grounds for revocation.

Recommendations:

1. Ensure Fair and Independent Investigations:
 - Mandate thorough, transparent, and independent investigations before making decisions to revoke refugee status.
2. Adhere to International Standards:



- Align the procedures for revocation with international laws ensuring refugee protection, particularly the 1951 Geneva Convention.
3. Apply Recommendations from Article (8):
- Address the vagueness in Article (8) to prevent unjust revocation of refugee status under Article (9).

Conclusion:

Article (9) requires explicit legal safeguards to protect refugees from arbitrary decisions. A fair process, adherence to international standards, and clear criteria are essential to uphold the rights of refugees and avoid misuse of authority.

Article (10): Security Measures Against Refugees

Text:

“The specialized committee, during times of war, in the context of legally prescribed counter-terrorism measures, or in the event of serious or exceptional circumstances, may request the implementation of measures and procedures deemed necessary for the protection of national security and public order, as regulated by the executive regulations of this law.”

Challenges:

1. Ambiguity in the Terms “Measures” and “Serious Circumstances”:
 - The text lacks clarity on the nature of the “measures” that can be imposed or what qualifies as “serious or exceptional circumstances.”
 - Such broad and undefined terminology can lead to arbitrary implementation, potentially infringing on refugees’ rights.
2. Overuse of Vague Security Terminology:
 - The repeated reliance on undefined terms such as “national security” and “public order” creates legal uncertainty and opens the door to potential abuses.

Recommendations:

1. Clarify Standards and Circumstances:
 - Clearly define what constitutes “serious or exceptional circumstances” and specify the types of measures that can be taken.



- Ensure these measures are proportionate and comply with international human rights standards.
2. Limit Scope of Measures:
- Include explicit safeguards to prevent misuse of authority and guarantee that any measures taken are necessary, justified, and time-limited.

Conclusion:

The article requires greater specificity to ensure its application does not lead to the arbitrary restriction of refugee rights. Precise definitions and safeguards are necessary to prevent misuse while addressing legitimate security concerns.

Article (12): Refugees' Travel Document

Text:

Paragraph 1:

"A refugee has the right to obtain a travel document issued by the relevant ministry after the approval of the specialized committee. The executive regulations of this law shall specify the rules and procedures for its issuance and renewal."

Paragraph 2:

"The specialized committee may, for reasons related to national security or public order, decide that refugees are not entitled to receive a travel document."

Challenges:

1. Lack of Clear Criteria for Refusal:
 - The article does not provide clear, objective criteria for denying a travel document, leaving decisions open to arbitrary interpretation.
2. Repetition of Undefined Security Terms:
 - The vague use of "national security" and "public order" without clear definitions creates ambiguity and potential for rights violations.

Recommendations:

1. Define Clear and Specific Criteria:
 - Establish clear, objective, and transparent standards for denying travel documents to refugees.



- Ensure decisions are based on evidence and subject to review.
- 2. Guarantee Refugee Mobility Rights:
 - Align the regulations with international standards to ensure that refugees can access travel documents as a fundamental right for mobility and access to opportunities.
- 3. Introduce Oversight Mechanisms:
 - Require independent oversight of decisions to deny travel documents to ensure accountability and prevent abuse.

Conclusion:

Article (12) needs improvements to safeguard refugees' basic rights to mobility and ensure decisions are made transparently and in accordance with international standards. Clear criteria and mechanisms for appeal or review are essential to prevent arbitrary denial of travel documents.

Article (14): Freedom of Belief

Text:

"Refugees shall have the freedom of religious belief, and followers of the Abrahamic religions shall have the right to practice their religious rituals in places of worship designated for this purpose."

Challenges:

1. **Restriction to Abrahamic Religions:**
 - Limiting the practice of religious rituals to followers of Abrahamic religions may lead to religious discrimination against refugees from other faiths or belief systems.
2. **Exclusion of Non-Religious Refugees:**
 - The article does not address the rights of refugees who do not adhere to Abrahamic religions or are non-religious.

Recommendations:

1. **Expand the Scope to Include All Beliefs:**
 - Broaden the language to ensure equal recognition and protection of all religious and non-religious beliefs, aligning with international human rights principles.
2. **Establish a Framework for Non-Religious Refugees:**



- Include provisions to protect the rights of refugees who do not follow traditional religious practices, ensuring their freedom of belief and expression.

