

American University in Cairo

AUC Knowledge Fountain

Theses and Dissertations

Student Research

Fall 7-26-2020

African refugee women in Egypt: lacunae in international refugee law and the erasure of disadvantaged groups

Wigdan Mohamad

The American University in Cairo

Follow this and additional works at: <https://fount.aucegypt.edu/etds>

Recommended Citation

APA Citation

Mohamad, W. (2020). *African refugee women in Egypt: lacunae in international refugee law and the erasure of disadvantaged groups* [Master's Thesis, the American University in Cairo]. AUC Knowledge Fountain.

<https://fount.aucegypt.edu/etds/1473>

MLA Citation

Mohamad, Wigdan. *African refugee women in Egypt: lacunae in international refugee law and the erasure of disadvantaged groups*. 2020. American University in Cairo, Master's Thesis. *AUC Knowledge Fountain*.

<https://fount.aucegypt.edu/etds/1473>

This Master's Thesis is brought to you for free and open access by the Student Research at AUC Knowledge Fountain. It has been accepted for inclusion in Theses and Dissertations by an authorized administrator of AUC Knowledge Fountain. For more information, please contact thesisadmin@aucegypt.edu.

**The American University in Cairo
School of Global Affairs and Public Policy**

**AFRICAN REFUGEE WOMEN IN EGYPT: LACUNAE IN INTERNATIONAL
REFUGEE LAW AND THE ERASURE OF DISADVANTAGED GROUPS**

A Thesis Submitted to the

Department of Law

**in partial fulfillment of the requirements for the degree of
Master of Arts in International Human Rights Law**

By

Wigdan Mohamad

June 2020

The American University in Cairo
School of Global Affairs and Public Policy

AFRICAN REFUGEE WOMEN IN EGYPT: LACUNAE IN INTERNATIONAL
REFUGEE LAW AND THE ERASURE OF DISADVANTAGED GROUPS

A Thesis Submitted by

Wigdan Mohamad

to the Department of Law

June 2020

in partial fulfillment of the requirements for the
degree of
Master of Arts in International Human Rights Law
has been approved by

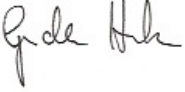
Professor Jason Beckett

Thesis Supervisor  _____

American University in Cairo

Date 8th June 2020

Professor Gerda Heck

Thesis First Reader  _____

American University in Cairo

Date June 9, 2020

Professor Thomas Skouteris

Thesis Second Reader  _____

American University in Cairo

Date June 9, 2020

Professor First Last Name

Professor Thomas Skouteris

Law Department Chair  _____

Date June 9, 2020

Ambassador Nabil Fahmy

Dean of GAPP _____

Date _____

ACKNOWLEDGEMENTS

First and foremost, I would like to sincerely thank my supervisor Dr. Jason Beckett, without whom, I would have positively given up before the completion of this degree. It is not every day one comes across others who genuinely want them to do better in life and academically. Thank you for your constant support and encouragement.

I would also like to thank Diana Van Bogaert, whose enthusiasm and willingness to always listen and provide feedback was a welcome relief during the harder times.

I thank my friends and family, who never expected any less, and most importantly, I thank my friends at St. Andrew's Refugee Services, who trusted me with their stories and allowed me to use their experiences as inspiration for this paper.

The American University in Cairo
School of Global Affairs and Public Policy
Department of Law

AFRICAN REFUGEE WOMEN IN EGYPT: LACUNAE IN INTERNATIONAL
REFUGEE LAW AND THE ERASURE OF DISADVANTAGED GROUPS

Wigdan Mohamad

Supervised by Dr. Jason Beckett

ABSTRACT

Migration is not a recent phenomenon. From the first humans, to people all around the globe today, leave their homes in search of a better life. Since February 2020, Egypt, an attractive destination due to its strategic geolocation, homes the “fifth largest urban refugee population in the world¹”. Persecution, political instability, climate degradation, protracted conflicts, unrest, and new wars throughout Africa and Middle Eastern region has caused a dramatic rise of refugees, many of whom make their way to Egypt with the hopes of finding refuge.

Egypt hosts a diverse community of refugees, asylum-seekers, and failed asylum-seekers from 58 different countries around the world. Many of these are African refugees, who come from diverse cultural, religious, and socio-economic backgrounds. The experience of Black African refugee women differs greatly from other refugee groups. Using this group as a starting point, and using their multidimensional experience, while locating this experience within the legal frameworks that govern refugees in Egypt, this paper aims to illustrate the erasure of this group within these frameworks, which further perpetuates the consequent oppression due to this erasure. Single-axis categories², such as the categories which must be “satisfied” across all refugee law instruments (international, national, domestic, bilateral), forces us to neglect the overlooked subordination of groups that do not fulfil these categories singularly, due to their

¹ Africa and Middle East Refugee Assistance (‘AMERA’), online: http://www.amera-uk.org/egypt/index_eg.html

² Crenshaw, Kimberlé () "Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics," University of Chicago Legal Forum: Vol. 1989: Issue. 1, Article 8. Available at: <http://chicagounbound.uchicago.edu/uclf/vol1989/iss1/8>

intersectional identities. Single-axis categories forces groups that fit outside of these groups to essentially disappear, and when they do, they become invisible, causing their identification and potential remedial measures to disappear as well. This paper will demonstrate that African refugee women in Egypt, due to their intersecting identities of Black, refugee and women, are multi-burdened, and thus face a particular type of oppression that occurs due to the lacunae which occurs when the intersecting legal frameworks fail to address their multidimensional identities, their needs, and consequential oppression. The formal equality provided to all refugees “in general” via international, national, domestic and bilateral refugee law instruments inadvertently perpetuates inequality toward another group: Black refugee women. Using intersectionality theory as a lens, it will be argued that the intersecting legal frameworks that govern refugees in Egypt perpetuate the oppression faced by Black refugee women by failing to address the interwoven prejudices that they face due to their multidimensional identity, which create interdependent and overlapping system of discrimination and disadvantage³.

³ What Is Intersectionality, and What Does It Have to Do with Me? YW BOSTON BLOG, 29 Mar. 2017, www.ywboston.org/2017/03/what-is-intersectionality-and-what-does-it-have-to-do-with-me/.

TABLE OF CONTENTS

1. Introduction	8
1.1. Terminology	13
2. Intersectionality	18
3. Legal frameworks	25
3.1. International	26
3.1.1. Reservations	27
3.2. Regional	33
3.3. National	36
3.4. Bilateral—Egypt and the UNHCR—MOU.....	37
4. Egypt’s Complicated History and its Implications on Black Refugees	43
4.1. In the Media	46
5. Employment	52
6. Concluding recommendations	62

1. Introduction

Every day, people all around the globe leave their homes in search of a better life. Regardless of the reason that they decide to leave, whether to flee political persecution, economic reasons, limited resources, climate degradation, and regardless of the means through which they choose to travel, whether regularly or irregularly, migration is a global phenomenon, not distinct to Egypt. Egypt homes the “fifth largest urban refugee population in the world⁴” and due to its strategic geolocation, since February 2020, Egypt hosts a diverse community of asylum-seekers (those who are fleeing persecution in their home state) and refugees (those who have been granted refuge), as well as those who have failed to gain refuge but still remain in the country (failed asylum-seekers/closed-cased files)⁵ from 58 different countries around the world, who cohabit alongside the Egyptian host community in urban areas⁶.

Egypt is a founding signatory to the 1951 Refugee Convention, which grants refugees living within its borders the right to local recourse, freedom of movement, freedom of religion, and the right to residence⁷. It is also a signatory to the 1967 Protocol Relating to the Status of Refugees, which has undertaken its obligations under international law to provide refugees with asylum and protection. International law, national laws, domestic laws, and United Nations High Commissioner for Refugees (UNHCR) policies are the main legal frameworks that dictate refugee’s lives in Egypt.

Currently, Egypt hosts 256,632 refugees and asylum seekers, half of whom come from Syria⁸. The second largest refugee population group is North Sudan, with 45,522 refugees, South Sudan: 45,546, Eritrea: 17,181, Ethiopia: 16,009, Yemen 9,167, Iraq: 6,6691, Somalia 6,671, and Other 1,629^{9,10}.

⁴ Africa and Middle East Refugee Assistance (‘AMERA’), online: http://www.amera-uk.org/egypt/index_eg.html

⁵ Hetaba, Amira, et al. Refugee Entitlements in Egypt. The Center for Migration and Refugee Studies, Feb. 2020, [www.
http://schools.aucegypt.edu/GAPP/cmrs/Documents/Refugee%20Entitlements%20Report%20%281%29.pdf](http://schools.aucegypt.edu/GAPP/cmrs/Documents/Refugee%20Entitlements%20Report%20%281%29.pdf)

⁶ “Egypt Fact Sheet – February 2020.” Fact Sheet, UHNCR, February 2020, [https://www.unhcr.org/eg/wp-
content/uploads/sites/36/2020/03/UNHCR-Egypt-Fact-Sheet-February-2020.pdf](https://www.unhcr.org/eg/wp-content/uploads/sites/36/2020/03/UNHCR-Egypt-Fact-Sheet-February-2020.pdf)

⁷ Soliman, Maha. Local Integration Of African Refugees In Egypt: The Policy Challenges. The American University in Cairo, 2016, [http://dar.aucegypt.edu/bitstream/handle/10526/4709/Local%20Integration%20of%20African%20Refugees-
%20Maha%20Soliman.pdf?sequence=1](http://dar.aucegypt.edu/bitstream/handle/10526/4709/Local%20Integration%20of%20African%20Refugees-%20Maha%20Soliman.pdf?sequence=1)

⁸ *Supra note 5*

⁹ *Ibid.*

¹⁰ Official numbers, actual numbers are usually higher.

