

ERF Policy Research Report

The Legal and Policy Frameworks for an Inclusive Social Protection System in Egypt

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Summary

Background

Egypt is both a transit and destination country for refugees and asylum seekers. currently, Sudanese and Syrians are the two largest refugee groups in Egypt. This report focuses on the policy and legal frameworks governing access to social protection for refugees and asylum seekers in Egypt focusing on three key pillars of social protection: social transfers (non-contributory), social and health insurance (work-related contributory schemes), and access to the key social services of health and education. The report reviews the policies governing these pillars in view of the key conventions that were signed and ratified by Egypt, reflecting on *de jure* and *de facto* provisions. The report also provides a brief illustration of comparative international experiences in providing social protection for refugees and asylum seekers to provide recommendations for Egypt.

Methods

The research methodology adopted for the purpose of this study adopts a two-pronged approach; First, it relies on a thorough desk review of documents, including: A review of national legislations on social protection in Egypt and relevant secondary literature. Second, the study relies on a number of Interviews with representatives from key government and international organizations, including the Ministry of Social Solidarity (MoSS); the Ministry of Foreign Affairs (MoFA); the Ministry of Labor (MoL); the National Organization for Social Insurance (NOSI); the World Health Organization (WHO); and the UNHCR.

Findings

From a *de jure* perspective, the country has made reservations to the 1951 Refugees Convention. These are reservations to articles 20 (rationing), 22 (elementary education, paragraph 1), 23 (public relief and social assistance), and 24 (social security). The impact of these reservations on national law is variable. In the case of public relief, assistance, and access to rationing, all foreigners are excluded from access, while access to public schools is reserved for certain Arab nationalities regardless of whether they are migrants, refugees, or asylum seekers. The reservation on access to social security is rendered superfluous by Egypt's ratification of the ILO equality of treatment in Social Security Convention No. 118, as well as the subsequent ratification of Law No. 148/2019 on social security, which grants equal rights to social security for nationals and non-nationals.

In terms of *de facto* provisions, the cumbersome procedures to obtain residence permits, passport renewal, and the non-recognition of UNHCR cards as valid identification for some services pose serious challenges to refugees and asylum seekers in the country. Access to formal employment by refugees, a pre-condition to accessing contributory social protection, is thwarted by excessive restrictions on the employment of non-Egyptians in Egypt and the cap set on the number of foreigners working in any economic unit.

Recommendations

Regarding *de jure* provisions, an important prerequisite is for the Government of Egypt to retract its reservations on the articles of the Refugee Convention related to rationing, public relief, and assistance. With regard to *de facto* provisions, it is recommended that the cost of work permits be reduced significantly for refugees. Employment documentation is key to accessing such services.

1. Introduction

Egypt is both a transit and destination country for refugees and asylum seekers (Andrade et al., 2021). One of the first 26 signatory countries to the 1951 Refugee Convention, Egypt's role as a receiving country is historically rooted and geopolitically defined. Notably, the country received Palestinians following the 1948, 1956, and 1967 wars (El Abed, 2004) and continues to host other nationalities. According to the United Nations High Commissioner for Refugees (UNHCR), the number of registered refugees and asylum seekers in Egypt reached 539,956 individuals as of 29 February 2024.¹ However, refugees and asylum seekers constitute only three percent of foreigners residing in Egypt, who are estimated by the International Organization for Migration (IOM) to have reached more than nine million people in 2022 (IOM, 2022). Refugees and asylum seekers in Egypt predominantly come from conflict-affected countries in the region, primarily Sudan and Syria (see Table 1). The political turmoil as part of the Arab uprisings has resulted in a large number of refugees and asylum seekers entering Egypt (Andrade et al., 2021). The outbreak of military clashes in Sudan in April 2023 is estimated to have resulted in more than 500,000 individuals arriving in Egypt during the conflict (UNHCR, n.d.-b).

Refugees and asylum seekers are subject to multidimensional vulnerabilities. Poor health and limited financial means aside, they also face degrading working conditions, discrimination, and exclusion from access to public services (Andrade et al., 2021). Non-nationals are generally among the groups least covered by social protection in the Arab region (ILO, 2023a). Extending social protection to refugees and asylum seekers has multifaceted benefits. The argument for the positive impact of expanding the coverage of social protection systems on stabilizing the economy has been well established (Stiglitz, 2009). Beside the social justice perspective, the contributions of refugees, asylum seekers, and non-national residents can potentially enhance the sustainability of contributory social protection schemes by increasing the pool of contributions and reducing the pressure on social assistance schemes (ILO, 2021a).

This report focuses on the policy and legal frameworks governing access to social protection for refugees and asylum seekers in Egypt. The report focuses on three key pillars of social protection: social transfers (non-contributory), social and health insurance (work-related contributory schemes), and access to the key

social services of health and education.² The report will review the policies governing these pillars in view of the key conventions that were signed and ratified by Egypt, reflecting on de jure and de facto provisions. The report also provides a brief illustration of comparative international experiences in providing social protection for refugees and asylum seekers in order to formulate recommendations for Egypt. The focus is on the national policy and legislative frameworks of these countries. It is important to note that this report was written when the Egyptian Cabinet had recently approved the draft of a national asylum law, which is expected to provide a holistic framework to address issues related to refugees and asylum seekers.

The analysis in the report differentiates between de jure and de facto provisions pertaining to refugees and asylum seekers in Egypt. From a de jure standpoint, the country has made reservations to the Convention Relating to the Status of Refugees (1951) (hereafter referred to as the 1951 Refugee Convention) when it was ratified in 1981. These include refugees' access to rationing as a form of social transfer (Article 20); free elementary education (Article 22.1); social assistance (Article 23); and social security (Article 24) on an equal footing with Egyptians. These reservations are generally reflected in the national provisions on social assistance, social insurance health insurance, and education support. Notwithstanding these reservations, Egypt ratified different international treaties that are relevant to refugees' access to social protection. Notably, Egypt has been party to the Equality of Treatment (Social Security) Convention of 1962 (No. 118) and Convention on the Rights of the Child (CRC) among others.

In terms of de facto provisions, we note that while refugees and asylum seekers registered by UNHCR on behalf of the government are eligible for six-month renewable residence, the process is quite cumbersome. Furthermore, restrictions on residence, passport, and work permits de facto limit access to social protection by refugees and asylum seekers in the country. We also show that some of the restrictions on refugee's access to certain services were eased at times and not at other times. We conclude that the lack of a unified legal framework renders the policy and legislative framework on asylum seekers and refugees patchy and inadequate, especially because many laws subsume refugees and asylum seekers under the category of foreigners and grant preferential treatment to the nationals of some countries with which Egypt has special ties.

¹ According to UNHCR Egypt, as of 16 February 2024, 367,059 new arrivals from Sudan have approached them for registration.

² We use Schuring and Loewe (2021) to include five instruments of social protection: social transfers; social insurance; labor market policies; social services; and micro-insurance.



The report is organized as follows. The next section illustrates the research methodology. Section 3 provides an overview of the overall context for refugees and asylum seekers in Egypt, while section 4 details the entitlements for refugees and asylum seekers under international conventions that were ratified/acceded to by Egypt. Section 5 reviews national policies and practices for the provision of social protection to refugees and asylum seekers in Egypt. Section 6 concludes by taking up the question of conformity between international obligations and domestic legislation, focusing on the concerns raised by treaty governing bodies. Appendix I reviews international experiences of including refugees and asylum seekers in social protection systems focusing on policy and legal frameworks and highlighting, as relevant, the strengths and shortcomings of these experiences.

2. Study methodology

The research methodology adopted for the purpose of this study adopts a two-pronged approach. First, it relies on a thorough desk review of documents, including:

- A review of national legislations on social protection in Egypt (e.g., new social insurance law, new universal health insurance law, and Takaful and Karama executive regulation) and key policy documents (e.g., Regional Refugee and Resilience Plan (3RP) and the national human rights strategy).
- A review of key international conventions Egypt is party to.
- A review of secondary literature on Egypt, including legal analyses of the national Egyptian framework and studies on bottlenecks during service delivery (peer-reviewed and grey literature).
- A review of secondary literature on international experiences in providing social protection for refugees and asylum seekers.

Second, the study relies on a number of Interviews with representatives from key government and international organizations, including the Ministry of Social Solidarity (MoSS); the Ministry of Foreign Affairs (MoFA); the Ministry of Labor (MoL); the National Organization for Social Insurance (NOSI); the World Health Organization (WHO); and the UNHCR.

3. Background: the overall context for refugees and asylum seekers in Egypt

Egypt hosts a significant number of refugees and asylum seekers. As noted above, the UNHCR reports that the number of registered refugees and asylum seekers in

Egypt reached 539,956 individuals as of 29 February 2024.³ This section seeks to provide more details about the magnitude of the challenge, particularly following the outbreak of the war in Sudan in April 2023. It also discusses the institutional arrangement for the provision of refugees and asylum seekers in Egypt.

Figure 1 shows the evolution in the number of refugees and asylum seekers in Egypt from 2011 to 2022. The figure shows a steep rise in the number of individuals following the Arab Spring, particularly Syrians. Between 2011 and 2022, the number increased by threefold (see Table 1). The year 2023 alone, not shown in the table, has added more than 200,000 people due to the eruption of armed conflict in Sudan in April 2023.

Table 1 shows the distribution of currently registered refugees and asylum seekers at the UNHCR (2024). The table shows that almost half of the refugees and asylum seekers registered (49 percent) are from Sudan. These are followed by Syrians (29 percent) as a result of the Arab Spring, and other nationalities as shown in the table.

Figure 2 shows the displacement effect of the conflict in Sudan. As the figure shows, Egypt has been a top destination (following South Sudan and the Central African Republic (CAR)). The number of individuals registered with the UNHCR in Egypt steadily increased month after month since April 2023, as the figure shows.

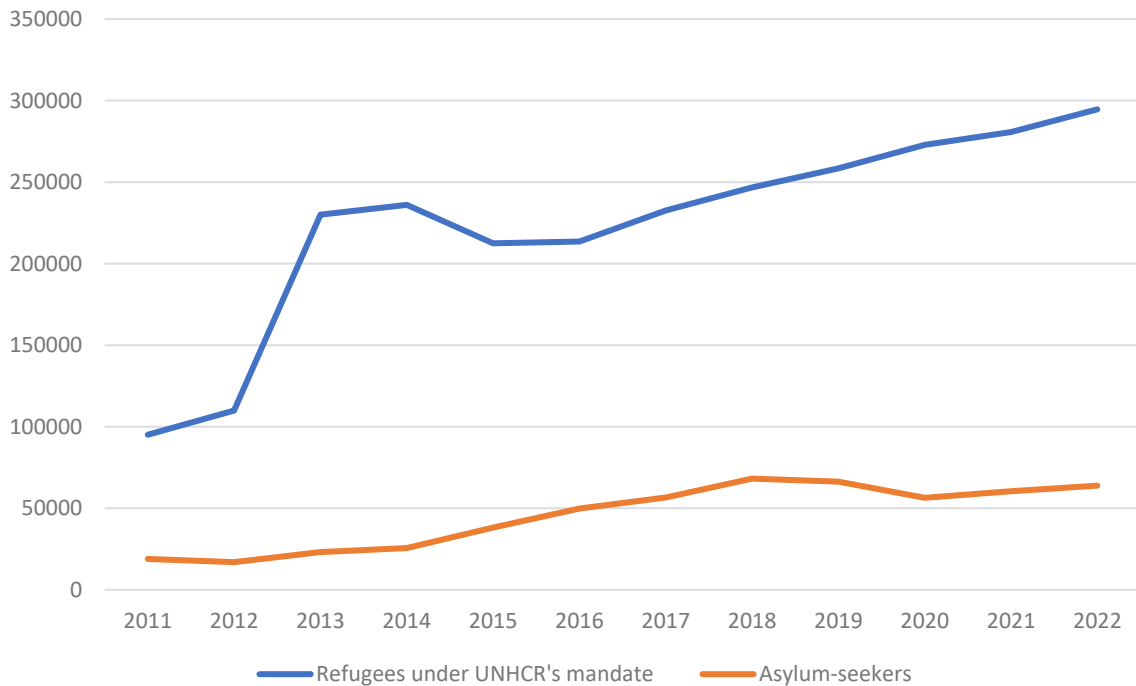
Children constitute a significant group among refugees. According to UNHCR data, almost 37 percent of refugees and asylum seekers in Egypt are children (UNHCR Egypt, 2023). Figure 3 shows the demographic composition of the migrant population (including refugees and asylum seekers) in Egypt, along with that of Egyptians.

