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School of Humanities and Social Sciences

EXPOSING THE PROTECTION GAP: DETENTION AS PERPETUATING
REFOULEMENT IN EGYPT

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ABSTRACT

In countries where the United Nations High Commissioner for Refugees (UNHCR) conducts refugee status determination (RSD), the detention of refugees, particularly for reasons related to immigration, can be difficult to regulate. Self-interested government practices may hinder the UNHCR from fulfilling the duties the government has assigned to it, and can precipitate violations of refugee rights under international law. In Egypt, where the UNHCR is solely responsible for recognizing refugees, asylum seekers are increasingly being detained near the border for illegal entry. There is a lack of a clear, consistent policy and of systematic communication between Egyptian authorities near the border and the UNHCR in Cairo. This penalization of seeking asylum inhibits detained asylum seekers' access to the UNHCR RSD process, which prevents refugees from benefiting from the protection of the UNHCR and leads to violations of the principle of *non-refoulement*. The aim of this paper is twofold. Firstly, it is to document previously unpublished aspects of the system of refugee detention in Egypt. Secondly, it is to demonstrate how the obstacles preventing asylum seekers from accessing the UNHCR are conducive to an increased risk of *refoulement*. It will do this by discussing the system of refugee immigration detention in Egypt as it currently exists in light of international law and Egyptian domestic law. It will focus on the category of asylum seekers who have entered Egypt through its borders illegally as being particularly vulnerable to this system.

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Introduction

In countries where the United Nations High Commissioner for Refugees (UNHCR) conducts refugee status determination (RSD), the detention of refugees, particularly for reasons related to immigration, can be difficult to regulate. Self-interested government practices may hinder the UNHCR from fulfilling the duties the government has assigned to it, and can precipitate violations of refugee rights under international law.

In Egypt, where the UNHCR is solely responsible for recognizing refugees, asylum seekers are increasingly being detained near the border for illegal entry. There is a lack of a clear, consistent policy and of systematic communication between Egyptian authorities near the border and the UNHCR in Cairo. This penalization of seeking asylum inhibits detained asylum seekers' access to the UNHCR RSD process, which prevents refugees from benefiting from the protection of the UNHCR and leads to violations of the principle of *non-refoulement*.

The aim of this paper is twofold. Firstly, it is to document previously unpublished aspects of the system of refugee detention in Egypt. Secondly, it is to demonstrate how the obstacles preventing asylum seekers from accessing the UNHCR are conducive to an increased risk of *refoulement*. It will do this by discussing the system of refugee immigration detention in Egypt as it currently exists in light of international law and Egyptian domestic law. It will focus on the category of asylum seekers who have entered Egypt through its borders illegally as being particularly vulnerable to this system.

Chapter 1 – Background

Egypt as a host country: Emergency and anti-terrorism law

Egypt has hosted diverse populations of refugees for generations, “including Armenians who fled the 1915 massacre under the Ottomans, Palestinians after 1948, and Sudanese after 1983.”¹ More recently, “an influx of refugees started arriving in the 1990s as a result of wars in the Horn of Africa, especially Sudan, Ethiopia, and Eritrea and Somalia. Most of them headed for Cairo.”² In addition to Egypt’s geographic proximity to these countries, “an important element that makes Egypt an attractive destination is the existence of one of the largest resettlement programs in the world, both through the United Nations High Commissioner for Refugees Office (UNHCR) and the private sponsorship programs to Canada, Australia, the USA and Finland.”³

Those who seek asylum in Egypt do so in a country in which the unemployment rate is about 10.1 percent (2007 est.), and 20 percent of the population lives below the poverty line (2005 est.)⁴ out of a population of 75.4 million.⁵ Emergency laws have been in place since 1967, and they have applied continuously since the assassination of the late President Anwar Sadat in October 1981.⁶ The amendments to Article 179 of the Egyptian Constitution⁷ in 2007 have served to more

¹ Katarzyna Grabska., *Living on the Margins: The Analysis of the Livelihood Strategies of Sudanese Refugees with Closed Files in Egypt* 4, (The American University in Cairo, Forced Migration and Refugee Studies, Working Paper No. 6, June 2005).

² *Id.*

³ Grabska., *supra* note 1.

⁴ CIA, *The World Factbook: Egypt*, (March 20, 2008), *available at* <https://www.cia.gov/library/publications/the-world-factbook/geos/eg.html>.

⁵ World Bank, *Egypt, Arab Rep. at a Glance* (2007), devdata.worldbank.org/AAG/egy_aag.pdf.

⁶ Emergency Law No. 162 (1958) (Egypt).

⁷ Egyptian Constitution (1971), art.179:

The Socialist Public Prosecutor shall be responsible for taking the measures which secure the people’s rights, the safety of the society and its political regime, the preservation of the socialist achievements

closely align the Constitution and the emergency laws in the name of counterterrorism.⁸ Egypt's antiterrorism campaign hands more power over to the government by inhibiting Article 41 (freedom from arbitrary arrest or detention), Article 44 (protection of home from unwarranted search), and Article 45 (privacy and security of communications).⁹ Human rights groups have criticized the human rights situation in Egypt, where freedom of expression and association have been inhibited, attacks on political dissent have increased, arbitrary arrests and detention have been known to take place, and torture in detention is rampant.¹⁰ Human rights abuses against Egyptian citizens have been allowed to continue under the emergency laws. It is into this context that asylum seekers enter when they enter Egypt for refuge.

Egypt as a country of transit

Egypt has made five reservations to the 1951 Convention Relating to the Status of Refugees (hereinafter "1951 Convention): Article 12(1) (personal status), Article 20 (rationing), Article 22(1) (access to primary education), Article 23 (public relief and assistance), and Article 24 (labor legislation and social security).¹¹ These reservations make integration a challenging, and sometimes unattainable option for some categories of refugees. Continued conflicts or persecution in the country of origin render repatriation similarly unfeasible. Refugees often come to Egypt in hopes that they will be resettled to a third country, usually a Western country like America, Canada, or Australia, either through the UNHCR or through the embassies of the

and commitment to socialist behavior. The law shall prescribe his other competences. He shall be subject to the control of the People's Assembly in accordance with what is prescribed by law.

⁸ See Freedom House, Countries at the Crossroads 2007, Country Report: Egypt, <http://www.freedomhouse.org/modules/publications/ccr/modPrintVersion.cfm?edition=8&ccrpage=37&ccrcountry=154>.

⁹ See *id.*

¹⁰ See Human Rights Watch World Report 465-471 (2008), www.hrw.org/wr2k8/pdfs/wr2k8_web.pdf.

¹¹ 1951 Geneva Convention Relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 137, [hereinafter 1951 Convention].

resettlement countries themselves. Because of these circumstances, refugees and asylum seekers tend to view Egypt as a country of transit, a necessary but temporary step on their way to a future in a location with more opportunities. However, the UNHCR has decreased its rate of resettlement, particularly after the UNHCR's decision in 2004 to suspend RSD procedures for all Sudanese applicants. When the government of Sudan and the Sudan People's Liberation Army (SPLA) declared a ceasefire in January of that year, the UNHCR decided to suspend RSD procedures for all Sudanese applicants, and instead offer automatic temporary protection by granting them yellow asylum seeker cards.¹² While this theoretically protects them from *refoulement*, it has eliminated the possibility for many to be resettled as the UNHCR only refers blue card holders for resettlement.¹³ With the restrictions that Egypt's reservations to the 1951 Convention cause, especially in the areas of employment and education, many refugees in Egypt do not have many options for earning a livelihood, and in some cases survival itself is a struggle.

In addition to these circumstances, reports of harassment on the street, racism, and gang violence in certain neighborhoods of Cairo are also factors causing refugees to view Egypt as a temporary point of transit. These causes may play a role in the recently increasing trend of illegal smuggling of refugees and asylum seekers across the Egyptian border into Israel, where some refugees believe they have better chances of earning a livelihood and an overall more promising future.¹⁴

Applying for refugee status in Egypt

¹² Forced Migration and Refugee Studies (FMRS), *A Tragedy of Failures and False Expectations: Report on the Events Surrounding the Three-month Sit-in and Forced Removal of Sudanese Refugees in Cairo, September-December 2005*, 10 (American University in Cairo 2006).

¹³ *Id.*

¹⁴ See Gamal Nkrumah, *Here today, gone tomorrow: Why are increasing numbers of refugees fleeing Egypt for Israel?* Al-Ahram Weekly, August 2-8, 2007, Issue No. 856, available at <http://weekly.ahram.org.eg/2007/856/eg9.htm>.

Asylum seekers in Egypt can register with the UNHCR at Egypt's only UNHCR office in 6th of October City, Cairo. Once they initiate this process, they will be considered "of concern" to the UNHCR. They will receive a document—either a yellow card or an asylum seeker certificate—that identifies them as being somewhere in the UNHCR's process of refugee status determination. If they came to Egypt with appropriate identification, they will receive the yellow card; otherwise, they will receive the asylum seeker certificate. Only if they receive a yellow card may they apply for a residency stamp through Immigration and the Ministry of Foreign Affairs, which will be placed in the yellow card and is renewable every six months. Asylum seekers will receive a date for their refugee status determination interview, which may be several months from registration. At the interview, a UNHCR Credibility Officer will ask questions regarding why the asylum seeker left his country and came to Egypt in order to determine whether he fits into the legal definition of "refugee" as articulated in either the 1951 Convention Relating to the Status of Refugees ("1951 Convention") or the 1969 Organization of African Unity (OAU) Convention. If he is accepted, he will receive a blue card that identifies him as a recognized refugee, which, like the yellow card for asylum seekers, can bear a residency stamp renewable every six months. This blue card identifies a refugee as being under the protection of the UNHCR and should prevent the deportation of a refugee to his country of origin. If the asylum seeker is rejected after his refugee status determination interview, he has the right to appeal within 30 days after his rejection. If he is rejected again, the UNHCR will close his file, he will no longer be "of concern" to the UNHCR, and he will be subject to deportation.

The role of the UNHCR in Egypt

The government of Egypt and the UNHCR signed a Memorandum of Understanding in 1954, in which the Egyptian government declared itself “desirous to continue the international co-operation within the United Nations in favor of refugees who are within the mandate of the United Nations High Commissioner for Refugees.”¹⁵ In practice, however, the UNHCR has increasingly assumed the role of gatekeeper in matters of refugee status determination, often in place of the government.¹⁶ Therefore, while it is ultimately the government’s responsibility to recognize and protect refugees, the UNHCR’s primary and most basic function before all of its other forms of protection that are elaborated in its mandate is to decide who is a refugee. In other words, an asylum seeker cannot benefit from the UNHCR’s assistance until the UNHCR recognizes him as a refugee. By acting in this quasi-governmental role on behalf of the Egyptian government, the UNHCR has taken on the responsibility of determining who can be saved from deportation. However, it cannot protect refugees from government practices like administrative immigration detention that might impede asylum seekers from benefiting from the UNHCR’s protection. If an asylum seeker is detained for entering Egypt illegally, the UNHCR cannot begin to offer its services until it is aware that he is in Egypt and in detention, and until the Egyptian government allows the UNHCR to fulfill its responsibilities. The negative consequences of this dilemma are at the expense of the well being of asylum seekers. They fall into a protection gap wherein the UNHCR cannot provide *non-refoulement*.

Smuggling

¹⁵ Memorandum of Understanding between the Government of Egypt and UNHCR, Preamble (February 10, 1954) (unofficial translation).

¹⁶ See Michael Kagan, *The Beleaguered Gatekeeper: Protection Challenges Posed by UNHCR Refugee Status Determination*, 18 IJRL 1, 2-5 (2006).

From talking to asylum seekers who have entered Egypt illegally, it has become clear that smugglers around the borders with Libya, Sudan, and Israel frequently capitalize from assisting asylum seekers with penetrating the Egyptian border. The specific experiences of those who were interviewed for this paper will be elaborated in more detail in the next chapter, and the full texts of their interviews can be found in the Appendix. Smugglers are mostly Sudanese, Egyptian, or from a Bedouin tribe. Usually for a price, asylum seekers can hire a smuggler to guide them with navigating around checkpoints or through difficult and unfamiliar terrain like deserts or mountains. They may take asylum seekers through a long road between Sudan and Egypt that is not heavily guarded known as Darb El Arbeen in the Eastern Desert. This road is sometimes used for smuggling weapons, people, and drugs. Anything being smuggled from Sudan will normally go to one of the southern cities of Egypt in the Aswan governorate: Edfu, Darrow, Kom Ombo, or Nasr El Nuba.

Meanwhile, Egyptian guards must defend the sovereignty of the border, and prevent human, drug, and arms trafficking. According to the U.S. Department of State,

Egypt is a transit country for women trafficked from Eastern Europe [...] to Israel for the purpose of sexual exploitation. These women generally arrive in Egypt through air and seaports as tourists and are subsequently trafficked through the Sinai Desert by Bedouin tribes. Men and women from sub-Saharan Africa and Asia are similarly believed to be trafficked through the Sinai Desert to Israel and Europe for labor exploitation. Bedouins, who are very knowledgeable of desert routes and methods of avoiding detection, routinely rape and abuse victims during journeys that can take up to two months to complete.¹⁷

In fact, “In 2002 alone, signs of over 400 incidents of smuggling were detected along the Israeli-Egyptian border. Approximately 3,000 people crossed into Israel illegally,

¹⁷ U.S. Department of State, Trafficking in Persons Report, Released by the Office to Monitor and Combat Trafficking in Persons (June 5, 2006), *available at* <http://www.state.gov/g/tip/rls/tiprpt/2006/65988.htm>.

and over fifty tons of narcotics, mainly locally produced marijuana and hashish, entered Israel from the Sinai Peninsula.”¹⁸ Also, according to the United Nations Office on Drugs and Crime, “[D]ue to its geographical location, Libya has potential for transit trafficking, particularly for drugs destined for Egypt.”¹⁹

Israel has expressed fear that the porosity of Egypt’s border may give way to the Islamic group Hamas to smuggle explosives and weapons through the tunnels that run beneath the Egyptian border, connecting to the Gaza Strip.²⁰ According to the Congressional Research Service (CRS), “Israel also asserts that Egypt is not adequately sealing its side of the border, citing the recent breakthrough of hundreds of thousands of Palestinians who rushed into Egypt on January 23, 2008.”²¹ CRS acknowledges a challenge for Egypt, where Egypt “wants to keep Hamas isolated, but not held solely responsible for failing to do so by either Israel or the United States.”²²

Egypt’s relationship with Israel has been “largely considered a success for U.S. Middle-Eastern diplomacy for over three decades.”²³ In light of Egypt’s interest in preserving its crucial relationship with Israel, the political sensitivity of the situation with the border between Egypt and Israel, as well as Egypt’s state of emergency, Egyptian guards may protect the border by taking measures outside of the scope of international human rights standards. It has been reported that “Israel has put pressure on Egypt to reduce the flow of people crossing the border into its territory

¹⁸ Doron Almog, *Tunnel-Vision in Gaza*, 11(3) Middle East Quarterly (2004).

¹⁹ United Nations Office on Drugs and Crime, *Libya – Overview of Drug Control Situation* (2007), available at http://www.unodc.org/egypt/en/country_profile_libya.html.

²⁰ Isabel Kershner, *Egyptian Guard Killed in Clash with Smugglers at Israeli Border*, N.Y. Times Dec. 23, 2007, available at <http://www.nytimes.com/2007/12/23/world/middleeast/23mideast.html>.

²¹ Jeremy M. Sharp, *The Egypt-Gaza Border and its Effect on Israeli-Egyptian Relations*, Congressional Research Service, (February 1, 2008), at 4.

²² *Id.* at 15.

²³ Sharp, *supra* note 21 at 15.

without authorization.²⁴ On 19 January 2008, a man from Ivory Coast “bled to death after he was shot in the thigh at the border with Israel.”²⁵ On 30 January 2008, two Ivorians were shot and killed when they tried to cross the border from Egypt into Rafah.²⁶ In February 2008, Egyptian police shot and killed an Eritrean woman who was trying to cross the border in the south-eastern part of the Sinai Peninsula into Israel with her daughters, aged eight and ten.²⁷ This woman was among a group of Africans who had paid smugglers to help cross the border.²⁸ The United Nations Office for the Coordination of Humanitarian Affairs – Integrated Regional Information Network (IRIN) has reported that, “Although Israeli Prime Minister Ehud Olmert stated that he and Egyptian President Hosni Mubarak agreed that ‘infiltrators’ would be returned to Egypt, recent statements from Cairo contradicted in full the Israeli leader’s statement.”²⁹ IRIN has also reported that those entering Israel are at a risk of deportation to their country of origin if they are returned to Egypt. One 17-year-old Eritrean boy was quoted saying “I’d rather die than go back there.” IRIN has commented that, “Rights groups said that for him too Egypt was not an option as it had sent refugees back to Eritrea, to danger.”³⁰ At the time of writing (19 May 2008), Israel passed a draft of a law criminalizing “infiltration,” with the possibility of up to five years in prison, and seven if the “infiltrator” is from an “enemy state.”³¹ This law

²⁴ Amnesty International, Five African migrants shot dead crossing Egypt-Israel border, (February 21, 2008), available at http://www.amnesty.org.uk/news_details.asp?NewsID=17673.

²⁵ *Id.*

²⁶ Amnesty International, *supra* note 24.

²⁷ Amnesty International, *supra* note 24.

²⁸ Amnesty International, *supra* note 24.

²⁹ United Nations Office for the Coordination of Humanitarian Affairs, Integrated Regional Information Networks (IRIN). Israel: Refugees should not be locked up, says rights groups, August 14, 2007, available at <http://www.irinnews.org/report.aspx?ReportID=73725>.

³⁰ *Id.*

³¹ United Nations Office for the Coordination of Humanitarian Affairs, Integrated Regional Information Networks (IRIN). Israel: New law threatens to imprison refugees, May 27, 2008, available at <http://www.irinnews.org/Report.aspx?ReportId=78414>.

would “standardize the concept of ‘hot return,’ which allows the police or military to immediately deport asylum seekers caught illegally crossing the border, without the chance to make an asylum claim or consult a lawyer.” It is possible that because some asylum seekers and refugees have attempted to cross the border from Egypt into Israel illegally, given Israel’s attitude toward “infiltrators,” Egypt is increasingly detaining asylum seekers who enter Egypt illegally because they suspect that they might have the intention of using Egypt as a point of transit before ultimately entering Israel illegally.³²

Point of entry

The place in which an asylum seeker enters Egypt can dictate the overall outcome of his refugee claim because it can determine his ability to access the UNHCR. If an asylum seeker enters Egypt illegally and manages to make it to Cairo without getting caught, he will have a chance to register at the UNHCR and go through the RSD process. If an asylum seeker enters Egypt through an airport without any legal documentation or identification, he can be detained at the airport until the UNHCR is contacted. Asylum seekers may also enter Egypt by a boat on the Nile to Wadi Halfa, by car, truck, bus, camel, or on foot through one of many points at the border with Sudan or Libya.³³ The Egyptian army patrols the borders and may arrest anyone who is caught entering without a passport or entry visa. Treatment of asylum seekers near the border of Egypt differs from that in Cairo. However, Egypt’s treatment of asylum seekers near the border is not necessarily consistent. If an asylum seeker is caught entering Egypt at the border without a passport or entry visa, he will

³² This speculation comes from conversations with private sources during the trial process. It is a sensitive area that requires further research, but for practical and ethical reasons I was not able to pursue this hypothesis further.