Conclusion:

The article requires amendments to ensure equality in the right to freedom of belief for all refugees, regardless of their religion or lack thereof. Inclusivity and non-discrimination are essential to align with international standards.

Article (15): Personal Status

Text:

“...The personal status laws of the country of origin or residence shall apply to matters such as marriage, divorce, and inheritance.”

Challenges:

1. Exclusion of Non-Abrahamic or Non-Religious Refugees:

- The article does not address personal status issues for refugees who do not belong to Abrahamic religions or who are non-religious.
- This creates potential gaps in the legal protection of their rights in matters such as marriage, divorce, and inheritance.

Recommendations:

1. Include Provisions for Diverse Beliefs:

- Add provisions to address the personal status needs of refugees with diverse beliefs or those who are non-religious, ensuring their rights are respected.

2. Establish Neutral Legal Options:

- Introduce optional civil law frameworks that refugees can opt for, regardless of their religious or non-religious affiliations.

Conclusion:

Article (15) requires clearer provisions to protect the personal status rights of all refugees, including those from non-Abrahamic faiths or non-religious backgrounds. Ensuring inclusivity and equal protection is vital to uphold human rights and avoid discrimination.



Article (22): Freedom of Movement

Text:

“Except for the cases mentioned in Article (10) of this law, refugees shall have the freedom to move and choose their place of residence, provided they notify the specialized committee of their permanent residence and any changes to it, in accordance with relevant laws and the executive regulations of this law.”

Challenges:

1. Reference to Exceptions in Article (10):

- Linking the freedom of movement to the broad and undefined exceptions in Article (10) creates the potential for unjustified restrictions on refugees’ mobility.

2. Risk of Arbitrary Restrictions:

- The lack of clear criteria for invoking the exceptions under Article (10) may lead to disproportionate or arbitrary limitations on refugees’ freedom of movement.

Recommendations:

1. Clarify Standards for Exceptions:

- Define the circumstances under which restrictions can be imposed under Article (10), ensuring they are specific, proportionate, and aligned with international standards.

2. Strengthen Protections for Freedom of Movement:

- Include a provision guaranteeing that any restrictions must be necessary, justified, and subject to review by an independent body.

Conclusion:

Article (22) requires clearer standards to protect refugees’ freedom of movement from unjustified limitations linked to vague exceptions. Stronger safeguards and precise criteria are necessary to uphold this fundamental right.



Article (28): Commitment to Societal Values and Traditions

Text:

“A refugee is obligated to respect the Constitution, laws, and regulations in force in the Arab Republic of Egypt and to observe the values and traditions of Egyptian society.”

Challenges:

1. Ambiguity of Terms:

- Undefined terms such as “values of society” and “traditions of society” can lead to broad and arbitrary interpretations.
- These terms may be exploited to impose cultural or social restrictions inconsistent with refugees’ rights to preserve their own cultural and religious identities.

2. Potential for Cultural Restrictions:

- The article risks imposing expectations that conflict with refugees’ rights to maintain their cultural diversity and freedom of expression.

Recommendations:

1. Refine Terminology:

- Specify what is meant by “values of society” and “traditions,” ensuring these do not conflict with refugees’ rights as outlined in international conventions.

2. Protect Cultural and Religious Diversity:

- Add a provision explicitly safeguarding refugees’ rights to maintain their cultural and religious identities while adhering to the laws of the host country.

3. Promote Mutual Respect:

- Amend the article to highlight the importance of mutual respect between refugees and the host community, fostering integration without eroding individual rights.

Conclusion:

Article (28) needs amendments to clarify vague terms and prevent potential misuse that could infringe on refugees’ cultural and religious freedoms. Balancing respect for the host society’s norms with protection for the diversity of refugees is essential to ensure fairness and inclusivity.



Article (29): Prohibited Activities for Refugees

Text:

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

Challenges:

1. Vague Terminology:

- Terms such as “undermining national security” and “public order” are broad and undefined, creating room for arbitrary interpretation.
- This lack of clarity could be used to restrict legitimate forms of political activity or peaceful expression, even if they pose no real threat.