A vast number of refugees, asylum-seekers, and failed asylum-seekers view their stay in Egypt as transitory¹¹. Many hope to make their way to a third country, either through the resettlement program via UNHCR, or irregularly by making the dangerous journey across the Mediterranean Sea to Europe¹². Yet, others still wait to repatriate if the political, social and economic situation in their countries of origin improves¹³. However, most refugees, asylum-seekers, and failed asylum-seekers remain in the country for over five years, with some living in Egypt for over 15 years¹⁴, with the UNHCR resettling less than 1% of refugees, and facilitate an even smaller number of repatriations¹⁵.

Although Egypt is a signatory to the 1951 Convention Relating to the Status of Refugees (Refugee Convention), its 1967 Protocol, as well as the 1969 Convention Governing Specific Aspects of Refugee Problems in Africa (OAU Refugee Convention), it lacks a comprehensive legal framework that deals with refugees directly. Therefore, all refugee matters are designated to the UNHCR, through its Memorandum of Understanding (MOU) signed by the government of Egypt and the UNHCR in 1954¹⁶.

Political instability, climate degradation, protracted conflicts, unrest and new wars throughout Africa and Middle Eastern region has caused a dramatic rise of registered refugees with the UNHCR, prompting it to open a new office in Alexandria in December of 2013¹⁷. For these reasons and more, it is unlikely that this influx of incoming refugees will stop or decrease in the near future. The UNHCR now assists the largest number of registered refugees and asylum-seekers ever recorded in history¹⁸.

¹¹ *Supra note 4*

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ Jeff Crisp, *No Solution in Sight: The Problem of Protracted Refugee Situations in Africa* 75 *New Issues in Refugee Research* 1, 36 (2003).

¹⁵ UN High Commissioner for Human Rights, *Protracted Refugee Situations: The Search for Practical Solutions*, in *STATE OF THE WORLD'S REFUGEES* 105, 197 (Oxford University Press 2009).

¹⁶ "EGYPT." UNHCR Global Appeal 2011 Update, 2011, <https://www.unhcr.org/4cd96bae2e.pdf>.

¹⁷ "Refugee Context in Egypt - UNHCR Egypt." UNHCR, www.unhcr.org/eg/about-us/refugee-context-in-egypt.

¹⁸ *Ibid.*

The refugee and asylum-seeking communities in Egypt come from diverse cultural, religious, and socio-economic backgrounds¹⁹; and African refugees, asylum-seekers and failed asylum seekers form a large number of the refugee and asylum-seeking and failed-asylum seekers community in Egypt. This paper focuses on the plight of Black refugee women in Egypt. Using this group as a starting point and using their multidimensional experience, and locating that experience within the legal frameworks that govern refugees in Egypt, this paper aims to illustrate the erasure of this group within these frameworks, which further perpetuates the consequent oppression due to this erasure. Single-axis categories²⁰, such as the categories which must be “satisfied” across all refugee law instruments (international, national, domestic, bilateral), forces us to neglect the overlooked subordination of groups that fulfil many of these categories at once, due to their intersectional identities. Single-axis frameworks forces groups that fit outside of these categories to essentially disappear, and when they are invisible, their identification and potential remedial measures disappear as well.

Refugees and asylum-seekers do not experience the same journey and migratory move in the same way. This process differs from one group to another, depending on the makeup of their identity. Refugee men may experience the same journey differently than refugee women, and even within the gender group, African women may experience the journey differently than other non-Black refugees. Refugees and asylum-seekers’ experiences may also differ on the basis of what they are able to access, such as the concomitant rights granted to those granted refugee status and those who have been denied. The theories of race, gender, ethnicity, and class, and where the individual falls within these social hierarchies, greatly impacts his/her experience as a refugee. Race and racialization, an important notion especially within the backdrop of Egypt (which is covered in depth in chapter 3) will help uncover how Black refugees are perceived in Egypt, and how this perception affects their ability to access social services and employment²¹.

¹⁹ *Supra note 16*

²⁰ *Supra note 2*

²¹ Hashem, Rumana. “Understanding Forced Migration and Refugee Narratives Intersectionally. Theories of Class, Ethnicity, Gender, Nationality, Race and Religion”. 13 May 2017. Olive Lecture 3. <https://www.uel.ac.uk/research/olive/our-resources/teaching-resources>

Black refugee women in Egypt are multiply-burdened: using intersectionality theory as a lens, it will be argued that the intersecting legal frameworks that govern refugees in Egypt perpetuate the oppression faced by Black refugee women by failing to address the interwoven prejudices that they face due to this multidimensional identity.²² This is especially evident in the employment realm, covered in depth in Chapter 5.

It is important to shed light on this issue, as due to the abovementioned factors, there is no foreseeable halt or decrease in the influx of refugees and asylum-seekers arriving in Egypt, and it is urgent to shed light on the plight faced by this overlooked group of people. It is imperative to deploy intersectionality theory as a lens to understand the interwoven prejudices that Black refugee women face, as intersectionality theory is a crucial tool when seeking to understand social equity. Intersectionality theory helps reveal and demonstrate how the legal frameworks that aim to redress the hardships of one group i.e. “refugees in general”, may inadvertently perpetuate inequality toward another group i.e. “Black refugee women”. Intersectionality encourages more nuanced approach when dealing with the various disadvantaged groups, such as Black refugee women, and the particular oppression that they face, due to their particular collective identity. Using intersectionality theory as a lens, it is consistently demonstrated that “experiences of migration and displacement differ significantly, depending on how people are positioned in hierarchies of gender, race, class, age, religion, and sexuality”²³. Therefore, the fact that these individuals are women, Black, and refugees, will differently shape their migration experience such as that of a non-Black refugee male.

As Egypt has no comprehensive and linear framework that deals with refugees directly, the legal frameworks which are available that govern the lives of refugees, are fragmented at the least. The formal equality, and therefore the blindness of international, national, domestic and bilateral agreements are detrimental to disadvantaged refugee groups, especially Black refugee women, as they embody an extremely vulnerable group of refugees. This formal equality provided by the legal frameworks regarding refugees in Egypt in fact exacerbates and

²² *Ibid.*

²³ Clark-Kazak, C. (2018). Intersectional Feminist Interventions in the “Refugee Crisis”. *Refuge*, 34(1).

perpetuates the oppression faced by this group, by failing to address their lived experiences and failing to provide any remedial measures, such as legal protection, or any services of support that recognizes and caters to this specific group. Egypt's lack of a comprehensive and linear legal framework that deals with refugees directly causes a lacuna in which African refugee women find themselves, and the multiple actors involved in the implementation, protection, and promotion of refugee's rights in Egypt has proven inefficient and counterintuitive for Black refugee women, as they fail to address the multidimensional oppression that black refugee women face due to their identities, whether it is sexual violence, labor exploitation, discrimination and racism; all of it and all at once, and much more...

This paper will provide the legal international, regional and national frameworks that govern the lives of refugees and asylum-seekers and failed asylum-seekers living in Egypt. It will look at Black refugee women in particular and will examine the lacuna that is created when the legal frameworks designated to govern refugees fail to address their disadvantaged identities as Black refugee women, against the backdrop of the social and political climate of Egypt. The interaction between Black refugee women and the available various refugee law instruments that govern them is noticeably apparent when it comes to Black refugee women seeking meaningful employment (Chapter 5). Intersectionality theory will serve as a lens to dissect and investigate this oppression; it will help understand the particularity of Black refugee women, and it can help illustrate the gaps and lacunae in current laws and policies ignore how gender and race, for example, shape the lives and experiences of black refugee women.

By the law providing formal equality to all refugees, it inadvertently perpetuates inequality toward another group: Black refugee women, by failing to address and redress their identities and how it affects their experiences as refugees in Egypt. Finally, this paper will provide concluding recommendations, in the hopes of providing a more practical and nuanced approach to the protection of Black refugee women in Egypt, and potentially other disadvantaged and overlooked groups.

1.1 Terminology

The subject of this paper is Black refugee women in Egypt. However, for the purpose of this paper, it is important to explain other relevant terminology. It is important to mention that although the legal status of refugees, asylum-seekers and failed asylum-seekers differ, and accordingly, so do their entitlements (in theory), their legal status in Egypt serves less for this paper as opposed to their collective identity in Egypt, as Black women, who are refugees, asylum-seekers, or failed asylum-seekers living in Egypt.

The terms refugees, asylum-seekers and failed asylum-seekers will be used interchangeably throughout this paper.

Although they may face their own set of obstacles, this paper will not address Black migrant women, as they are not subject to the same legal framework that governs refugees and asylum-seekers. Moreover, migrants differ from refugees and asylum-seekers as they do not share the same class categorization, thereby may have the financial capacity to fare better than refugees, asylum-seekers, and failed asylum-seekers.