³³ Conversation with a lawyer at the Hisham Mubarak Law Center (HMLC), Aswan branch (April 26, 2008).

probably be taken to the nearest military court for a trial. It is also possible that an asylum seeker be taken to prison without a trial.³⁴ If an asylum seeker is caught within a city in Egypt after having entered illegally without passport or entry visa, he will be taken to a civil or criminal court rather than a military court. The process that asylum seekers undergo in court will be discussed in the next chapter.

Detention

Asylum seekers who are caught entering Egypt illegally are sometimes detained with criminals in prison. The conditions in detention have been reported to have poor ventilation, extreme temperatures, overcrowding, dim lighting, settings that hinder sleep like noise and lack of space to lay down, difficulty for prisoners to access food and water, difficulty in maintaining hygiene due to dirty cells and being unable to change clothes, wash, or access toilets, no permission to go outdoors for exercise, and inadequate access to medical assistance.³⁵ Asylum seekers who are detained for illegal entry can be detained with convicted criminals, which subjects them to extortion, theft, sexual abuse or rape, exposure to drug abuse, violence, or being forced to do chores for prisoners.³⁶ The United Nations Human Rights Committee has also said that police custody and administrative detention in Egypt are “likely to expose accused persons to torture and ill-treatment by the police and security forces, as demonstrated by numerous allegations reported by reliable non-governmental

³⁴ Confidential e-mail from a human rights NGO worker.

³⁵ See Richard Grindell, *A Study: Refugees' Experiences of Detention in Egypt*, (2003) at 24-27 (on file with the American University in Cairo Library).

³⁶ See *id.* at 31-34.

sources of information.”³⁷ Amnesty International has also stated that “everyone taken into detention in Egypt is at risk of torture.”³⁸

In Egypt, it is difficult to determine patterns constituting an identifiable system of detention as the practices are conducted on an ad hoc basis, usually with a lack of transparency. The practices and motives governing them are mostly circulated by word of mouth. Obtaining reliable information is challenging, obtaining any information can often depend on rumors, and acquiring published facts is rare. When information is reliable, it is still largely anecdotal. Since there is no established system of where and when to lock asylum seekers up, they can be detained in the nearest detention center to where they were caught, but they can also be transported elsewhere if there is no space for them in a given prison or police station. At the time of writing this paper (April 2008), government practices and the UNHCR’s reactions have been inconsistent and continuously evolving. Practices are likely to continue changing beyond the completion of this paper as long as the Egyptian government has not committed itself to a formal procedure to deal with asylum seekers who enter illegally at the border.

The length of the prison sentence for illegal entry into Egypt is usually between one and three years, unless the asylum seeker manages to contact the UNHCR, the UNHCR is able to access and interview him, and he is recognized as a refugee under international law. There is no formal mechanism for asylum seekers or Egyptian authorities to alert the UNHCR that an asylum seeker is being detained for

³⁷ Human Rights Committee, Forty-eighth session Consideration of Reports Submitted By States Parties Under Article 40 of the Covenant, Comments of the Human Rights Committee: Egypt. CCPR/C/79/Add.23 (August 9, 1993).

³⁸ Amnesty International, *Egypt: No Protection—Systematic Torture Continues*, (Nov. 13, 2002), available at <http://www.amnesty.org/en/library/asset/MDE12/031/2002/en/dom-MDE120312002en.pdf>.

illegal entry into Egypt. If the Egyptian authorities do not contact the UNHCR, the burden of contacting the UNHCR is on the detained asylum seeker, who may do so through friends, family members, NGO staff, or bribes. However, contacting the UNHCR from detention does not always help the asylum seeker because if he has already been prosecuted, he may have to wait until he has completed the prison term before being transferred to Cairo to undergo an RSD interview. Also, the UNHCR's access to asylum seekers in detention is always pending the approval of the Egyptian authorities. The UNHCR generally does not conduct RSD for asylum seekers who are outside of Cairo.³⁹ If the asylum seeker fails to contact the UNHCR, he must complete the length of his prison sentence, and then he may be transferred to a prison like Qanater Prison in Cairo or to Borg el Arab near Alexandria. If a detained asylum seeker is transferred to Cairo and expresses that he wishes to seek asylum in Egypt, he may be taken to the Immigration Department at the Mogamma, an administrative government building in Downtown Cairo. The UNHCR may conduct RSD there after it has contacted the Ministry of the Interior and the Ministry of Foreign Affairs. The Egyptian authorities may also contact the embassy of the asylum seeker's country of origin. Depending on how long the UNHCR takes to produce the result, the asylum seeker may be released before the sentence is over if he has been recognized. If an asylum seeker succeeds in contacting the UNHCR from detention but is rejected after his interview, he is highly likely to face deportation after he completes his sentence in prison. However, if the UNHCR is never informed about an asylum seeker, if the asylum seeker is prosecuted and never transferred to Cairo, or if the Egyptian authorities prevent the UNHCR from accessing him, his deportation can constitute *refoulement*.

³⁹ Conversation with UNHCR staff member (April 3, 2008).

Chapter 2 – The Situation in Egypt

Methodology

The research conducted for the majority of this chapter in addition to other related portions of this paper involved communicating with NGO and UNHCR staff, as well as refugees in Cairo, the Red Sea, and Upper Egypt. One refugee who has been detained and then released was interviewed face to face in order to determine how he and the group with whom he came to Egypt left their countries of origin, how and why they were detained, whether they had access to a court, whether they knew about or were able to access the UNHCR, how they accessed or tried to access the UNHCR, whether their detention had hindered their access to the UNHCR, and whether they had been threatened with deportation. Fifteen detained refugees were interviewed, but others were contacted for updates. To protect those involved, details about the circumstances of the interviews will remain confidential. I was allowed to speak with a group of 21 detained refugees in their public court trial, which will be described in more detail below. One refugee who was deported back to her country of origin was also interviewed over the phone, as well as the sibling of a refugee who was deported to his country of origin and is now in prison there.

To the extent that it was possible with the obstacle of detention, refugees in detention were asked the same questions that the one who had been released was asked. One or two refugees from each detention center were interviewed to represent each group. While their individual experiences cannot represent the experiences or asylum claims of each person who is detained with them, they provided some general information that pertained to the whole group. The full texts of the interviews can be found in the Appendix. Of all the known detention centers where groups of refugees are detained, it was only possible to obtain information from those detained in

Qanater Prison in Cairo, Giza Administrative Prison, Shallal Military Camp in Aswan, Darrow police station, Kom Ombo police station, Edfu police station, one of the two police stations where refugees are detained in Hurghada, Qena Prison, Marsa Alam police station, Ismailia, and the Ras Gharib police station. Refugees who were detained in Nasr El Nuba, Aswan City, and a second police station in Hurghada were inaccessible. It is also known that there are Eritrean refugees detained in Borg El Arab prison in Alexandria, but it was not possible to obtain details about them. Due to the sensitivity of some information and requests for anonymity, informants' names and personal details will not be included, and citations shall be generalized. Also, some human rights lawyers and organizations that work with refugees have asked for anonymity in many cases because of the continued presence of the Emergency Law in Egypt, and for fear of risk to their operations.

This chapter will aim to document the increasing trend of refugee detention in Egypt. This will be done while bearing in mind that the situation in Egypt is continuously changing, numbers of detainees will continue to fluctuate, and recent developments will raise new implications for all entities involved, including the UNHCR, the Egyptian government, human rights lawyers, activists, and NGOs, and detained asylum seekers themselves. However, by capturing a version of the situation in this particular moment, this chapter will illustrate the system as it exists at the time of writing with the aim of addressing long-term problems in the following chapters.

Population

The majority of asylum seekers who are detained at the time of writing are of Eritrean and Ethiopian nationality, although there are also a few people of other nationalities in detention with them as well. Those who left Eritrea or Ethiopia mostly did so in order to flee the brutality of forced and prolonged military conscription and

religious persecution in Eritrea or and the generally declining political and human rights milieu in both countries. Almost all of the detained asylum seekers mentioned in this chapter came to Egypt through Sudan after having spent anywhere from a few days to several years there after having left their country. Some of them were born and raised in Sudan, and many of them carry UNHCR cards from Sudan. About 130,000 Eritreans live in 12 refugee camps in Sudan, with new arrivals consistently and continuously entering the country.⁴⁰ The UNHCR has said that repatriation is “no longer a viable option for many of the Eritreans, especially those that have lived in Sudan for decades, and the agency is holding discussions with Sudanese authorities about possible local integration or resettlement to a third country.”⁴¹ However, asylum seekers who have fled from Sudan to Egypt have expressed in interviews for this paper that Sudanese authorities have pursued Eritreans and Ethiopians, conducting numerous arrests and deportations, many times of recognized refugees.⁴² Most who were interviewed for this paper have also said that the Sudanese government has allowed Eritrean authorities to enter Sudan and capture or kidnap Eritreans and return them to Eritrea. The UNHCR has also expressed concern that Sudanese officials have detained some Ethiopian refugees and handed others over to

⁴⁰ UN News Center, *Long-term Eritrean refugees in Sudan need durable solution – UN agency*, (August 22, 2007), available at <http://www.un.org/apps/news/story.asp?NewsID=23572&Cr=eritrea&Cr1>.

⁴¹ *Id.*

⁴² In fact, Amnesty International has reported that, “Hundreds of Ethiopian and Eritrean nationals have been arrested since the beginning of July [2007] and are at risk of being forcibly returned to their countries of origin. Many of the Ethiopian and *all the Eritrean nationals* would be at risk of immediate arrest, torture, and indefinite detention without charge or trial if forcibly returned. In mid-July several hundred Ethiopian and Eritrean adults and children were arrested in the capital, Khartoum. At least 14 Ethiopian nationals [...] had been arrested on 5 July in Khartoum and in the east of Sudan. Arrests are continuing. Many of those detained are understood to be asylum-seekers or recognized refugees. [...] Some have been taken to court, charged with illegal entry and summarily sentenced to imprisonment or immediate deportation as illegal migrants. It is understood that no one is able to access them in custody.” Amnesty International, *Sudan: Forcible Return/Fear of Torture/Arbitrary Detention*, (July 20, 2007), emphasis added, available at <http://www.amnesty.org/en/library/asset/AFR54/038/2007/en/dom-AFR540382007en.pdf>.

Ethiopian authorities.⁴³ Most of them have come to Egypt with the help of smugglers, and have said in interviews that they have paid smugglers between \$200 and \$1500 per person.

Egyptian law identifies certain entry points at the borders that are recognized by the Ministry of the Interior as legal. Entering through another area is considered a crime. Some asylum seekers who have been caught entering Egypt illegally may be taken to the prosecutor's office (*niyaba*), part of the Ministry of Justice, before being given a court trial.⁴⁴ As observed from the practices that are detailed more in the next chapter, if asylum seekers who entered illegally have been caught at the border of Egypt, or if they surrender themselves to the military, they are usually taken to a military court; if they are caught in a city within Egypt, they may be taken to a civilian or criminal court. The charge is for illegal entry. A sentence for illegally entering Egypt can be anywhere between a week and three years in detention.⁴⁵ Asylum seekers are known to be detained in prisons, police stations, or military camps. If the charge is given in a military court and those who entered illegally are found guilty, after the period of detention there is also a fine of about 1000LE. In this case they may be moved to a prison; in Lower Egypt, this might be in a Cairo prison like Qanater or in Borg El Arab near Alexandria, and in Upper Egypt, this might either be in Qena or Asyut since those are the only prisons in the area. If they are found not guilty in court, some of the groups of detainees have been given a

⁴³ See UN News Center, *Sudanese deportation of Ethiopian refugees draws criticism from UN agency* (October 11, 2007), available at <http://www.un.org/apps/news/story.asp?NewsID=24266&Cr=sudan&Cr1=ethiopia>.

⁴⁴ See Enid Hill, *Mahkama: Studies in the Egyptian Legal System, Courts and Crimes: Law and Society*, 26-28 (Ithaca Press, 1979). Hill comments that the word "*niyaba*" is often erroneously translated as "attorney general" or "prosecuting attorney," but it should be used to describe "the place where incidents are investigated [...]. The *niyaba* personnel have the authority to suspend investigations and 'file' cases, as well as to recommend that a case be brought to trial."

⁴⁵ Conversation, *supra* note 33.

suspended sentence, usually a one-month suspended sentence (*waqf el tanfeez*). This means that after one month of detention, they should be released. However, some groups who have received a one-month suspended sentence remain in detention after the month has ended because a decision has not been made about what to do with them. The Minister of Security should make this decision, but they also await a meeting with the UNHCR.⁴⁶ If the UNHCR recognizes them as refugees, they should typically be released; if the UNHCR rejects them, they will mostly likely be deported.

Contacting the UNHCR

As mentioned above, since there is no formal mechanism for contacting the UNHCR when asylum seekers are detained, if the Egyptian authorities do not alert the UNHCR then asylum seekers must sometimes find informal means of doing so themselves. NGO staff from Egyptian and international organizations might volunteer to establish the connection between detained asylum seekers and the UNHCR. Some NGOs may extend legal services to detained asylum seekers by visiting them in detention. One report of a legal advisor from Africa and Middle East Refugee Assistance (AMERA), a legal aid NGO for refugees in Cairo, discussed being given the written testimonies of four detained asylum seekers from Eritrea. The legal advisor said that the organization would take the responsibility of registering them with the UNHCR.⁴⁷ Lawyers from NGOs have also sent lists of names of detainees and the court cases of detained asylum seekers to the UNHCR. At the time of writing they have not received a response. The Hisham Mubarak Law Center (HMLC) in

⁴⁶ Conversation, *supra* note 33.

⁴⁷ Africa and Middle East Refugee Assistance (AMERA) Prison Report Form (January 30, 2008).

Aswan is preparing a report which details the information they have about the refugees who are detained in Upper Egypt to send to the UNHCR.⁴⁸

Access to detained asylum seekers

While detained asylum seekers have difficulty accessing the UNHCR and the rest of the outside world, the UNHCR and other actors have also faced hurdles when trying to access detained asylum seekers in Egypt. NGO legal advisors' prison reports have expressed difficulties in accessing their clients for the purposes of assisting with RSD testimonies; one report mentions that a legal advisor tried to give a detained asylum seeker handwritten questions regarding his application, as well as UNHCR applications for two other detained asylum seekers, but the prison guard tore up the papers.⁴⁹ Legal advisors from this organization have recently had difficulty with receiving the letters, containing details for their RSD testimonies, from clients detained in Qanater prison.⁵⁰

There have also been cases where asylum seekers were deported before the UNHCR had the chance to carry out interviews for them; this has even occurred when the UNHCR obtained permission from the Egyptian authorities to interview them from detention.⁵¹ For example, in October 2007, an unaccompanied 10-year-old Ethiopian minor was arrested entering Egypt at Aswan.⁵² He was kept in a special division for minors at Al Azbakia police station. A human rights NGO informed the UNHCR of the minor's details, as well as the information that the Immigration Department had contacted the Ethiopian embassy in order to issue an emergency

⁴⁸ Conversation, *supra* note 33.

⁴⁹ Anonymous report from human rights NGO (January 16, 2008).

⁵⁰ Anonymous report from human rights NGO, April 25, 2008.

⁵¹ Anonymous report from human rights NGO, April 22, 2008.

⁵² E-mail supplied by human rights NGO (October 10, 2007, 14:34 GMT +2).

travel document for the minor.⁵³ It requested that the UNHCR register the minor.⁵⁴ The UNHCR agreed to “intervene,”⁵⁵ but the Egyptian authorities deported the minor back to Ethiopia on 26 October 2007, which was confirmed by the Immigration Department.⁵⁶

Also, an Iraqi woman who was interviewed for this paper said that she registered herself and her two children at the UNHCR on 13 September 2006.⁵⁷ She said that State Security took her and her children to Qanater prison on 24 January 2007 when she was trying to obtain a residency permit from Immigration.⁵⁸ A human rights NGO requested for a meeting with the UNHCR about their case, and a meeting was scheduled.⁵⁹ The UNHCR then delayed the meeting, and during the delay, the family was deported back to Iraq.⁶⁰

The sibling of a Sudanese man who was a recognized refugee in Egypt and deported to Sudan was also interviewed for this paper. After an incident involving the Sudanese gangs in Cairo, the police conducted a round-up, arbitrarily arresting Sudanese people off the street and in their homes.⁶¹ This man and some other recognized refugees were among them.⁶² They were taken to detention in Cairo for 45 days and then deported directly to South Sudan on an airplane.⁶³ He informed a lawyer in Cairo that there were 49 Sudanese refugees on the airplane with him;⁶⁴

⁵³ *Id.*

⁵⁴ E-mail, *supra* note 55.

⁵⁵ E-mail supplied by human rights NGO (October 10, 2007, 16:56 GMT +2).

⁵⁶ E-mail supplied by human rights NGO (November 27, 2007, 15:37 GMT +2).

⁵⁷ Interview with Iraqi woman who was deported (May 14, 2008).

⁵⁸ *Id.*

⁵⁹ Conversation with human rights NGO worker (May 11, 2008).

⁶⁰ *Id.*

⁶¹ Interview with the sibling of a Sudanese refugee who was deported (May 22, 2008).

⁶² *Id.*

⁶³ Interview, *supra* note 61.

⁶⁴ E-mail from lawyer in Cairo (May 13 2008, 15:58 GMT +2).

research for this paper has not determined how many of them were recognized by the UNHCR. However, this man is now in Juba Prison with around five other recognized refugees.⁶⁵ The UNHCR in Sudan has tried to negotiate with the Sudanese authorities in order to facilitate their release from prison in order for them to return to Egypt.⁶⁶

At the time of writing (April 2008), the UNHCR in Cairo has said that it has 1500 pending detention cases.⁶⁷ Of these, 90 percent are Eritrean, and the remaining 10 percent are mostly Ethiopian and Somali, and there are also some Ivorians and other nationalities.⁶⁸ This number includes the asylum seekers in detention of whom the UNHCR is aware and whose names it has kept on record; the UNHCR has not registered any of them. There is an increasing number of asylum seekers whom the UNHCR may not know about; it is highly likely that individuals may fall through the cracks in a system that does not account for contacting the UNHCR. Since contacting the UNHCR is done informally, and is heavily reliant on volunteers from NGOs, or friends or family members of detainees, the UNHCR has probably not been able to keep track of all the asylum seekers who are in detention.