2. Conflict with Human Rights Principles:

- The prohibition on political activities could extend to peaceful forms of expression or community participation, violating fundamental human rights such as freedom of expression and peaceful assembly.

3. Risk of Deportation or Arbitrary Detention:

- The article allows for strict legal actions based on these activities, which could lead to forced deportation or arbitrary detention, infringing on refugees’ rights under international law.

Recommendations:

1. Define Key Terms Clearly:

- Provide precise definitions for terms like “national security” and “public order” to ensure they are not misused to suppress legitimate activities.

2. Protect Peaceful Activities:



- Explicitly safeguard peaceful activities such as freedom of expression and peaceful assembly, in alignment with international human rights standards.
- 3. Include Legal Safeguards:**
- Incorporate mechanisms to guarantee refugees the right to a fair trial and legal representation when accused of violating this article.
 - Establish oversight processes to review cases and prevent abuse of power.

Conclusion:

Article (29) requires amendments to prevent misuse of its provisions to restrict refugees' fundamental rights or penalize them for engaging in legitimate and peaceful activities. Defining vague terms, safeguarding lawful expression, and providing legal guarantees are essential to ensure the article aligns with international norms and protects refugees' rights.

Article (30): Political and Party Activities

Text:

"A refugee is prohibited from engaging in any political or party-related activities, participating in unions, or establishing, joining, or participating in any form in political parties."

Challenges:

1. Comprehensive Restriction of Freedoms:

- The article imposes a blanket ban on refugees engaging in any political or party-related activities, even peaceful ones. This total prohibition violates fundamental rights to freedom of expression and peaceful assembly.

2. Conflict with International Law:

- Refugees are entitled to basic rights under international treaties, including the right to peaceful expression of their opinions and involvement in non-threatening activities.

3. Exclusion from Unions:

- Prohibiting refugees from participating in labor unions denies them opportunities to advocate for better working conditions and defend their rights in often exploitative labor environments.

Recommendations:

1. Limit the Ban to Security-Threatening Activities Only:



- Amend the article to restrict only activities that pose a clear, genuine, and demonstrable threat to national security or public order.
- 2. Allow Participation in Labor Unions:**
 - Permit refugees to join labor unions and participate in activities aimed at improving their living and working conditions.
 - 3. Protect Peaceful Activities:**
 - Explicitly safeguard refugees' rights to engage in peaceful expression, advocacy, and assembly, as long as they comply with local and international laws.

Conclusion for Article (30):

The article imposes excessive restrictions on refugees' political and social participation. It should be revised to strike a balance between ensuring national security and respecting refugees' fundamental rights. Provisions should focus on preventing genuine threats while allowing lawful and peaceful engagement in political, social, and economic activities.

General Recommendations for Articles (29) and (30):

- 1. Addressing the Blanket Ban:**
 - Both articles impose a broad prohibition on various forms of peaceful expression and participation, which contradicts international human rights norms.
 - Restrictions should be specific, proportional, and tied to genuine threats, rather than imposing blanket bans.
- 2. Balancing National Security and Refugee Rights:**
 - Amend the articles to align with Egypt's international obligations under the 1951 Geneva Convention and other relevant treaties.
- 3. Enhancing Transparency:**
 - Establish clear and detailed criteria for prohibited activities to protect refugees from arbitrary decisions and ensure fairness.

Final Conclusion for Articles (29) and (30):

The current provisions in Articles (29) and (30) overly prioritize security concerns while neglecting the social and humanitarian needs of refugees. The proposed amendments aim to balance national security with the protection of refugees' fundamental rights, ensuring compliance with international standards and promoting a fairer approach to refugee management.



Article (31): Submission of Asylum Applications in Cases of Irregular Entry

Text:

“Anyone who has entered the Arab Republic of Egypt irregularly and meets the substantive conditions of an asylum seeker must voluntarily submit their application to the specialized committee within 45 days of their entry.”

Challenges:

1. Conflict with Article (32):

- Article (32) exempts individuals who immediately report themselves upon arrival from criminal liability. This raises questions about the legal status of those who do not immediately report but submit their applications within the 45-day timeframe.

2. Practical Challenges:

- Refugees may face difficulties submitting their applications within the prescribed period due to a lack of information, language barriers, or the absence of regional centers to facilitate the process.