Theories of race, gender, ethnicity, and class, and where the individual falls within these social hierarchies, greatly impacts his/her experience as a refugee. Race, and how individuals or people are racialized, affects the lived experiences of these individuals. These categories, depending on how they are deployed, can either be inclusionary or exclusionary, but research has consistently shown that when it comes to refugees in general, these theories have been used to exclude, and create an “us” and “them” narrative²⁴. Moreover, when it comes to class, it is not an issue of economics or social structure, but it has become emblematic of social status. It helps inform on the “construction and politics of identity”²⁵. Similarly, the notion of nation and nationality is similarly deployed to create the perception of “us” and “them”, in the same way that nationality and ethnicity inform the exclusion of certain groups. Race, although “commonly understood as dependent on the biological or cultural characteristics of individuals and groups,²⁶” is a social and political construct, one that informs the concept of “unity,

²⁴ *Supra note 21*

²⁵ *Ibid.*

²⁶ *Ibid.*

difference and division, and it does not always depend on culture or biology²⁷”. When it comes to gender, it is not a marker than can so easily be drawn to biological differences, as some scholars argue that not only is gender a system of power, but it is a “complex phenomenon”²⁸. These scholars argue that other identity markers intersect with gender, which help construct what is a man and what is a woman in society”²⁹. The concepts of race, gender, ethnicity, and class inform the creation of identities, and some identities, depending on their makeup, fare better than others. The lived experiences of refugees and asylum seekers, and the general understanding of their experiences, “migration, belonging and politics of identity are influenced by intersectionality of class, ethnicity, nationality and race”. This have tremendous effects on how they are perceived within the host country, which directly affect their lived experiences³⁰.

a) Refugee

The 1951 Refugee Convention remains the basis of international refugee law, and the definition of refugee which was coined during this convention remains the foundation on which a person’s refugee status is established. When a state determines if a person is a refugee, this state is bound by the eligibility criteria that were set out in the 1951 Convention. Since September 2005, 146 States are Party to the Convention and/or its 1967 Protocol.

Article 1A(2) of the 1951 Refugee Convention defines as a refugee any person who:

“... Owing to 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 [or her] nationality and is unable, or owing to such fear, is unwilling to avail him [or her]self of the protection of that country; or who, not having a nationality and being outside the country of his [or her] former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.”³¹

Although Egypt is a founding signatory of the 1951 Convention, it has no legal framework that governs the lives of refugees directly. Thus, it delegates all of its responsibilities to the

²⁷ *Ibid.*

²⁸ *Ibid.*

²⁹ *Ibid.*

³⁰ *Ibid.*

³¹ Convention Relating to the Status of Refugees. Dec. 2010, www.unhcr.org/3b66c2aa10. Convention and Protocol Relating to the Status of Refugees. UNHCR.

UNHCR. According to the UNHCR, a refugee is an individual that has been granted refuge, and thereby have valid claims under the 1951 Refugee Convention³².

The OAU Refugee Convention³³, which Egypt is also Party to, provides a similar definition:

“For the purposes of this Convention, the term “refugee” shall mean every person who, 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, owing to such fear, is 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” 1(1)³⁴.

Although the definitions that arose out of the OAU Refugee Convention were based on the context of liberation and decolonization in Africa during the 1950s and 1960s, decades later, from the 1990s and onwards, these definitions are ever more prevalent for the refugees who are still making their way to Egypt due to the many wars throughout the Horn of Africa, especially from Ethiopia, Eritrea, Somalia and Sudan. The definition also adds:

“The term “refugee” shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality” 1(2)³⁵.

b) Asylum-seeker

Similar to refugees, asylum-seekers are individuals who are outside of their country of origin and seek the protection of the host state³⁶. As UNHCR is the main governing body regarding refugees in Egypt, asylum-seekers register with UNHCR in hopes of being granted refugee status. UNHCR conducts a Refugee Status Determination (RSD), and determines whether the

³² *Supra note 4*

³³ OAU Convention on Governing the Specific Aspects of Refugee Problems in Africa. UNHCR, 20 Jan. 1974, www.unhcr.org/about-us/background/45dc1a682/oau-convention-governing-specific-aspects-refugee-problems-africa-adopted.html.

³⁴ *Ibid.*

³⁵ *Ibid.*

³⁶ *Supra note 4*

individual's claim to asylum is valid, and if so, is granted refugee status³⁷. If the individual is denied, they have the right to appeal UNHCR's decision once, which has to be done within 30 days from the day of the notification³⁸. Normally, UNHCR decides to uphold or change the appeal within three months. If the individual is successful in appealing UNHCR's decision, he/she is granted refugee status. However, if he/she is unsuccessful, his/her case is officially closed, and he/she are considered "closed-cased" refugees, or failed asylum-seekers.

c) Failed asylum-seeker

If the individual is unsuccessful in having his/her case overturned by the UNHCR, and thereby denied refugee status by the UNHCR, he/she is now considered a failed asylum-seeker, who is "no longer considered as a person of concern to UNHCR. Accordingly, any UNHCR asylum seeker registration card issued to [the individual] and/or [his/her] family members/dependents who are also added to [his/her] case will be cancelled. Any benefits or assistance [the individual] was receiving from UNHCR will also be immediately terminated³⁹".

Having their appeals process denied, and having no other "legal basis" for their stay in Egypt, such as a work contract, student visa, or a valid residency⁴⁰, failed asylum-seekers are expected to leave the country once they have received notification that their appeal has been denied⁴¹. However, many failed asylum-seekers choose to stay illegally in the host country for many years, rather than return to their country of origin, which promoted their flight in the first place⁴².

d) Host country/host community

Host country and host community will be used interchangeably in this paper. The host country/host community is the country which the refugee/asylum-seeker requests protection⁴³. In this case, it will refer to Egypt.

³⁷ *Ibid.*

³⁸ Information For Asylum-Seekers and Refugees in Egypt. United Nations High Commissioner for Refugees Regional Representation in Egypt, Apr. 2013, www.refworld.org/pdfid/5267a1d9b.pdf.

³⁹ *Ibid.*

⁴⁰ *Supra note 4*

⁴¹ *Ibid.*

⁴² *Supra note 13*

⁴³ *Supra note 4*

e) Intersectionality

“Intersectionality” was coined by African American legal race scholar Kimberlé Crenshaw in 1989. Using intersectionality theory as a lens, social inequality and the dynamics of power will be analyzed in the context of black refugee women in Egypt. In interwoven prejudices experienced by black refugee women in Egypt can be understood once viewed through an intersectional lens because intersectionality recognizes that “inequalities are never the result of any single or distinct factor such as race, class or gender. Rather, ‘they are the outcome of different social locations, power relations and experiences’⁴⁴. The lived experiences of black refugee women cannot be dissected and analyzed separately on the basis that they are only black, refugees, or women, of a lower class; it is due to their collective identity; that they are all of the above and all at once: black (race) refugee (class) women (gender) asylum-seekers (legal status). Intersectionality theory recognizes the interwoven nature of social, political, and legal categorizations, such as race, class, gender, and legal status, which create an ‘overlapping and interdependent system of discrimination or disadvantage’⁴⁵.

⁴⁴ Hankivsky, Olena. PhD. (2014). *Intersectionality* 101. cal, 64(1), 238.

⁴⁵ *Supra note 3*

2. Intersectionality

None of the existing legal frameworks regarding refugees make a detailed or explicit reference to protection of disadvantaged groups, such as black refugee women. The absorption of Black refugee women's identity into the single-axis categories as defined the relevant legal frameworks, such as race, religion, nationality, or membership of a particular social group or political opinion, completely disregard the identity that is produced when one or more of these categories intersect, such as the case of black refugee women: "intersectionality is a framework for conceptualizing a person, group of people, or social problem as affected by a number of discriminations and disadvantages. It takes into account people's overlapping identities and experiences in order to understand the complexity of prejudices they face"⁴⁶.

Although the concept of intersectionality, first coined by Kimberlé Crenshaw in 1989 came about out of different contexts, (intersectionality theory first emerged in the 1970s when black feminists first started to protest against the mainstream white and middle-class feminist movement, which did not reflect their needs and left them mostly out of the conversation⁴⁷) it perfectly explains the plight of Black refugee women in Egypt, when attempting to explain the different ways that this group suffers due to their Blackness, their gender, their social standing, and their legal status. "Intersectional theory asserts that people are often disadvantaged by multiple sources of oppression: their race, class, gender identity, sexual orientation, religion, and other identity markers. Intersectionality recognizes that identity markers (e.g. "female" and "black") do not exist independently of each other, and that each informs the others, often creating a complex convergence of oppression"⁴⁸. This can also explain how the struggle of other refugee groups, Non-Black women, refugee men, among others, is different than that of Black refugee women.

The failure to address the oppression faced by black refugee women due to their dynamic identities is demonstrated in the lived experiences of these refugees, navigating their lives in a country and a system that in practice, does virtually nothing to protect them. The UNHCR's

⁴⁶ *Supra note 35*

⁴⁷ *Ibid.*

⁴⁸ *Ibid.*

mandate as well as national legislation and practices regarding black refugee women is insufficient when addressing the dynamics of their identity. Refugees in general are a vulnerable group, due to their preceding financial limitations which is a consequence of their class, which affects their social standing in society; their race, which makes them prone to racist violence and abuse, especially in a country like Egypt that has a very complicated post-colonial history, and their legal status within the country which further alienates and stigmatizes them. Black refugee men are as likely to experience racism as women, but it is the experience of black refugee women that is distinct, due to the fact that this racism experienced by black refugee women has an added layer which is gender.