It has become clear at the time of writing that the Egyptian government has prevented the UNHCR from accessing detained asylum seekers. An Eritrean man detained in the Shallal Military Camp said that, “the UNHCR called and told us that the Egyptian government did not give them permission to visit us and they are waiting and trying to get permission from the government. The UNHCR said that when they get permission from the government, they will come, but the only problem is the

⁶⁵ Interview, *supra* note 61.

⁶⁶ Interview, *supra* note 61.

⁶⁷ Anonymous report from human rights NGO (April 17, 2008) (on file with author).

⁶⁸ *Id.*

government giving them permission.”⁶⁹ Also, in an e-mail supplied by a human rights NGO regarding the RSD of a detained asylum seeker, his name was “communicated with the relevant authorities, together with the remaining detained asylum seekers who arrived to Egypt illegally. As his name was included, he would be among the group to be interviewed upon [the UNHCR’s] being granted access to prison by the government, which [they] remain to wait for until present.”⁷⁰

Oftentimes with detention cases, the UNHCR registers asylum seekers at the same time that they conduct their RSD interview.⁷¹ This means that they are not always given yellow cards, but rather just registered and interviewed, and then eventually either recognized or rejected.⁷² They are theoretically allowed to appeal if they are rejected, and if they are rejected once again, they are no longer of concern to the UNHCR and are subject to deportation.⁷³ It has been said that the UNHCR Cairo has started refusing to accept applications from asylum seekers who do not physically approach the UNHCR themselves,⁷⁴ which excludes detained asylum seekers and prevents them from even initiating the process of seeking asylum. Around March 2008, the Egyptian government stopped allowing the UNHCR to interview detained asylum seekers at the Immigration department in the Mogamma.⁷⁵ The UNHCR responded by saying that it could send people to detention centers instead,⁷⁶ but so far this does not normally occur outside of Cairo. The UNHCR did send one person to

⁶⁹ Interview with Eritrean male detained in Shallal Military Camp (May 8, 2008).

⁷⁰ E-mail supplied by human rights NGO (June 3, 2008, 9:12 GMT +2).

⁷¹ Conversation with UNHCR staff (May 3, 2008).

⁷² *Id.*

⁷³ Conversation, *supra* note 71.

⁷⁴ Anonymous report from human rights NGO, *supra* note 67.

⁷⁵ Anonymous report from human rights NGO, *supra* note 67.

⁷⁶ Anonymous report from human rights NGO, *supra* note 67.

Aswan in April 2008 to visit the detained asylum seekers there, but the person who was sent did not access them.⁷⁷

Around early 2008, prisons all over Egypt stopped allowing Eritrean visitors to enter. A possible political reason for this has been circulated by word of mouth; it is rumored to be a reaction to the detention of several Egyptian fishermen in Eritrea. Despite the fact that 63 out of 129 of these fishermen have been released,⁷⁸ the access of detained Eritrean asylum seekers is most likely not actually contingent on the release of the detained Egyptian fishermen. This has made it difficult for friends and family members to visit detainees, who are often in need of food and other necessities. It has also prevented detained Eritreans in prison from accessing legal aid from organizations like AMERA, which can significantly impact their gaining protection from the UNHCR⁷⁹ because Eritrean interpreters may not enter, and also because other foreigners who may work for international legal aid organizations have had trouble accessing detained Eritreans.

In southern cities such as in the governorates of Aswan and Qena, some NGOs have been allowed to enter detention centers for charitable purposes, such as bringing food, blankets, clothes, toiletries, and medicine. Some foreigners may be allowed to visit detention centers if they are with a religious group or if they are lawyers belonging to an organization in Egypt. However, it has also been the case that detained refugees are simply not allowed to receive visitors. Some Egyptians who have succeeded in visiting detained refugees for charitable purposes have expressed

⁷⁷ Anonymous report from human rights NGO, *supra* note 67.

⁷⁸ Al Wafd News, *The release of 3 fishing vessels and 63 detained fishermen in Yemen and Eritrea*, (April 20, 2008) (Arabic, author's translation of headline), available at <http://www.alwafd.org/v4/News/NewsDetail.php?id=2920&type=main&PHPSESSID=b4b7db91345799bedc27d55cddf6f8cc>.

⁷⁹ See Michael Kagan, *Frontier Justice: Legal Aid and UNHCR Refugee Status Determination in Egypt*, 19(1) *Journal of Refugee Studies*, 45, 45-68 (2006).

fear after being called to the police station and questioned about their activities and relationship with the detained asylum seekers.⁸⁰

Detention Centers

The following sections will outline some of the experiences of refugees who are being held in different detention centers in Egypt. The full texts of the interviews with refugees who are detained in these detention centers, as well as a refugee who has been released from detention, a refugee who was deported after being detained, and the sibling of a refugee who was deported and is now in detention in the country of origin can be found in the Appendix.

Qanater Prison, Cairo

At the time of writing, there are 57 Eritreans detained in Qanater prison, Cairo.⁸¹ All of them entered Egypt illegally through Sudan, except for one, who entered illegally through Libya.⁸² Three of them have been sentenced; one of them was arrested on 17 November 2007 and was sentenced but the sentence is finished, one was arrested on 28 June 2007, and one was arrested on 5 September 2007.⁸³ The remaining 53 have not been sentenced.⁸⁴ Six of them were arrested on 3 November 2007, four were arrested on 11 November 2007, four were arrested on 1 December 2007, four were arrested on 5 December 2007, four were arrested on 7 December 2007, five were arrested on 18 December 2007, three were arrested on 29 December 2007, nine were arrested on 4 January 2008, two were arrested on 14 January 2008,

⁸⁰ Conversation with NGO member (April 28, 2008).

⁸¹ Detention testimony distributed by NGO worker.

⁸² *Id.*

⁸³ Detention testimony, *supra* note 81.

⁸⁴ Detention testimony, *supra* note 81.

11 were arrested on 9 February 2008, and one was arrested on 31 March 2008.⁸⁵

Some of them are recognized by the UNHCR in other countries such as in Sudan.⁸⁶

On 19 May 2008, each of them had their photo taken. An NGO worker visited them in Qanater prison and was told by a guard that they will be returned back to their country.⁸⁷ The guard requested that the NGO worker speak with the UNHCR.

Another NGO worker sent an e-mail to the UNHCR, and the UNHCR responded that they are aware of the situation and that they have been in contact with the Egyptian authorities about it. The UNHCR declined to say whether or not they had been able to visit the refugees in Qanater prison. On 29 May 2008, another NGO worker went to the Immigration department and inquired about the possibility of deportation, and received the answer that the decision had not yet been made. The NGO worker saw 180 new Eritrean travel documents on this visit. On 2 June 2008, ASSIST News released an article which announced that, “Egyptian authorities are to begin forced deportations of some 150 Eritrean prisoners currently held in Qanater prison in Cairo within a few days.”⁸⁸ The asylum seekers in this group held a hunger strike which lasted for six days, ending on 8 June 2008.⁸⁹ On this day, the police gave them travel documents bearing the stamp of the Eritrean embassy and asked them to sign them.⁹⁰ Most of them refused, but the police attempted to intimidate them until eight of them signed.⁹¹ The police signed on behalf of those who refused to sign.⁹²

⁸⁵ Detention testimony, *supra* note 81.

⁸⁶ Detention testimony, *supra* note 81.

⁸⁷ Conversation with NGO worker (May 19, 2008).

⁸⁸ ASSIST News, *Egyptian authorities threaten to deport 150 Eritrean refugees*, (June 2, 2008), available at <http://www.assistnews.net/Stories/2008/s08060012.htm>.

⁸⁹ Conversation with man detained in Qanater prison (June 7, 2008).

⁹⁰ *Id.*

⁹¹ Conversation, *supra* note 89.

⁹² Conversation with second man detained in Qanater prison (June 7, 2008).

At the time of writing, police in Cairo have rounded up several Eritreans regardless of whether they are in Egypt illegally or possess a UNHCR document or valid residence.⁹³ They have combed neighborhoods known for housing several members of the Eritrean community and have questioned Egyptian landlords about their Eritrean tenants.⁹⁴ These round-ups have resulted in the arrest and detention of blue card-carrying refugees and the deportation of *de facto* refugees who either have not yet approached the UNHCR or may have been wrongfully rejected by the UNHCR. Those who possess blue cards who have been detained are usually released after a few days of “investigation” in police station detention. It is not clear whether this sweep that focuses specifically on Eritreans is related to the increasing number of Eritrean asylum seekers entering Egypt’s borders illegally.

Giza Prison

There are 20 Eritrean men detained in the Giza Administrative Prison.⁹⁵ Unlike the other groups of detained asylum seekers discussed in this paper, they were arrested in Cairo either after or in the midst of their attempting to initiate an RSD process with the UNHCR. Three of them had already applied at the UNHCR and were awaiting appointments to receive a yellow asylum seeker card.⁹⁶ Four of them had registration forms from the UNHCR and had filled them out, but they were detained before they could submit them.⁹⁷ The rest had not had the chance to approach the UNHCR because they had only been in Egypt for three days; they had

⁹³ Conversation with Eritrean male (recognized refugee) who was detained and released from Agouza Police Station, Cairo (April 1, 2008).

⁹⁴ Conversation with Egyptian landlord (April 18, 2008).

⁹⁵ Interview with Eritrean male detained in Giza Administrative Prison (June 6, 2008).

⁹⁶ *Id.*

⁹⁷ Interview, *supra* note 95.

already visited the UNHCR to obtain registration forms, but they were told to come at another time because there were too many people already there that day.⁹⁸

The asylum seekers from this group were picked up off the street, in coffee shops, restaurants, or arrested in their home in the Ard El Liwa neighborhood in Cairo.⁹⁹ They came from the Shagarab, Sita Wa Eshreen, and Wad Sherifay refugee camps in Sudan; some of them hold UNHCR cards from Sudan.¹⁰⁰ The man who was interviewed from this group and two others left Sudan on 3 February 2008 with the help of smugglers.¹⁰¹ The smugglers left them in the desert at the border, and then they found some people to help drive them to Aswan in their cars.¹⁰² They took the train from Aswan to Cairo on 7 February 2008.¹⁰³ The other asylum seekers detained in Giza Prison left Sudan and came to Cairo separately.¹⁰⁴

Three Eritrean asylum seekers had been in Cairo for six days before they were arrested in their home.¹⁰⁵ The police came to the door and searched them, and then locked them in their home and left.¹⁰⁶ They returned with 17 more Eritrean asylum seekers whom they had rounded up, and they were all arrested and taken to Giza Prison.¹⁰⁷ Three days later, they were taken to the Immigration department in the Mogamma, and then they were taken there again the following day. No one spoke with them at the Mogamma, but they had their photos taken and then were returned to

⁹⁸ Interview, *supra* note 95.

⁹⁹ Interview, *supra* note 95.

¹⁰⁰ Interview, *supra* note 95.

¹⁰¹ Interview, *supra* note 95.

¹⁰² Interview, *supra* note 95.

¹⁰³ Interview, *supra* note 95.

¹⁰⁴ Interview, *supra* note 95.

¹⁰⁵ Interview, *supra* note 95.

¹⁰⁶ Interview, *supra* note 95.

¹⁰⁷ Interview, *supra* note 95.

the prison.¹⁰⁸ They have asked why they are in detention and the police have alluded to a security problem, and have said that they are waiting for the UNHCR to intervene.¹⁰⁹ The officers have also told the asylum seekers in this group that they will be returned to Eritrea.¹¹⁰

Aswan City Police Station

In August 2007, 170 asylum seekers, mostly Eritreans and some Ethiopians, were caught entering Egypt at the border. They were taken to a military court and given a one-year sentence and a 1000LE per person fine. They are waiting to meet the UNHCR.¹¹¹ There are few details known about this group because accessing them has been difficult. When I approached the police station, I was allowed to enter and speak with the head of the police station, who confirmed that there was a group of Eritreans detained in the police station. However, he said that if I wanted to speak with them, I was told I had to obtain permission from the Security Department, which was not possible for me or the human rights lawyers in the area who had attempted the same.

Shallal Military Camp, Aswan

On 12 March 2008, 66 asylum seekers, 65 Eritreans and one Ethiopian, 11 of whom are women, three of whom are children, were caught at a checkpoint entering Egypt illegally.¹¹² They were taken to Shallal Military Camp in Aswan, where they are now detained.¹¹³ On 17 March 2008, they were taken to a military court for entering Egypt illegally.¹¹⁴ They were found not guilty, but continued being kept in

¹⁰⁸ Interview, *supra* note 95.

¹⁰⁹ Interview, *supra* note 95.

¹¹⁰ Interview, *supra* note 95.

¹¹¹ Conversation, HMLC, *supra* note 33.

¹¹² Interview, *supra* note 69.

¹¹³ Interview, *supra* note 69.

¹¹⁴ Interview, *supra* note 69.

detention.¹¹⁵ They say that they have received a call from the UNHCR at the detention center, and they were told that the government has not given the UNHCR permission to visit them.¹¹⁶ The higher-ranking officials continually threaten them with deportation.¹¹⁷

Darrow Police Station

Two groups totaling 71 Eritrean and Ethiopian asylum seekers, 28 women and 43 men, are detained in Darrow police station.¹¹⁸ The group had been larger, but some died during their journey from Sudan.¹¹⁹ There was a car accident on the way, which scattered those who had been in the vehicle.¹²⁰ One woman who had come with her two children died in the accident.¹²¹ On 13 February 2008, the first group consisting of 13 asylum seekers was arrested on the train at Aswan City¹²² when they were on their way to Cairo to seek asylum at the UNHCR office there.¹²³ On 17 February 2008, the second group of 58 asylum seekers was arrested.¹²⁴ The next day, on 18 February, they were taken to the prosecutor's office.¹²⁵ The two groups were given separate court trials, both on 13 April 2008.¹²⁶ They were given a one month suspended sentence, meaning they would otherwise have been taken to prison, but with suspension they should be released.¹²⁷ However, they have not been released from police station detention yet because what will be done with them has not yet

¹¹⁵ Interview, *supra* note 69.

¹¹⁶ Interview, *supra* note 69.

¹¹⁷ Interview, *supra* note 69.

¹¹⁸ Interview with Eritrean male detained in Darrow police station (May 11, 2008).

¹¹⁹ *Id.*

¹²⁰ Interview, *supra* note 118.

¹²¹ Interview, *supra* note 118.

¹²² Conversation, HMLC, *supra* note 33.

¹²³ Interview, *supra* note 118.

¹²⁴ Conversation, HMLC, *supra* note 33.

¹²⁵ Conversation, HMLC, *supra* note 33.

¹²⁶ Conversation, HMLC, *supra* note 33.

¹²⁷ Conversation, HMLC, *supra* note 33.

been decided.¹²⁸ The UNHCR has not met with them.¹²⁹ The HMLC sent the UNHCR their names and court cases, and the UNHCR has not responded.¹³⁰

According to the lawyers who have visited the asylum seekers in the Darrow police station, of all the groups of asylum seekers detained in Upper Egypt that are discussed in this chapter, this group is relatively in the best condition.¹³¹ There is an apartment building adjacent to the police station where the police station has used two apartments to accommodate the women in the group in one, and the men in the other. I was able to see this when I attempted to visit the detention center; however, I was not allowed inside. This set-up is crowded,¹³² but it separates the asylum seekers from others who might be detained in the police station for criminal reasons, who could pose risks for non-criminals who are detained for immigration reasons as mentioned above. One of the police in Darrow suggested that the detainees stay in a nearby camp that is used for youth activities because it is larger and has better facilities than the police station, and because it would ease the load on the police at the Darrow police station.¹³³ According to the lawyers, this group of asylum seekers is generally in good health, and police are said to be treating them well.¹³⁴ They say that people living in the area of Darrow have come to visit them, bringing them food and clothing and they have had consistent access to food and water.¹³⁵

With that said, some members of NGOs who have visited them to bring them food, clothing, and toiletries have said that the food they bring does not always make

¹²⁸ Conversation, HMLC, *supra* note 33.

¹²⁹ Interview, *supra* note 118.

¹³⁰ Conversation, HMLC, *supra* note 33.

¹³¹ Conversation, HMLC, *supra* note 33.

¹³² Interview, *supra* note 118.

¹³³ Conversation, HMLC, *supra* note 33.

¹³⁴ Conversation, HMLC, *supra* note 33.

¹³⁵ Conversation, HMLC, *supra* note 33.

it to the detainees, and that the police have taken it for themselves.¹³⁶ The detainees themselves have expressed in interviews that there is not enough food coming into the detention center, and that there is a concern that as the extreme desert temperatures in Upper Egypt rise as summer approaches, more of them will require medical attention.¹³⁷ Human rights lawyers have had to pay bribes in order to access the refugees in detention, but they have succeeded in visiting them and representing them in the court.¹³⁸

Kom Ombo Police Station

There are 31 asylum seekers detained in the Kom Ombo police station.¹³⁹ They are almost all Eritreans, except for about three Ethiopians.¹⁴⁰ There were 44 of them traveling together across the border, but when the smugglers who helped them dropped them off, some people became separated.¹⁴¹ They found out later that some of them wound up in detention in Darrow.¹⁴² They were caught by police on the train in Kom Ombo on 19 February 2008, and there was originally a group of 27 in who was sent to detention.¹⁴³ One man has managed to escape, bringing the number down from 28.¹⁴⁴ However, in April 2008, five more asylum seekers were detained in Kom Ombo, bringing the total number up to 31.¹⁴⁵ Of these five, one is a woman; she is the only woman in this group.¹⁴⁶

¹³⁶ Conversation, HMLC, *supra* note 33.

¹³⁷ Interview *supra* note 118.

¹³⁸ Conversation, HMLC, *supra* note 33.

¹³⁹ Conversation, HMLC, *supra* note 33.

¹⁴⁰ Interview with Eritrean male detained in Kom Ombo police station (May 10, 2008).

¹⁴¹ *Id.*

¹⁴² Interview, *supra* note 140.

¹⁴³ Interview, *supra* note 140.

¹⁴⁴ Conversation, HMLC, *supra* note 33.

¹⁴⁵ Conversation, HMLC, *supra* note 33.

¹⁴⁶ Interview, *supra* note 140.

They went to court on 23 April 2008. Most of them did not understand what was happening during the trial due to the language barrier.¹⁴⁷ At the trial, they were asked how and why they came Egypt, and then they were asked to sign their testimony to ensure that it is true. The Eritrean man from this group who was interviewed said that as of this point (10 May 2008), the detainees do not know why they are being held in detention or the exact decision of the court.¹⁴⁸

The detainees in the Kom Ombo police station have asked the head of the police station why they are being detained, and he answered by saying that “he was told to keep us here and he will release us whenever the government tells him to. He said that we are not prisoners, but that he is protecting us until the government tells him to release us.”¹⁴⁹ They have not met with anyone from their embassies.