Recommendations:

1. Clarify Legal Implications:

- Clearly define the consequences of failing to meet the 45-day deadline and the relationship between Articles (31) and (32).

2. Collaborate with International and Local Organizations:

- Work with organizations like UNHCR and NGOs to provide accessible information and guidance to asylum seekers on how to submit their applications.

3. Establish Regional Offices:

- Create branches of the specialized committee in border areas to simplify and expedite the application process for asylum seekers.



Article (32): Exemption from Criminal Liability

Text:

“Anyone coming 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 Arab Republic of Egypt, provided they report themselves immediately to any government authority upon arrival.”

Challenges:

1. Conflict with Article (31):

- There is ambiguity about the status of individuals who enter irregularly but do not report themselves immediately yet submit their applications within the 45-day period specified in Article (31).

2. Ambiguity of “Immediately”:

- The term “immediately” is undefined, leaving room for interpretation that may penalize refugees who cannot report themselves promptly due to physical, psychological, or logistical challenges.

Recommendations:

1. Harmonize Articles (31) and (32):

- Define the relationship between these two articles to ensure consistency and avoid penalizing asylum seekers who act within the specified timeframe of Article (31).

2. Define “Immediately”:

- Establish a reasonable timeframe for “immediately,” such as one week or more, considering the physical and psychological state of the asylum seeker upon arrival.

3. Simplify Reporting Mechanisms:

- Develop clear and accessible reporting processes for asylum seekers upon entry, including hotlines, online platforms, and designated reporting centers.

Final Conclusion:

The interplay between Articles (31) and (32) requires clarification to avoid legal ambiguities and ensure fair treatment of asylum seekers. Practical amendments, such as defining key terms, establishing reporting mechanisms, and facilitating access to application centers, are essential to uphold the rights of refugees while maintaining the integrity of the asylum process.



Article (33): Termination of Refugee Status

Text:

Paragraph 7:

“If it becomes impossible to continue rejecting the protection of the country of nationality or residence due to the reasons for asylum no longer existing.”

Paragraph 8:

“If the refugee leaves the Arab Republic of Egypt for a continuous period of six months without an excuse acceptable to the specialized committee. The specialized committee shall issue a decision within 45 days of verifying any of the aforementioned conditions. Except for the cases specified in clauses 1 and 3 of this article, the specialized committee shall request the relevant ministry to deport the refugee after issuing the said decision, in accordance with the executive regulations of this law.”

Challenges:

Paragraph 7: Cessation of Reasons for Asylum

1. Lack of Criteria for Determining “Cessation of Reasons”:

- The article does not specify who determines that the reasons for asylum have ceased or the mechanisms used for this assessment.
- For instance, the end of a conflict in a country does not necessarily mean that all refugees are safe to return, especially if they face persecution due to political opinions, religious beliefs, or ethnic identity.

2. Risk of Refoulement:

- The provision risks violating the principle of **Non-Refoulement**, a cornerstone of international refugee law, by potentially exposing refugees to danger upon return.

Paragraph 8: Departure from Egypt for Six Consecutive Months

1. Unjustified Restrictions:

- The provision fails to consider humanitarian or personal reasons that may compel a refugee to leave Egypt for an extended period, such as:
 - Medical treatment abroad.
 - Family reunification or attending a funeral.
 - Educational or training opportunities in other countries.



2. **Absence of Clear Criteria for Excuses:**

- The reliance on the specialized committee's acceptance of an excuse without defined standards opens the door to arbitrary decisions.

3. **Impact of Termination:**

- Revoking refugee status for such reasons could leave individuals without legal protection and vulnerable to exploitation or harm.

Recommendations:

For Paragraph 7:

1. **Establish Clear Criteria for Determining Cessation of Reasons:**

- Require that the determination of "cessation of reasons" be based on independent and reliable reports, such as those from the United Nations or reputable human rights organizations.
- Ensure a detailed, evidence-based review process that includes input from the refugee.

2. **Guarantee Against Refoulement:**

- Add explicit provisions ensuring that refugees will not be returned to a country where they face persecution or danger, in line with the **1951 Geneva Convention**.

For Paragraph 8:

1. **Incorporate Humanitarian Exceptions:**

- Explicitly state that reasons such as medical treatment, family reunification, or educational pursuits are valid excuses for prolonged absence.