The Institutional Arrangement for Refugees' and Asylum Seekers' Provisions in Egypt

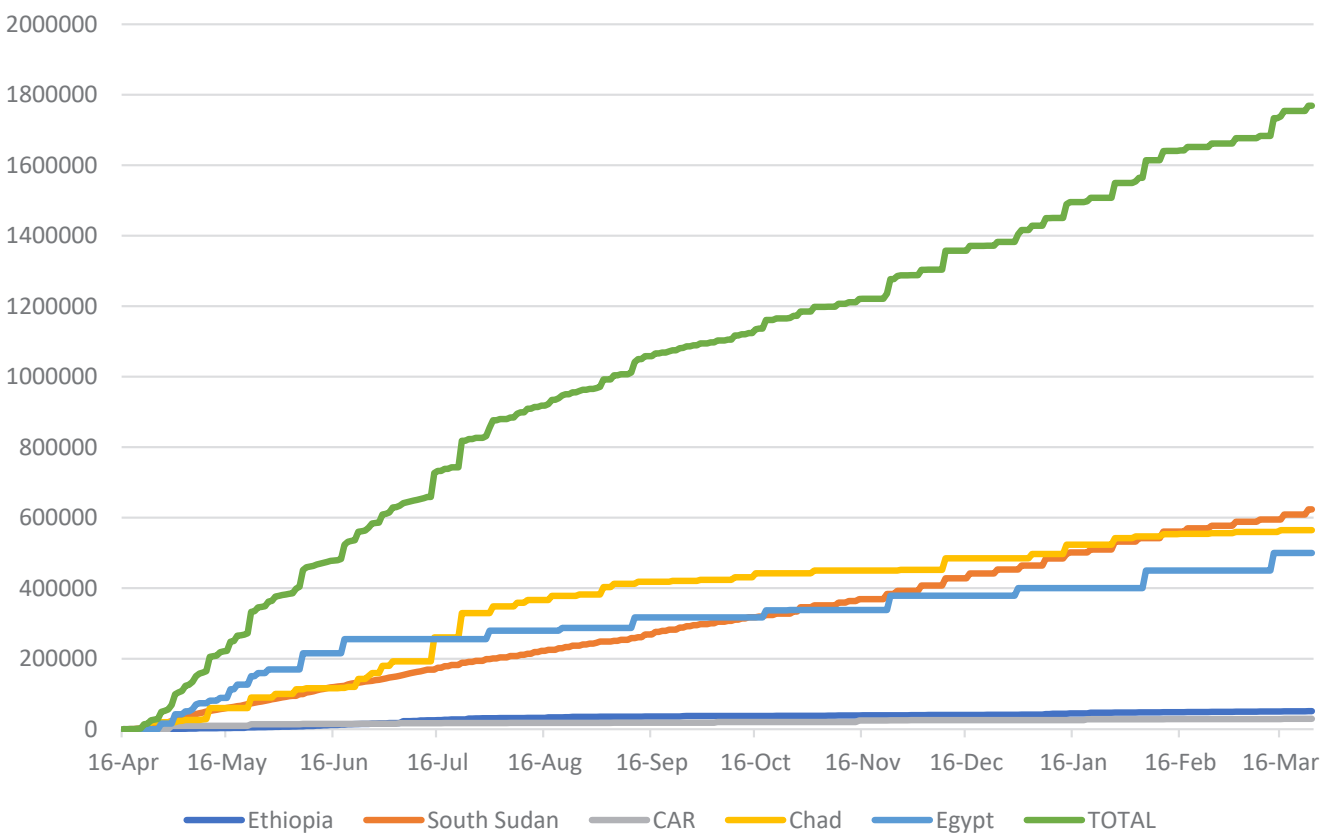
The UNHCR carries out refugee status determination (RSD) and resettlement on behalf of the Government of Egypt based on a memorandum of understanding signed with the government in 1954 (Hetaba et al., 2020b). This is a common practice in the Global South, where the UNHCR functions as a 'UN surrogate state' (Slaughter and Crisp, 2009). This entails a de facto transfer of responsibility from the sovereign state to the UNHCR regarding the management of refugees on their territories. The state grants refugees the right to non-refoulement on the premise that the needs of such vulnerable populations are to be met by the international community as a form of burden sharing (ibid.). The RSD

³ According to UNHCR Egypt, as of 16 February 2024, 367,059 new arrivals from Sudan have approached them for registration.



Figure 1. Refugees and asylum seekers in Egypt: 2011-22

Source: UNHCR (n.d.-a).

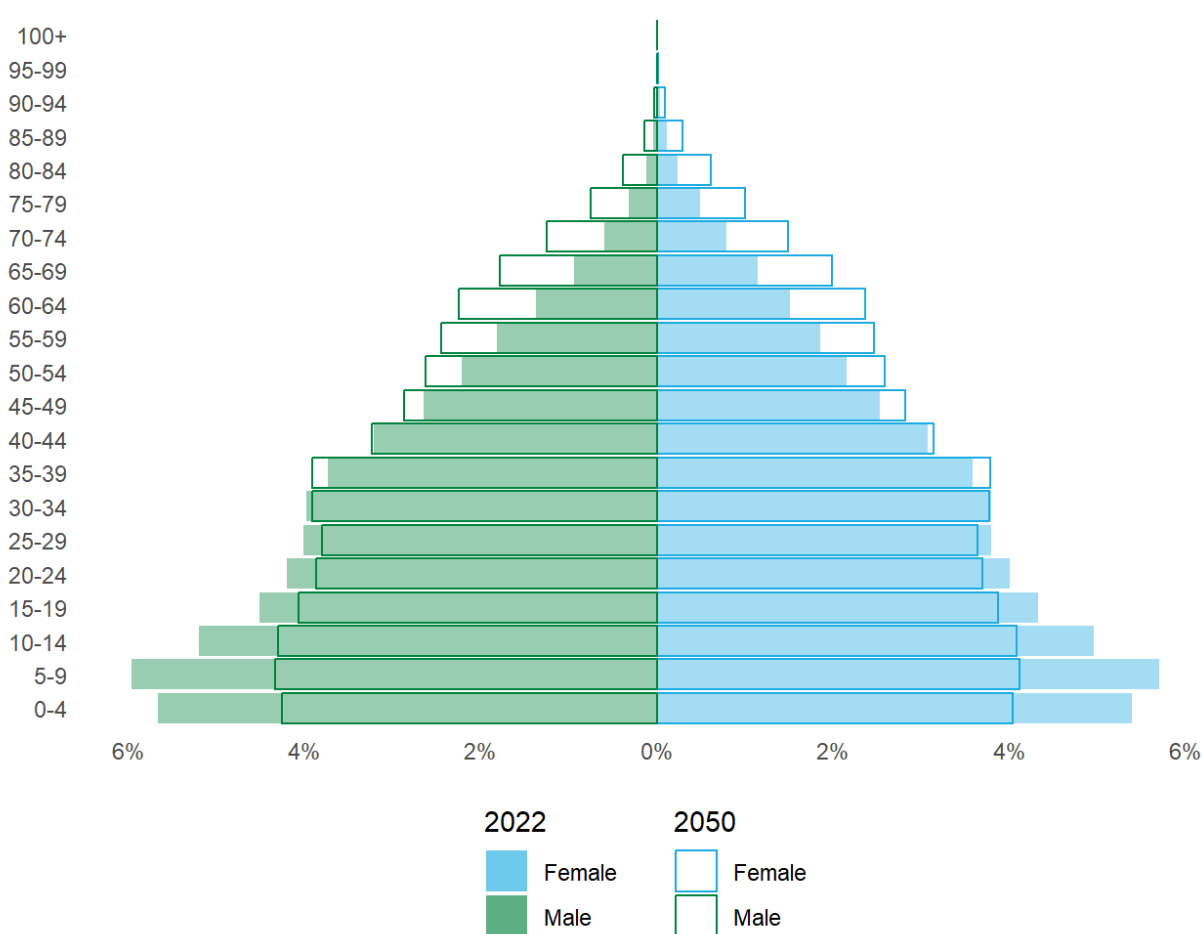
Figure 2. People fleeing Sudan by arrival country

Source: UNHCR (n.d.-b).



Table 1. Distribution of currently registered refugees and asylum seekers at the UNHCR (February 2024)

Country	Number of Refugees and Asylum Seekers	%
Sudan	267,227	49%
Syria	155,825	29%
South Sudan	40,346	7%
Eritrea	34,078	6%
Ethiopia	17,884	3%
Yemen	8,670	2%
Somalia	7,755	1%
Others	8,171	2%
Total	539,956	100%

Figure 3. Age pyramid of migrants and non-migrants in Egypt, 2020

Source: <https://data.unicef.org/resources/migration-and-displacement-country-profiles-mdcp/>, accessed February 2023.

process is conducted by the UNHCR on an individualized case-by-case basis (Habersky et al., 2023; Hetaba et al., 2020b). Alternatively, in cases of mass influx, all members of a certain group are considered refugees due to the circumstances in the countries they fled. This *prima facie* approach has been applied to Syrians and Yemenis (Habersky et al., 2023; Hetaba et al., 2020b).

Asylum seekers receive “yellow” cards from the UNHCR that are valid for 18 months. When their asylum claim is approved, they receive refugee status and obtain “blue” cards valid for three years to confirm their status (Hetaba et al., 2020b; ILO, 2022). UNHCR documents are recognized by the state for granting asylum-based residence and for access to other services, such as birth



registration (Hetaba et al., 2020b); access to justice, education, and healthcare; and protection against refoulement. However, UNHCR cards are not accepted as a substitute for a valid passport for accessing financial services or issuing work permits (ILO, 2022). Decree No. 179 of 1964 allows authorities to issue special travel documents for recognized refugees whose passports are no longer valid on specific grounds (Hetaba et al., 2020b).