They did not all know that they were supposed to approach the UNHCR for refugee status when they came to Egypt, but some did.¹⁵⁰ A lawyer from the Egyptian Union visited them and took their names to submit to the UNHCR, but they have not heard any updates about this from him, nor have they heard from the UNHCR.¹⁵¹

The man who was interviewed from this group said that when the group of 27 first arrived at the detention center, they were kept in a four by three meter room. After the five others who arrived later came, they were given another small room, but it is still too crowded.¹⁵²

Edfu Police Station

¹⁴⁷ Interview, *supra* note 140.

¹⁴⁸ Interview, *supra* note 140.

¹⁴⁹ Interview, *supra* note 140.

¹⁵⁰ Interview, *supra* note 140.

¹⁵¹ Interview, *supra* note 140.

¹⁵² Interview, *supra* note 140.

Two groups totaling 67 Eritrean and Ethiopian asylum seekers are detained in the Edfu police station.¹⁵³ One group of 25 arrived in Egypt on 11 February 2008, and the second group arrived on 16 February 2008.¹⁵⁴ They came through the desert area at the border in two trucks.¹⁵⁵ They were taken to the train station in a small town in Edfu called Ridiseya, and they took a train that was coming from Aswan and stopped in Ridiseya on the way to Cairo.¹⁵⁶ The police stopped them in the Edfu train station and arrested them.¹⁵⁷ Some of them are recognized refugees in Sudan, and many of them were carrying UNHCR cards from Sudan.¹⁵⁸ The HMLC has copies of their UNHCR cards.¹⁵⁹ Others said that they lost their UNHCR cards in Sudan, according to the Egyptian Union.¹⁶⁰

The asylum seekers detained in Edfu were told that they were arrested for entering Egypt illegally.¹⁶¹ They were separated into two groups to face court trials.¹⁶² One group consists of 34 people: 21 men, eight women, and three children.¹⁶³ One woman from this group has managed to escape from detention in Edfu.¹⁶⁴ She is pregnant and asked to be taken to the hospital. When she was taken, she escaped.¹⁶⁵ The first group's trial was to be on 23 April 2008, and was delayed until 30 April 2008. I attended this public trial on 30 April 2008. The second group consists of 33 people. Their trial was to be on 26 April 2008 and was delayed until 17 May 2008. I

¹⁵³ Conversation, HMLC, *supra* note 33.

¹⁵⁴ Interview with Eritrean-Ethiopian female detained in Edfu police station (May 15, 2008).

¹⁵⁵ Conversation, HMLC, *supra* note 33.

¹⁵⁶ Conversation, HMLC, *supra* note 33.

¹⁵⁷ Interview, *supra* note 154.

¹⁵⁸ Conversation, HMLC, *supra* note 33.

¹⁵⁹ Conversation, HMLC, *supra* note 33.

¹⁶⁰ Conversation, HMLC, *supra* note 33.

¹⁶¹ Interview, *supra* note 154.

¹⁶² Conversation, HMLC, *supra* note 33.

¹⁶³ Conversation, HMLC, *supra* note 33.

¹⁶⁴ Conversation, HMLC, *supra* note 33.

¹⁶⁵ Conversation, HMLC, *supra* note 33.

tried to attend their trial on 26 April 2008, but found that the judge who was meant to be present for their trial was absent.

At the 30 April trial of the first group, there were 21 men, six women, and two children present. The judge brought six men forward to ask them how they left their country, whether they have a passport, and whether the entire group is comprised of political refugees. They all answered that they came to Egypt through Sudan, that they did not have passports, and that they were all political refugees. The human rights lawyers from HMLC who represented them as a group cited Article 31 of the 1951 Convention, noting that they should not be penalized for illegal entry because they are refugees.

This group has not had the chance to ask the authorities for permission to talk to the UNHCR.¹⁶⁶ The woman who was interviewed from this group said that no one has approached them from their embassies and that they have not been asked to sign any documents. However, she said:

The higher ranking officers with stars on their sleeves in the police station have been asking us for our information like our name so that they can write them down. We asked them why they are writing down this information, and they said that it will be sent to the Immigration office in Cairo. They give us confused ideas about why—sometimes they say that they are filling out forms for the embassy, and sometimes they say that they are for Immigration.¹⁶⁷

When asked whether any of them had been threatened with deportation, she answered, “The ordinary police are always threatening us and telling us that they are going to send us back home.”¹⁶⁸

Nasr El Nuba

¹⁶⁶ Interview, *supra* note 154.

¹⁶⁷ Interview, *supra* note 154.

¹⁶⁸ Interview, *supra* note 154.

There are around 177 asylum seekers detained in the Nasr El Nuba police station.¹⁶⁹ Until April 2008, there were 72 detained there, 57 of them men, 10 women, and 11 children, including a one-year-old child and a seven-month-old baby.¹⁷⁰ Fifty-eight of them are Eritrean and 14 are Ethiopian.¹⁷¹ The Egyptian Union has gathered a list of their names, ages and respective nationalities and submitted them to the UNHCR.¹⁷² In April 2008, 105 more asylum seekers were detained in Nasr El Nuba, and they will face the harsh conditions of this detention center as well as add to the already intolerable overcrowding.¹⁷³ They are being held in a small, hot room with poor ventilation.¹⁷⁴ Members of the Egyptian Union have visited them and when they left, they expressed that they were sweating as though they had emerged from a sauna due to the high temperature inside the detention center.¹⁷⁵ The detainees there are in very poor physical and psychological health, and some have developed skin diseases while inside the detention center.¹⁷⁶ People have brought them necessary toiletries such as toothbrushes and feminine products, but they do not have enough food.¹⁷⁷ A lawyer from the Egyptian Union urged that if anyone wants to assist this group, they should not bring clothes, but rather food and medicine are more immediately

¹⁶⁹ Conversation with a lawyer from the Egyptian Union for Human Rights Organization (hereinafter “Egyptian Union”), Edfu branch (April 30, 2008).

¹⁷⁰ *Id.*

¹⁷¹ Conversation, Egyptian Union, *supra* note 169.

¹⁷² Conversation, Egyptian Union, *supra* note 169.

¹⁷³ Conversation, Egyptian Union, *supra* note 169.

¹⁷⁴ Conversation, Egyptian Union, *supra* note 169.

¹⁷⁵ Conversation, Egyptian Union, *supra* note 169.

¹⁷⁶ Conversation, Egyptian Union, *supra* note 169.

¹⁷⁷ Conversation, Egyptian Union, *supra* note 169.

important.¹⁷⁸ They have been unable to communicate with the outside world.¹⁷⁹ It is not known when this group will be put on trial.¹⁸⁰

Hurghada Police Station

There are 198 asylum seekers detained in Hurghada in two police stations.¹⁸¹ There are 102 in one police station where all are Eritrean except for four Ethiopians, and 96 in another police station where all are Eritrean except one Ethiopian.¹⁸² It was only possible to interview someone from the police station where 102 asylum seekers are detained. In that police station, 77 of them are men and 25 of them are women.¹⁸³ In the other police station, they are all men.¹⁸⁴ Three of the women in detention are pregnant; one is three months pregnant, one is four months pregnant, and one is seven and a half months pregnant.¹⁸⁵ Four of the women are with their children; one has a 6 month-old child and a 5 year old child, one has one 2 year old child, one has a 5 year old child and a year and a half old child and is pregnant, and one has an 8 year old child and a 13 year old child.¹⁸⁶

Some from the group of 102 arrived in Egypt on 13 March 2008 and walked for a half hour until they saw a military camp, and they surrendered themselves there.¹⁸⁷ The other group walked for four days before someone found them.¹⁸⁸ A colonel at the military camp interviewed the group of 82 and told them that they

¹⁷⁸ Conversation, Egyptian Union, *supra* note 169.

¹⁷⁹ Conversation, Egyptian Union, *supra* note 169.

¹⁸⁰ Conversation, Egyptian Union, *supra* note 169.

¹⁸¹ Interview with Eritrean male detained in Hurghada police station (May 10, 2008).

¹⁸² *Id.*

¹⁸³ Interview, *supra* note 181.

¹⁸⁴ Interview, *supra* note 181.

¹⁸⁵ Interview, *supra* note 181.

¹⁸⁶ Interview, *supra* note 181.

¹⁸⁷ Interview, *supra* note 181.

¹⁸⁸ Interview, *supra* note 181.

would be deported.¹⁸⁹ Three days later, they were taken to a military court.¹⁹⁰ They were given a lawyer from the government.¹⁹¹ At their trial, their testimonies were taken and they were asked how and where they were caught and why they went to the military camp.¹⁹² They were given documents where each of them signed their name at the bottom, confirming that what they said was true.¹⁹³ They were told that they were not guilty.¹⁹⁴

After they were told that they were not guilty, they were put in a prison truck and taken to the police station in Hurgada, where they have been detained.¹⁹⁵ The leader of the detention center told them that they were not told that they would have to spend one year in detention and pay a 1000LE fine in the court because “they thought that we would do something horrible.”¹⁹⁶ He told them that they were in detention for entering the country illegally.¹⁹⁷ They are still unclear on whether they are considered to be guilty or not guilty of committing a crime.¹⁹⁸

Because they had been initially told that they were not guilty and then were detained, they organized a hunger strike that lasted for four days.¹⁹⁹ Two people became ill from this, and when the others in detention requested medical assistance for them, the police refused.²⁰⁰ The detainees responded to the police’s refusal to allow the two people to seek medical assistance by refusing to return to their cell

¹⁸⁹ Interview, *supra* note 181.

¹⁹⁰ Interview, *supra* note 181.

¹⁹¹ Interview, *supra* note 181.

¹⁹² Interview, *supra* note 181.

¹⁹³ Interview, *supra* note 181.

¹⁹⁴ Interview, *supra* note 181.

¹⁹⁵ Interview, *supra* note 181.

¹⁹⁶ Interview, *supra* note 181.

¹⁹⁷ Interview, *supra* note 181.

¹⁹⁸ Interview, *supra* note 181.

¹⁹⁹ Interview, *supra* note 181.

²⁰⁰ Interview, *supra* note 181.

during a time when they had been allowed outside to spend some time in the compound.²⁰¹ They only agreed to return to their cell after the police agreed to allow the two who suffered from the hunger strike to go to the hospital.²⁰² They spent two weeks in the hospital and then returned to detention.²⁰³

Some of those detained in the Hurghada police station knew about the UNHCR in Egypt, but they have not been visited by the UNHCR.²⁰⁴ They have not met with their embassies.²⁰⁵ Regarding the threat of deportation, the man who was interviewed from this group said, “I cannot say that the authorities have directly threatened to deport us, but the guards are always saying that they will send us back to our home country. The officials have never said that directly to us, but the way they speak sounds as if they might do that.”²⁰⁶

On 19 May 2008, each of the detainees in the police station had their photo taken, and 32 men were fingerprinted.²⁰⁷ The police told them in advance that the Red Cross was coming to take their photos, but they did not explain what their intentions were.²⁰⁸ However, after an NGO worker contacted the Red Cross on 22 May 2008 to inquire about this, the Red Cross confirmed that they had not sent anyone to Hurghada to take photos of the asylum seekers in detention.²⁰⁹ Also on 19 May 2008, 20 more asylum seekers, 16 of whom are male and four of whom are female, including one two-year-old girl, arrived in this detention center.²¹⁰ I took their names

²⁰¹ Interview, *supra* note 181.

²⁰² Interview, *supra* note 181.

²⁰³ Interview, *supra* note 181.

²⁰⁴ Interview, *supra* note 181.

²⁰⁵ Interview, *supra* note 181.

²⁰⁶ Interview, *supra* note 181.

²⁰⁷ Conversation with Eritrean male detained in Hurghada police station, (May 20, 2008).

²⁰⁸ *Id.*

²⁰⁹ Conversation with human rights NGO worker (May 22, 2008).

²¹⁰ Conversation, *supra* note 207.

and gave them to an NGO to submit to the UNHCR. On 24 May 2008, 20 more Eritrean asylum seekers were detained in this Hurghada police station.²¹¹ They had a court trial on 31 May 2008 and were told that they were innocent, yet continue to be detained in the police station.²¹² They came to Egypt with more people, but they became separated from them; they believe they may be detained in other detention centers.²¹³

Qena Prison

There are 61 asylum seekers detained in Qena prison.²¹⁴ They entered Egypt in three groups.²¹⁵ The Eritrean man who was interviewed from the group in Qena began his journey from Sudan on 29 January and entered Egypt with a group of 27 on 14 February 2008.²¹⁶ They took a train headed for Cairo, and when they reached Aswan, they were caught by the police.²¹⁷ They spent one night in the State Security office, and then they were sent to the prison in Qena.²¹⁸ They were then taken to Cairo to visit the Immigration Department in the Mogamma.²¹⁹ Their names were taken at the Mogamma, and then they were sent back to Qena.²²⁰ Only the group of 27 people was taken to Cairo; the other two groups were not taken to Cairo.²²¹

The asylum seekers detained in Qena have not been to a court.²²² The Eritrean man who was interviewed did not know about the UNHCR in Egypt, but he had

²¹¹ Conversation with Eritrean male detained in Hurghada police station (June 11, 2008).

²¹² *Id.*

²¹³ Conversation, *supra* note 211.

²¹⁴ Interview with Eritrean male detained in Qena prison (May 8, 2008).

²¹⁵ *Id.*

²¹⁶ Interview, *supra* note 214.

²¹⁷ Interview, *supra* note 214.

²¹⁸ Interview, *supra* note 214.

²¹⁹ Interview, *supra* note 214.

²²⁰ Interview, *supra* note 214.

²²¹ Interview, *supra* note 214.

²²² Interview, *supra* note 214.

known about the UNHCR in Sudan.²²³ He found out about the UNHCR through Eritreans in Cairo with whom he had spoken with over the phone.²²⁴ He said that the group in detention did not ask the authorities to access the UNHCR, but that they spoke with someone from the UNHCR over the phone and were told that the Egyptian government was not allowing for UNHCR to access the asylum seekers in detention.²²⁵ The person they spoke with over the phone said that the UNHCR has a list of their names, and that if they get permission from the government, they will visit them.²²⁶

The Eritreans in detention have not met with anyone from their embassy, but someone from the Ethiopian embassy visited an Ethiopian man who is detained with them.²²⁷ This Ethiopian man was also interviewed for this paper, and said the following about the visit from the embassy:

Someone from the embassy came and asked me if I want to return to my home country or not, and I said no. They said, “So you are not Ethiopian.” I said “No, I am Ethiopian.” They asked me, “Where from in Ethiopia?” I said that I grew up in Sudan and don’t know Ethiopia, but that my father is from Tigray. They asked me if I want to go back to Ethiopia, and I said that I do not. They wrote down that I do not want to return to my country, and they took my information like my name.²²⁸

The Eritrean man who was interviewed from this group said that one of the higher-ranking officials with three stars on his sleeve told them that they would be deported to their home country.²²⁹

Marsa Alam Police Station

²²³ Interview, *supra* note 214.

²²⁴ Interview, *supra* note 214.

²²⁵ Interview, *supra* note 214.

²²⁶ Interview, *supra* note 214.

²²⁷ Interview, *supra* note 214.

²²⁸ Interview, *supra* note 214.

²²⁹ Interview, *supra* note 214.

There are 108 asylum seekers detained in Marsa Alam, 94 of whom are men and 14 of whom are women.²³⁰ There is one two-year-old boy and one four-month-old boy. Their group came across the border into Egypt on foot, and 18 people died on the way.²³¹ The majority of them deserted the military in Eritrea, and they came from the Shagarab and Sita Wa Eshreen refugee camps in Sudan.²³² They are all Eritrean except for one Ethiopian woman.²³³ They all left Sudan at the same time on 24 March 2008 and entered Egypt with the help of smugglers on 3 April 2008 in six Toyota pick-ups.²³⁴ The smugglers who helped them left them in the desert, and they walked along the highway until they found someone to help them contact the authorities.²³⁵

The asylum seekers from this group surrendered themselves to the military, who transported them to Hurgada in two military trucks.²³⁶ Their photos and fingerprints were taken there.²³⁷ They were then taken to Marsa Alam, and four days later, they were taken to a military court with the charge of illegal entry.²³⁸ They were assigned a lawyer, found innocent of the charge, and told that the reason was because they are political refugees.²³⁹ Since their trial, they have continued to be detained in the Marsa Alam police station.²⁴⁰ They have not been approached by their

²³⁰ Interview with Eritrean male detained in Marsa Alam police station (June 1, 2008).

²³¹ Conversation, *supra* note 33.

²³² Interview, *supra* note 230.

²³³ Interview, *supra* note 230.

²³⁴ Interview, *supra* note 230.

²³⁵ Interview, *supra* note 230.

²³⁶ Interview, *supra* note 230.

²³⁷ Interview, *supra* note 230.

²³⁸ Interview, *supra* note 230.

²³⁹ Interview, *supra* note 230.

²⁴⁰ Interview, *supra* note 230.

embassy or been directly threatened with deportation, but they fear deportation and have not been able to access the UNHCR.²⁴¹

Ismailia

There are 56 asylum seekers in detention in Ismailia.²⁴² There are 49 men, about nine or ten of whom are Ethiopian; the rest are Eritrean.²⁴³ There are four women, two of whom are Eritrean and two of whom are Ethiopian.²⁴⁴ There are also three children, all boys, aged nine, five and four years old.²⁴⁵ They came from the Sita Wa Eshreen and Wad Sherifay refugee camps in Sudan with the help of smugglers.²⁴⁶ On 6 December 2007, a group of five people left Sudan, and they entered Egypt on 9 December 2007.²⁴⁷ The rest of the asylum seekers who are detained in Ismailia came to Egypt within a few days of one another.²⁴⁸ The Eritrean man who was interviewed from this group left Sudan with a group of 30 on 2 January 2008 and arrived in Egypt on 5 January 2008.²⁴⁹ Fifteen people from this group became separated from them because they boarded different trains to Cairo.²⁵⁰ The group that this man came with went to Cairo on 6 January 2008, and then to Ismailia on 9 January 2008.²⁵¹ They were caught and arrested at a checkpoint for being in the country illegally.²⁵² They have not been in contact with the UNHCR or anyone from the Eritrean embassy, but

²⁴¹ Interview, *supra* note 230.

²⁴² Interview with Eritrean male detained in Ismailia (June 1, 2008).

²⁴³ *Id.*

²⁴⁴ Interview, *supra* note 242.

²⁴⁵ Interview, *supra* note 242.

²⁴⁶ Interview, *supra* note 242.

²⁴⁷ Interview, *supra* note 242.

²⁴⁸ Interview, *supra* note 242.

²⁴⁹ Interview, *supra* note 242.

²⁵⁰ Interview, *supra* note 242.

²⁵¹ Interview, *supra* note 242.