2. **Define Standards for Acceptable Excuses:**

- Include transparent and objective criteria for evaluating excuses to ensure fairness and consistency in decision-making.

3. **Avoid Automatic Termination:**

- Allow refugees to retain their status if they provide a valid reason, even if submitted after the six-month period, to account for unforeseen circumstances.

Conclusion:

Paragraphs 7 and 8 require substantial amendments to align with international standards and protect refugees from arbitrary decisions and potential violations of their rights. Specifically:

- **Paragraph 7** needs clear criteria and safeguards against refoulement.



- **Paragraph 8** should include humanitarian exceptions and standardized criteria for evaluating excuses.

These changes will enhance transparency, ensure fairness, and safeguard the fundamental rights of refugees as outlined in the **1951 Geneva Convention** and other human rights instruments.

Articles (37), (38), and (39): Penalties

Article 37:

“Without prejudice to the provisions of labor law, anyone who employs or shelters an asylum seeker without notifying the competent police department in the area of work or shelter shall be punished with imprisonment for no less than six months and a fine of no less than 50,000 EGP and no more than 100,000 EGP, or one of these penalties.”

Article 38:

“Anyone who violates the provisions of Article 29 of this law shall be punished with imprisonment for no less than six months and a fine of no less than 50,000 EGP and no more than 100,000 EGP, or one of these penalties.”

Article 39:

“Without prejudice to the provisions of the law on combating irregular migration and smuggling of migrants (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 with imprisonment for no less than six months and a fine of no less than 10,000 EGP and no more than 100,000 EGP, or one of these penalties.”

Challenges:

1. Excessive Criminalization and Overreach:

- These articles impose severe penalties for actions that may be motivated by humanitarian concerns, such as providing shelter or assistance to asylum seekers.
- The potential criminalization of individuals, institutions, and civil society organizations may deter them from offering much-needed support to asylum seekers.

2. Impact on the Judicial and Penal System:

- The imposition of harsh penalties risks overwhelming courts and prisons, exacerbating existing systemic challenges in Egypt’s judiciary and corrections system.

3. Lack of Humanitarian Exceptions:

- The articles fail to account for emergency situations where individuals or organizations provide urgent assistance to asylum seekers.



4. Conflict with International Standards:

- These provisions contradict international norms, which prioritize protecting and supporting asylum seekers over punishing those who assist them.

Recommendations:

1. Incorporate Humanitarian Exceptions:

- Amend the articles to exempt individuals and organizations providing humanitarian aid from criminal liability, particularly in cases of emergency or necessity.

2. Focus Penalties on Exploitative Practices:

- Target penalties toward exploitative activities, such as trafficking or smuggling, rather than broad actions like offering shelter or employment without proper notification.

3. Reduce the Severity of Penalties:

- Scale down penalties to administrative fines or warnings for minor infractions, ensuring proportionality and fairness.

4. Promote Supportive Mechanisms:

- Encourage cooperation between authorities and civil society to create clear and accessible reporting mechanisms for sheltering or employing asylum seekers.

5. Align with International Obligations:

- Revise the provisions to align with international standards, such as the **1951 Refugee Convention**, which calls for protecting those who provide aid to refugees and asylum seekers.

Conclusion:

Articles 37, 38, and 39, as currently written, risk penalizing humanitarian acts and discouraging support for asylum seekers. By including humanitarian exceptions, reducing penalties, and targeting exploitative practices, the law can balance the need for regulation with its obligation to uphold human rights and international norms. These changes will ensure a fairer legal framework that fosters both accountability and compassion.

Recommendations:

1. Reconsideration of Penalties:

- Reduce the duration of imprisonment and the amount of financial fines.



- Replace punitive measures with alternative sanctions, such as reduced fines or community service.
- 2. Inclusion of Humanitarian Exceptions:**
- Explicitly exempt humanitarian and relief activities from the scope of penalties outlined in the articles.
- 3. Alignment with International Standards:**
- Amend the provisions to ensure the protection of asylum seekers and those providing support to them, in line with the **1951 Geneva Convention** and other relevant international instruments.
- 4. Introduction of Independent Judicial Review Mechanisms:**
- Ensure that decisions related to penalties are subject to independent judicial review to prevent misuse or arbitrary enforcement.
- 5. Clarification of Legal Texts:**
- Provide precise definitions and clear conditions for the application of penalties to avoid arbitrary or broad interpretations of the law.