Refugees and asylum seekers recognized by the UNHCR must apply for residence permits at Egyptian immigration offices upon receiving their UNHCR cards. Generally, Law No. 89/1960 defines three types of residence permits in Egypt: special residence permits (valid for 10 years); ordinary residence permits (valid for five years); and temporary residence permits (valid for a year or up to five years based on the discretion of the Minister of Interior). Refugees registered with the UNHCR and Palestinians with passports issued by the Egyptian government are entitled to a three-year temporary residence permit based on Decree No. 8180 of 1996. In practice, however, the residence permits for refugees and asylum seekers are issued for a maximum of six months only. Issuing or renewing a residence permit is known to be a prolonged bureaucratic and relatively expensive process (Hetaba et al., 2020b), especially since renewal is only possible at the Cairo office (communication with UNHCR, 2023). This leads some to avoid it altogether and opt to remain in the country without a valid residence permit. The 2018 UNHCR Egypt Vulnerability Assessment for Refugees Report (EVAR) showed that only 37 percent of refugees and asylum seekers had valid residence permits (UNHCR, 2020b).⁴

Egypt has had special provisions for people from Sudan that reflect the unique history of the two countries. According to the Four Freedoms Agreement signed between Egypt and Sudan in 2004, Sudanese nationals have the right to enter Egypt without a visa or the need to obtain a residence permit, although they still have to present a valid travel document.⁵ The treaty, however, has not been fully put into effect (ILO, 2022; Mohyeldeen, 2020). In April and May 2023, following the outbreak of the war in Sudan, Sudanese nationals fleeing to Egypt were allowed entry without a visa, provided they possess a valid passport. However, men aged 16-50 were

required to issue a visa from Egypt's consular office at Wadi Halfa (Refugee Platform in Egypt, 2023; UNHCR, 2023b). Since June 2023, the Egyptian authorities have required all Sudanese nationals entering Egypt to obtain a visa (UNHCR, 2023b). Figure 3 shows how the number of arrivals from Sudan to Egypt plateaued around the time the new visa requirements were instated in June 2023.

4. Social protection for refugees and asylum seekers under international conventions

This section examines Egypt's international social protection obligations toward refugees and asylum seekers, focusing primarily on legally binding treaties and instruments ratified by the government. We then discuss the key rights offered under these conventions.

For conceptual clarity, we start by defining social protection as:

"The set of policies and programmes designed to reduce and prevent poverty, vulnerability and social exclusion throughout the life cycle. Social protection includes nine main areas: child and family benefits, maternity protection, unemployment support, employment injury benefits, sickness benefits, health protection (medical care), old-age benefits, invalidity/disability benefits, and survivors' benefits. Social protection systems address all these policy areas by a mix of contributory schemes (social insurance) and non-contributory tax-financed benefits (including social assistance)" (ILO 2017, p. 194).

Generally, social protection aims to ensure access to healthcare and income security for the entirety of the lifecycle.

This section lists the key sources of international jurisprudence and the rights granted under these conventions in the context of social protection. The section also illustrates Egypt's signatory status in regard to these conventions.

While Egypt had reservations about a number of refugee rights as part of the ratification of the 1951 Refugee Convention in 1981, in this section, we show that the country remains bound by its international obligations under other conventions to which it made no reservations (Hetaba et al., 2020b; Hathaway, 2021). Human rights treaties and international labor standards embed the principle of equality of treatment and non-discrimination between nationals and non-nationals

It should also be noted that obligations under human rights treaties with respect to social protection/social security have limitations since they allow for the differentiation of treatment based on residence.

⁴ The EVAR data is the most recent data about the refugee context and vulnerabilities in Egypt. However, the situation of refugees and asylum seekers has likely undergone major changes since then, especially after the COVID-19 pandemic and the new arrivals from Sudan.

⁵ The four freedoms included in the agreement are the freedom of movement, residence, work, and property ownership.



4.1. Egypt's signatory status to relevant international conventions

We categorize the international conventions and agreements for access to social protection for refugees and asylum seekers into three groups. The first group pertains to the conventions relating to the status of refugees (both global and regional). The second pertains to international human rights conventions, which include provisions on refugees and asylum seekers; and the third relates to ILO conventions due to the specificity of labor legislations in the situation of refugees and asylum seekers. We discuss Egypt's position on each of these conventions in this section.

We differentiate in our discussion between the country's position in terms of ratification versus being a signatory to each of the conventions discussed. In general, signing a convention creates an obligation to refrain from acts that would defeat the objective and purpose of the treaty. Ratification, however, legally binds a state to implement the convention and/or the protocol associated with it, and it is subject to valid reservations, understandings, and declarations. Generally, the first step toward meeting international obligations is to incorporate them into national legal and policy framework.⁶

Table 2 provides a snapshot of the three sets of conventions discussed in this section along with Egypt's position in relation to each one.

4.1.1. Conventions relating to the status of refugees

The 1951 convention on the status of refugees and its 1967 protocol

Egypt is party to the 1951 Convention on the Status of Refugees and subsequently its 1967 protocol. In fact, Egypt was one of the first 26 countries that signed the Convention in 1951. The country ratified the Convention in 1981 and made a number of reservations as will be detailed below. The 1951 Convention defines who is a refugee, their rights, and their entitlements. These particularly relate to principles of non-discrimination,⁷

⁶ While a highly debated issue, Egypt can generally be described as having a dualist legal system that distinguishes national domestic sources of law from international law instruments such as treaties and conventions.

⁷ In its most basic definition, non-discrimination prohibits allocating resources based on irrelevant or arbitrary criteria and necessitates that unequal treatment is justified, based on acceptable criteria, and applied consistently. International human rights law defines grounds for discrimination which include race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, nationality, migration status, age, disability, statelessness, marital and family status, sexual orientation or gender identity, health status, and economic and social situation (see Hathaway, 2021; OHCHR, 2014).

non-penalization,⁸ and non-refoulement.⁹ The Convention remains a key global document and is widely used to confer the refugee status and related protections to millions of people worldwide. The 1951 Convention originated in response to the European refugee situation following the Second World War,¹⁰ but its scope was later expanded by the 1967 protocol, which lifted the geographic and temporal limitations. According to Article 1 of the 1951 Refugee Convention, a refugee is “someone who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion or who, not having a nationality and being outside the country of [their] former habitual residence, is unable or, owing to such fear, is unwilling to return to it.”

Egypt ratified the convention in 1981, but the country made five reservations that continue to inform national policies:

1. Article 12(1) (personal status): The justification relates to this article's contradiction with the internal laws of Egypt. The article of the convention provides that “the personal status of a refugee shall be governed by the law of the country of his domicile or, failing this, of his residence.” The specific reason given for this reservation was that it contradicted Article 25 of the Egyptian Civil Code stipulating that “the judge declares the applicable law in the case of persons without nationality.”
2. Article 20 (rationing).¹¹
3. Article 22 (paragraph 1: access to public education similar to nationals).
4. Article 23 (access to public relief and assistance).
5. Article 24 (labor legislation and social security).

⁸ Article 31.1 of the 1951 Convention protects refugees from being penalized for illegal entry or presence in the host country “provided that they present themselves without delay to the authorities and show good cause for their legal entry or presence.”

⁹ Article 33 of the 1951 Convention stipulates that “no contracting state shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.”

¹⁰ The 1951 Refugee Convention defines the refugee as an individual who “has been considered a refugee under the Arrangements of 12 May 1926 and 30 June 1928 or under the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 or the Constitution of the International Refugee Organization.” “As a result of events occurring before 1 January 1951,” the 1967 protocol later removed this temporal restriction and allowed states the discretion of maintaining or removing the geographical limitation.

¹¹ At the time of signing, ration cards were a key form of social assistance, providing subsidized food and non-food items.



Table 2. Egypt's status regarding international and regional social protection instruments

Instrument	Egypt's Status	Date of Signing/ Ratification/Accession
<i>Conventions Relating to the Status of Refugees</i>		
The 1951 Convention Relating to the Status of Refugee	Acceded ⁺	1981
Protocol Relating to the Status of Refugees	Acceded	1981
Convention Governing the Specific Aspects of Refugee Problems in Africa	Signed but not ratified	N/A
Convention on Regulating the Status of Refugees in the Arab Countries	Signed but not ratified	N/A
<i>International Human Rights Instruments</i>		
International Covenant on Economic, Social and Cultural Rights (ICESCR)	Ratified	1982
International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)	Ratified	1967
Convention on the Rights of the Child (CRC)	Ratified	1990
Convention on the Rights of Persons with Disabilities (CRPD)	Ratified	2008
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Ratified	1981
International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW)	Acceded	1993
<i>ILO Conventions</i>		
The Equality of Treatment (Social Security) Convention, 1962 (No. 118)	Ratified	1993*

Sources: Compiled by the authors from the ILO (n.d.) and the UN (n.d.).

Notes: ⁺ Has accepted branches (a) to (h). * "Accession" is the act whereby a state accepts the offer or the opportunity to become party to a treaty already negotiated and signed by other states. It has the same legal effect as ratification. Accession usually occurs after the treaty has entered into force.

These reservations are meant to retain the discretionary authority of Egypt in granting access to such benefits to refugees on a case-by-case basis, which is the current situation. Access to these benefits is nationality-based in the current situation and is not uniform across all refugee groups. The impact of these reservations on national law is variable. In the case of public relief, assistance, and access to rationing, all foreigners are excluded from access. However, access to public schools is reserved for certain Arab nationalities regardless of whether they are migrants, refugees, or asylum seekers. The reservation on access to social security is rendered superfluous by Egypt's ratification of the ILO equality of treatment in Social Security Convention No.118 as well as the subsequent ratification of Law No 148/2019 on social security, which grants equal rights to social security for nationals and non-nationals.

It is relevant to also note that Egypt is a signatory to a number of other regional refugee-related conventions. These are:

Convention governing the specific aspects of refugee problems in Africa

As a member of the African Union (AU) (previously the Organization of African Unity (OAU)), Egypt is a signatory to the Convention Governing the Specific Aspects of Refugee Problems in Africa. The Convention

gives an expansive definition of refugees, noting in Article I (sub-paragraph 2), that the term "refugee" shall also apply to:

"Every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality" (Article 1.2).

Convention on regulating the status of refugees in the arab countries

As a member of the League of the Arab States, Egypt is a signatory to the 1994 Arab Convention on Regulating the Status of Refugees in the Arab Countries. This Convention gives a different definition of the refugee:

"Any person who is outside the country of his nationality or outside his habitual place of residence in case of not having a nationality and owing to well-grounded fear of being persecuted on account of his race, religion, nationality, membership of a particular social group or political opinion, unable or unwilling to avail himself of the protection of or return to such country" and "any person who unwillingly takes refuge in a country other than his country of origin or his habitual place of residence because of sustained aggression against, occupation and foreign domination of such country or because of the occurrence of natural disasters or grave events resulting in major disruption of public order in the whole country or any part thereof" (Article 1).



All member states of the League of Arab States ratified the Convention except for Egypt, which only signed it but has not ratified it.

Together, international and regional conventions inform national policies in Egypt. Other international instruments include international human rights instruments and the different conventions of the International Labour Organization (ILO). We discuss each of these sets of conventions below.

4.1.2. International human rights instruments

The Universal Declaration of Human Rights (UDHR) adopted in 1948 is the foundation of international human rights law. Even though it is not legally binding, it has provided guidance and inspiration to international human rights treaties. The UDHR recognizes that all people are entitled to human rights “without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status” (Article 2). Furthermore, Article 22 of the UDHR recognizes the rights of all members of society to social security. Subsequent human rights conventions have equally recognized the inalienable rights and equal dignity of everyone within the jurisdiction of States Parties without discrimination, including the right to social protection.