²⁵² Interview, *supra* note 242.

the Ethiopians have been in touch with someone from their embassy.²⁵³ The Ethiopian man who was interviewed from this group said that someone from their embassy came to Ismailia and left a phone number with them.²⁵⁴ He continued to say,

We have been in this prison for almost six months, and we are fed up with everything. There is no medical treatment, there is no food, the sanitation is bad, the weather is horrible. I decided that I would rather be healthy than be in these conditions. I would rather go back to Ethiopia than stay in this horrible situation. After spending such a long time in prison, we decided to call the embassy and tell them that we want to go back to Ethiopia. They said they would do their best to send us back to Ethiopia.²⁵⁵

Ras Gharib Police Station

There are 54 Eritrean men detained in the Ras Gharib police station.²⁵⁶ There is one 16-year-old boy with them.²⁵⁷ They left Sudan on 3 March 2008 and entered Egypt on 11 March 2008 with the help of smugglers.²⁵⁸ They were left in the desert for three days with the intent of going to Cairo before they found police and surrendered themselves to them.²⁵⁹ They were taken to Berenice for one night and then to a military camp in Safaga for two days.²⁶⁰ They were given a trial in what seems to be a military court, and they were appointed a lawyer.²⁶¹ The lawyer's defense was that they should not be penalized for entering Egypt illegally because of their inability to live their lives in Sudan and the threat of deportation to Eritrea, as well as the persecution they may experience if they are deported to Eritrea.²⁶² They were told in court that they were innocent, but then they were detained in the Ras

²⁵³ Interview with Ethiopian male detained in Ismailia (June 1, 2008).

²⁵⁴ *Id.*

²⁵⁵ Interview, *supra* note 253.

²⁵⁶ Interview with Eritrean male detained in Ras Gharib police station (June 11, 2008).

²⁵⁷ *Id.*

²⁵⁸ Interview, *supra* note 256.

²⁵⁹ Interview, *supra* note 256.

²⁶⁰ Interview, *supra* note 256.

²⁶¹ Interview, *supra* note 256.

²⁶² Interview, *supra* note 256.

Gharib police station.²⁶³ They have been told that they are not criminals, but they are being detained with criminals.²⁶⁴ They are not receiving enough food, water, or medical attention.²⁶⁵ Some of them are injured and one man is diabetic.²⁶⁶ He requested a change in his food, but it was not granted.²⁶⁷ This group has organized a hunger strike which lasted for two days, and the police responded to it by saying that the situation was out of their hands because the government of Egypt has yet to negotiate with the Eritrean government about sending them back to Eritrea. For this reason, they fear deportation.²⁶⁸

²⁶³ Interview, *supra* note 256.

²⁶⁴ Interview, *supra* note 256.

²⁶⁵ Interview, *supra* note 256.

²⁶⁶ Interview, *supra* note 256.

²⁶⁷ Interview, *supra* note 256.

²⁶⁸ Interview, *supra* note 256.

Chapter 3 – Refugee Detention as Instrumental to *Refoulement*

Introduction

The State of Egypt was one of the drafting members of the 1951 Convention Relating to the Status of Refugees,²⁶⁹ and it acceded to both the Convention and the 1967 Protocol Relating to the Status of Refugees on 22 May 1981.²⁷⁰ Egypt's practice of detaining asylum seekers at the border for entering illegally violates several laws that are found in international and regional instruments, as well as in Egyptian domestic law and the Memorandum of Understanding between the Egyptian government and the UNHCR.²⁷¹ This chapter will demonstrate how this practice gives way to a chain of violations leading to *refoulement*. By penalizing asylum seekers who enter illegally with detention, Egypt violates Article 31 of the 1951 Convention, rendering the fulfillment of the responsibilities agreed to in the Memorandum of Understanding impossible for both the UNHCR and the Egyptian government. The violation of Article 31 of the 1951 Convention then inhibits the right to seek asylum as articulated in Article 14 of the Universal Declaration of Human Rights, as well as in Article 12(3) of the African (Banjul) Charter, because they are unable to access the UNHCR, which is their only way of attaining asylum. By being unable to seek asylum, they are at a greater risk of deportation to their home country without having their cases heard while they may have been *bona fide* refugees. They have in effect been *refouled*, and their forced deportation constitutes a violation of Article 33 of the

²⁶⁹ Guy S. Goodwin-Gill, *The Refugee in International Law*, 91, 93 (Oxford University Press 2d ed.1996) (1996).

²⁷⁰ UNHCR, *States Parties to the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol*.

²⁷¹ See Grindell, *supra* note 35 at 2-5 for a comprehensive discussion of all the laws relevant to the practice of refugee detention in Egypt.

1951 Convention prohibiting *refoulement*, which is the most basic and fundamental obligation in the Convention.

Interpreting the category of “refugee” in the context of illegal entry

The category of “refugee” as it appears in Article 31 of the 1951 Convention should be interpreted as pertaining to asylum seekers’ *de facto* circumstances, considering them potential refugees who fit the definition in Article 1 of the 1951 Convention regardless of whether the UNHCR has officially recognized their status yet. In the case of *R v. Uxbridge Magistrates Court & Another ex parte Adimi*, the scope of Article 31 was considered to extend to those whom Lord Justice Simon Brown termed “presumptive refugees.”²⁷² He stated that, “The combined effect of visa requirements and carrier’s liability has made it well nigh impossible for refugees to travel to countries of refuge without false documents.”²⁷³ The UNHCR accepts an interpretation of “refugee” that is synonymous to the idea of the “presumptive refugee” as the UNHCR considers the term “refugee” to apply in a declaratory manner rather than exclusively as a result of recognition. The UNHCR Handbook on Procedures and Criteria for Determining Refugee Status articulates that,

A person is a refugee within the meaning of the 1951 Convention as soon as he fulfills the criteria contained in the definition. This would necessarily occur prior to the time at which his refugee status is finally determined. Recognition of refugee status does not therefore make him a refugee, but declares him to be one. He does not become a refugee because of recognition, but is recognized because he is a refugee.”²⁷⁴

Lauterpacht and Bethlehem argue that this is the only possible interpretation of the word “refugee” in the 1951 Convention as Article 1A(2) of the 1951 Convention does not require that a refugee be formally recognized as a refugee in addition to fitting the

²⁷² *R v. Uxbridge Magistrates Court & Another ex parte Adimi*. Imm. AR 560 (1999).

²⁷³ *Id.*

²⁷⁴ UNHCR, Handbook on Procedures and Criteria for Determining Refugee Status, ¶28 HCR/IP/4/Eng/REV.1 (1979).

definition.²⁷⁵ They assert that “any other approach would significantly undermine the effectiveness and utility of the protective arrangements of the Convention as it would open the door for States to defeat the operation of the Convention simply by refusing to extend to persons meeting the criteria of Article 1A(2) the formal status of refugees.”²⁷⁶ In this sense, asylum seekers who illegally cross borders may fit the category of “refugee” as it appears in Article 1 of the 1951 Convention where the word is formally defined,²⁷⁷ without necessarily having been recognized as fitting this definition by the State or the UNHCR. This interpretation applies to the word “refugee” as it appears in Article 31 on the penalization of illegal entry, as well as in Article 33 on the prohibition of *refoulement*, which will be discussed below.

Penalization of Seeking Asylum

Egypt’s ratification of the 1951 Convention obligates it to observe its duty not to penalize refugees for their “illegal entry or presence” or if they “enter or are present in their territory without authorization,” under the conditions that they are refugees “coming directly from a country where their life or freedom is threatened in the sense of article 1,” that they “present themselves without delay to the authorities,” and that they “show good cause for their illegal entry or presence.”²⁷⁸ Originally, Article 31 was drafted when the 1950 *Ad hoc* Committee on Statelessness and Related

²⁷⁵ See Sir Elihu Lauterpacht and Daniel Bethlehem, *The scope and content of the principle of non-refoulement: Opinion*, in *Refugee Protection in International Law: UNHCR’s Global Consultations on International Protection* 89 (E. Feller, V. Türk, & F. Nicholson, eds.), 2, at 116.

²⁷⁶ *Id.*

²⁷⁷ A person is a refugee, according to Art. 1A(2) of the 1951 Convention Relating to the Status of Refugees, if “owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.”

²⁷⁸ 1951 Convention, Art. 31.

Problems held a meeting at Lake Success, New York in February 1950.²⁷⁹ The reasoning behind the drafting of Article 31 was expressed when it was commented at the time that, “A refugee whose departure from his country of origin is usually a flight, is rarely in a position to comply with the requirements for legal entry (possession of national passport and visa) into a country of refuge.”²⁸⁰

The detention of asylum seekers who enter a country illegally can be considered to constitute an imposition of a “penalty” as stated in Article 31 of the 1951 Convention. Although Article 31(2) can be interpreted to allow administrative detention, detention for the purpose of penalizing illegal entry—which would constitute a violation of Article 31(1)—is distinct from detention that is carried out for the purpose of investigation.²⁸¹ The Department of International Protection for the UNHCR Global Consultations interprets the object and purpose of Article 31(1) to be “the avoidance of penalization and account of illegal entry or illegal presence.”²⁸² Therefore, if illegal entry can be justified, the Department of International Protection finds that, “Any punitive measure, that is, any unnecessary limitation to the full enjoyment of rights granted to refugees under international refugee law, applied by States against refugees who would fall under the protective clause of Article 31(1) could, arguably, be interpreted as penalty.”²⁸³

²⁷⁹ Belgium and the United States of America: Proposed text for Article 24 of the Draft convention relating to the Status of Refugees: UN doc. E/AC.32/L.25, (Feb. 2, 1950): UN doc. E/AC.32.L.26 (February 2, 1950). The Article on the penalization of illegal entry was then draft Article 24, and later became Article 26 before it became Article 31.

²⁸⁰ Draft Report of the *Ad hoc* Committee on Statelessness and Related Problems. Proposed Draft Convention relating to the Status of Refugees: UN doc. E/AC.32.L.38 (February 15, 1950), Annex I (draft Article 26); Annex II (comments p. 57).

²⁸¹ Guy S. Goodwin-Gill, *Article 31 of the 1951 Convention Relating to the Status of Refugees: Non-penalization, Detention and Protection*, A paper prepared at the request of the Department of International Protection for the UNHCR Global Consultations, October 2001, at 9.

²⁸² Department of International Protection, internal note (May 2000).

²⁸³ *Id.*

Asylum seekers in Egypt can be prosecuted for entering illegally, and have also been reported to be imprisoned with convicted criminals and threatened with deportation.²⁸⁴ The punitive practice of detaining asylum seekers who enter illegally criminalizes the act of seeking asylum, which is a universal individual right under international law as it is found in the Universal Declaration on Human Rights,²⁸⁵ and it is more specifically articulated in the binding African (Banjul) Charter,²⁸⁶ to which Egypt is signatory. The right to seek asylum will be discussed further below.

Presidential Decree no. 89 of 1960 and the decrees concerning the entry and residence of foreigners in the Arab Republic of Egypt are the domestic laws used to penalize the illegal entry of foreigners. These “foreigners’ laws” are used to penalize refugees who are apprehended by Egyptian authorities for entering the country illegally. The use of these laws reflects an evident conflation of the categories of “asylum seeker,” “illegal immigrant,” and even “criminal.” Therefore, detention of refugees in Egypt penalizes illegal entry, which is a violation of Article 31 of the 1951 Convention.

The division of labor between the government of Egypt and the UNHCR

Guy S. Goodwin-Gill observes refugee detention as possibly being the result of, among other things, “lacunae in refugee law, such as the absence of rules governing responsibility for determining asylum claims.”²⁸⁷ On 10 February 1954, the Government of Egypt and the UNHCR signed a Memorandum of Understanding, a document that theoretically fills this possible gap in the law by explicating the refugee

²⁸⁴ See Grindell, *supra* note 35 at 30-34.

²⁸⁵ Universal Declaration on Human Rights, G.A. Res. 217A, at 14, U.N. GOAR, 3d Sess., 1st plen. mtg., U.N. Doc. A/810 (Dec. 12, 1948) [hereinafter UDHR].

²⁸⁶ African (Banjul) Charter on Human and Peoples’ Rights, OAU Doc, CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (June 27, 1981), Art. 12(3) [hereinafter African Charter].

²⁸⁷ Guy S. Goodwin-Gill, *International Law and the Detention of Refugees and Asylum Seekers*, 20(2) *International Migration Review* 193, at 194.

policy in Egypt and distributing responsibilities between the Government and the UNHCR.

In Article 2 of the Memorandum, one of the UNHCR's tasks as delegated by the Egyptian government is to "help, within the limits of the funds received to this effect, the most destitute of refugees within its mandate residing in Egypt."²⁸⁸

According to Article 5 of this agreement, the Egyptian government "undertakes to give to the delegation of the High Commissioner all facilities necessary to the exercise of its functions."²⁸⁹ The Procedural Standards for Refugee Status

Determination under UNHCR's Mandate declares that,

Detained individuals who wish to apply for refugee status have the right to access UNHCR RSD procedures. The claims of detained asylum seekers should be adjudicated promptly, regardless of the reasons for the detention. Where Applicants are detained for alleged criminality, UNHCR Protection staff should consider the details of the charges and/or sentence to assess their relevance to the determination of the Applicant's eligibility for refugee status or protection needs of the Applicant in the host country.²⁹⁰

A result of punishment for entering Egypt illegally is the blocking of access to the UNHCR after prosecution. When Egyptian authorities detain asylum seekers for entering illegally and leave the burden of communication with the UNHCR on asylum seekers, these obstacles amount to a failure on the part of the Egyptian government to uphold Article 5 of the Memorandum of Understanding. Because Article 2 is arguably conditioned by Egypt's upholding Article 5, the government is then responsible for preventing the UNHCR from conducting refugee status determination and carrying out its part of the Agreement to "help, within the limits of the funds received to this

²⁸⁸ Memorandum of Understanding between the Government of Egypt and UNHCR, Art. 2(d) (February 10, 1954) (unofficial translation).

²⁸⁹ Memorandum of Understanding between the Government of Egypt and UNHCR, Art. 5 (February 10, 1954) (unofficial translation) [hereinafter MOU].

²⁹⁰ Procedural Standards for Refugee Status Determination under UNHCR's Mandate (September 2005).

effect, the most destitute refugees within its mandate.”²⁹¹ The UNHCR is then inadvertently in violation of this agreement because the government has obstructed the option to uphold it.

The right to seek asylum

Article 14(1) of the Universal Declaration of Human Rights expresses that “Everyone has the right to seek and to enjoy in other countries asylum from persecution.”²⁹² Although the Declaration is not a legally binding document, Ahmed M. Rifaat observes that Article 14 gives “an express recognition of asylum as a human right,”²⁹³ and Plender and Mole indicate that the Declaration “inspires and assists in the interpretation of the more specific instruments, concluded at the international level, which may form the basis for individual claims before international tribunals or [...] before national courts.”²⁹⁴

Article 14 of the UDHR can then help establish the foundation for the rights articulated in Article 12(3) of the African (Banjul) Charter on Human and Peoples’ Rights, which Egypt ratified on 20 March 1984. Article 12(3) of the Charter provides that “Every individual shall have the right, when persecuted, to seek and obtain asylum in other countries in accordance with laws of those countries and international conventions.”²⁹⁵ Jurisprudence that has evolved in the Inter-American human rights system can further point toward the establishment of a right to asylum in international law. Article 22(7) of the American Convention on Human Rights has almost identical

²⁹¹ MOU, Art. 2(d).

²⁹² UDHR, Article 14(1).

²⁹³ Ahmed M. Rifaat, *Refugees and the Right of Asylum: An African Perspective*, 40 *Revue Egyptienne De Droit International*, 71, at 108, (1984).

²⁹⁴ Richard Plender and Nuala Mole, *Beyond the Geneva Convention: constructing a de facto right of asylum from international human rights instruments*, from *Refugee Rights and Realities: Evolving International Concepts and Regimes*, (Francis Nicholson and Patrick Toney eds., Cambridge University Press 1999), at 82.

²⁹⁵ African Charter, Art. 12(3).

wording as that in Article 12(3) of the African Charter: “Every person has the right to seek and be granted asylum in a foreign territory, in accordance with the legislation of the state and international conventions, in the event he is being pursued for political offences or related common crimes.”²⁹⁶ In the *Haitian Interdiction v. United States* case, the Inter-American Commission of Human Rights found the United States to be in violation of the right to seek and be granted asylum with its policy of interdicting the Haitian boat people on the high seas.²⁹⁷ Although there exists a right for individuals to seek asylum, States still have the discretionary power to grant or not to grant asylum. While the African Charter expresses that “every person has the right to seek *and be granted asylum*,”²⁹⁸ this is conditioned by the refugee definitions in the African Charter and the 1951 Convention, as well as the exception to the principle of *non-refoulement* found in Article 33(2) of the 1951 Convention.²⁹⁹

Article 31 of the 1951 Convention is contingent on the condition that asylum seekers “present themselves without delay to the authorities and show good cause for their illegal entry or presence.”³⁰⁰ In the case of Egypt, the authorities have implemented the criminalization of illegal entry; the UNHCR is the appropriate entity to whom asylum seekers should present themselves, but detention can prevent asylum seekers from doing so. Asylum seekers cannot be recognized as having had their life or freedom threatened in the sense of article 1 of the 1951 Convention if they are

²⁹⁶ Organization of American States, American Convention on Human Rights, Nov. 22, 1969, O.A.S.T.S. No. 36, 1144 U.N.T.S. Art. 22(7).

²⁹⁷ See *Haitian Interdiction v. United States*, Case 10.675, Inter-Am. C.H.R., Report No. 51/96, 5 IHRR, 1998, 120-65 (March 13, 1997).

²⁹⁸ African Charter, Article 12(3), emphasis added.

²⁹⁹ Article 33(2) of the 1951 Convention on the Prohibition of Expulsion or Return (“Refoulement”) states that, “The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country.”

³⁰⁰ 1951 Convention, Art. 31.

unable to access the UNHCR so that the UNHCR can make the decision of whether or not they can indeed be distinguished as *bona fide* refugees.

Non-refoulement

Egypt is obligated to the prohibition of *refoulement* as articulated in Article 33 of the 1951 Convention.³⁰¹ Article 42(1) states that this obligation is non-derogable as States parties may not make reservations to Article 33.³⁰² The sense of an obligation of *non-refoulement* is also present in Article 53 of the Egyptian Constitution, where “the extradition of political refugees shall be prohibited.”³⁰³ The obligation to *non-refoulement* has been argued to have acquired the status of *jus cogens*,³⁰⁴ and the Executive Committee has indicated that “the principle of *non-refoulement* [...] was progressively acquiring the character of a peremptory rule of international law.”³⁰⁵ While Article 33 does not in itself imply an obligation for states to admit refugees, nor does it necessarily grant asylum seekers a right to obtain asylum, according to James Hathaway, if there is “a real risk that rejection will expose the refugee ‘in any manner whatsoever’ to the risk of being persecuted for a Convention ground, Article 33 amounts to a *de facto* duty to admit the refugee, since admission is normally the only means of avoiding the alternative, impermissible consequence of exposure to risk.”³⁰⁶

The principle of *non-refoulement* can apply to both refugees and asylum seekers. As mentioned above, Article 33 of the 1951 Convention applies to persons

³⁰¹ 1951 Convention, Art. 33.