Black refugee women's intersecting identities of class, legal status, gender and race, the existing reservations on the part of the Egyptian government to the Refugee Convention, and the lack of a comprehensive framework that deals with refugees directly, relegates black refugee women to a particular space, where each aspect of their identity oppresses them further in a system that fails to address the interwoven prejudices that they face. Both black refugee men and women are forced to take up work in the informal sector⁴⁹, due to their preceding financial and legal status which hinders their acquiring of a work permit, in order to obtain safer and more regulated jobs. However, more women find themselves working as domestic helpers, nannies, housecleaners, and other jobs that confine them to a house⁵⁰. A black refugee woman being sexually violated at her workplace as a domestic helper is the one instance of the oppression black refugee women face. Their identity as women makes them more vulnerable to sexual abuse, violence and exploitation, and their class and legal standing makes them unable to acquire legal protection, or a work permit to work in a regulated field. Black refugee men, on the other hand, may experience as much racism as their female counterparts, however, as men, they are more likely to find jobs as street vendors, security guards, or do odd jobs⁵¹, thereby having the option to seek work outside of confined areas such as that of a home, and thus avoid the threat of sexual violence.

⁴⁹ *Supra note 49*

⁵⁰ *Ibid.*

⁵¹ *Ibid.*

Using intersectionality theory as a lens, social inequality and the dynamics of power can be analyzed in the context of black refugee women in Egypt. It is critical to view the oppression of black refugee women in Egypt through an intersectional lens because intersectionality recognizes that “inequalities are never the result of any single or distinct factor such as race, class or gender. Rather, ‘they are the outcome of different social locations, power relations and experiences⁵². The lived experiences of black refugee women cannot be dissected and analyzed separately on the basis that they are black, refugees, women, of a lower class, asylum-seekers; it is due to their collective identity, that they are all of the above and all at once: black (race) refugee (class) women (gender) asylum-seekers (legal status).

Using intersectionality as a lens and as an analytical framework, the experience of African refugee women is scrutinized to understand how their intersecting identities affect their lived experiences as black refugee women in Egypt. It is important to deploy this framework when doing so to see how the law, which on the surface grants formal equality to all refugees in women, in fact exacerbates their inequality by failing to redress their oppression. Intersectionality theory shows the interdependence of systems that result in the inequality of a specific group. Social identities “cannot be studied independently of one another nor separately from the societal processes that maintain inequality”⁵³. Moreover, an individual’s or a group’s experience is affected by their “s position within sociostructural frameworks and their social and political underpinnings”⁵⁴.

Consequently, African refugee women suffer on different facets; looking again at the example where most African refugee women seek employment in the informal sector such as domestic work (more on employment will be covered in Chapter 5), this point shows exactly how their intersecting identities leads to their oppression and inequality. Because of their class, and their preceding financial instability, and due to their gender as women, where they (like most refugee women regardless of race), and because of their race as black women (coupled with Egypt’s complicated racist history), they relegated to the bottom of the social “pecking order”

⁵² *Supra note 34*

⁵³ *Ibid.*

⁵⁴ *Ibid.*

when obtaining employment, which pushes them to seek work as domestic laborers⁵⁵. There, where no legal protection, assistance or regulation exists, and where they are forced to jeopardize their safety in order to gain some meaningful waged work, this experience becomes the pinnacle of their multilayered oppression as black refugee women.

As most sexual violence towards black refugee women happens in secluded and encased places, such as their place of work, which is usually in the realm of domestic work, Amira Ahmed suggests that domestic work is not too far removed from modern day slavery⁵⁶. Ahmed adds that throughout the Middle East, in both Christianity and Islam, slavery was tolerated, especially the taking of those deemed as non-believers as slaves. She also points to the historical significance between slavery and modern-day slavery (domestic work) today, noting that “during the feudal and colonial eras, and especially during Ottoman rule, there was a longstanding tradition of owning black Sudanese as slaves”. Sudanese women, mainly the darker skinned from the South, occupy the middle space of the hierarchy (paid \$200), whereas Asian domestic workers, (Philippine, Indian, Sri Lankan) are regarded as more “professional” and as a “class signifier”, earning more than double (\$450) of what Black domestic workers make. Even within domestic work, Black refugees, as compared to non-African women are relegated to the lowest space. In regard to the historical significance between slavery and domestic work today, Ahmed draws on the link between British colonialism and the Turkish-Egyptian rule over Sudan, where Sudanese were captured, brought to Egypt, and used as slaves. “In earlier historical periods, particularly during British colonialism and the Turkish-Egyptian rule over Sudan, Sudanese brought to Egypt were used as slaves in the military and in domestic service. In recent times, driven by prolonged civil conflicts in that country, Sudanese refugees, ... arrived in Egypt in substantial numbers. Their initial ‘transit’ status, accompanied by critical legal and economic uncertainties, has protracted their stay and forced them into Cairo’s informal market mainly as domestic workers. Together with other African domestic workers.... These women continue the legacy of black slaves Who served in the households of Egyptian elites. The persistent association with the practices

⁵⁵ *Supra note 49*

⁵⁶ Amira Ahmed (2010) ‘I need work!’: The Multiple Roles of the Church, Ranking and Religious Piety Among Domestic Workers in Egypt, *The Asia Pacific Journal of Anthropology*, 11:3-4, 362-377, DOI: 10.1080/14442213.2010.514940 (pp. 364-365).

of historical elites explains some employers' preference for 'black African' domestic workers, who continue to be a marker of social class and standing⁵⁷". Is it then a far-fetched assumption to conclude that Egypt's racist history, which render Egyptian's identity crisis, and the historical association of Africans as slaves and more recently as cheap domestic workers hinders Black refugee women as they navigate life in Egypt within this social and political context? Fundamentally, it hinders all Black refugees "in general" but due to the added gender identity of Black refugee women, this group faces additional oppression.

Sexual and gender-based violence, or SGBV, is not essential to only refugee women as opposed to Egyptian women; it is a widespread issue in many countries that occurs in times of war and in times of peace. However, SGBV is widely overlooked, and underreported⁵⁸. Although local women may experience SGBV, female refugees experience it in a different way. As most sexual violence happens in enclosed spaces such as homes, refugee women are not protected by any labor laws, due to the informal nature of their work. Should abuse or violence happen, there is consistent research that refugees would rather report the incident(s) to the international organization or other organizations instead of going to police.

This is important to note because the legal procedure required and police treatment towards refugees greatly hinder refugees from reporting such incidents. In essence, filing a police complaint is prohibitive by nature:

The survivor needs to be examined by the medical examiner provided by the police within the first 72 hours after the incident. In order for the report to be taken seriously, the survivor needs to "have the address or some other identifying information about the perpetrator." This requirement makes it hard for many refugee women who are in many cases raped by strangers to file a police report. Refugees' UNHCR identification is not considered by many policemen as an official identification as they require the victim to have a national ID or a valid passport which is hard for most of the refugees to obtain⁵⁹.

⁵⁷ *Supra note 107*

⁵⁸ *Supra note 37*

⁵⁹ Roshdy, Menna. "International Law, National Law and Un Practice A Study Of The Complexity Of Black Refugee Women's Collective Identity In Cairo". Department of Law. The American University in Cairo, School of Global Affairs and Public Policy. May 2019. <http://dar.aucegypt.edu/bitstream/handle/10526/5754/Menna%20Roshdy-Masters%20Thesis.pdf?sequence=2>

In many interviews conducted with refugees⁶⁰, especially African refugees, have stated that one of their biggest concerns is the lack of physical security⁶¹. They claim that they are often targeted and are victims of robberies and violent attacks, as the perpetrators “know that they will not be prosecuted for crimes against refugees and immigrants”. Most refugees have stated that if they were to approach police to file reports and complaints, they instead become the ones being investigated rather than the perpetrators⁶². Several African refugees have claimed that they are often targets of racist harassment in the streets, where locals shout “niggas” and “lost boys” at them. African refugee children are also attacked, beaten and robbed⁶³.

This sentiment is prevalent among black female refugees who are particularly vulnerable to this type of violence and exploitation toward reporting sexual violence and abuse to police; “the numbers are believed to be high but women are afraid to report incidents. African refugees and aid workers told us that refugee women are often abused when they work in Egyptian homes as domestic workers. Some are raped, some beaten, and some are denied payment for time worked”⁶⁴. Ultimately, even if they wished to seek police protection, they are prohibited from doing so as they cannot provide the legal paperwork, as Egyptian authorities do not recognize the UNHCR blue and yellow cards⁶⁵ –another example of the gaps in the law that affect any possible implementation of protective measures for refugee women.

Inside police stations, there is widespread belief that refugee women fabricate claims of rape after consenting to consensual sex, and as an excuse/reason to get resettled⁶⁶. Consequently, scholars have claimed that there are two kinds of rape: “real rape” and “simple rape”. “Real rape” is considered to have taken place when the perpetrator and victim are measured along the traditional lines of “chastity and respectability”. For example, a black man raping a local non-black woman is automatically deemed as “real rape” where he will be apprehended and

⁶⁰ Eleanor Acer, *Refugees in Egypt Urgently Need Protection*, Human Rights First (2016)

<https://www.humanrightsfirst.org/blog/refugees-egypt-urgently-need-protection>

⁶¹ *Ibid.*

⁶² *Ibid.*

⁶³ *Ibid.*

⁶⁴ *Ibid.*

⁶⁵ *Ibid.*

⁶⁶ *Supra note 132.*

arrested immediately, whereas, “simple rape” takes place in the realm of marital rape, perpetrated by an employer, friend, a friend, and when there is no use of weapons during the act, and no physical injury caused. It is also considered a “simple rape” when the victim does not meet the threshold of what a victim should look like, a “real victim”, when the victim is perceived as “experienced and misbehaved”. Women who fall under the category of women who do not achieve “real victim” status include sex workers, black women, and low-income women”⁶⁷. Black refugee women already mark off two if not three of these categorizations. For these reasons, black refugee women who are victims of sexual abuse and violence are reluctant to approach authorities to report the violence they have experienced, as their incidents of rape and abuse are “much less likely to be treated as a crime by the criminal justice system”⁶⁸. Within the interaction of the police and black refugee women, the gaps in the law; what is expected and the reality are demonstrated. International and national laws obligate the state of Egypt to provide protection, but the reality of what happens inside police stations highlights the gaps between what is supposed to take place versus what really takes place.