While some international human rights instruments do not mention refugees and asylum seekers explicitly, they refer in the preamble to the inalienable rights and equal dignity of everyone and include articles on the applicability of the conventions to everyone within the jurisdiction of the state without discrimination. Moreover, the implementing bodies of UN conventions have published several comments extending the purview of these treaties to refugees and asylum seekers (Hathaway, 2021; Hetaba et al., 2020b). Specific conventions include:¹²

1. *International Covenant on Economic, Social and Cultural Rights (ICESCR)*: Ratified by Egypt in 1982 with no reservations, this Covenant particularly supports the rights of refugees and asylum seekers to work (Article 6), to social security (Article 9), to an adequate standard of living (Article 11), and to the highest attainable standard of health (Article 12) and education (Article 13). Article 2 stipulates that “the States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any

kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” Similar guarantees against non-discrimination are made in other human rights treaties.

2. *International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)*: This Convention was ratified by Egypt in 1967. Of particular relevance is Article 5, which recognizes everyone’s right to economic and social rights, including the right to work as well as the right to public health, medical care, social security, social services, and education. In its interpretation of this provision, the Committee on the Elimination of all Forms of Racial Discrimination (CERD) in its general comment on discrimination against non-citizens states that (Comment XXX):

“Although some of these rights, such as the right to participate in elections, to vote and to stand for election, may be confined to citizens, human rights are, in principle, to be enjoyed by all persons. States Parties are under an obligation to guarantee equality between citizens and non-citizens in the enjoyment of these rights to the extent recognized under international law” (p.2).

Egypt only made the following reservations to this Convention:

“The United Arab Republic does not consider itself bound by the provisions of Article 22 of the Convention, under which any dispute between two or more States Parties with respect to the interpretation or application of the Convention is, at the request of any of the parties to the dispute, to be referred to the International Court of Justice for decision, and it states that, in each individual case, the consent of all parties to such a dispute is necessary for referring the dispute to the International Court of Justice.”

3. *Convention on the Rights of the Child (CRC)*: Ratified by Egypt in 1990 with no reservations,¹³ this Convention stipulates that children have the right to “benefit from social security,” including social insurance (Article 26); education, including making primary education “available free to all” (Article 28); “enjoyment of the highest attainable standard of health care” (Article 24); and an adequate standard of living (including nutrition, clothing, and housing) (Article 27). It prohibits discrimination on the basis of, among other things, children’s national origin or that of their parents or legal guardians (Article 2.1).

¹² This list is compiled by the authors from the UN (n.d.).

¹³ On 31 July 2003, Egypt withdrew its reservations on Articles 20 and 21 of the CRC.



4. *Convention on the Rights of Persons with Disabilities (CRPD)*: Ratified by Egypt in 2008 with no reservations, this Convention grants people with disability the right to “the enjoyment of the highest attainable standard of health without discrimination on the basis of disability” (Article 25); adequate standard of living and social protection (Article 28); and education “without discrimination and on the basis of equal opportunity” (Article 24).
5. *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW)*: Egypt is party to this Convention and acceded to it in 1993. However, the Convention does not cover refugees and asylum seekers (Article 3).
6. *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*: CEDAW provides universal standards for the treatment of refugee and stateless women and girls. The Convention promotes gender equality and sets out measures for the advancement of all women without distinction on the basis of their nationality/citizenship or other legal status, such as refugee, migration, or marital status. Although Egypt had reservations on the CEDAW when it ratified it in 1981 (on Articles 2, 16, and 29), these reservations were not related to refugee status.

These conventions all address one or more dimensions of social protection, and they create binding international obligations on States Parties.

4.1.3. ILO Conventions and recommendations

The ILO is a standard setting agency founded in 1919. As such, it has since developed some 190 conventions and over 200 recommendations covering a wide range of topics, including in relation to social security and migrants, and including instruments that are focused on the social security rights of migrant workers and their families specifically. An ILO convention is a legally binding international treaty that, when ratified by a member state, becomes part of its domestic law, obligating the government to implement its provisions. In contrast, an ILO recommendation is a non-binding instrument that provides additional guidance on the application of the corresponding convention, or it can be standalone.

The ratification of an ILO convention is accompanied by

a unique supervisory mechanism that is responsible for monitoring and enforcing compliance with international obligations (i.e., stemming from ratification). This involves the work of the Committee of Experts on the Application of Conventions and Recommendations (CEACR), which examines reports from member states and social partners on the implementation of ratified conventions and provides expert opinions and recommendations.

Unless otherwise stated, all ILO instruments are applicable to workers and thus to refugee workers, unless otherwise stated. Some ILO instruments include refugees explicitly in their scope, although the requirement of reciprocity can preclude refugees from benefitting from these entitlements.¹⁴ In general, ILO instruments embed four main principles (ILO, 2021a):

- **Equality of Treatment:** Migrant workers should be treated on an equal footing to nationals with regard to social security coverage and benefits.
- **Determination of Applicable Legislation:** Migrant workers should only be subject to the legislation of a single country at any particular time.
- **Maintenance of Acquired Benefits and Provision of Benefits Abroad:** This means that workers who have earned social security rights in a country should be able to receive these rights in any other country they reside (exportability of benefits).
- **Maintenance of Rights in the Course of Acquisition:** This allows migrant workers to combine or aggregate different insurance periods spent in more than one country. This requires states to conduct multilateral and bilateral social security agreements.

In this context, it can be noted that Egypt is party to the Workmen’s Compensation (Accidents) Convention, 1925 (No. 17) since 10 May 1960; the Workmen’s Compensation (Occupational Diseases) Convention, 1925 (No. 18) since 10 May 1960; and the Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) since 29 November 1948. Egypt has also been party to the Equality of Treatment (Social Security) Convention, 1962 (No. 118) since 12 January 1993.

Convention No. 118, the Equality of Treatment (Social Security) Convention of 1962 (hereinafter C118) is central

¹⁴ The principle of reciprocity, in Convention 102, for example, limits refugees’ right to social security, as refugees no longer benefit from any protection provided by their country of origin. The principle of reciprocity refers to the situation where country A promises to give the nationals of country B on their territory benefits, such as maternity benefits. Country B also reciprocates by giving the same benefits to nationals of country A on their territory. This does not work as they cannot avail themselves of the protection of their country of origin.



to the focus of this report. The Convention establishes the country's obligation of equal treatment, contingent upon reciprocity. Article 3 notes that:

"The obligation does not concern all non-nationals employed in the territory of a State party to the Convention, but only those who are nationals of another State that has also ratified the Convention" (Article 3).

The principle of reciprocity extends to every branch of social security for which the ratifying state has accepted obligations under the Convention.

Egypt ratified C118 in January 1993. The branches accepted by Egypt are a) medical care; b) sickness benefit; c) maternity benefit; d) invalidity benefit; e) old-age benefit; f) survivors' benefit; g) employment injury benefit; and h) unemployment benefit. In other words, Egypt needs to guarantee equality of treatment, in regard to these eight branches, for any of the other 37 States Parties that have accepted any of these branches.¹⁵

It should further be underlined that the Convention's provisions are applicable to refugees and stateless persons, for whom equality of treatment must be secured without any condition of reciprocity (Article 10). In practice, this means that Egypt must ensure equality of treatment to all refugees and stateless persons (with Egyptian nationals) with respect to every branch of social security that Egypt has accepted.

4.2. Key social protection related rights granted to refugees under conventions signed/ratified by Egypt

Consistent with the nine main areas included in the definition of social protection stated early in this section, we now focus on two key rights that are essential to ensuring access to social protection in these areas. The first key right is access to formal work; without access to formal work, refugees and asylum seekers would have no access to social security and any work-related benefits. The second is access to healthcare support, which is one of the nine main areas identified in the definition.

4.2.1. Right of access to formal work

Access to formal work is key to accessing contributory social insurance. The right to work is an important aspect of the economic and social inclusion of refugees and asylum seekers that allows them to support

themselves and contribute to the economies of the host country (ILO, 2021a). Therefore, the right to work and social security go hand in hand and are equally advocated for in international instruments. For example:

1. Article 17.2 of the 1951 Refugee Convention, to which Egypt made no reservations, states that refugees and asylum seekers are exempted from restrictions on the employment of non-citizens for the protection of the national labor market if (1) they have completed three years' residence in the country; (2) they have a spouse possessing the nationality of the country of residence; or (3) they have one or more children possessing the nationality of the country of residence.
2. Also, according to Article 17.1 of the same Convention, only lawfully staying refugees have the right to wage employment. More specifically, they are entitled to "the most favorable treatment accorded to nationals of a foreign country in the same circumstances," such as countries with which the host state has international agreements or treaties.
3. Article 18 of the Refugee Convention enfranchises both refugees and asylum seekers with the right to self-employment; refugees and asylum seekers shall enjoy "treatment as favorable as possible and, in any event, not less favorable than that accorded to aliens generally in the same circumstances, as regards the right to engage on his own account in agriculture, industry, handicrafts and commerce and to establish commercial and industrial companies." This article prohibits enforcing restrictions aimed exclusively at refugees and asylum seekers with respect to self-employment (Hathaway, 2021: 901).

Although the Government of Egypt made a reservation on providing social security to refugees on an equal footing with nationals (Article 24 of the Refugee Convention), the country is still bound by other human rights treaties that affirm the right to social security and to which Egypt made no reservations. These include:

1. The International Covenant on Economic, Social, and Cultural Rights (Article 9).
2. The Convention on Elimination of All Forms of Racial Discrimination (Article 5).
3. The Convention on the Rights of the Child (Article 26), which stipulates that children have the right to "benefit from social security, including social insurance."
4. The Convention on the Elimination of All Forms of Discrimination (Article 11).
5. The Convention on the Rights of Persons with Disabilities (Article 28).

¹⁵ https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312263



The Government of Egypt is also bound by equality of treatment in Convention No. 118 of the ILO. As noted above, Egypt ratified (a) to (h) relating to medical care; sickness benefits; maternity benefits; invalidity benefits; old-age benefits; survivors' benefits; employment injury benefits; and unemployment benefits. As already mentioned, Article 3 of the Convention obliges States Parties to treat nationals of other States Parties present in their territory equally to their own nationals with regard to social security provided the reciprocity condition is met. The Convention is applicable to refugees and stateless persons who are exempted from meeting the reciprocity condition (Article 10).

4.2.2. The right to healthcare

The right to healthcare is codified in Article 12 of the ICESCR granting "the highest attainable standard of physical and mental health." Likewise, Article 24 of the CRC guarantees a child's right to "the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health." Similar provisions are made in the CEDAW (Article 12) enshrining equality in healthcare between men and women; the CRPD (Article 25) granting people with disability the right to "the enjoyment of the highest attainable standard of health without discrimination on the basis of disability"; and the ICERD (Article 5). Medical care is also an integral component of the ILO Convention C118 and is one of the branches accepted by Egypt.