³⁰² 1951 Convention, Art. 42(1).

³⁰³ Egyptian Constitution (1971), Art. 53.

³⁰⁴ See Jean Allain, *The jus cogens Nature of non-refoulement*, 13(4) International Journal of Refugee Law 533, (2002).

³⁰⁵ Executive Committee, Conclusion No. 25 (XXXIII) 1982, at para. (b).

³⁰⁶ James Hathaway, *The Rights of Refugees Under International Law*, 301 (Cambridge University Press, 2005) (2005).

who fit the definition of “refugee” in Article 1A(2) of the Convention, rather than only to those who have been formally recognized as such. The Executive Committee has “[r]eaffirmed the fundamental importance of the observance of the principle of *non-refoulement* – both at the border and within the territory of a State – of persons who may be subjected to persecution if returned to their country of origin irrespective of whether or not they have been formally recognized as refugees.”³⁰⁷ The UNHCR has also observed that, “Every refugee is, initially, also an asylum-seeker; therefore, to protect refugees, asylum seekers must be treated on the assumption that they may be refugees until their status has been determined. Otherwise, the principle of *non-refoulement* would not provide effective protection for refugees, because applicants might be rejected at borders or otherwise returned to persecution on the grounds that their claim had not been established.”³⁰⁸ This principle applies to detained asylum seekers in Egypt who have not yet obtained a blue card from the UNHCR either because their case is pending or because they have not been able to access the UNHCR from detention.

Guy Goodwin-Gill interprets that the word “expel” in Article 33 can describe “any measure, judicial, administrative, or police, which secures the departure of an alien,”³⁰⁹ presumably an alien who is at a risk of persecution in the country of origin. James Hathaway adds that such measures can be an infringement on Article 33, and that this can most obviously be the case where “responsibility to protect refugees is entrusted to officials such as border guards or detention center officers who do not reliably carry out those responsibilities.”³¹⁰ This is certainly the case in Egypt when

³⁰⁷ Executive Committee, Conclusion No. 6, (XXVIII) 1997 at para. (c).

³⁰⁸ UNHCR, Note on International Protection, UN Doc. A/AC.96/815 (1993), at para. 11.

³⁰⁹ Guy S. Goodwin-Gill, *The Refugee in International Law*, 122 (Oxford University Press 1996).

³¹⁰ Hathaway, *supra* note 301 at 319.

asylum seekers enter illegally, where border guards and the police are instructed to take actions that interrupt the asylum seeking process, and the practice of detention violates Article 31, actively preventing refugees from accessing the UNHCR.

Chapter 4 – The Perpetuation of *Refoulement*

In 2006, Egypt was reported to have “forcibly returned at least nine asylum seekers (five Ethiopians and four Eritreans) without allowing them to present their claims.”³¹¹ Also, six Sudanese who were accused of crimes were deported in 2006, and four more in early 2007.³¹² According to this report, “in a departure from normal practice, authorities did not permit the Office of the UN High Commissioner for Refugees (UNHCR) to interview the Sudanese but assured UNHCR that they had conducted their own assessment of potential risks in returning the Sudanese, and that they did not seek protection.”³¹³ This demonstrates that the Egyptian government may step in and impose its authority over the UNHCR, and that it may ignore the responsibilities that it has allocated to the UNHCR. As illustrated in the chapter on the practice of refugee immigration detention, the system in Egypt works to keep asylum seekers out, malleably evolving to make way for this ultimate objective. Egypt’s “departure from normal practice”³¹⁴ might not be as anomalous as such reports indicate. Rather, the practice of immigration detention makes way for Egypt’s omitting to observe Article 33 of the 1951 Convention. The numbers in this report are relatively low as compared to the record of *refoulement* in other Middle Eastern countries like Lebanon where the UNHCR conducts RSD.³¹⁵ However, this does not account for the refugees who are undetected or vulnerable to the protection gap caused by the system in Egypt. This chapter will use evidence gathered from the interviews conducted with detained, released and deported refugees to illustrate how

³¹¹ U.S. Committee for Refugees and Immigrants (USCRI), World Refugee Survey: Egypt (2007), available at <http://www.refugees.org/countryreports.aspx?id=1994>.

³¹² *Id.*

³¹³ USCRI, *supra* note 311.

³¹⁴ USCRI, *supra* note 311.

³¹⁵ Kagan *supra* note 16; see also U.S. Committee for Refugees and Immigrants (USCRI), World Refugee Survey: Lebanon (2007), available at <http://www.refugees.org/countryreports.aspx?cid=1320>.

the system in Egypt can potentially increase the risk of *refoulement*, far more than is publicly reported.

“Present themselves without delay to the authorities”

As mentioned above, refugees must “present themselves without delay to the authorities”³¹⁶ in order for Article 31 on the obligation for States not to impose penalties on refugees’ illegal entry or presence to apply. Since the UNHCR acts in a quasi-governmental capacity in Egypt as mentioned above, it is not clear whether the “authorities” in Article 31 should be interpreted as being the Egyptian governmental authorities or the UNHCR. All the refugees who were interviewed for this paper demonstrated that the groups with whom they entered Egypt did so peacefully, with the aim of seeking asylum. An Eritrean man detained in the Hurghada police station said that after the group with whom he entered Egypt crossed the border, “our group walked for a half hour until we saw a military camp, and we went to it and surrendered ourselves.”³¹⁷ An Eritrean man detained in the Darrow police station said that, “When we were at the border we surrendered to the Egyptian army.”³¹⁸ An Eritrean man detained in the Marsa Alam police station stated that, “...[W]e asked some people who were driving through [the highway] to call the authorities so that we can give ourselves to them. People from the military arrived and we surrendered ourselves to them.”³¹⁹ An Eritrean man detained in the Ras Gharib police station said that, “While we were on the road, we saw the police and we surrendered ourselves to them.”³²⁰ These statements show that the refugees who were interviewed for this paper who entered Egypt illegally did not pose a threat to Egypt, and also that they

³¹⁶ 1951 Convention, Art. 31(1).

³¹⁷ Interview, *supra* note 181.

³¹⁸ Interview, *supra* note 118.

³¹⁹ Interview, *supra* note 230.

³²⁰ Interview, *supra* note 256.

fulfilled the condition of presenting themselves to the authorities in Article 31 of the 1951 Convention.

Penalization of seeking asylum

Egypt's violation of Article 31 of the 1951 Convention as typified by Egyptian authorities reflects a lack of regard to international refugee law. Presidential Decree no. 89 of 1960 and the decrees concerning the entry and residence of foreigners in the Arab Republic of Egypt, the domestic laws used to penalize foreigners for illegal entry, were used in the court trials of the refugees in detention who were interviewed for this paper. The lawyers at the HMLC wrote that this was the charge used in the court trial of the group of refugees who are detained at the Darrow police station, and they said that the same charge was used at the trials of the two groups detained in Edfu, one of which I attended.³²¹ They also said that the same laws were being used against the other groups of detained refugees mentioned in this paper whom they did not defend in court.³²² In addition to what these refugees were told in court trials, the Egyptian authorities have told them that their entry or presence in Egypt are illegal, sometimes threatening them with deportation. After the group who is detained in the Hurghada police station went to court and were found innocent, they were transferred to the detention center. An Eritrean man who was interviewed from this group said,

After we were told that we were innocent, we were expecting to be released. They were not supposed to put us in prison. The leader of the prison said that they did not tell us that we will get one year in prison and a 1000LE fine, and they didn't tell us that in the court because they thought that we would do something horrible. He said that we are guilty because we entered the country illegally. We are still confused about whether they consider us guilty or not guilty.³²³

³²¹ Hisham Mubarak Law Center, Aswan branch, legal memo in defense of the group of detained refugees in Darrow (April 13, 2008) (Arabic).

³²² Conversation, HMLC, *supra* note 33.

³²³ Interview, *supra* note 181.

The group of refugees detained in Qena prison have not been to a court, and an Eritrean man from that group said that, “An officer with three stars on his sleeve said that we were in prison because we crossed the border illegally...”³²⁴ An Ethiopian-Eritrean woman who is detained in the Edfu police station said that when the group she came with was being arrested by the police, “We asked them why we were being arrested and they told us it was because we crossed the border illegally.”³²⁵ An Eritrean man who was with a group formerly detained in Qanater prison, Cairo, said that during the detention caused that interrupted his attempt to initiate the asylum seeking process,

The guards were asking me why I came to Egypt; did I come to work or did I come to cross the border into Israel? I speak some Arabic, so I told them no, that we all know that there is no work here in Egypt and we don't know the language. We just came to seek asylum from the UNHCR.³²⁶

Prevention from Seeking Asylum

All refugees who are in detention in Egypt for immigration reasons are hindered from seeking asylum, which is a breach of Article 12(3) of the African Charter. This is due to lack of a formal system of communication of Egyptian authorities to the UNHCR, and of course the inhibition of movement that detention itself imposes on refugees, blocking their access to the UNHCR office in Cairo. This is also a result of the Egyptian government's recent prevention of the UNHCR's access to detained refugees, which further violates Article 5, and consequently Article 2 of the Memorandum of Understanding between the Egyptian Government and the UNHCR.

³²⁴ Interview, *supra* note 214.

³²⁵ Interview, *supra* note 154.

³²⁶ Interview with Eritrean male formerly detained in Qanater prison, Cairo (April 3, 2008).

Some refugees interviewed for this paper came to Egypt with the express purpose of traveling to Cairo to apply for refugee status at the UNCHR, and they have been unable to do so because of the obstacle of detention. Some have also asked to access the UNHCR from detention, and they have been denied. An Eritrean man detained in the Darrow police station said in an interview,

Our plan from the beginning was to go to Cairo. We wanted to seek asylum at the UNHCR office in Cairo, but when we were at the border we surrendered to the Egyptian army. Cairo is a big city and it's the capital, so to my understanding any headquarters of an NGO [sic] can be found in the capital city.³²⁷

An Eritrean man who was formerly detained in Qanater prison, Cairo said, "When I came to Egypt, I knew there was an office where I had to apply for refugee status, but I didn't know how to approach it. I didn't know the address or anyone who could take me there."³²⁸ His attempts to access the UNHCR were fraught with threats and an actual attempt at his deportation, which will be discussed below. The full text of his interview can be found in the Appendix.

Threat of Deportation

The Egyptian authorities' failure to consistently communicate with the UNHCR regarding detained asylum seekers has the potential to preclude these asylum seekers' access to the RSD process. Additionally, authorities have made threats as well as attempts to deport refugees in detention. An Ethiopian-Eritrean woman detained in the Edfu police station has said,

We have not been asked to sign any documents, but the higher ranking officers with stars on their sleeves in the police station have been asking us for our information like our name so that they can write them down. We asked them why they are writing down this information, and they said that it will be sent to the Immigration office in Cairo. They give us confused ideas about

³²⁷ Interview, *supra* note 118.

³²⁸ Interview, *supra* note 326.

why—sometimes they say that they are filling out forms for the embassy, and sometimes they say that they are for Immigration.

The ordinary police are always threatening us and telling us that they are going to send us back home.³²⁹

An Eritrean man who is detained in Shallal Military Camp, Aswan, stated that,

Whenever we ask why we are in prison, they say things like they are just waiting for our embassy to come so that we can be deported back to our home country. It is usually the higher-ranking people who say this, but also the guards. The one who says that we will be deported is an officer with three stars on his sleeve who is in charge of the whole camp. All the people in prison say that it's better for them to die in the prison than to return to our home country. There are 11 women in the prison, and when they heard these things they tried to kill themselves, but they were caught and so they did not succeed.³³⁰

An Ethiopian man who is detained in Qena prison and was visited by someone from his embassy said,

Someone from the embassy came and asked me if I want to return to my home country or not, and I said no. They said, "So you are not Ethiopian." I said "No, I am Ethiopian." They asked me, "Where from in Ethiopia?" I said that I grew up in Sudan and don't know Ethiopia, but that my father is from Tigray. They asked me if I want to go back to Ethiopia, and I said that I do not. They wrote down that I do not want to return to my country, and they took my information like my name.³³¹

An Eritrean man who is detained in one of the Hurghada police stations also said, "I cannot say that the authorities have directly threatened to deport us, but the guards are always saying that they will send us back to our home country. The officials have never said that directly to us, but the way they speak sounds as if they might do that."³³² Another Eritrean man in the same detention center also expressed fear of deportation, saying,

Here in Hurghada, we are by the Red Sea. We are very close to Eritrea, so we are very afraid that they are going to send us back to Eritrea. Some of us were in the military, and it is very dangerous for any of us to go back to Eritrea.

³²⁹ Interview, *supra* note 154.

³³⁰ Interview, *supra* note 69.

³³¹ Interview with Ethiopian male detained in Qena prison (May 8, 2008).

³³² Interview, *supra* note 181.

Every day, we are worrying about being sent back to Eritrea. Since we are close to the Red Sea and Eritrea, we don't want to be the first group to go if they decide to send us back.³³³

An Eritrean man who was detained in Qanater prison in Cairo and eventually released experienced both verbal threats of deportation and an actual attempt to deport him. The group with whom he was arrested and detained had the chance to register at the UNHCR through detention, but before they received their results they were brought to the Immigration department to meet with a worker from the Eritrean embassy. He has said,

... [W]e told him that we were in the military and we threw our gun and we cannot go back to Eritrea, that we don't have any connection with our country, and that we can't go back. The worker from the embassy told us that no one can deport us to our home country if we don't want to go back, but we didn't believe what he was saying. He asked us questions like which division of the military we were serving in. We told him that if we returned to our country they will shoot and kill us, but we wouldn't deny that we are Eritrean [...].³³⁴

After spending two weeks in Qanater prison after this incident, they were told that they would be taken to the Immigration department again. He has continued to say,

The other prisoners who were there when we heard this said that we shouldn't go to Immigration because we will get deported, and that they had seen this done to other people. They told us to fight, shout and scream not to go to Immigration. We were taken back to Immigration, they took photos of us, and then returned us back to Qanater.

On 26 June, after a month and two weeks of prison, we were told that we were going to be taken to Immigration and that we probably won't come back to Qanater. The authorities said that they don't know where we will go, but this is our last day in Qanater, so we have to go back to Immigration.

They took us to Immigration and gave us a form that said that it was for traveling. They told us to fill this form and that with this form, we could report to the UNHCR. The form was written in Arabic, Tigrinya, and English. It was from the embassy. We spoke with the officer and told him that we will not fill out this form because it is a traveling form for traveling from place to place that says that we are willing to travel. When we said we would not fill out the form, they threatened us, but we still refused to fill it out. We said that we would fill it out after we meet the UNHCR.

³³³ Conversation with Eritrean male detained in Hurghada police station (May 24, 2008).

³³⁴ Interview, *supra* note 326.

There happened to be UNHCR officers in Immigration when this happened, and so they took us in groups of two to the UNHCR officers. We didn't believe that they were from the UNHCR, but they showed us ID. The UNHCR officers told us that we didn't have to fill this form unless they told us to, so we didn't fill it out. After that, the officer at Immigration who had tried to get us to complete the form smiled and said that if we had filled out that form, we would have gone back to our country. After we refused to sign it, he returned it to the embassy. We assumed that there was some kind of connection between the person from the embassy and the Immigration officer.³³⁵

What appears to evidently have been a trick to facilitate a seemingly voluntary deportation could have been a blatant *refoulement*. It also reflects some kind of relationship between members of Immigration department and the Eritrean embassy, which can be dangerous for Eritreans who have fled to Egypt to seek asylum.

³³⁵ Interview, *supra* note 326.

Concluding Remarks

The particular situation in Egypt where Eritrean and Ethiopian asylum seekers are held in detention while they are suspected to potentially be on their way into Israel, as well as the possibilities of their being deported either back to their countries or to Sudan, is politically sensitive. This may be a reason that the Egyptian authorities have responded with tightened measures. While hosting hundreds of newly arrived refugees is ostensibly counter to Egypt's interests, it is also not in the State's interest to violate international law and return them to a country where they will face persecution. Meanwhile, the UNHCR can only act with the Egyptian government's permission, and so it is impotent in this situation. Even if the government grants the UNHCR permission to register and conduct RSD for the increasing number of detained asylum seekers, this store of at least 1500 new potential applicants, many of whom are located far from Cairo, will be an extremely heavy burden on the already overworked and underresourced agency.

In Egypt, refugees who are in detention for entering the country illegally are frequently confronted with the threat of *refoulement*. From the time they are arrested with the charge of illegal entry, they are put through a system that strives to push them out, regardless of the dangers that may await them in their home country. The act of seeking asylum is criminalized, and detention prevents asylum seekers from exercising their right to seek asylum under international law. Detention also creates a barrier between detained refugees and the UNHCR. This leaves the burden of communication with the agency on the refugees themselves, who do not have many options for communicating with the outside world from within detention. These circumstances result in further violations of international law and the agreement between the Egyptian government and the UNHCR. The increased risk of deportation

of *bona fide* refugees who have not had the chance to have their claims heard sets up the perpetuation of *refoulement*, which violates the cornerstone of international refugee law.

Documenting aspects of the system of refugee detention in Egypt can add to what is known about the practices of an unpredictable, evolving system. Future researchers may use this to more knowledgeably assess the way Egypt deals with refugees who enter illegally and provide suggestions for alternative practices that may reduce violations. It can also give way to rethinking the role of the UNHCR in countries like Egypt, where it sometimes acts in a quasi-governmental capacity, but the government can easily render it powerless and unable to provide *non-refoulement*, as is shown in this paper. Finally, it relays the voices of detainees who may otherwise have been inaccessible, drawing attention to the category of refugees who may fall victim to the gap in protection that this system creates.

Appendix

3 April, 2008

Eritrean male, age 33

Status: Blue card holder (recognized refugee)

During the war, I was taken by the Ethiopians and arrested and put in prison for three years. In Ethiopia, I was issued an ID card that said that I was a soldier in the Eritrean army. This is all I had with me when I went to Egypt.

I went from Eritrea to Sudan in January 2007. I started a journey from Sudan into Aswan on 1 May 2007, and I arrived on foot. I came with 12 people. We all met in Sudan. We met some people in Port Sudan who we paid to help us to cross the border. We did not have to pay them a lot of money. They took us by car through a place where they could drive, and then they told us to come out of the car and they showed us people who could show us the way. I couldn't differentiate whether they were Egyptian or Sudanese because they go through both sides of the border; I think they are from both countries. They live in that area in the desert on both the Egypt side and the Sudan side of the border. It was our first time trying to cross the border like this, so I don't know if the people who helped us cross the border help other people do this regularly.