Conclusion:

Articles 37, 38, and 39, as currently drafted, contribute to an overly punitive framework that could hinder the provision of humanitarian assistance to asylum seekers. These articles require substantial revisions to:

- **Reduce penalties** and ensure they are proportionate.
- **Introduce clear humanitarian exemptions** to protect those offering legitimate aid.
- **Ensure compliance with international standards** to avoid criminalizing actions aligned with basic human rights principles.

Such amendments will foster a more balanced approach, maintaining regulatory oversight while promoting the protection and support of asylum seekers and those assisting them.



Key Shortcomings in the Draft Refugee Law: A Detailed Analysis

1. Absence of Clear Provisions Criminalizing Discrimination and Hate Speech

Issues:

- **Direct Impact on Refugees:**

The lack of provisions explicitly criminalizing discrimination and hate speech enables discriminatory practices against refugees by individuals or institutions. Refugees, especially those from Sub-Saharan Africa or diverse cultural backgrounds, often face racist remarks that attack their dignity and humanity.

- **Hostile Social Environment:**

A 2023 Human Rights Watch (HRW) report indicates that 60% of refugees in Egypt have experienced racial or discriminatory behavior in public, including service denial, racist comments, or differential treatment by employers. Without legislation to penalize these actions, refugees lack the ability to defend themselves or seek compensation.

- **Psychological and Social Impact:**

Hate speech and discrimination drive refugees into social isolation, increasing psychological stress and reinforcing feelings of rejection within the host community.

Recommendations to Address This Gap:

1. **Include Provisions Criminalizing Discrimination:**

- Introduce articles that explicitly penalize any form of racial, cultural, or religious discrimination against refugees.

2. **Community Awareness Campaigns:**

- Launch public awareness initiatives in collaboration with government agencies and civil society organizations to reduce hate speech and educate about refugee rights.



2. Absence of Provisions Protecting Refugee Women from Gender-Based Violence

Issues:

- **Heightened Vulnerability of Refugee Women:**

Refugee women are particularly vulnerable to sexual violence, harassment, and exploitation due to insufficient legal and social protections. Amnesty International's 2022 report found that refugee women in Egypt face a 40% higher risk of sexual violence compared to others.

- **Lack of Safe Shelters:**

Egypt does not have specialized shelters for refugee women survivors of violence, leaving many to endure unsafe conditions. The absence of provisions mandating such facilities neglects their essential needs.

- **Inadequate Reporting and Support Mechanisms:**

Many refugee women lack awareness of how to report violence or seek help. Even when incidents are reported, they encounter a lack of psychological, social, and legal support.

Broader Impact:

- **Limited Community Participation:**

Women refugees' fear of violence and harassment reduces their ability to integrate and contribute to the host society.

- **Intergenerational Effects:**

Children living with mothers who are survivors of violence are more likely to face psychological and social challenges, perpetuating cycles of vulnerability and poverty.

Recommendations to Address This Gap:

- 1. Introduce Gender-Specific Provisions:**

- Mandate the establishment of safe shelters for refugee women survivors of violence.
- Provide comprehensive psychological, legal, and social support services.

- 2. Train Law Enforcement and Judiciary:**

- Implement cultural sensitivity training for police and judicial officers handling cases involving refugee women.



3. Lack of Rights for Refugees During Asylum Processing (Education and Healthcare)

Issues:

- **Legal Gaps:**

The draft law does not guarantee asylum seekers access to education or healthcare during the processing period, leaving them in a legal and social void. Processing can take months or years, during which asylum seekers lack basic rights.

- **Healthcare Barriers:**

Asylum seekers are often denied access to public healthcare services due to a lack of proper documentation, endangering their lives, particularly in emergencies or for those with chronic illnesses.

Broader Impact:

- **Social and Economic Costs:**

The denial of education and healthcare fosters cycles of poverty and marginalization, exacerbating challenges for refugees and imposing long-term social burdens on the host country.

- **Psychological Impact:**

The uncertainty surrounding asylum seekers' legal and social status exacerbates mental health issues and erodes their sense of stability.