Finally, while the right to affordable education is not explicitly listed in the definition of social protection, it is a key child benefit. Lack of access to education is a key contributing factor to poverty, vulnerability, and social exclusion, which are central to the understanding of social protection. Egypt made a reservation to the 1951 Refugee Convention on providing elementary education to refugees and asylum seekers on an equal footing with nationals and chose to decide on a case-by-case basis (Article 22.1). However, Egypt has made no reservations to Article 29, which prohibits states from imposing "charges or taxes, of any description whatsoever, other or higher than those which are or may be levied on their nationals in similar situations." This prohibition includes levying extra charges for education (Hetaba et al., 2020b). It has also accepted Article 22.2, which grants refugees and asylum seekers "treatment as favorable as possible, and, in any event, not less favorable than that accorded to aliens generally in the same circumstances, with respect to education other than elementary education." Despite the government's reservations on the 1951 Refugee Convention, it is still

bound by other human rights treaties affirming the right to education, including primary or basic education to all, to which it made no reservations. Specifically, Article 13 of the ICESCR grants everyone the right to education, with primary education being compulsory and available free to all; and secondary education made available and accessible.

Other human rights instruments to which Egypt is party affirm the right to education, such as the CRC (Article 28), the CEDAW (Article 10), the ICERD (Article 5), and the CRPD (Article 24). In practice, only certain nationalities have access to the public educational system equally to Egyptians, namely Sudanese, South Sudanese, Yemeni, and Syrian refugees (UNHCR Egypt, n.d.). Children from other nationalities have to enroll in private and community schools. Foreigners enrolled in public schools incur higher tuition costs compared to their Egyptian counterparts (Article 11) (Hetaba et al., 2020b; Affifi, 2020).

5. *De Jure and De Facto social protection provisions for refugees and asylum seekers in Egyptian legislation and policies*

It is important to note that this report was written when the Egyptian Cabinet had recently approved the draft of a national asylum law. The new law will cover refugees and asylum seekers and is envisioned to incorporate all the rights in the 1951 Refugee Convention and the African Union Convention, such as non-refoulement, health, and education. All line ministries were involved in the drafting committee for the law. The new asylum law establishes a national committee operating under the supervision of the Prime Minister's office with representatives from all ministries, and it will be charged with managing the asylum system as a whole (interview with MOFA, 2023).

5.1. *De Jure Provisions*

Egypt's Constitution provides strong support for refugees and asylum seekers. However, this is not carried in the different laws and regulations. In the following, we discuss the constitutional statements that have implications for refugees and asylum seekers. We also examine the different provisions in national laws related to access to measures of social protection, including contributory and non-contributory social transfers and access to health and education services for refugees and asylum seekers. It is important to note that in many instances, national legislation refers to foreigners rather than to refugees and asylum seekers, thereby subsuming them under the much broader category of foreigners as noted by the ILO (2022).



The Egyptian Constitution

The Egyptian Constitution of 2014 (amended in 2018) does not provide a definition of refugees, though it refers to the right of political refugees to asylum in Article 91, noting:

“The state may grant political asylum to any foreigner persecuted for defending the interests of peoples, human rights, peace, or justice. The extradition of political refugees is prohibited, all in accordance with the law” (Egyptian Constitution, Article 91).¹⁶

The Egyptian Constitution also stipulates that all international treaties have the force of law upon ratification (Article 151) and there is particular mention of granting the force of law to all international human rights treaties that have been ratified (Article 93).

Contributory Social Security Regulations: Social Insurance Law 148 of 2019

Egypt’s most recent social insurance law (No. 148 of 2019) unified provisions for different groups of workers who were previously governed by different laws (Barsoum and Selwaness, 2022). The law covers risks/benefits related to old age, disability, and survival; end-of-service bonus; injury/illness/maternity; and unemployment.

The scope of application of the law is defined under Article 2 and is organized based on employment status, with provisions for wage workers, the self-employed, and employers. The law has special provisions for workers in informal employment.¹⁷ It is worth noting that the law extends government-subsidized coverage to groups in the informal economy, including seasonal workers; street peddlers; housekeepers and servants; reciters of Koran; reciters in churches; small-scale agricultural tenants and landlords; and short-term workers in projects related to agriculture, cattle breeding, fish culture, and beekeeping (Article 2). There are, however, challenges in implementation for this group in particular (Barsoum and Selwaness, 2022).

The new law does not address refugees and asylum seekers explicitly. However, the requirement of reciprocity present in Law No. 79/1975 was removed in order to

comply with ILO instruments and recommendations. Hence, non-nationals can enroll in social insurance and enjoy rights and entitlements on an equal footing to Egyptians. They can present their passports instead of the national ID required in the executive regulation of the law. Workers, however, need to have a work permit to be able to contribute (interview with NOSI, 2023). This by itself, however, is an additional issue as refugees often have no passports. Also, the lack of recognition of UNHCR cards is often because the IDs that are usually accepted are those issued by government entities and not those issued on behalf of a government entity.

The law maintained the administration of the social insurance system with NOSI, which allows for the payment of benefits abroad for foreigners meeting the eligibility criteria (exportability of benefits). Maintaining rights in the course of acquisition (portability of benefits) is subject to the existence of social security agreements with the Government of Egypt. Currently, Egypt has social security agreements with Cyprus, Greece, the Netherlands, and Sudan. There are also agreements with Morocco and Tunisia. In case an Egyptian or a foreigner leaves the Egyptian territories to a country that does not have a social security agreement with Egypt, they are entitled to a one-off lump sum payment (interview with NOSI, 2023).

More generally, for refugees, asylum seekers, and foreigners, work permits and employment formality are key preconditions for eligibility to join the contributory social insurance system. This explains our earlier focus on the right to formal work as a key factor for access to contributory social security.

Non-Contributory Social Security (Social Assistance) Regulations

Prime Ministerial Decree No. 540 of 2015 established the two main social assistance programs in the country: Takaful, a conditional cash transfer targeting vulnerable households with children; and Karama, an unconditional cash transfer that aims to support the elderly and disabled individuals.¹⁸ The MoSS is the entity responsible for implementing these means-tested social transfers. The aforementioned decree does not list nationality as an eligibility criterion. However, applying to the programs requires the presentation of a national identity card as well as birth and

¹⁶ [https://sschr.gov.eg/en/the-egyptian-constitution/#:~:text=Article%20\(91\),of%20political%20refugees%20is%20prohibited](https://sschr.gov.eg/en/the-egyptian-constitution/#:~:text=Article%20(91),of%20political%20refugees%20is%20prohibited)

¹⁷ Also referred to as “irregular workers” in the English translation of the Executive Regulations.

¹⁸ Law No. 15/2015 amending Law No. 137/2010 allowed the Prime Minister to establish new social assistance schemes.



marriage certificates (Andrade et al., 2021).¹⁹ As such, cash transfers by international agencies such as the WFP, the UNHCR, and civil society organizations remain the main source of social assistance to refugees, asylum seekers, and non-nationals in general.

Health Insurance (Contributory and Non-Contributory Schemes)

In 2018, the Universal Health Insurance Scheme (UHS), specifically Law No. 2/2018, was promulgated to provide a unified framework for health insurance. It intended to remedy structural problems in the health insurance system, the most important of which are coverage gaps, lack of financial sustainability, and high out-of-pocket payments (Ghanam, 2021).²⁰ The law is to be implemented gradually in six phases, each covering a number of governorates within a timeframe not exceeding 15 years. To date, the UHS has been implemented in three governorates: Luxor, Port Said, and Ismailia (UHIA, n.d.). The law focuses on the family as the unit of coverage, with workers paying contributions for themselves and the rest of the family unit. The public treasury will be responsible for paying the contributions of “the needy” (Ghair Al-Kadereen) who are elaborated by Prime Ministerial Decree No. 1948/2019. Beneficiaries will also have to make co-payments upon using insurance services that are set at a specific ceiling. Registration in the system is obligatory for all citizens living in Egypt to prevent opting out of wealthier classes (Ghanam, 2021) and is voluntary for Egyptians working and residing with families abroad. As such, the law provides a framework for both contributory and non-contributory health insurance in Egypt.

The law allows the Universal Health Insurance Authority (UHIA) to render its services to foreign residents and visitors to Egypt provided the condition of reciprocity is met. As Article 59 of the law states:

¹⁹ The social security scheme (Al-Daman Al-Igitima’ii) organized by Law No. 137/2010 remained the main modality for delivering social assistance for decades. The law does not refer to refugees and asylum seekers in its provision, subsuming them instead under the category of foreigners. According to Article 1 of the law, Egyptians and nationals of other countries were eligible to apply for this scheme provided the condition of reciprocity is fulfilled. It targeted poor individuals and households. The targeting criteria included educational attainment, income, employment, number of household members, health status (disability/old age), and social status (orphans, widows, divorced women).

²⁰ The law establishes three independent entities overseeing the implementation of the new health insurance system; the UHIA to be responsible for administering and financing the system by contracting with service providers, the General Authority for Healthcare (GAHC) responsible for regulating and overseeing the provision of healthcare services, and the General Authority for Healthcare Accreditation and Regulation (GAHAR) responsible for setting quality standards for healthcare facilities, accreditation, and quality monitoring. The separation of financing, service provision, and quality control is intended to achieve good governance, accountability, and quality assurance (Ghanam, 2021).

“The Organization may render its services to foreigners either residing in, or visiting the Arab Republic of Egypt, as per the controls and conditions it sets, provided that the rule of reciprocity should be taken into consideration.”²¹

Similarly, Article 68 of the Executive Regulation of UHS states:

“The authority is to setup a health program to cover foreign nationals residing in Egypt for work, or those with a permanent residence permit, or refugees, as well as those entering the country on short-term, be it for tourism, short term business trips, or for educational purposes. The program is to determine the subscription amounts as well as the service outlets, using as a guide what health insurance benefits or services Egyptians residing abroad enjoy. For this purpose, the authority co-ordinates with:
Ministry of Foreign Affairs.
Ministry of Interior.
Ministry of Tourism.
Ministry of Health and Population.”²²

A recent study by the ILO and UNHCR (ILO, 2023b) notes that for the Phase I governorates that implemented the UHS, an agreement protocol should be issued between the government (representing the UHIA, GAHC, the Ministry of Health and Population (MoHP), and MoF) and the UNHCR to guide the implementation process of including refugees and asylum seekers in the universal health insurance system.

Nonetheless, the gradual implementation of the UHS means that the former health insurance laws are still in place in those governorates where the new law has not been implemented yet. These laws are:

- Health Insurance plan for unsupported women established per Law No. 23/2012 (Al-Mar’aa Al-Mo’eela) plan.
- Health insurance plan covering farmers and agrarian workers established per Law No. 127/2014.
- Health insurance plan for school children established per Law No. 99/1992 on health insurance coverage to school students at different stages, either private or public, as well as kindergarteners.
- Health insurance plan for newborns and children below the age of basic education established per Law No. 86/2012.

These listed laws do not condition accessibility to health insurance on nationality, which means that refugees and asylum seekers should be able to benefit from them (Hetaba

²¹ Translated by Hetaba et al. (2020a).

²² Translated by Hetaba et al. (2020a).



et al., 2020b). However, the application forms require the possession of a national ID. For example, the application for the unsupported women's health insurance scheme requires women to supply their national ID number,²³ effectively restricting the access of refugees and asylum seekers or foreigners, more generally.