When they told us that we were near the border we went toward the mountainous area. From far away we saw a checkpoint in that area, and there were some people in that area who helped us change direction and pass the checkpoint. We entered a place called Shalateen and from Shalateen we went to Aswan by car. We did not have any problems crossing the border, but we were tired because it was a three-day journey. Some of it was by car, but most of it was on foot so it was tiring. We saw some checkpoints on the way, but we didn't pass through them, we changed our direction when we saw them. I went to Cairo from Aswan by train on 7 May 2007. When I came to Egypt, I knew there was an office where I had to apply for refugee status, but I didn't know how to approach it. I didn't know the address or anyone who could take me there.

The 12 of us and eight more people were arrested in Aswan and we were taken to prison. The authorities told us that we were illegal immigrants and that we are going to be deported. We said that we cannot go back to our country because we used to be in the military and if we go back to Eritrea it is a matter of life, they will kill us. We told them that we left the military in our country and went to Sudan. We couldn't stay in Sudan because members of Eritrean security came to Sudan because of the good relations between the two countries, and they were kidnapping people so we were afraid. There was no chance for us to issue a travel document so we decided to cross the border from Sudan to Egypt for our safety. None of us knew how to say "UN" in Arabic, we just knew how to say "Red Cross" (*salib ahmar*). We told the police that we want the Red Cross, and when they heard this they were scared. We told them our problem and then they asked, "do you mean the Red Crescent?" and we said "yes, an organization like that."

We were in prison for three days without food. The guards asked us about our religious beliefs. All of us were Christians. Because my name sounds like it could be related to a Muslim name, I told them that I was Muslim because I thought that if I told them this, they would cooperate with me. I asked them for food because we

didn't have any, and the guards said that they cannot offer us food by paying for it from their pocket, and they don't know what to do with us.

We were never taken to court. The guards were asking me why I came to Egypt; did I come to work or did I come to cross the border into Israel? I speak some Arabic, so I told them no, that we all know that there is no work here in Egypt and we don't know the language. We just came to seek asylum from the UNHCR.

We were taken to Cairo on 9 May 2007, and we were asked for our ID there, but we said that we did not have any ID. We said that we need to meet the UNHCR. When we said this, we were taken to Immigration. When we were told that we would be going to Immigration, we refused because our request was to meet the UNHCR in prison. We had put in our minds that if we went to the Immigration office, they would deport us. When we refused, six police came and they tied us up and forced us into a car.

While we were in prison, we filled out applications to the UNHCR. We gave it to the police to give to the UNHCR. Before we heard the result, we were taken to meet with our embassy. We met with a worker from the embassy in Immigration, and we told him that we were in the military and we threw our gun and we cannot go back to Eritrea, that we don't have any connection with our country, and that we can't go back. The worker from the embassy told us that no one can deport us to our home country if we don't want to go back, but we didn't believe what he was saying. He asked us questions like which division of the military we were serving in. We told him that if we returned to our country they will shoot and kill us, but we wouldn't deny that we are Eritrean.

I don't know which prison we were in first because the car we were taken in was full and we couldn't see anything, but it was near the seacoast. We were moved from there to Qanater prison.

After two weeks in Qanater, we were told that we were going back to Immigration. The other prisoners who were there when we heard this said that we shouldn't go to Immigration because we will get deported, and that they had seen this done to other people. They told us to fight, shout and scream not to go to Immigration. We were taken back to Immigration, they took photos of us, and then returned us back to Qanater.

On 26 June, after a month and two weeks of prison, we were told that we were going to be taken to Immigration and that we probably won't come back to Qanater. The authorities said that they don't know where we will go, but this is our last day in Qanater, so we have to go back to Immigration.

They took us to Immigration and gave us a form that said that it was for traveling. They told us to fill this form and that with this form, we could report to the UNHCR. The form was written in Arabic, Tigrinya, and English. It was from the embassy. We spoke with the officer and told him that we will not fill out this form because it is a traveling form for traveling from place to place that says that we are willing to travel. When we said we would not fill out the form, they threatened us, but we still refused to fill it out. We said that we would fill it out after we meet the UNHCR.

There happened to be UNHCR officers in Immigration when this happened, and so they took us in groups of two to the UNHCR officers. We didn't believe that they were from the UNHCR, but they showed us ID. The UNHCR officers told us that we didn't have to fill this form unless they told us to, so we didn't fill it out. After that, the officer at Immigration who had tried to get us to complete the form smiled

and said that if we had filled out that form, we would have gone back to our country. After we refused to sign it, he returned it to the embassy. We assumed that there was some kind of connection between the person from the embassy and the Immigration officer.

We had our first interview at Immigration on 19 June. We were told that this interview was to determine our status, and after that we would have a second interview. They didn't hold a second interview, they just decided from the first interview that we should be released. A week after our first interview, on the 26th, I was released with 20 people. That morning when they brought us to the Mogamma, we were told to come out of the Mogamma, but we told them that we don't have any identification and we might get caught and be brought back to prison. We were told that if we were caught again, we would be brought back to the same place, and we could ask for the same Colonel we had met before, and then we could be released again. They suggested that we go to a hotel, but we didn't have any money. So they released us. Members of the Eritrean community came to us and we joined them.

The Egyptian government has refused to give us residence in our blue card and said that we are illegal immigrants. There were 20 of us who came together, and I don't know where some of them are now because there have been many arrests and so people keep disappearing. I don't know if anyone I know has been deported because when a person is kidnapped or taken by the police, we can't get any information because they take away every way that someone could communicate with them. If someone is deported, we don't know anything about him if he goes back to his country.

We have informed the UNHCR that some people are missing and we don't know where they are. They told us there that everyone has to be responsible for himself. We told them that if these people disappear, we might disappear too. If we have a blue card and there is no protection, what is the meaning of UNHCR? They told us that they don't accept that people come and speak in a group on behalf of others.

When we told the UNHCR about the Egyptian government's refusal to give us residence, they told us to come to AMERA. We went to get residence with a lawyer from AMERA and we were still refused. When we told this to the UNHCR they said they don't know why this happened. I don't have valid residence right now.

8 May 2008

Eritrean male, age 21
Detained in Qena prison

We all came from different places in Sudan like Kassala and Khartoum. I myself had been in Sudan for three years. I was working for a foreign organization. The Sudanese were saying that Eritreans or foreigners should not be working for organizations like this, and they started accusing me of doing things that I didn't do. I decided to buy Sudanese nationality and I worked as a Sudanese person. Because of this nationality, I was imprisoned for one month. After I was released, I felt like I could not live safely, so I decided to come to Egypt. It was announced in the media in Sudan that there would be a general sweep for refugees who don't have identification and they will be taken to the camp called Sita Wa Eshreen. When I came from Eritrea I passed through this camp and there is no security there. I have a refugee card from

Sudan, and an Eritrean ID. I contacted my aunt who was in Cairo, and she told me that I can come to Egypt. She is in the United States now.

I left Sudan from Khartoum and paid \$500 to go to Egypt on 29 January 2008. There were three groups in the group of 61 that I came with. The group I came with had 27 people. We entered Egypt safely on 14 February 2008. We took a train headed for Cairo, and when we reached Aswan, we were caught. We spent one night in the State Security office, and then we were sent to Qena. From Qena we were taken to the Immigration office in the Mogamma in Cairo. They registered our names at the Mogamma, and then we were sent back to Qena. Our group of 27 was the only group to be taken to the Mogamma.

We have not been to a court. An officer with three stars on his sleeve said that we were in prison because we crossed the border illegally and we will be deported to our home country. After that, no one said anything about deportation. We have not seen anyone from our embassy, but there is one Ethiopian detained with us and five days ago someone from his embassy came and asked him to sign something.

I didn't know about the UNHCR in Egypt; I only knew about the UNHCR in Sudan. I learned about the UNHCR recently in detention in the last two or three weeks. I learned about it when some people in prison called some Eritreans who are in Cairo and they told them about it. We didn't ask the officers to see the UNHCR, but we managed to get the phone number of someone at the UNHCR. We talked to this person through an interpreter, and they said that they have a list of our names, but that the authorities did not give them permission to visit us. They said that when they get permission, they will visit us. All the prisoners here have the same problems, and we need a solution for our problems. We hope that the UNHCR will find a solution for our problems because the solution can only come from the UNHCR, and we want them to help us.

(On the evening that this testimony was taken, some people from Immigration came to the detention center and took everyone's names. They did not say what this was for).

Ethiopian male, age 31
Detained in Qena prison

Someone from the embassy came and asked me if I want to return to my home country or not, and I said no. They said, "So you are not Ethiopian." I said "No, I am Ethiopian." They asked me, "Where from in Ethiopia?" I said that I grew up in Sudan and don't know Ethiopia, but that my father is from Tigray. They asked me if I want to go back to Ethiopia, and I said that I do not. They wrote down that I do not want to return to my country, and they took my information like my name.

8 May 2008

Eritrean male, age 26
Detained in Shallal Military Camp

Most of us were in the military service in Eritrea, and some of us were in the opposition. We all came from a camp in Sudan called Shagarab. It is only 6 kilometers from Eritrea, and we were having political problems. Members of Eritrean

security were coming to the camp and kidnapping people. We couldn't stay, so we left the camp.

There were 66 of us, all Eritrean except for one Ethiopian, but we did not all leave together. Everyone left the camp separately in his own way and we met when we were crossing the border. We had heard that there was a UNHCR office in Egypt where we could apply for asylum, and we did not know exactly where it was located, but we knew that it was in Cairo.

We left Sudan with the help of smugglers. There is no fixed price for their help; some people paid \$750, and some paid \$1000. They led us to the desert in Sudan and told us that we would wait there for one month. After that month, they gathered us in minibuses and we started our journey for Egypt.

On 12 March 2008, we were stopped at a checkpoint where there were police, and we were caught. The police transferred us to the border keepers. Three days later, we were taken to Shallal Military Camp. When we were first caught, we were told that we would be deported to our home country and that they would call our embassy to take us back to our home country.

The next day on 17 March, we were taken to the military court. No one told us why we had been arrested, what the charge was, or why we were in court. We were just told that crossing the border illegally is a crime. Each of us was given a document to sign our name to show that we were present at the trial; I was able to read it because I read and speak Arabic. In the court we were told that we were not guilty, but that if we were caught crossing the border illegally again we would be sentenced to one year in prison and a 1000LE per person fine. After being told that we were not guilty, we continued being kept in detention. We asked why we were not released or why we had not seen the UNHCR. We were told that the people who were supposed to deal with our situation were dealing with it.

During the trial, we saw a lawyer and we told him that we want to meet with the UNHCR. He told us that he will tell the UNHCR about us. We don't know who this lawyer is, and since then we have not seen him. A month ago, the UNHCR called us and told us that the Egyptian government did not give them permission to visit us, and they are waiting and trying to get permission from the government. The UNHCR said that when they get permission from the government, they will come, but the only problem is the government giving them permission.

Until now, no one has told us the reason for our arrest. We were just told that we are prisoners, and the police do not know how long we will be here. Whenever we ask why we are in prison, they say things like they are just waiting for our embassy to come so that we can be deported back to our home country. It is usually the higher-ranking people who say this, but also the guards. The one who says that we will be deported is an officer with three stars on his sleeve who is in charge of the whole camp. All the people in prison say that it's better for them to die in the prison than to return to our home country. There are 11 women in the prison, and when they heard these things they tried to kill themselves, but they were caught and so they did not succeed.

The place we are in is locked so we can't see the sun. There is not enough food. We are only eating cheese, *hallawa* and *tahina*. There is no medical treatment. We can't have a shower and some people have contagious skin diseases from that. There are three minors: one is 16, one is 14, and one is eight years old and with his mother.

Eritrean male, age 26
Detained in Shallal Military Camp

On 13 May 2008, the high ranking officers brought some papers and asked us for information about ourselves. They are not official forms, they were just white pieces of paper to write information like our names and where we are from. We filled these out and they said that they were going to compare this list with the UNHCR cards from Sudan so they can prepare some kind of ID for us. One guy who reads and writes Arabic wrote our names and gave the paper to them. They said that the government of Egypt came up with some kind of agreement with the UNHCR and that they are preparing some kind of identification card for us, but I am not sure whether they were telling the truth.

10 May 2008

Eritrean male, age 28
Detained in Hurghada police station (1 of 2 police stations)

There are 82 in this police station, including children, and 96 in the other police station. There are some people where there was a husband in the other prison and a wife here, and they wanted the couples to be together so that is how we know that there are 96 people in the other prison. There are four Ethiopians in this police station, and I heard that there is one Ethiopian in the other police station. The rest are Eritreans. In this prison there are 20 women and 62 men. In the other prison they are all men.

There are three pregnant women; one is three months pregnant, one is four months pregnant, and one is seven and a half months pregnant. There are four women with their children. The first one has a 6 month-old child and a 5 year-old child. The second woman has one child who is 2 years old. The third one has a year and a half old child and 5 year old child and she is pregnant. The fourth one has two children: 13 years old boy and 8 year old girl.

We all came to Egypt from Sudan, from Khartoum, Kassala, Port Sudan, or Shagarab. We left Sudan and came to Egypt because there is a possibility of deportation to our homeland. The government of Eritrea has been kidnapping people in Sudan and bringing them back to Eritrea. As long as there is deportation, and as long as there is a relationship between Sudan and Eritrea, we will continue living in fear that we will be deported back to our country. We came with the help of smugglers. Each person paid \$400, \$500, or \$1000, and some people paid \$1500. We left in two groups. The smugglers left us at the border. On 13 March 2008, our group walked for a half hour until we saw a military camp, and we went to it and surrendered ourselves. The other group walked for four days and they were about to die, but they found people to help them. On the first day at the camp, a colonel came and interviewed each of us. He asked us how we could enter the country illegally, and told us that we would be deported.

Three days later they took us to court. As far as I know it was a military court. We were given a lawyer from the government. We were at the court for two to three hours. They took our testimonies, asking us why and how and where we were caught, and why we went to the camp. We were given documents where each of us signed our name at the bottom, confirming that this was true. After taking our testimonies, we

were told that we are not guilty and that they don't have anything to accuse us of. At the end of the trial, they gave each of us a white card that looks like an ID with our names and our picture on them, and we were asked to sign these cards.

After that, they put us in a prison truck and took us to this police station in Hurghada. After we were told that we were innocent, we were expecting to be released. They were not supposed to put us in prison. The leader of the prison said that they did not tell us that we will get one year in prison and a 1000LE fine, and they didn't tell us that in the court because they thought that we would do something horrible. He said that we are guilty because we entered the country illegally. We are still confused about whether they consider us guilty or not guilty.

We opposed them for putting us in this prison when we are not guilty. We were told that we will stay there, so we made a hunger strike for four days. We didn't have any choice but to fight with them about this. Two people from the group were about to die from the hunger strike, and we requested medical assistance for them but no one who works in the prison would help them. When they refused, there was a time when they took us out of the cells into the compound, and we all refused to go back inside unless they took these people to the hospital. We had an argument with the police, and they finally took them to the hospital, and then we returned back to our cells. The two people returned to the prison after two weeks in the hospital.

I cannot speak for all people but I can speak for myself. I was not aware of the UNHCR in Egypt, but I was thinking that Egypt is one of the democratic countries in Africa, so if I go to Egypt I can seek asylum easily and they might understand my problems. Because Egypt has a lot of connections with a lot of countries, there might be a lot of NGOs in Egypt. I was not expecting to face any problems because of these expectations. I know a little bit about the UNHCR now because of the other Eritreans living in Egypt. I called them on the phone and I requested that they tell the UNHCR about our problems. But we have never been visited by the UNHCR and we have not heard anything from them. You are the first person to ask us about our problems. We have had visitors from religious groups, and some medical help has also been given to us. One person from a religious group called us on the phone and took our names, but we have not heard any news after that. Another person from a religious group came to visit us and brought us food and other things, and he asked us what our problems are. Many of us tried to talk to him about our problems, but the commander of the police station called him and told him to stop what he's doing. After that he has come again and brought us food.

Nobody in the prison is interested in speaking with us. No one in the prison is willing to hear our problems. We have asked them a lot, especially because we couldn't find any solution in here, we asked them to transfer us to a prison so that we can ask for our rights there. We thought that we could ask for our rights in the prison because this is a police station. We have never been asked about whether we want to meet our embassy and we have not met them.

I cannot say that the authorities have directly threatened to deport us, but the guards are always saying that they will send us back to our home country. The officials have never said that directly to us, but the way they speak sounds as if they might do that.

24 May 2008

Eritrean male, age 25
Detained in Hurghada police station

A new group of 20 Eritreans arrived in this police station last week. They came to Egypt illegally from Sudan. They came from a larger group of about 80 people, and I think that the rest of them are in some other detention center. They went to court, and they were told the same thing as us, that they will be free. But they are still here in detention with us. I don't understand the meaning of the word "free," when they told us that we would be free and they told the new group that they will be free and we are all still here. The conditions here are very bad, and we don't see the sunshine except maybe every three or four days, or even once a week. We are being kept in a 20 by 10 room, and it is very crowded. Here in Hurghada, we are by the Red Sea. We are very close to Eritrea, so we are very afraid that they are going to send us back to Eritrea. Some of us were in the military, and it is very dangerous for any of us to go back to Eritrea. Every day, we are worrying about being sent back to Eritrea. Since we are close to the Red Sea and Eritrea, we don't want to be the first group to go if they decide to send us back.

10 May 2008

Eritrean male, age 33
Detained in Kom Ombo Police Station

We all came from different refugee camps in Sudan like Shagarab and Wad Sherifay close to the border of Eritrea. We have two or three people who came from Khartoum. Because of the situation in Sudan, where they started kidnapping people, we started fearing for our lives, so we decided to come to Egypt to seek asylum. We had help from smugglers to help us take a car across the border. Some of us paid \$200 or \$300 per person, but there is not a fixed price. It took us five days before we reached Kom Ombo. There are 32 people in the group, all men, mostly Eritreans and maybe three Ethiopians. One person in the group is 15 years old; others differ in age. On 19 February 2008, we took the train and were caught there. Five more people including one woman were caught on 19 February 2008. She is the only woman.

There were originally 44 of us who traveled together in two cars, but when we were dropped we were walking on foot in different areas. Twenty-seven of us were caught in Kom Ombo, and we found out later that there were other people who were caught in Darrow. We were taken to court, but no one had any idea what was going on in the court. No one could understand because of the language barrier. We asked the leader of the prison why we were being taken to court, and he said that we don't have any problem and we shouldn't be afraid. He said that he was told to keep us here and he will release us whenever the government tells him to. He said that we are not prisoners, but that he is protecting us until the government tells him to release us. But if you see the way they are treating us here, there is nothing else to call this place but a prison. Twenty-seven of us are living in one narrow room, and of course we are prisoners. We are in detention. We are not protected. In the beginning, 27 of us were kept in a four by three meter room. Some of us might stand while others sleep, but it was not enough space for all of us to sleep at the same time. After the five people who arrived on 19 February arrived, we were given another small room so it became a bit better, but it is still not good.

They took 24 of us to the court a second time and we were told that we would only be sentenced for one month. Three other people went to the court a third time.