⁶⁷ *Supra note* 132

⁶⁸ *Ibid.*

3. Legal frameworks

There are several different frameworks that govern the lives of refugees in Egypt; international, regional, national, domestic and bilateral agreements between Egypt and the UNHCR. Under these legal frameworks, refugees are entitled to a series of rights and benefits after they are granted refugee status by the UNHCR, or if they are recognized as *prima facie*⁶⁹ refugees. It will be argued that Black refugee women in Egypt are an extremely disadvantaged and unprotected group, and due to the formal and equal nature of these laws, a lacuna is created where Black refugee women find themselves in, due to their disadvantaged identities, and perhaps more importantly, due to these laws failing to address their collective disadvantaged and intersecting identities as Black, refugees, and women.

In all of the existing laws that govern refugees in Egypt, whether they are international, regional, or national laws, fail to address the *collective* identity of Black refugee women. There are countless references made in regard to discrimination to *race*, or *gender*, or *refugees*, but no law could be located that addressed these categorizations at once, thus, failing to address the intersectional oppression faced by black refugee women due to their multidimensional identity. This oppression is distinctly demonstrated in the employment realm, which demonstrates the ways that the law fails Black refugee women distinctly.

Additionally, international refugee law's failure to address and redress the inequality faced by Black refugee women in Cairo is an example of how international law, as an overarching legal framework is essentially incapable of dealing with the refugee crises in general. This is further exacerbated when international law, national and bilateral laws intersect; there is a serious "legal lacuna"⁷⁰ that is created, in that even after an individual has been granted refugee status, there is a lack of enforcement mechanism to ensure that refugees can actually attain their rights: "The most pressing problem that international refugee law faces is that it suffers from a 'serious legal lacuna' in that it determines the rights of those who are classified as refugees, but fails to

⁶⁹ Kagan, Michael. Assessment of Refugee Status Determination Procedure At UNHCR's Cairo Office. The American University In Cairo Forced Migration And Refugee Studies (FMRS), 2001, www.schools.aucegypt.edu/GAPP/cmrs/reports/Documents/RSDReport.pdf.

"Manifestly well-founded" recognition for most refugees in Egypt, which follows UNHCR's usual practice when the number of asylum-seekers makes fair individual RSD impractical, due to the resource strain caused by individual RSD.

⁷⁰ Khan, Azfer Ali. Can International Law Manage Refugee Crises, Oxford University Undergraduate Law Journal. (2016) https://www.law.ox.ac.uk/sites/files/oxlaw/field/field_document/4.pdf.

bind States on how to carry out this determination. Instead, it leaves States to rely on domestic laws.... to conclude whether a person qualifies for refugee status, and whether, as a consequence, their substantive rights will be protected”⁷¹. This puts to question the effectiveness of international refugee law in general, regardless of Egypt’s reservations to it, and one can even beg the question if this ineffectiveness coupled with the reservations undermine the international legal framework⁷² entirely in Egypt. This is especially pressing in Egypt due to the intersecting and overlapping laws, ministerial decrees, domestic laws and others, that exist that dictate the lives of refugees. Subsequently, the overlapping nature of these laws and decrees causes immense confusion and uncertainty, and a culture of neglect, further alienating refugees and deterring their assimilation.

The following are international, national, domestic and bilateral laws that Egypt is Party to, which are relevant for the purpose of this paper. No law could be located within the existing legal frameworks that make mention of individuals who are disadvantaged, belonging to multiple categories, instead, the laws encompass individuals with static, rigid and singular categories, single-axis categories.

3.1 International legal frameworks

Convention Relating to the Status of Refugees (Refugee Convention)⁷³

Article 1

A. For the purposes of the present Convention, the term “refugee” shall apply to any person who:

(2) As a result of events occurring before 1 January 1951 and owing to 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, owing to such fear, is 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.

In the case of a person who has more than one nationality, the term “the country of his nationality” shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his

⁷¹ *Ibid.*

⁷² *Ibid.*

⁷³ Convention Relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 137 (entered into force Apr. 22, 1954). [Hereinafter, *Refugee Convention*]. Egypt acceded to the Convention and its Protocol on 22 May 1981.

nationality if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.

D. This Convention shall not apply to persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees protection or assistance.

When such protection or assistance has ceased for any reason, without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall ipso facto be entitled to the benefits of this Convention.

Article 3

The Contracting States shall apply the provisions of this Convention to refugees without discrimination as to race, religion or country of origin.

Article 5

Nothing in this Convention shall be deemed to impair any rights and benefits granted by a Contracting State to refugees apart from this Convention.

3.1.1 Reservations

In theory, Egypt has undertaken its obligations under international law to provide refugees the right to local recourse, freedom of movement, freedom of religion, and the right to residence⁷⁴. However, these the implementation of these rights prove problematic as the formal reservations that Egypt has to the Refugee Convention render these rights baseless. These reservations include 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)⁷⁵.

1. Article 12(1) (personal status): *The personal status of a refugee shall be governed by the law of the country of his domicile or, if he has no domicile, by the law of the country of his residence*⁷⁶.
2. Article 20 (rationing): *Where a rationing system exists, which applies to the population at large and regulates the general distribution of products in short supply, refugees shall be accorded the same treatment as nationals.*⁷⁷

⁷⁴ *Supra note*6

⁷⁵ Convention Relating to the Status of Refugees, Declarations and Reservations, July 28, 1951, 19 U.S.T. 6259, 189 U.N.T.S. 137, https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&mtdsg_no=V-2&chapter=5&Temp=mtdsg2&lang=en

⁷⁶ *Supra note* 42

⁷⁷ *Ibid.*

3. Article 22(1) (access to primary education): *The Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education.*⁷⁸
4. Article 23 (public relief and assistance): *The Contracting States shall accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals.*⁷⁹
5. Article 24 (labor legislation and social security): *The Contracting States shall accord to refugees lawfully staying in their territory the same treatment as is accorded to nationals in respect of the following matters.*⁸⁰

The text that accompanies the reservations shows how defragmented the various legal frameworks are in Egypt, and this defragmentation causes gaps and lacunae that render refugees confused and in limbo:

With reservations in respect of article 12 (1), articles 20 and 22 (1), and articles 23 and 24.

Clarifications (received on 24 September 1981):

1. Egypt formulated a reservation to article 12 (1) because it is in contradiction with the internal laws of Egypt. This article provides that the personal status of a refugee shall be governed by the law of the country of his domicile or, failing this, of his residence. This formula contradicts article 25 of the Egyptian civil code, which reads as follows:

"The judge declares the applicable law in the case of persons without nationality or with more than one nationality at the same time. In the case of persons where there is proof, in accordance with Egypt, of Egyptian nationality, and at the same time in accordance with one or more foreign countries, of nationality of that country, the Egyptian law must be applied."

The competent Egyptian authorities are not in a position to amend this article (25) of the civil code.

2. Concerning articles 20, 22 (paragraph 1), 23 and 24 of the Convention of 1951, the competent Egyptian authorities had reservations because these articles consider the refugee as equal to the national.

⁷⁸ *Ibid.*

⁷⁹ *Ibid.*

⁸⁰ *Ibid.*

*We made this general reservation to avoid any obstacle which might affect the discretionary authority of Egypt in granting privileges to refugees on a case-by-case basis.*⁸¹

The reservations that Egypt has to the Refugee Convention in practice mean that although refugees already face extreme hardship due to the persecution that has caused them to flee their home countries in the first place, these legal barriers, in the form of these reservations, seek to further cut refugees off from “the services they need to live, much less assimilate, into Egyptian society. Research suggests that these legal barriers only further serve to alienate, refugees and their families—severely crippling vital social mechanisms for aid, information and assistance.⁸²” There is also consistent research that shows that “ignorance on both sides, fear of Egyptian authorities, uneducated government officials, and practical restrictions on UNHCR's resources have compounded difficulties”⁸³. Moreover, prominent events consisting of violence on the part of Egyptian authorities towards African refugees and asylum-seekers in the past are not easily forgotten: “the arrest of protesting Ethiopians outside of UNHCR in 1992, a series of indiscriminate roundups of African nationals and widely circulated stories of police ignoring UNHCR blue or yellow cards”. Furthermore, this study has shown that in the African refugee communities in Cairo, the fear of arrest and deportation and the insecurity about their legal status in the country forms a major obstacle that further alienates African refugees from the host community, making legal integration or social integration almost impossible⁸⁴.