Aside from the UHIS, refugees and asylum seekers have access to all facilities operating under the MoHP under the same conditions and at the same prices as Egyptians based on two memoranda of understanding between the MoHP and the UNHCR in 2014 and 2016. They can access services by presenting their UNHCR-issued refugee and asylum seeker cards (interview with UNHCR, 2023). Moreover, Health Minister Decree No. 601/2012 states that members of the Syrian community are to be treated at Egyptian public hospitals at the same prices as Egyptians (Sharafeldin, 2020). It is important to note that receiving treatment at public health facilities can entail out-of-pocket payments, especially for treating chronic diseases or for advanced healthcare services. Egyptians have financial mitigation strategies that are not available to refugees, such as being covered by a public health insurance scheme or being treated at the expense of the state program (interview with UNHCR, 2023).²⁴ Therefore, the UNHCR offers health services through its implementing partners in areas of referral and secondary health services, chronic diseases, mental health, and HIV and TB diagnosis and treatment (UNHCR, 2022).

The Egyptian government has also signed several medical protocols which give some rights to nationals of respective countries. Most importantly, the Cooperation Protocol in the Area of Health with the State of Palestine (1996) obliges the MoHP to treat some of the Palestinians whose treatment in Palestine is difficult in Egyptian public hospitals. There are also two agreements with the Government of Yemen granting Yemeni nationals equal treatment and pricing to that of Egyptian patients (Hetaba et al., 2020a). However, it should be noted that the public health service system is under serious strains of demand due to population size and limited state budget (Gericke et al., 2018). This limits the capacity of the system to provide treatment to cases.

Other Relevant Laws, Policies, and Special Governmental Bodies

While the rights of refugees and asylum seekers are not incorporated into the mandate of the National Council for

Human Rights (NCHR), their rights are included by other entities as follows:

National Councils and Their Strategic Plans

- National Child Law and the Strategic Framework for Childhood and Motherhood: The strategic framework for childhood and motherhood (2018-30) and the first executive plan (2018-22) to implement the strategic framework was launched by the National Council for Childhood and Motherhood (NCCM) in 2018. The plan encompasses three main goals: (1) the right to health and comprehensive healthcare, (2) the right to education, culture, and entertainment, and (3) the right to protection. The protection goal includes sub-goals related to refugee children, namely the provision of economic support to refugee children, the provision of healthcare services, and allowing refugee children to continue their education (NCCM, 2018). In 2020, the NCCM published standard operational procedures (SOPs) detailing the national pathway for the protection of children asylum-seekers, refugees, and victims of migrant smuggling and trafficking in persons (NCCM, 2020).
- This means that the above exclusions of some nationalities from enrolling in public schools or from benefiting from social protection contradicts the mandate of NCCM. It also contradicts the Egyptian Child Law (Law No. 12/1996 amended by Law No. 126/2008).²⁵ Article 1.2 of the law requires the state to provide “as a minimum guarantee the rights of the child, as stated in the Convention of the Rights of the Child and all other relevant international covenants enforced in Egypt.” Furthermore, Article 3.b asserts the state's obligation to protect children “from all forms of discrimination... on the basis of birthplace, parents, sex, religion, race, disability, or on any other status, and ensure equal opportunities among children to benefit from all rights.” The law also provides explicit provisions of free education to all children in the public education system (Article 54). Similarly, the law states that “every child shall have the right to access health and social care services and to be treated for any illnesses. The State shall take all necessary measures to ensure that all children enjoy the highest level of healthcare” (Article 7-bis).
- The National Council for Human Rights does not incorporate the rights of refugees and asylum seekers in its annual review nor in its other publications, though it conducted a workshop on the rights of migrants and refugees in Egypt in 2022 (NCHR, 2022).
- The National Council for Women (NCW) has announced the establishment of a hotline for Syrian refugee women being forced to marry in Egypt in 2013

²³ <http://www.hio.gov.eg/Ar/PublishingImages/w000.pdf>

²⁴ Some health facilities operate under the auspices of other ministries. For example, university hospitals that offer advanced healthcare services are under the auspices of the Ministry of Higher Education (MoHE).

²⁵ <https://www.warnathgroup.com/wp-content/uploads/2015/03/Egypt-Child-Law-2008.pdf>



(NCW, 2013). However, refugee rights were not incorporated into the recently inaugurated women empowerment strategy.

Specific governmental initiatives for refugees

Egypt has engaged in a number of policy initiatives supporting refugees in coordination with international organizations, such as:

- The Regional Refugee and Resilience Plan (3RP) for Syrian Refugees: This is a “strategic coordination, planning, advocacy, fundraising and programming platform with over 270 humanitarian and development partners across five countries” (p.2). The regional plan is premised on four strategic objectives: protecting people, supporting durable solutions, contributing to dignified lives through social protection interventions, and enhancing local and national capacities (UNHCR, 2023a).
- The Joint Platform for Migrants and Refugees: The Ministry of Foreign Affairs and the United Nations in Egypt inaugurated this platform in 2021 to coordinate the efforts of UN agencies, development parties, and donors in supporting migrants and refugees. Its main aim is to “ensure better delivery and mobilize resources to realize long term, sustainable development gains for migrants, refugees, asylum seekers and their host communities, enhancing social inclusion and cohesion.” The main areas of focus will be education and access to health services (UNHCR Egypt, 2021).
- Sudan Refugee Response Plan: Following the outbreak of the war in Sudan, the Sudan Refugee Response Plan was launched by 139 humanitarian and development partners including UN agencies as well as national and international non-governmental organizations (NGOs) in collaboration with the governments of Egypt, Ethiopia, South Sudan, Chad, and the Central African Republic (CAR) to “support the host countries in the region to lead and coordinate the response to the refugee outflow” (UNHCR, 2023b, p.7).
- The Egypt Refugee Plan: Spearheaded by the UNHCR, the plan coordinates the efforts of UN agencies and development partners to support non-Syrian refugees in Egypt “to ensure equity in protection services and humanitarian assistance for refugees and asylum-seekers of all nationalities living in Egypt” (p.2). The plan focuses on five main modalities: protection, public health, education, basic needs and livelihoods, and food security. One of the main objectives of the basic needs and livelihoods sector includes disbursing cash assistance to the most vulnerable households (UNHCR, 2020a).

5.2. De facto provisions

In general, there is congruence between de jure and de facto provisions for refugees and asylum seekers in Egypt. Practices remain consistent with the laws and regulations. However, the implementation of a number of provisions creates more challenges for refugees. These include:

5.2.1. Identification and travel documents

- A key hurdle identified in the analysis is that the UNHCR cards given to refugees and asylum seekers are not a final step in the process. Upon receiving the cards, asylum seekers and refugees need to apply for a residence permit. In practice, permits are only given for a maximum of six months through a cumbersome administrative process. This forces many refugees and asylum seekers to forgo the process altogether and instead reside irregularly in the country (Hetaba et al., 2020b). As the 2018 EVAR indicated, only 37 percent of refugees and asylum seekers were in possession of a residence permit (UNHCR, 2020b).
- UNHCR cards do not substitute a valid passport as an identification document for non-nationals to obtain certain services, such as opening a bank account, applying for a work permit, starting a business (ILO, 2022), or applying for social insurance (interview with NOSI, 2023). According to the 2018 EVAR, only nine percent of refugees and asylum seekers possessed a valid passport (UNHCR, 2020b).
- The difficulty in obtaining travel documents forces refugees to rely on brokers to renew their expired passports since they cannot re-avail themselves of their countries’ assistance without the risk of compromising their refugee status (Hetaba et al., 2020b).

5.2.2. Access to work permits and contributory social insurance

Apart from restrictions on residence and the limitations on the recognition of UNHCR cards as an identification document, access to formal employment by refugees is thwarted by excessive restrictions on the employment of non-Egyptians in Egypt. According to the Egyptian Labor Code (Law 12/2003), the employment conditions of foreigners should be subject to the condition of reciprocity (Article 27). Additionally, Ministerial Decree No. 146/2019 places many restrictions on the employment of foreigners in Egypt. Foreigners wishing to work in Egypt must have authorization to enter the country for work purposes and should be issued a work permit (Article 1). Foreigners could be exempted from issuing a work permit and/or paying for the work permit fees if their countries of origin signed treaties with Egypt to this effect. Work permits are



issued for one year or less for an annually increasing fee that are set at 10 percent of the workers' wages, with a minimum of EGP 8,000 per year and a maximum of EGP 50,000. Apart from cumbersome and expensive administrative procedures, the decree sets a cap on the number of foreigners working in any economic institution (not to exceed 10 percent of total number of insured Egyptian workers). Other restrictions include (Article 6):

1. The foreigner's skills must be equivalent to the position they are authorized to work in, and they should have at least three years of work experience.
2. The foreigner must obtain a professional license for professions requiring a special license per Egyptian laws and bylaws.
3. The foreigner shall not compete with the Egyptian workforce.²⁶
4. For each foreign technician hired, at least two Egyptian assistants must be assigned, and the foreign worker shall commit to training them.
5. Foreigners are not allowed to work as tour guides, in customs clearance, or in imports and exports.

The decree also allows foreign workers employed without a permit to regularize their situation. However, the regularization fees are calculated at EGP 15,000 per year, calculated from the day of entry into the country (Article 11). According to a study by the ILO and the Global Knowledge Partnership on Migration and Development (KNOMAD) on 20 countries home to 70 percent of refugees, the restrictive approach to granting refugees the right to work is highly prevalent. This may be related to the government's fear of creating a friendly environment that encourages refugees to settle permanently, along with fears of rising unemployment among nationals or labor market distortions (ILO, 2021a).

Therefore, in practice, refugees and asylum seekers cannot benefit from their entitlements per the new social security law nor the universal health insurance law (yet to be implemented) since their access to formal employment is hindered by the restrictions imposed on the employment of foreigners. The lack of work permits or the legal right to work is one of the main barriers to refugee inclusion in contributory social protection schemes (ILO, 2021a). Empirical studies indicate that refugees

and asylum seekers in Egypt are usually employed informally (Hetaba et al., 2020b; ILO, 2022; Norman, 2017). While informality is highly prevalent among nationals in Egypt, estimated at 64 percent according to Lopez-Acevedo et al. (2023), it further compounds the vulnerability of refugees and asylum seekers.

Access to non-contributory social assistance

Because a national identity card is needed to apply to Egypt's social assistance programs, refugees and asylum seekers cannot be included. Including refugees and asylum seekers in social assistance schemes is critical given their high levels of vulnerability. The 2018 EVAR indicates that 77 percent of households fall below the Minimum Expenditure Basket (UNHCR, 2020b). The barriers presented above with regard to the recognition of UNHCR refugee cards could pose additional challenges to including refugees and asylum seekers, even if the legal entitlement exists. Refugees and asylum seekers continue to rely on cash assistance disbursed by the UNHCR and its partners as part of their humanitarian assistance. The cash assistance disbursed by the UNHCR and the WFP was highly effective in reducing harmful coping practices (UNHCR, 2020b).