There are two men in our group who speak Arabic, but they were only made to go to the court the first time. In the court they took our story about why we came to Egypt. We said that we came because the refugee camp is on the Northern border of Sudan with Eritrea and we were fearing for our lives because people can come from Eritrea to the camp and kidnap us. We were asked how we came and how much we paid and we were told to sign our testimony to prove that it was true. When we asked the Arabic speakers what was going on in the court, they didn't know. Until this time we don't know the exact decision of the court.

We didn't all know about the UNHCR in Egypt when we came here, but some people in the group did. A lawyer from the Egyptian Union visited us and said that the UNHCR will come to visit us, but we have not seen them. We have asked to talk to the UNHCR on a daily basis. We keep asking the lawyer from the Egyptian Union why we keep going to court and why the UNHCR has not come to us. The lawyer said that there will not be any problem for us and that the UNHCR will come to talk to us. When we ask the leader of the prison if we can talk to the UNHCR, he only tells us that we don't have any problems, that he doesn't know anything about our case, and that he is only there to guard us. He says that that is his only position here, and he cannot do anything to help us.

No one from the embassy has come to us. Until now, no official has tried to deport us. The only person we have spoken to is the lawyer from the Egyptian Union, and he told us that we will not be deported and that the UNHCR will come to us and will see our problems. Two other people have asked us for our names, but we refused because it was over the phone. The lawyer from the Egyptian Union has our names, but we are not sure whether he has submitted them or not.

11 May 2008

Eritrean male, age 21
Detained in Darrow police station

I will tell you about myself individually, but for the rest of the group it is the same story. We were refugees with the UNHCR in Sudan. Things changed in Sudan and Eritreans started getting deported back to Eritrea. The Sudanese government made statements about it in the media, on TV and in newspapers. If we went back to Eritrea, we can be killed. The penalty for an Eritrean who goes back home can be death. The only choice we had to save our lives rather than to go back to our home country and be killed was to go to a neighboring country and seek a safer life there. We chose to go to Egypt. We paid someone from the ethnic [Bedouin] group Rashaayda and they smuggled us illegally. Some of us paid \$800 or \$900 American. This was a large amount of money for all of us, but we were obligated to pay it to save our lives. We came in different pick-up trucks with 19 to 20 people in each, and all 71 of us entered the country at the same time.

Our plan from the beginning was to go to Cairo. We wanted to seek asylum at the UNHCR office in Cairo, but when we were at the border we surrendered to the Egyptian army. Cairo is a big city and it's the capital, so to my understanding any headquarters of an NGO [sic] can be found in the capital city. We lost people on our way here; they died on the way. There was a car accident on the way, and when it happened people scattered to different places. I was taken to Darrow, but other people were taken to another prison, and we don't have any news from them. There was a woman in the car who had two children, and she died when we reached Aswan. We

don't have any news from her children. When we were arrested, we were told that it was because we crossed the border illegally and that we would be detained because of that. When we crossed the border illegally, it was the only choice we had. We were caught in Aswan City and we were taken directly to Darrow prison.

We have not met anyone from our embassy. We don't want them to come to us. On the third day of our detention we were taken to court and we were asked if anyone wants to meet the Eritrean consulate, and we said that we did not. After that we signed a paper that said that we refused to meet with our embassy. I speak and read Arabic so I was able to read that that is what the document said. I was acting as a translator there for people who don't speak or read Arabic.

We have not been in contact with the UNHCR. We were contacted by Egyptian Union of Human Rights. They have asked us questions but they have not done any significant work for us. The Egyptian Union brought us lawyers. Three weeks ago we went to court and the three lawyers who were there told us that the court found us not guilty and that we would be free. We asked the lawyers after that that if we are free or not guilty, what is the situation with the UNHCR? They said that they told the UNHCR about us, and that the UNHCR is in contact with the government about our situation. We don't understand why we are still here in prison after the trial. The lawyers told us that because the government and the UNHCR are having arguments about how to manage our problem, and that that is the only thing that is not solved. When we have tried to ask the authorities to contact the UNHCR, they say that it is their job to keep us in prison because they are under orders by the people whose concern it is to deal with our situation. Unless there are other orders, these people have no contact with the government. They are just guards in the prison. It's very hard to speak with the higher-ranking people in the prison. Even if you have that opportunity, their answer is, "we have nothing to do with you and there are other people to deal with your problems," so they don't answer the question. We don't have much contact with the authorities, but the people who caught us threatened us with deportation.

We are in a bad situation in this prison, and it is getting worse. I am sure that in the coming two weeks, the medical problems are going to get worse, prisoners will be very sick and they are not in a good situation. Those who were sending us food have been forbidden, so no more food has been sent to us. We came here because we were fearing for our lives and fearing torture, but everything is miserable here. Every day more people will have medical problems. We are expecting the worst because as the summer approaches, the temperature is rising.

Eritrean man who was in the car that had the accident:

The car accident happened because there were a lot of people in the same car, and the driver was driving very fast. The car collapsed and a woman died. There was another woman who broke her backbone. After this accident, everyone was confused because the driver was going crazy and he kept telling us that the military was coming after us. Everyone was scattered and we were running for our lives so that we wouldn't be killed. I walked for about 10 hours by myself. I was dehydrated and very tired and I saw a military car coming and I waved my hands. They took me in their car to the city, and they handed me over to the police. They didn't give me medical treatment, but they sent me to this prison with my colleagues.

15 May 2008

Eritrean-Ethiopian female, age 24
Detained in Edfu police station

My father is Eritrean and my mother is Ethiopian. My father died, and my mother lives in Ethiopia. Neither country accepts me as a citizen, so I went to Sudan. I am basically stateless. I lived in Sudan for four years. I do not have a refugee paper from Sudan, and I don't have legal status there. Even if I did have it, it is very hard for someone in my situation to live in Sudan because the paper doesn't count for anything. If you don't have that paper in Sudan, and if you are arrested, you will be sent back to your home country. I don't have a place to call home, so I had to leave Sudan. I came from Khartoum. We arranged with a smuggler to take us across the border in vehicles. The rate is \$750-1000. I paid \$900.

On 11 February 2008, I came with 25 other people in a pick-up truck. The pick-up truck was very small and overloaded and there was not enough food and water for us on our way to Egypt. That was the major difficulty we had during our trip. I myself did not face any major problems physically. A second group who is detained with us in Edfu came on 16 February 2008. There is a total of 67 of us in detention here; there are 44 adult men, 17 adult women, three male children and three female children. Two of the women are pregnant; is six months pregnant, and one is seven months pregnant.

I was going to Cairo because I have friends there who are recognized by the UNHCR, and I thought that if I went to Cairo, my friends could help me settle there. I had heard good things about the UNHCR in Egypt, that they are a humanitarian organization and that they work for people like me.

There were Egyptian smugglers waiting for us at the border, and we paid them \$50 each. They took us to the train station and we took the train that was headed for Cairo. After a couple of hours, the police arrested us on the train. They didn't say anything to us about why we were being arrested, they just put us in a truck and took us to the police station. I don't know where we were, but we were there for about a half hour while they took our names and information like where we are from. Then they took us to detention at the Edfu police station, which was not far. They separated the men from the women. We asked them why we were being arrested and they told us it was because we crossed the border illegally.

We haven't had the chance to ask the authorities to let us talk to the UNHCR. The authorities have not been willing to let lawyers in to the detention center, and the government has not asked us about our problems. It was impossible to get the government directly to tell them what we want. Some people were coming to bring us food every day. Since yesterday they told someone from the church that they were going to prepare food for us and that their service was not needed. Yesterday they started serving us food; they give us breakfast at 9:00am, lunch at 2:30pm, and dinner at 10:00pm.

Nobody has approached us from the embassy, and we don't want them to come and talk to us. We have not been asked to sign any documents, but the higher ranking officers with stars on their sleeves in the police station have been asking us for our information like our name so that they can write them down. We asked them why they are writing down this information, and they said that it will be sent to the Immigration office in Cairo. They give us confused ideas about why—sometimes

they say that they are filling out forms for the embassy, and sometimes they say that they are for Immigration.

The ordinary police are always threatening us and telling us that they are going to send us back home. We don't have access to the outside, and they are not letting anybody in.

1 June 2008

Eritrean male, age 20
Detained in Marsa Alam police station

We were all soldiers in the national service in Sawa, Eritrea and we were assigned to the war front by the Eritrean government. We deserted the military and came to Sudan. We were in the Shagarab and Sita Wa Eshreen refugee camps in Sudan. The Eritrean authorities were coming there and arresting people, and there was not enough food. We paid \$750 to the Rashaayda Bedouins to help us cross the border into Egypt. We left Sudan on 24 March 2008 and arrived in Egypt on 3 April 2008. We left in six Toyota pick-ups. There are 108 of us total, and we all left at the same time. There are 94 men and 14 women. There is one two-year-old boy and one four-month-old baby boy. We are all Eritrean except for one Ethiopian woman. Her husband is Eritrean and detained with us.

The people from the Rashaayda took us to meet some people who were waiting for us in Egypt. The Rashaayda stayed with us for one night and then left us in the desert. We ran out of water and we kept walking until we found a highway, and we asked some people who were driving through to call the authorities so that we can give ourselves up to them. People from the military arrived and we surrendered ourselves to them.

They took us to Hurghada in two big military trucks, and they took our pictures there and fingerprinted us on two different papers. We don't know what the paper says because it was nighttime and they were in a hurry and so nobody asked about what the paper said. They also took our IDs from the Shagarab camp and then returned them. After that, they took us to Marsa Alam, and they have our IDs now.

After four days, they took us to a military court. The charge was for illegal entry. The government assigned a lawyer to us. He told the court that we are political refugees and that we have big problems in our country, and so we shouldn't be treated as criminals because of them problems back home and the political situation in our country. The court told us that we are free and that we don't have to be afraid of anything. After that, they sent us back to detention in the Marsa Alam police station. We were expecting that we would be free, but it has been two months since they made that decision in our trial.

I didn't know about the UNHCR in Egypt, but I knew about the UNHCR in Sudan. I heard about the UNHCR in Cairo through prison, but I have not seen anything tangible so far. We are always asking the government to tell the UNHCR about our situation so that the UNHCR can approach us. They are always saying that we will be released very soon. People from the church have come to visit us, and they gave a list of our names to the UNHCR.

Nobody has told us the reason why we are in detention. We asked the police many times, and they told us that they finished preparing a camp to transfer us to, but

we don't believe them. We will only believe them if the UNHCR approaches us and gives us a solution.

No one has come from our embassies, and we don't want them to approach us because if they come, they will send us back and something bad will happen to us. The only organization we want to talk to is the UNHCR and we would like to tell them all our problems.

No one has threatened us with deportation, but everyone in the detention center has a feeling that we might be sent back. Since we are near the shore, we are afraid that they might ship us back to Eritrea.

1 June 2008

Eritrean male, age 27
Detained in Ismailia

All of us came from Sita Wa Eshreen and Wad Sherifay refugee camps in Sudan. The situation in our country is not good, and there are many refugees in Sudan with no opportunities. The government is sending Eritreans back to Eritrea, and that is the main reason we left Sudan.

People from the Rashaayda Bedouins helped us cross the border from Sudan to Egypt. We paid them between \$600 and \$700 each. On 6 December 2007, the first group of five people left Sudan. They arrived in Egypt on 9 December 2007, and then the next day they went to Cairo. Two days later on the 12th, they left for Ismailia. The rest of the people who are detained in Ismailia did not all come together, but they came within a few days of one another. I left Sudan with a group of 30 on 2 January 2008, and we arrived in Egypt on 5 January 2008. Fifteen people became separated from our group because we took different trains on our own when we arrived. I have not seen or heard from the other 15 since that time. On 6 January we went to Cairo, and on the 9th we went to Ismailia. We were asked for an ID or passport at a checkpoint, and since we didn't have any we were arrested. We were told that we were being arrested because we are in the country illegally.

There is a total of 56 of us in this prison. There are 49 men, and nine or ten of them are Ethiopian, and the rest are Eritrean. There are four women, two of whom are Eritrean and two of whom are Ethiopian. There are also three children, all of them boys, aged nine, five and four years old.

We had heard that there is a UNHCR in Cairo, but so far they have not done anything for us that we have heard about. We were in contact with people from Cairo who said that the UNHCR would take care of our case. We heard that there have been prisoners who have been released with the help of the UNHCR, and that the UNHCR approached people in prison and granted them refugee status. We also heard that the UNHCR will do interviews through the Egyptian Immigration office.

The Eritrean embassy has not approached us and we don't want them to approach us. The Ethiopian embassy came and talked to the Ethiopians who are with us, and they asked them if they wanted to return to their country. They said that if they want to, they are willing to help them go back home. There are about eight people who want to go back to Ethiopia, but nothing has happened so far.

We have never signed any documents since our arrest, but the police took our pictures a week ago and we don't know why. We have heard rumors from the police, but the higher ranking officers and the guards, that they are going to deport us. I don't

know whether or not they are true. The police are always saying that the Egyptian Immigration office is responsible for transferring our case to the UNHCR. Sometimes they say that they are raising some kind of fund to send us back home, and sometimes they say that if we are don't hear from Immigration, we have to hear from someone else from the government who is responsible for this matter to make the decision. We don't have any idea what is going on.

1 June 2008

Ethiopian male, age 24
Detained in Ismailia

At first we told the police that we are Eritreans because we heard a rumor that there is some kind of priority for Eritreans in the country. The embassy came to us and only talked to one man, and they left a phone number with him. We have been in this prison for almost six months, and we are fed up with everything. There is no medical treatment, there is no food, the sanitation is bad, the weather is horrible. I decided that I would rather be healthy than be in these conditions. I would rather go back to Ethiopia than stay in this horrible situation. After spending such a long time in prison, we decided to call the embassy and tell them that we want to go back to Ethiopia. They said they would do their best to send us back to Ethiopia.

6 June 2008

Eritrean male, age 28
Detained in Giza Administrative Prison

We were all refugees in Sudan, living in the Shagarab, Sita Wa Eshreen and Wad Sherifay camps. The Sudanese started deporting Eritreans and so we were scared and decided to come to Egypt. We came to Egypt with the help of smugglers on 3 February 2008, and they left us in the desert at the border. I was traveling with two other people and we struggled a lot there, but we walked and found people with cars to help us. They took us to Aswan and left us there. From Aswan, we took a train to Cairo on 7 February 2008. The others in detention with me came on different days.

Three of us were in Cairo for six days before being caught and arrested. They were all at home, and the police came to the door and knocked. They answered, and the police came in and searched their pockets. Then they locked them in their house and left. The police went to Ard El Liwa and picked up 17 more Eritreans in coffee shops, restaurants, and off the street. We did not understand why we were being arrested because the police were speaking Arabic and we do not understand Arabic. We tried to ask them what was going on in English, but they did not answer us.

The police brought the 17 people back to the home and locked us all in together. Some of us had UNHCR cards from Sudan, and they took them from us. Then they took us to Giza in two cars. We were caught on a Friday, and on the following Monday we were taken to the Immigration department in the Mogamma, and again on Tuesday. No one spoke with us there, but we were taken to another place where our photos were taken.

We had all intended on applying for refugee status at the UNHCR. Three of us had already applied, and they had an appointment with the UNHCR to get a yellow

card. Four of us had registration forms from the UNHCR, and they had filled them out, but they were detained before they could submit them. The rest had not had a chance to apply at the UNHCR because they had only been in Egypt for three days. They had gone to the UNHCR to get registration forms, and they were told to come at another time because there was a large number of refugees there that day.

We have asked why we are detained, and the police answered that there was a security problem but now it is over, and they are just waiting for the UNHCR to take us. We asked the officers what the problem is, and they said that we will be returned to our home country.

11 June 2008

Eritrean male, age 24
Detained in Ras Gharib police station

There are 54 of us detained in the Ras Gharib police station. We are all Eritrean men, and there is one 16-year-old boy with us. Some of us have UNHCR cards from Sudan. We came to Egypt from Shagarab in Sudan because it is not safe there. Eritrean spies have taken Eritreans back to Eritrea. Most of us were soldiers in Eritrea, and if we go back, we can wind up in one of the underground prisons there. We left Sudan on 3 March 2008 with the help of smugglers from the Rishaayda Bedouins, but some of us left on different dates. We paid them \$500 per person. It was a bad journey because we walked through the desert for three days. On 11 March 2008, the smugglers left us at the border and gave us to Egyptians who would take us the rest of the way. Our aim was to go to Cairo, and they told us to stay where we were so that they could bring us some cars.

We decided to take a road to the nearest town, which was 40 kilometers away. While we were on the road, we saw the police and we surrendered ourselves to them. They took us to Berenice for one night and then to the military base in Safaga where we stayed for two days. They didn't bring us food during this time and we couldn't do anything because we didn't know the place.

Two days after we had surrendered ourselves to them, they gave us a trial. It was not really a court but we were told that the man in the gown was our lawyer and there was a military officer. It was like a court. I guess it was a court. The charge was that we were caught illegally entering the border of Egypt. The lawyer defended us and said that we are innocent because we could not live our lives in Sudan because of the consequences of the threat of being sent back to our country. They did not ask us to sign any documents. They told us that we are free, but then they brought us to the police station in Ras Gharib. The head officer said that we are not prisoners, we are guests, but when the cells are full there are criminals being kept with us.

We are frustrated and stressed because we have many problems. No one has been able to visit us in detention. The police feed us four pieces of bread each day with some cheese and *hallawa* and there is no change in the food. Sometimes they forget about us and they don't bring us food, and we knock on the door until they hear us and bring us food. One man is diabetic and he told the police this but they did not change the food for him. He does not have access to medication. The water supply is not enough, and there is hunger. Some of us are injured and some have diseases. There are 20 people in one cell with one toilet.

One day we decided not to eat for two days, and one of the higher-ranking officers in the police station came and said that there are negotiations between the government of Eritrea and Egypt and because of this they cannot do anything. He said that they are negotiating to send us back to Eritrea. We are really afraid of this. We have not met with anyone from our embassy, but we are afraid of being deported back to our country.

22 May 2008

Sibling of recognized Sudanese male refugee who was formerly detained in Cairo and deported to Sudan. He is now detained in Juba Prison, Sudan.

My brother has a blue card and was a recognized refugee in Egypt. Some people from the gangs were damaging cars in a neighborhood in Cairo, and one of the cars belonged to someone from the SPLM. There was a round-up and the police picked my brother up off the street and he was arrested with some other people, and they were taken to prison in Cairo. The police also rounded up some people from their houses. Some of them were students from the SPLM. They spent about 45 days in detention, and then they were deported directly to Juba. They were deported on an airplane, and I know that the Egyptian government would not pay for an airplane for deportation, so it is possible that the Southern Sudanese government was involved in funding the flight. My brother said that there were some other recognized refugees involved in this incident, and they are in prison with him now. The UNHCR in Sudan has asked the authorities of Sudan for the names of about five people including my brother to try to send them back to Egypt as soon as possible.