Recommendations to Address This Gap:

- 1. Guarantee Basic Rights for Asylum Seekers:**

- Enact provisions granting asylum seekers access to education and healthcare during the processing period.
- Allow refugee children to attend public schools or create alternative educational frameworks.

- 2. Implement Practical Mechanisms:**

- Partner with international organizations to provide educational and healthcare services for asylum seekers.
- Secure funding for these services through international partnerships and agreements.



Conclusion:

The absence of legal provisions addressing:

- 1. Discrimination and hate speech**
- 2. Gender-based violence against refugee women**
- 3. Basic rights for asylum seekers during the application process (education and healthcare)**

constitutes major gaps in the draft refugee law. These omissions place refugees, particularly women and children, in legally and socially vulnerable positions. To address these shortcomings, the law must incorporate legislative amendments that:

- Strengthen refugee protections.
- Guarantee access to essential services.
- Align with Egypt's international obligations under the **1951 Geneva Convention** and other human rights frameworks.

Such measures would ensure a fair and humane approach to refugee management, upholding both legal standards and moral responsibilities.

General Commentary and Recommendations

The proposed refugee law represents a positive step toward regulating refugee affairs in Egypt. However, it suffers from several legal and technical gaps that undermine its ability to protect refugee rights and align with international standards. The draft law heavily emphasizes security and administrative aspects, neglecting the urgent humanitarian and social needs of refugees, especially women and marginalized groups.

Key Challenges in the Law

- 1. Lack of Clear Definitions:**
 - Ambiguous terms like “national security,” “societal values,” and “public order” are not precisely defined, leaving room for broad and arbitrary interpretations.
- 2. Excessive Punitive Approach:**
 - Certain articles impose harsh penalties without considering humanitarian circumstances or alternative measures.



3. Neglect of Marginalized Groups:

- The absence of specific provisions for vulnerable populations, such as women, children, survivors of violence, and individuals with disabilities, fails to address their unique needs and risks.

4. Lack of Transparency and Independence:

- The Permanent Committee for Refugee Affairs is subordinate to the Prime Minister, lacking independent oversight mechanisms.

5. Insufficient Legal Protection for Asylum Seekers:

- The law does not clearly outline the rights of refugees during the processing of their asylum applications or ensure access to basic services during this period.

Proposed Recommendations and Amendments

1. Strengthening Legal and Social Protections for Refugees

- **Criminalize Discrimination and Hate Speech:**
- Include explicit provisions to penalize any form of discrimination or incitement to hatred against refugees.
- **Protect Women and Vulnerable Groups:**
- Add provisions for the establishment of safe shelters for women survivors of sexual violence and ensure access to psychological and social support services.

2. Expanding Rights for Refugees and Asylum Seekers

- **Guarantee the Right to Education and Healthcare:**
- Explicitly state the right of refugee and asylum-seeking children to public education and basic healthcare, including mental health services.
- **Clarify the Status of Asylum Seekers During Processing:**
- Ensure they receive temporary residency documents granting access to essential rights and services.

3. Revising Punitive Articles

- **Reduce Harsh Penalties:**
- Replace severe imprisonment sentences with alternative sanctions such as reduced fines or community service.
- **Include Humanitarian Exceptions:**



- Exempt humanitarian and relief activities from punitive measures.

4. Enhancing Transparency and Independence

- **Restructure the Permanent Committee:**
- Transform it into an independent body reporting to Parliament or a judicial authority to ensure impartiality.
- **Engage Civil Society:**
- Include representatives from international organizations and human rights groups in the committee to enhance efficiency and transparency.
- **Introduce Independent Appeals Mechanisms:**
- Establish transparent mechanisms for reviewing and appealing decisions related to refugee status or penalties.

5. Ensuring Alignment with International Standards

- **Commit to the 1951 Geneva Convention:**
 - Revise articles to align with international obligations, particularly the principle of **Non-Refoulement**.
- **Reflect Regional Commitments:**
 - Incorporate provisions that align with African Union and Arab League protocols on refugee rights.

Conclusion

While the draft refugee law marks progress, it is undermined by significant gaps that place refugees, especially women and children, in legally and socially vulnerable positions. Addressing these shortcomings requires:

1. Legislative amendments to strengthen refugee protections and expand their rights.
2. Reducing the focus on punitive measures in favor of humanitarian and social support mechanisms.
3. Aligning the law with international obligations to ensure Egypt upholds its role as a responsible host nation.