5.2.3. Access to social services

While refugees and asylum seekers generally enjoy equal access to public healthcare facilities, they are affected by the structural barriers to accessing healthcare in Egypt. The low budgetary allocations for the health sector in Egypt have been a source of concern to treaty-implementing bodies (CESCR, 2013). This negatively impacts the quality of public healthcare services and increases the reliance on out-of-pocket spending (Hetaba et al., 2020b; ILO, 2022; ILO, 2023b). In 2021, out-of-pocket health spending constituted 55 percent of health expenditure (WHO, n.d.). Refugee-specific barriers include discrimination, especially in the case of non-Arab refugees; language barriers; and lack of understanding of regulations by health staff (Hetaba et al., 2020b; ILO, 2022). Concerns about discrimination were also voiced by the committee on the elimination of all forms of discrimination against women (CEDAW), which notes the multiple forms of discrimination faced by refugee and asylum-seeking women and recommended enhancing their access to healthcare services (CEDAW, 2021).

Hence, it comes as no surprise that an estimated 61 percent of refugees in Egypt prefer private healthcare facilities despite their inflated cost (ILO, 2023b). This places greater importance on allowing refugees to access contributory health and social protection.

²⁶ Some groups of foreigners are exempted from this restriction via decree No. 485/2010, including political refugees (after the approval of the political refugee office at the presidency and stateless individuals residing continuously and permanently in Egypt. Other exemptions include Palestinians holding passports issued by the Palestinian Authority and a temporary residence permit for purposes other than tourism; Palestinians holding a Jordanian passport issued from Gaza and valid for two years; and Palestinians holding travel documents issued from Egypt, Lebanon, Syria, or Jordan.



Moreover, the implementation of the UHIS entails the transfer of health facilities under the auspices of the MoHP to the newly established GAHC, which will only treat insured families, as evidence from Port Said indicates (ILO, 2023b). This means that unless an executive regulation detailing how refugees and asylum seekers are to be included in the UHIS is published, they will no longer be able to access public health facilities. However, high levels of vulnerability mean that many refugees will have to be partially or fully subsidized under the new UHIS so that they are not burdened with contribution rates beyond their contributory capacity (ibid.; SSCHR, 2021; Hetaba et al., 2020b; ILO, 2022).

In terms of access to education, only certain nationalities of non-Egyptians have access to public schools. Children who do not have access to public schools either resort to private schools or community schools. The UNHCR gives out educational grants to these students so they can enroll in private schools (Hetaba et al., 2020b). EVAR data from 2018 shows that although 86 percent of refugee children aged 6-17 were attending schools, only 48 percent of those attending went to public schools, while the remainder went to community schools (45 percent) and private schools (eight percent) (UNHCR, 2020b). This goes to show how public schools are widely inaccessible to refugee children as a result of legal restrictions. However, even refugee children with access to public schools face difficulties in maintaining educational attainment. Syrian families reported that their children dropped out of school either to support the family financially in the case of males, or to avoid sexual harassment in the case of females (Hetaba et al., 2020b). It is important to note that in addition to lacking access to public education, non-Arab refugees and asylum seekers fare worse than Arab refugees in several welfare indicators, such as food security, housing, and average per capita income and expenditure (UNHCR, 2020b).

It should be noted, however, that the Government of Egypt has allowed for special provisions to open access to refugees on a number of occasions, despite legal restrictions. For example:

1. The national human rights strategy refers to state efforts in testing 68,000 foreigners for Virus C and providing treatment free of charge (Supreme Standing Committee for Human Rights, 2021).
2. Refugees and asylum seekers were allowed to register for the COVID-19 vaccine freely via the MoH's dedicated website, where their UNHCR cards were recognized as valid identification documents (ILO, 2022).

3. Another praiseworthy practice has been that refugee and asylum seeker children receive vaccination in health facilities or schools, provided that the parents present the child's birth certificate (Hetaba et al., 2020b).

6. Concluding remarks: conformity between national law and international obligations

To date, Egypt has no national asylum law, although a draft is currently being reviewed by the government. Our review of the legislative framework illustrates how the lack of a unified legal framework, in the form of an asylum law detailing all aspects of the rights and entitlements of refugees enshrined in international treaties ratified by Egypt, renders the policy and legislative framework on asylum seekers and refugees patchy and inadequate. This is especially due to the fact that national laws rarely refer to refugees and asylum seekers and instead subsume them under the category of foreigners (ILO, 2022), granting preferential treatment to nationals of some countries with which Egypt has special ties. In other words, rights and entitlements are not uniform across refugee communities. For example, certain nationalities have access to public education on par with Egyptians regardless of refugee status. This is problematic because refugees and asylum seekers should enjoy special protection owing to their status and regardless of nationality. Furthermore, refugees and asylum seekers are rarely (if at all) mentioned in policy documents. This is particularly the case as the national body overseeing human rights in Egypt, the NHRC, does not refer in its annual reports to the rights of refugees, asylum seekers, or foreigners more generally.

We differentiate in our analysis between *de jure* and *de facto* provisions in Egypt. From a *de jure* perspective, the country has made reservations to the 1951 Refugees Convention. These are reservations to articles 20 (rationing), 22 (elementary education, paragraph 1), 23 (public relief and social assistance), and 24 (social security). The impact of these reservations on national law is variable. In the case of public relief, assistance, and access to rationing, all foreigners are excluded from access, while access to public schools is reserved for certain Arab nationalities regardless of whether they are migrants, refugees, or asylum seekers. The reservation on access to social security is rendered superfluous by Egypt's ratification of the ILO equality of treatment in Social Security Convention No. 118, as well as the subsequent ratification of Law No. 148/2019 on social security, which grants equal rights to social security for nationals and non-nationals.



Furthermore, these reservations do not absolve Egypt from its international obligations of providing everyone with the right of social security and education, including primary education under other human rights treaties to which it made no reservations. For instance, the ILO Convention on Equality of Treatment in Social Security also binds Egypt to treat non-nationals as equal to nationals and to exempt refugees from the reciprocity requirement in regard to medical care; sickness benefits; maternity benefits; invalidity benefits; old-age benefits; survivors' benefits; employment injury benefits; and unemployment benefits.

In terms of *de facto* provisions, the cumbersome procedures to obtain residence permits, passport renewal, and the non-recognition of UNHCR cards as valid identification for some services poses insurmountable challenges to refugees and asylum seekers in the country. Access to formal employment by refugees, a pre-condition to accessing contributory social protection, is thwarted by excessive restrictions on the employment of non-Egyptians in Egypt and the cap set on the number of foreigners working in any economic institution. The concern about the restrictions on refugees' right to work is reiterated in the report by the Committee on the Right of the Child, which recommended that the Government of Egypt "take all necessary measures to improve living conditions for refugee and asylum-seeking children in the State Party, including by considering abolishing the prohibition of work permits for refugees" (Committee on the Rights of the Child, 2011, p.21). Moreover, the prohibitive fees of issuing a work permit in the case of Egypt constitute a breach of Article 17 of the 1951 Refugee Convention to which Egypt made no reservations because they place a "de facto bar" on the employment of refugees (Hathaway, 2021, p.956). Moreover, Hathaway notes that "the duty under Art. 6 [of the 1951 Refugee Convention] to exempt refugees from insurmountable requirements applies in such a case, meaning that refugees must receive administrative dispensation sufficient to offset the disadvantages they face in meeting the requirement to secure a work permit" (*ibid*).

Similarly, while the universal health insurance law allows for establishing a scheme for refugees, this has not materialized. Refugees and asylum seekers, however, have access to public hospitals based on memoranda of understanding signed between the MoHP and the UNHCR. Yet, the limited fiscal space for healthcare in Egypt (CESCR, 2013) and the need for out-of-pocket spending (ILO, 2023b) limits the results of this benefit (CESCR, 2013). Furthermore, with the implementation of the new UHIS, public hospitals will treat only insured families, thus making the inclusion

of refugees and asylum seekers in the new scheme imperative.

With regard to access to social assistance, refugees and asylum seekers do not have access to Takaful and Karama—the two main social assistance programs in the country—despite the high levels of vulnerability refugee communities endure and the substantial impact of cash assistance disbursed by the UNHCR and its partners in alleviating vulnerability. This is a direct result of Egypt's reservation on Article 23 of the 1951 Refugee Convention.

In light of these findings, we recommend the below recommendations, divided into two main subgroups pertaining to enhancing *de jure* and *de facto* provisions:

6.1. Recommendations pertaining to *de jure* provisions

1. An important prerequisite for this legal amendment is for the Government of Egypt to retract its reservations on the articles of the Refugee Convention related to rationing, public relief, and assistance.
2. With regard to access to social security, ratifying relevant ILO conventions such as the Social Security, 1952 (Minimum Standards) (No. 102); the Maintenance of Social Security Rights Convention, 1982 (No. 157); and the Migration for Employment Convention, 1949 (No. 97) is highly recommended. This is because it shows commitment to extending social protection and provides guidance on how to develop the social security system with a view to (1) achieving equality of treatment between nationals and non-nationals in social security; (2) setting minimum standards for coverage, benefits, and entitlement conditions; (3) enhancing the governance and administration of social security systems; and (4) maintaining the acquired social security rights and rights in the course of acquisition.
3. Concluding bilateral and multilateral social security arrangements is another measure that ensures the maintenance of rights in the course of acquisition for refugees and asylum seekers (ILO, 2021a). While it is true that it is difficult or impossible to enlist the help of the refugee's country of origin because the social protection system may have been destroyed or because a refugee has renounced the protection of their country, it should be noted that the journey of refugees and asylum seekers is rarely linear and could have more than one stop. Therefore, conducting bilateral and multilateral social security agreements and including refugees and asylum seekers in their provisions ensures that their social security rights are protected in transit and destination countries.
4. Creating flexible conditions for refugees and asylum seekers, such as allowing retroactive payments of



missed contributions and reducing the length of contribution periods required to become eligible for a pension can facilitate their access to contributory social security (ILO, 2021a).

5. Promoting the financial inclusion of refugees and asylum seekers could encourage positive saving behavior, which could be useful when access to contributory social security is not possible. This involves promoting financial education for refugees and asylum seekers on the demand side, as well as providing technical support to financial institutions to serve this segment of the market on the supply side (ILO, 2021b).
6. The provisions for refugees set forth in the new universal health insurance law must be put in practice in the governorates where the law has been implemented to assess the feasibility of including them in the system. This requires the promulgation of an administrative decree on the matter, in addition to signing a memorandum of understanding with the UNHCR to coordinate the inclusion process into the UHIS.
7. In the context of access to social assistance, refugees and asylum seekers must be granted access to governmental social assistance and non-contributory health protection schemes as possibly as resources can allow. This should be done after considering the viability and financial feasibility of their inclusion, including with support from temporary funds provided by external partners and donors. As such, we recommend that the new asylum law codify the right to social assistance on an equal footing with Egyptians. A memorandum of understanding between the MoSS and the UNHCR can be signed to coordinate the inclusion process of refugees and asylum seekers into social assistance schemes.
8. Regarding access to basic services:
 - Egypt can retract its reservations to article 22.1 pertaining to elementary public education in the 1951 Refugee Convention to allow universal access to all refugee children to elementary education. The current reservation and the decree on foreigners' access to education contradict provisions in the child law granting every child the right to free public education and confirming Egypt's commitment to the Covenant on the Rights of the Child and other international agreements.
 - The new asylum law should also reflect the commitments to the right of education made in the child law and grant access to education for all refugee children regardless of nationality.
9. The presence of refugee rights in the main national policy documents is weak. Legislative change must be coupled with comprehensive strategic frame-

works and policies focusing on the rights of refugees and asylum seekers and led by the government. They must create clear, measurable goals and a mechanism for monitoring and evaluation.