Due to these hardships and legal barriers, refugees go underground and seek sustenance by taking up work in the informal sector⁸⁵. While most refugee men may take up work which is not confined to the home, such as vendors, security guards, or do odd jobs⁸⁶, most refugee women find work as domestic helpers, nannies, house cooks, house-cleaners, and other informal jobs⁸⁷ that find them confined to the home. Hidden from public view, refugee women

⁸¹ Protocol Relating to the Status of Refugees, (adopted on 16 December 1966, entered into force 4 October 1967) 189 U.N.T.S. 137 [hereinafter, *1967 Protocol*]. Egypt acceded to the Convention and its Protocol on 22 May 1981.

⁸² Koehler-Derrick, Gabriel. Egypt: Towards a Culture of Legal Integration? Cairo's Urban Refugees and Egypt's Reservations to the 1951 Convention. 2004, www.altrodiritto.unifi.it/frontier/koehler.htm#n14.

⁸³ *Ibid.*

⁸⁴ *Ibid.*

⁸⁵ Miranda, Paul. “Refugees in Towns: Cairo.” Refugees in Towns, Feinstein International Center & Center for Migration & Refugee Studies at the American University in Cairo., <https://www.refugeesintowns.org/cairo>.

⁸⁶ *Ibid.*

⁸⁷ *Ibid.*

are vulnerable to abuse and violence. In this instance, we see the gendered dimension play a particular role in the safety of refugee women versus that of refugee men. Moreover, due to the generally unfavorable way that Black refugees are regarded within the social climate of Egypt, here again Black refugee women, as opposed to lighter-skinned Arab Syrian, Yemini, Iraqi, and other non-Black refugees, again find themselves facing interwoven prejudice and oppression owing to their collective identity as Black refugee women.

Protocol Relating to the Status of Refugees⁸⁸

Article 1

- 1) *The States Parties to the present Protocol undertake to apply articles 2 to 34 inclusive of the Convention to refugees as hereinafter defined.*
 - 2) *For the purpose of the present Protocol, the term "refugee" shall, except as regards the application of paragraph 3 of this article, mean any person within the definition of article 1 of the Convention as if the words "As a result of events occurring before 1 January 1951 and..." and the words "... as a result of such events", in article 1 A (2) were omitted.*
 - 3) *The present Protocol shall be applied by the States Parties hereto without any geographic limitation, save that existing declarations made by States already Parties to the Convention in accordance with article 1 B (1) (a) of the Convention, shall, unless extended under article 1 B (2) thereof, apply also under the present Protocol.*
- International Covenant on Civil and Political Rights⁸⁹

Article 12

- 1) *Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.*
- 2) *Everyone shall be free to leave any country, including his own.*
- 3) *The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.*
- 4) *No one shall be arbitrarily deprived of the right to enter his own country.*

Article 13

An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.

⁸⁸ *Supra* note 59.

⁸⁹ International Covenant on Civil and Political Rights, Dec. 19, 1966, 999 U.N.T.S. 171 (entered into force March 23, 1976). [Hereinafter, *ICCPR*]. Egypt ratified the Covenant on 14 January 1982 with the following declaration: "Taking into consideration the provisions of the Islamic Sharia and the fact that they do not conflict with the text annexed to the instrument, we accept, support and ratify it."

Convention on the Elimination of All Forms of Discrimination against Women⁹⁰

Article 5

States Parties shall take all appropriate measures:

(a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;

(b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

Article 6

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

Article 11

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(a) The right to work as an inalienable right of all human beings;

(b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;

(c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;

(d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;

(e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;

(f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

Article 15

4) States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

⁹⁰ Convention on the Elimination of All Forms of Discrimination against Women, Dec. 18, 1979, 1248 U.N.T.S. 13 (entered into force 3 September 1981). [Hereinafter, CEDAW]. Egypt ratified the Convention on 18 September 1981.

International Convention on the Elimination of All Forms of Racial Discrimination⁹¹

Article 1

1. In this Convention, the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

2. This Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State Party to this Convention between citizens and non-citizens.

3. Nothing in this Convention may be interpreted as affecting in any way the legal provisions of States Parties concerning nationality, citizenship or naturalization, provided that such provisions do not discriminate against any particular nationality.

4. Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved.

Article 4

States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention, inter alia:

(a) Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;

(b) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law;

(c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.

Article 5

⁹¹ International Convention on the Elimination of All Forms of Racial Discrimination, adopted Dec. 21, 1965, 660 U.N.T.S. 195 (entered into force Jan. 4, 1969). [Hereinafter, *ICERD*]. Egypt ratified the Convention on 1 May 1967.

In compliance with the fundamental obligations laid down in Article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

(d) Other civil rights, in particular:

(ii) The right to leave any country, including one's own, and to return to one's country;

(ix) The right to freedom of peaceful assembly and association;

(e) Economic, social and cultural rights, in particular:

(i) The rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration;

Article 6

States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.

3.2 Regional framework

Along with the international frameworks, there are other complementary regional refugee instruments that accompany the 1951 Refugee Convention, namely the 1969 Organization of African Unity (OAU) Convention Governing Specific Aspects of Refugee Problems in Africa⁹². The government of Egypt is a signatory to the 1951 Refugee Convention, its 1967 Protocol, as well as the 1969 OAU Refugee Convention.

Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa⁹³

Article I

1) For the purposes of this Convention, the term "refugee" shall mean every person who, 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, owing to such fear, is unwilling to avail himself of the protection of that country, or who, not having a nationality and being outside the country of his former

⁹² United Nations. "OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, Adopted by the Assembly of Heads of State and Government at Its Sixth Ordinary Session, Addis-Ababa, 10 September 1969." UNHCR, 20 Jan. 1974, <https://www.unhcr.org/about-us/background/45dc1a682/oau-convention-governing-specific-aspects-refugee-problems-africa-adopted.html>.

⁹³ *Ibid.*

habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

2) The term “refugee” shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.

Article II

1) Member States of the OAU shall use their best endeavours consistent with their respective legislations to receive refugees and to secure the settlement of those refugees who, for well-founded reasons, are unable or unwilling to return to their country of origin or nationality.

3) No person shall be subjected by a Member State to measures such as rejection at the frontier, return or expulsion, which would compel him to return to or remain in a territory where his life, physical integrity or liberty would be threatened for the reasons set out in Article I, paragraphs 1 and 2.[...]

5) Where a refugee has not received the right to reside in any country of asylum, he may be granted temporary residence in any country of asylum in which he first presented himself as a refugee pending arrangement for his resettlement in accordance with the preceding paragraph.

African Charter on Human and People’s Rights⁹⁴

Article 2

Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status.

Article 3

1) Every individual shall be equal before the law.

2) Every individual shall be entitled to equal protection of the law.

Article 4

Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right.

Article 5

Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman of degrading punishment and treatment shall be prohibited.

⁹⁴ African Charter on Human and Peoples’ Rights, June 1, 1981, 21 I.L.M 58 (entered into force Oct. 21,1986). [Hereinafter, *African Charter*]. Egypt ratified the Charter on 20 March 1984.

A refugee's legal status predominates all other aspects of his/her life; his/her legal status is a prerequisite which dictates that individual's ability to access social services, look for work, access health facilities, or feel safe and secure in general. Some scholars contend that the root cause for refugee's inability to access these services or gain employment is caused by legal difficulties. Although this is not the topic for this current research, it is important to note that the origin of these "legal difficulties" is precisely the gaps and lacunae which this paper addresses⁹⁵.

International, regional, national and domestic legal frameworks regarding refugees as well as UNHCR policies and ministerial decrees can never fully guarantee a refugee's wellbeing within the host country, regardless of any reservations made to the Convention, and compliance with any international or regional treaty cannot guarantee the safety or minimal integration of refugees within the host country. However, compliance with UN norms, can be deduced as a starting point in the grand scheme of things and the larger dialogue about integration of refugees in Cairo. Therefore, it can be argued that Egypt's reservations to the Convention lies at the core of these gaps and lacunae that are created⁹⁶.

It is worth reiterating that Egypt is a signatory to a number of international and regional documents which dictate the basic obligations Egypt has toward refugees and asylum-seekers. Egypt has signed the 1951 UN Convention Relating to the Status of Refugees (albeit with reservations), the Organization for African Unity's Convention Governing the Specific Aspects of Refugee Problems in Africa, the African Charter on Human and Peoples' Rights, and offers lip service in regard to refugees in its Constitution. Yet, this myriad of legal protections, as is the case in most countries, is largely dependent on its being party to the international treaty which is the Refugee Convention of 1951⁹⁷. The reservations made to this convention, in addition to the fact that Egypt has no direct and comprehensive national framework concerning refugees, designating the UNHCR to take over these roles further complicates things, mostly due to the fact that the government of Egypt does not carry out its own RSD (refugee status determination), which is also done by the UNHCR, which is "forced to spend their funds and

⁹⁵ *Ibid.*

⁹⁶ *Ibid.*

⁹⁷ *Ibid.*

efforts determining refugee status and then coordinating with Western governments for resettlement instead of pursuing its original mandate by lobbying for the protection of refugees”⁹⁸.

3.3 National legal framework

Constitution of the Arab Republic of Egypt 2014⁹⁹

There is no direct mention of refugees or any literature that stipulates their government in the Egyptian constitution of 2014, except for Article 91, *Asylum*, which states that “*the state shall grant political asylum to any foreigner who has been persecuted for defending the interests of peoples, human rights, peace or justice. Extradition of political refugees is forbidden. All of the above is according to the law*”.¹⁰⁰

The following Articles refer to the right to work and forced labor, and worker’s rights. No law could be located in regards to refugee’s employment rights, let alone those of Black refugee women. Interestingly, Article 93 binds Egypt to all international laws, agreements and covenants which it is Party to, however, as previously mentioned, any real implementation and/or enforcement has yet to be seen.