By implementing these recommendations, the law can strike a balance between national security and the humane treatment of refugees, ensuring a fair and inclusive framework that reflects Egypt's international and regional commitments.



General Commentary and Recommendations

The proposed Refugee Law represents a positive step in principle toward regulating refugee affairs in Egypt. However, it suffers from several legal and technical gaps that negatively impact its ability to protect refugee rights and ensure alignment with international standards. The current law primarily focuses on security and administrative aspects, neglecting the necessary attention to the urgent humanitarian and social needs of refugees, particularly women and marginalized groups.

Key Issues in the Law

1. Lack of Clear Definitions:

- The absence of precise definitions for terms such as “national security,” “societal values,” and “public order” creates room for broad and arbitrary interpretations.

2. Excessive Punitive Approach:

- Certain articles impose harsh penalties without considering humanitarian circumstances.

3. Neglect of Marginalized Groups:

- There are no legal provisions addressing the needs of women, children, and other vulnerable groups, such as survivors of violence or persons with disabilities. While the law prioritizes their cases for review, this is insufficient given the violence they face and their specific needs.

4. Lack of Transparency and Independence:

- The Permanent Committee for Refugee Affairs is subordinate to the Prime Minister, and no independent oversight mechanisms are in place.

5. Absence of Legal Protection for Asylum Seekers:

- The law does not clarify the status of refugees during the processing of their applications or guarantee their access to basic rights.

Recommendations and Proposed Amendments

1. Enhancing Legal and Social Protections for Refugees

- **Introduce Clear Provisions Criminalizing Discrimination and Hate Speech:**
- Include explicit penalties for any form of discrimination or incitement to hatred against refugees.



- **Provide Protection for Women and Marginalized Groups:**
- Add provisions mandating the establishment of safe shelters for women survivors of sexual violence.
- Ensure access to psychological and social support services for vulnerable groups.

2. Expanding Rights for Refugees and Asylum Seekers

- **Guarantee the Right to Education and Healthcare:**
- Explicitly state the rights of refugee and asylum-seeking children to access public education and basic healthcare services, including mental health support.
- **Clarify the Status of Asylum Seekers During Application Processing:**
- Ensure asylum seekers are granted temporary residency documents allowing them access to essential rights and services during the processing period.

3. Revising Punitive Provisions

- **Reduce Penalties:**
- Mitigate harsh imprisonment sentences and replace them with alternative measures such as fines or community service.
- **include Humanitarian Exemptions:**
 - Explicitly exempt humanitarian and relief activities from the scope of punitive measures.

4. Enhancing Transparency and Independence

- **Restructure the Permanent Committee for Refugee Affairs:**
- Transform it into an independent body reporting to Parliament or a judicial authority to ensure impartiality.
- **Engage Civil Society:**
- Include representatives from international organizations and human rights groups within the committee to ensure efficiency and transparency.
- **Introduce Independent Appeals Mechanisms:**
- Establish mechanisms for independent review of decisions regarding refugee status or penalties.
- **Clarify Standards:**
- Define clear criteria for rejecting or revoking refugee status to avoid arbitrary decisions.

5. Aligning the Law with International Standards

- **Adhere to the 1951 Geneva Convention and Its Protocols:**



- Revise the provisions to ensure full compliance with international commitments, especially the principle of **Non-Refoulement**.
- **Reflect Egypt's Regional Obligations:**
- Incorporate provisions that align with the African Union and Arab League frameworks on refugee rights.

General Conclusion

Protecting the rights of refugees is not merely a legal obligation but a humanitarian and moral duty that reflects the image of a state and its respect for international standards. While the proposed refugee law is an important first step toward regulating refugee affairs, its current gaps risk exposing the most vulnerable groups to further dangers and violations.

A comprehensive review is essential, focusing on humanitarian and social dimensions while enhancing transparency and independence in the law's implementation.

Through the proposed recommendations, the law can be improved to become more inclusive and just, ensuring the protection of refugee rights and providing a safe environment that allows them to live with dignity and contribute to the host community. Adopting these amendments will also enhance Egypt's image as a welcoming country that respects human rights and its international obligations.