10. The rights of refugees and asylum seekers must be incorporated into the mandate of the NCHR. This will facilitate the inclusion of refugee and asylum-seeker rights in national policies.
11. The new asylum law should guarantee the right of non-refoulement, a necessary safeguard for refugees and asylum seekers.

6.2. Recommendations pertaining to *de facto* provisions

1. With regard to access to social security, access to contributory social protection would not be possible without easing the process of access to formal employment. Empirical evidence illustrates that the high cost of work permits pushes refugees and asylum seekers into informality. It is recommended that the cost of work permits be reduced significantly for refugees. Employment documentation is key to accessing such services.
2. With regard to access to basic services, the consideration of UNHCR cards as proof of identification is key to simplifying access to different realms of services, including access to the banking sector and other public services.
3. The Government of Egypt should seek to expand the level of inclusion of refugees and asylum seekers into the different health initiatives and public health interventions not covered by the UHIS (such as '100 Million Healthy').
4. UNHCR cards must be fully recognized as a valid form of identification for all services, including access to work permits, social security, and social assistance schemes.
5. Refugees and asylum seekers should be allowed to apply for a residence permit at the Cairo and Alexandria immigration offices and the validity of their residence permits should be extended to at least one year.
6. Capacity building and training should be implemented for government officials in various agencies pertaining to social protection and immigration departments on the new asylum law and Egypt's international human rights commitments regarding refugees and asylum seekers.
7. Data collected by government agencies involved in social protection need to be disaggregated by nationality in order to facilitate the monitoring and evaluation of the status of refugees, asylum seekers, and migrants more generally. This is especially important at a time when the government is strongly advocating for digitalization.



8. In coordination with the UNHCR and its partners, the government can initiate information and awareness campaigns in multiple languages about the social protection schemes they have access to and how to apply for them, as well as how to formalize their employment situation. This can involve distributing printed materials in different languages, TV commercials, posting videos on social media accounts, and conducting information sessions in refugee-dense areas in collaboration with the UNHCR, NGOs, and local community leaders.
9. Regularizing the residence situation of refugees and asylum seekers is recommended to facilitate their integration into the host society through, for example, initiating regularization campaigns for refugees and asylum seekers who do not possess a residence permit (see Appendix I).

Appendix I: Country experiences in providing social protection to refugees

AI.1. Morocco

In 2013, Morocco announced the adoption of a human-rights-based migration policy to replace the security-based approach premised on Law 02-03, which penalizes illegal entry and excludes migrants from protection and relief (Bendra, 2019; Benjelloun, 2021). The new policy is based on the recommendations of the Moroccan National Human Rights Council. In the same year, a ministerial department dedicated to migration affairs was founded (Jiménez-Alvarez et al., 2021) and the Office for Refugees and Stateless Persons was established under the auspices of the Ministry of Foreign Affairs and Cooperation to work with the UNHCR in examining asylum requests (Maroc.ma, 2013). In 2014, the National Migration and Asylum Strategy was adopted. The strategy rests on four main objectives: Facilitating the integration of regular immigrants, upgrading the regulatory framework, establishing an appropriate institutional framework, and managing migratory flows with respect for human rights. It further identifies 11 sectoral action programs, including areas of education, health, housing, social and humanitarian assistance, employment, regulatory framework, and governance (Government of Morocco, n.d.). The country also embarked on two regularization campaigns for irregular migrants in 2014 and 2017, respectively, which regularized the situation of 50,000 irregular migrants (Jacobs, 2023). To facilitate access to education, Circular No. 13-487 of the Ministry of Education allowed foreign students from Sahel and

Sub-Saharan countries to enroll in public education.²⁷ Migrants also have formal access to the medical insurance scheme for low-income Moroccans (RAMED), though this access is hindered by several obstacles in practice (Bendra, 2019; Kynsilehto, 2023).

Even though the regularization of irregular migrants and the national strategy for immigration are laudable improvements, especially in the context of the MENA region, the Government of Morocco has been criticized because its migration policy is merely a tool for maintaining geo-strategic influence and the resilience of the authoritarian regime (Benjelloun, 2021; Jiménez-Alvarez et al., 2021; Natter, 2021), in addition to the lack of meaningful legislative reforms (Jacobs, 2023; Jiménez-Alvarez et al., 2021).²⁸

AI.2. Türkiye

Türkiye adopted an open-door policy toward Syrians following the Syrian civil war and the ensuing influx of Syrian refugees at its borders (Ineli-Ciger, 2017; Yilmaz, 2019). The legal basis for this policy is Article 91 of the Law on Foreigners and International Protection (LFIP) promulgated in 2013, which allowed for the establishment of a temporary protection system “for foreigners who have been forced to leave their country, cannot return to the country that they have left, and have arrived at or crossed the borders of Turkey in a mass influx situation seeking immediate and temporary protection” (Ineli-Ciger, 2017a, p.557). The Temporary Protection Regulation (TPR), which came into force in 2014, implements Article 91 of the LFIP and elaborates the scope of the temporary protection regime. It gives Syrians the right to education, health, social assistance, legal advice, and protection against detention for illegal entry (Ineli-Ciger, 2017).

The mainstreaming of refugees into Turkish public services would not have been possible without the support from the EU under the EU-Türkiye Agreement. The EU funded the unconditional cash transfer program, the Emergency Social Safety Net (ESSN), which was executed by the Ministry of Family and Social Policies, the WFP, and the Turkish Red Crescent to benefit those falling under international or temporary protection in Türkiye. The ESSN

²⁷ <https://www.ccme.org.ma/fr/medias-et-migration/33103>. The requirements to enroll, however, include providing the guardian's residence permit and passport, which effectively blocks non-regular migrants from enrolling.

²⁸ The drafts of the new asylum and immigration laws are yet to be adopted. Until then, Law 02-03 on immigration, which lays down a security-based approach to handling migration, is still in force (Bendra, 2019; Jiménez-Alvarez et al., 2021).



is a categorical program offered to particularly vulnerable groups, such as households with a high dependency ratio and single-parent households. Each person in the household receives a monthly TL 120 disbursed through direct debit cards (Yilmaz, 2019). In July 2023, 1,497,932 individuals from 274,743 households, mostly Syrians, received ESSN transfers (IFRC, 2023).

The temporary protection regime allows Syrians access to free public education (or they can opt for temporary education centers in which the language of instruction is Arabic), social assistance, and public services. Furthermore, Syrian students who finished their high school education in another country can receive a high school certificate if they pass the high school proficiency and equivalency examination for international students (Ineli-Ciger, 2017). They also have access to universal health insurance equally to Turkish citizens. The Ministry of Interior's Disaster and Emergency Management Presidency (AFAD) funds the provision of health services to Syrians as per a protocol signed between AFAD and the Ministry of Health in 2015. In 2016, the Ministry of Health announced the establishment of migrant primary healthcare centers, staffed with Syrian doctors with funding from the EU. This was intended to provide tailored healthcare to Syrians in Arabic as well as to reduce the pressure on primary healthcare facilities (Yilmaz, 2019).

It is important to note that the Turkish model of including refugees in the social protection system has been criticized because it was premised on the Türkiye-EU statement signed in 2016,²⁹ considered an example of externalization or outsourcing of responsibilities toward refugees (HRW, 2018). Moreover, from a legal perspective, the main problem with the protection regime crafted by the Turkish government lies in the fact that Syrians enjoy temporary protection rather than refugee status. Türkiye reserved its right when signing the 1951 Refugee Convention and 1967 Protocol to grant refugee status exclusively to individuals fleeing from Europe. As mentioned earlier, Syrians enjoy temporary protection status under the LFIP and the TPR. The Council of Ministers enjoys great discretion with regard to determining the temporary protection regimes; temporary protection is granted/revoked by the decision of the Council of Ministers, thereby "creat[ing] ambiguity with respect to long term integration" of Syrians (Yilmaz, 2019, p.726).

²⁹ The EU-Türkiye Statement, signed in 2016, states that irregular migrants entering Greece from Türkiye will be returned to Türkiye. In turn, the EU will channel an initial amount of EUR 3 billion to the EU Facility for Refugees in Türkiye to aid the country in granting refugees access to assistance and relief (European Council, 2016).

Additionally, this tiered protection system, created by the geographical limitation to the 1951 Refugee Convention, turns the Syrian situation in Türkiye into a domestic matter and shields the government from international responsibility (Yilmaz, 2019).

AI.3. Brazil

Brazil's domestic legislation offers protections to refugees, asylum seekers, and, more generally, non-nationals. The Constitution upholds equality between citizens and foreigners and grants all residents the right to access health services, free public education, and social protection (Andrade et al., 2021). Furthermore, the Refugee Act promulgated in 1997³⁰ grants refugees the rights enshrined in the 1951 Refugee Convention and the 1967 Protocol. Article 5 states that "a refugee shall enjoy the rights and be subject to the duties related to foreigners in Brazil, the provisions of this law, the 1951 Convention relating to the Status of Refugees, and the 1967 Protocol relating the Status of Refugees." The law also establishes the National Committee for Refugees (Comitê Nacional Para Refugiados) (CONARE) charged with RSDs, coordinating state efforts to provide protection and support to refugees and approving regulations clarifying the application of the law (Article 12). CONARE comprises representatives of the ministries of Justice, Foreign Affairs, Labor, Health, Education, and Sport, in addition to the Federal Police Department, an NGO involved in refugee assistance and protection, and the UNHCR, which has an observer status (Article 14). In 2017, a new migration law was adopted, granting non-nationals equal rights to citizens to access social assistance programs (Andrade et al., 2021).

Line ministries' bylaws clarify how non-nationals can register with the Single System of Social Assistance, which is the government body charged with determining eligibility for social assistance schemes. Official statistics indicate that vulnerable Venezuelan refugees and migrants benefit from conditional and unconditional cash transfers offered to citizens. The capacity of the system was enhanced to accommodate the increase in the number of beneficiaries, especially in areas where migrants and refugees are concentrated (ibid). Nonetheless, the accessibility of these programs is hindered by the lack of available resources to accommodate the needs of refugees and vulnerable migrants (ibid).

³⁰ <https://www.refworld.org/legal/legislation/natlegbod/1997/en/18339>



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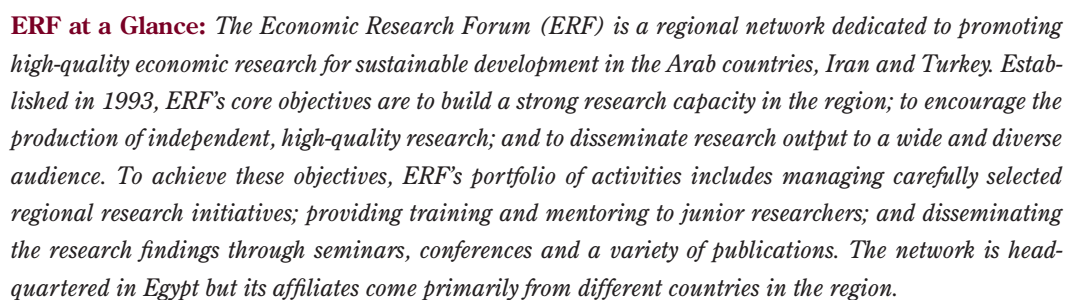
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