Article 12

Work is a right, duty and honor guaranteed by the State. No citizen may be forced to work except as required by Law and for the purpose of performing a public service for a fixed period in return for a fair consideration, and without prejudice to the basic rights of those obliged to carry out such work.

Article 13

The State shall protect workers' rights and strive to build balanced work relationships between both parties to the production process. It shall ensure means for collective negotiations, protect workers against work risks, guarantee the fulfillment of the requirements of security, safety and occupational health, and prohibit unfair dismissal, all as regulated by Law.

Article 91

⁹⁸ *Supra* note 59.

⁹⁹ Constitution of the Arab Republic of Egypt, 18 January 2014. [Hereinafter, *Egyptian Constitution*]. Via https://www.constituteproject.org/constitution/Egypt_2014.pdf

¹⁰⁰ *Ibid.*

*The State may grant political asylum to any foreigner persecuted for defending the interests of people, human rights, peace or justice.
Extradition of political refugees is prohibited. All of the foregoing shall be according to the Law.*

Article 93

The State shall be bound by the international human rights agreements, covenants and conventions ratified by Egypt, and which shall have the force of law after publication in accordance with the prescribed conditions.

3.4 Bilateral agreement between Egypt and UNHCR – the Memorandum of Understanding (MoU).

Although Egypt is a signatory to the 1951 Refugee Convention, the 1967 Protocol, as well as the 1969 OAU Convention, it lacks a legal and comprehensive framework that deals directly with refugees. Thus, all refugee matters are designated to the UNHCR, under the framework of the Memorandum of Understanding (MoU) signed by the government of Egypt and the UNHCR in 1954¹⁰¹.

The UNHCR, which was established in 1951, attempts to fill the void created by the Egyptian government due to its lack of comprehensive legal framework relating to refugees. The available laws and decrees designated to govern the lives of refugees are fragmented at best, creating a culture of uncertainty. Through its MoU, the UNHCR is the main instrument available to refugees that helps facilitate their lives as refugees in Egypt. It “works to safeguard the rights of refugees, promote their well-being and help secure durable solutions¹⁰²”.

For the past 65 years, the UNHCR has been operating in Egypt as an entity that deals directly with refugees. The UNHCR has been operating in Egypt since 1954, as Egypt lacks the comprehensive legal framework that deals with refugees directly; the responsibility thus falls on the UNHCR directly, in order to provide services to refugees that fall under the following areas¹⁰³:

- 1) Ensure that refugees and asylum-seekers are able to apply for and gain access to international protection.

¹⁰¹ EGYPT.” UNHCR Global Appeal 2011 Update, 2011, <https://www.unhcr.org/4cd96bae2c.pdf>.

¹⁰² UNHCR Egypt - Refugee Status Determination Status.” UNHCR Egypt - Refugee Status Determination Status, UNHCR, 2019, <https://rsd.unhcregypt.org/>.

¹⁰³ “What We Do - UNHCR Egypt.” The Government of Egypt Authorized UNHCR’s Operation in the Country in 1954, UNHCR Egypt, <https://www.unhcr.org/eg/what-we-do>.

- 2) Support their access to health and education services, and make sure vulnerable refugees and asylum-seekers can meet their basic needs.
- 3) Raise awareness of the plight of refugees, advocates for their rights, and coordinate efforts to support them.

In other words, the services that the UNHCR provide range from the most basic, such as health care, housing, and social services, to more crucial services such as the responsibility to grant refugees refugee status and in turn provide RSD, and its corollary benefits.

The UNHCR, along with other NGOs and faith-based organizations tend to refugee's needs, from most basic needs such as healthcare and housing, to bigger concerns such as the ability to work and Refugee Status Determination, or RSD, which determines if the applicant is granted refugee status by meeting the eligibility criteria of "refugee" under international refugee law¹⁰⁴.

Under its 1950 Statute, the UNHCR is mandated to provide international protection to refugees, which it recognizes to be:

"Any person who, as a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality or political opinion, is outside the country of his [or her] nationality and is unable or, owing to such fear or for reasons other than personal convenience, is unwilling to avail him [or her]self of the protection of that country; or who, not having a nationality and being outside the country of his [or her] former habitual residence, is unable or, owing to such fear or for reasons other than personal convenience, is unwilling to return to it."¹⁰⁵

This definition, based in the 1950 Statute, is overtly similar to the definition found in the 1950 Convention and the 1967 Protocol. Thus, all individuals who fall under this category, with disregard to their country of origin, race, religion, nationality, political opinion, or membership of a particular social group. Neither the 1951 Convention, the 1967 Protocol nor the OAU Convention of 1969 mention "gender" in their criteria of eligibility, yet, there is widespread and a growing understanding that gender-related violence "falls within the refugee

¹⁰⁴ UNHCR Egypt - Refugee Status Determination Status." UNHCR Egypt - Refugee Status Determination Status, UNHCR, 2019, <https://rsd.unhcregypt.org/>.

¹⁰⁵ *Supra note 52*

definition”¹⁰⁶. This is yet another instance where the law blatantly disregards the collective identity of Black refugee women, thereby condemning them to a life of oppression.

The formal equality provided by the legal frameworks that govern refugees within the Egyptian social and political context, and the lived experiences of black refugee women highlight the gaps created within these laws. In all of the existing laws that govern refugees in Egypt, whether they are international, regional, or national laws, fail to address the *collective* identity of Black refugee women, further contributing to their subordination and marginalization. There are countless references made in regard to discrimination to *race*, or *gender*, or *refugees*, but no law could be located that addressed these categorizations at once, thus, failing to address the layers of oppression faced by black refugee women due to their multidimensional identity. By laying out the existing legal framework that govern refugees in Egypt and recognizing its failure to address the oppression faced by black refugee women is critical, as it highlights the gaps that exist when these legal frameworks interact with black refugee women. Their intersecting identities precede their experience in Egypt, and these layers of identity is a cause for concern as they are vulnerable to oppression that is masked by the formal equality provided to all refugees in general.

Under the UNHCR mandate, refugees are entitled to benefits such as the “protection against threats to the physical security of refugees within the host country, which requires the latter to put into place adequate arrangements to protect refugees”¹⁰⁷, as well as special measures and protection for women: “women and girl refugees are frequently exposed to a heightened risk of sexual and gender-based violence, which also requires special measures for their protection”¹⁰⁸. Interestingly, this mandate does actually appear to provide at least some substantive equality because it recognizes that some refugee groups may face racism, xenophobia, sexual and gender-based violence, but yet makes no mention of misogyny. However, the UNHCR mandate is not binding on Egypt. What is binding is the Refugee Convention; yet Articles 2-34 of the Refugee Convention do not address issues faced by

¹⁰⁶ United Nations. “A ‘Timeless’ Treaty Under Attack.” UNHCR, UNHCR, 1 June 2009, <https://www.unhcr.org/news/stories/2001/6/3b4c067ac/a-timeless-treaty-under-attack.html>.

¹⁰⁷ *Supra* note 39

¹⁰⁸ *Ibid*

disadvantaged refugee groups, as all of the Articles merely state that refugees just need to be treated “no less favorably than nationals/foreign nationals”; creating a lacuna where the State is given leeway to interpret the law whichever way it wants. Moreover, on the surface, this formal equality as it is void of direct discrimination. This would seem ideal, as it essentially prohibits any discrimination between the refugee and the national. However, this formal equality is in reality devastating to refugees, as it assumes that the refugee and the national were already equal and share similar equalities.

The existing gaps in the protection of refugees due to the “*de facto* transfer of responsibility for managing refugee policy from sovereign states to United Nations agencies¹⁰⁹” one can see how by the Egyptian government shifting its responsibilities to the UNHCR, and the UNHCR usurping the roles of the Egyptian government and taking over its roles as a host state, “but without the capacity to fully substitute for a host government¹¹⁰”, gaps are created within the legal frameworks and their inadequate implementation, and the lived experiences of refugees in Egypt demonstrate these gaps. Consequently, black refugee women due to their intersecting identities, suffer acute oppression due to these gaps, which is further exacerbated by the law’s inadequacy and blindness to their intersectional identities, and thus their oppression. In other words, the law fails to address the multidimensional identity and the consequential prejudice faced by African refugee women, which further subordinates them. Other scholars have similar reservations about the UNHCR and its inability to redress the prejudice faces by disadvantaged groups, such as Black refugee women. Tarek Badawy¹¹¹, a Cairo-based human rights lawyer, raises many concerns regarding the MOU as well. His main concerns regarding the inadequacy of the MOU is that it is “outdated”, moreover, he claims that the UNHCR’s reliance on this agreement leads to “negative results”, sometimes even causing the UNHCR to breach its own mandate¹¹². He further states that this reliance, aforementioned by Kagan, “spreads confusion among refugees in Egypt and forces UNHCR to engage in political compromises that

¹⁰⁹ *Supra* note 36

¹¹⁰ *Ibid*

¹¹¹ Badawy, Tarek. The Memorandum of Understanding between Egypt and the Office of the United Nations High Commissioner for Refugees: Problems and Recommendations, [Migration Policy Centre], [CARIM-South], CARIM Analytic and Synthetic Notes, 2010/07, Legal Module Retrieved from Cadmus, European University Institute Research Repository, at: <http://hdl.handle.net/1814/13442>.

¹¹² *Ibid*.

undermine the organization’s legitimacy”¹¹³, yet, it still remains as state-designated entity that works directly with refugees. Due to the outdated and fragmented nature of the main instrument that deals with refugees in Egypt, it is not a stretch to state that African refugees, especially African refugee women, suffer extreme oppression due to these complicated reasons, especially the lack of effective and determinant laws that recognize and work with disadvantaged refugee groups directly.

The formal equality, provided by the existing legal frameworks that govern refugees within the Egyptian context, and the lived experiences of black refugee women highlight the gaps created by this blanket equality. The failure to treat Black refugee women as a distinct and disadvantaged group before the law, and by treating all refugees alike, the law inadvertently perpetuates the oppression of Black refugee women. In other words, international, national, domestic and bilateral refugee law, in its failure to address the layers of oppression faced by Black refugee women, in fact perpetuates this oppression by failing to recognize and address it. This is especially important, as it highlights the gaps that exist when these legal frameworks interact with black refugee women. Their intersecting identities precede their experience in Egypt, and these layers of identity is a cause for concern as they are vulnerable to oppression that is masked by the formal equality provided to all refugees in general. There needs to be special attention paid to each facet of their identity: keeping in mind their race, class, and gender, legal status, which creates a “interdependent and overlapping system of discrimination and disadvantage”¹¹⁴, which is distinct to this particular group.

Intersectionality theory demonstrates how this oppression takes place and why. Deploying it as a lens, the lives of Black refugee women against the backdrop of the social and political climate in Egypt sheds light on the gaps that occur when the various intersecting legal frameworks interact with Black refugee women in Egypt. But first, it is imperative to provide a foundation on the social and political climate in Egypt, especially towards Black Africans in general, as it helps address this environment and fill in the gaps that surround the interaction

¹¹³ *Ibid.*

¹¹⁴ *Supra note 35*

between refugees and asylum-seekers, and consequently, their experience with the host country as a State and the host community.

4. Egypt's Complicated History and its Implications on Black Refugees

It is no debate that Egypt, until today, has a complicated racist history. This could be due to the fact that Egyptians suffer the conflict of an identity-crisis: African or Arab? Arab! Most Egyptians will claim. Egypt in general has a “particularly difficult time coming to grips with its African identity”¹¹⁵. Many Egyptians do not consider themselves Africans. Some take offense even to being identified with Africa at all. When speaking to Egyptians who have traveled to countries below the Sahara, nearly all of them speak of “going to Africa”, or “going down to Africa”, as if Egypt were separate from the rest of the continent¹¹⁶. Throughout extensive interviews that were conducted with Egyptians for over three years, many are in agreement with their dislike of the former President Anwar Sadat, a darker-skinned Egyptian, whose mother was Sudanese, who was ridiculed for many years as “Nasser’s black poodle”, echoing each other’s sentiments that he “did not look Egyptian enough.”¹¹⁷

For many Egyptians, “Africa” is everywhere outside of Egypt, and according to these interviews, “Africans” to the minds of Egyptians, are the stereotypical, black-skinned, skinny and starving savages, living primitively in forests and jungles, who speak an unidentifiable language. “Even the occasional visit by a head of state from sub-Saharan Africa is greeted with smiles by snickering Egyptian government officials, especially when African visitors choose to wear their national dress”¹¹⁸.

Despite the fact that most Egyptians would deny that their society is racist towards darker-skinned Egyptians (Nubians) as well as other non-Egyptian blacks, racism in Egypt is a significant and hindering obstacle for African refugees in Egypt¹¹⁹. Many African refugees report widespread discrimination, which they believe stems from racism, in almost all domains, such as to “employment, access to housing, healthcare, and everyday interactions with civil

¹¹⁵ The Root: Race And Racism Divide Egypt, Sunni M. Khalid is the managing news editor at WYPR-FM reporting extensively throughout Africa and the Middle East and reporting from Cairo, Egypt for three years. Accessed via <https://www.npr.org/2011/02/07/133562448/the-root-egypts-race-problem>.

¹¹⁶ *Ibid.*

¹¹⁷ *Ibid.*

¹¹⁸ *Ibid.*

¹¹⁹ Azzam, Fateh. “Failures and False Expectations.” Forced Migration and Refugee Studies Program, The American University in Cairo, June 2006, http://schools.aucegypt.edu/GAPP/cmrs/reports/Documents/Report_Edited_v.pdf.

society”¹²⁰. Those refugees who have a darker skin-tone, such as those of South-Sudanese and West Africans, bear the brunt of this abuse. Racist harassment varies from the verbal to the physical, while some African refugees report of attacks at the hands of Egyptian police and *baltagiya* (street thugs)¹²¹. One doctor has reported treating an average of one refugee per month due these violent racist attacks¹²². Egyptian police are also known to occasionally and randomly pick up “African-looking” people on the streets, and subject them to verbal and physical violence while they are detained without charge. This continues until the UNHCR intervenes to have them released to their custody, if they are listed with them as an asylum-seeker or refugee¹²³.

African refugees are also subject to negative sentiments from their social environment, as negative relationships between refugees and Egyptian locals are strained due to the ill-sentiments felt by Egyptians, “who may be just as poverty-stricken but are unable to access the services available to refugees¹²⁴”. Furthermore, refugees in general are viewed as a threat to the already struggling workforce, due to the high unemployment rate of the country. “The already negative experience of becoming a refugee is magnified in Cairo by the absence of sufficient services and the poverty experienced by many refugees. Refugees in Cairo are subjected to both racial and class discrimination, the overall effect being one of extreme frustration, marginalization, and loss of dignity. Many refugees feel so marginalized in Egypt that they complain of “not being treated like a human being”¹²⁵.

Her Excellency Minha Bakhum, Head of Refugee Affairs Department at the Ministry of Foreign Affairs, echoes this sentiment, stating that the reservations put in place are due to the local economic and social situation in the country. According to Bakhum, “refugees get better treatment than nationals in Egypt, because they are privileged and they have UNHCR which takes care of them.... many refugees come to Egypt to be able to migrate to the West and

¹²⁰ *Ibid.*

¹²¹ *Ibid.*

¹²² *Ibid.*

¹²³ *Ibid.*

¹²⁴ *Ibid.*

¹²⁵ Stacy Schafer, “Sudanese Demonstrators in Mohandeseen: Who They Are and Why They’re Here,” unpublished paper on file with FMRS, p. 15.

UNHCR provides them with this opportunity, whereas although many Egyptians dream of the same, they do not have this option.¹²⁶ Her deliberation on the presumed burden that refugees put on the host country is testament to the widespread sentiment towards refugees in general. She goes on to say that “the Egyptian government is already doing more than expected, because the 1951 Convention talks about providing equal treatment for refugees and nationals. Refugees receive better treatment than nationals in Egypt. For a country like Egypt, accepting refugees on its land is already an achievement and more than other countries do. Refugees put pressure on the economy, on the environment, on the ecosystem, on infrastructure; they contribute to the overcrowding of the city. If I was in the government at the time of signing the 1951 Convention, I would have never signed it”.¹²⁷ For someone of her stature to speak so candidly on the “pressure” that refugees put on the host country, it is not a stretch to assume that these sentiments towards refugees are widely prevalent and widespread throughout the populace, increasing the already racist and tense environment that refugees must navigate to access social services.

Ambassador Mushira Khattab, the Secretary General of the National Council for Childhood and Motherhood supplements this notion, by stating that the perceived unwillingness on the part of the host economy is due to the lack of available resources for locals themselves, stating that “it is a matter of lack of resources rather than discrimination.”¹²⁸

Whatever one decides to call it, in practice, this is nothing less than direct bias. Thus, prejudice, stereotyping, and discrimination is the norm in the everyday lives of African refugees in Egypt. Overt racism is prevalent in daily interactions such as these, and it is visible in the media, and in the interaction between law enforcement and African refugees in Egypt. This overt racism is especially predominant in the media, which in itself problematic as the media informs and shapes public opinion. In the following chapters, the interrelation between the law and the lived experiences of black refugee women will be explained, which will highlight the gaps that occur

¹²⁶ Grabska, Katarzyna. “Who Asked Them Anyway? Rights, Policies and Wellbeing of Refugees in Egypt”. Forced Migration and Refugee Studies, American University in Cairo, Egypt, July 2006, http://schools.aucegypt.edu/GAPP/cmrs/reports/Documents/kasiasreport_000.pdf.

¹²⁷ *Ibid.*

¹²⁸ *Ibid.*

when the law falls short of what it is *essentially* is obligated to do, and how this failure of implementation affects the experiences of refugees. This can be most clearly viewed in the employment and SGBV realm, where it can be deduced that for refugees, acquiring a work permit is extremely prohibitive, thus forcing refugees to seek work in the informal sector. Most refugee women find work as domestic helpers, and in this space is where most SGBV takes place. Refugees are predominantly reluctant to file police complaints for reasons which will be explained in chapter 4. The interaction between the police and black refugee women who are victims of sexual abuse and violence is a case in point of some laws at various levels are understood to protect refugees, however, the lack of implementation on local and national level on the part of Egyptian authorities can be argued to be acquiescence or even permission. Here, at the intersects of international and (lack of determinant) domestic laws, black refugee women are vulnerable to exploitation.

4.1 In the Media

Racist sentiments in the media, especially the constructed perception that attributes black women to prostitutes, coupled with historically racist notions of black slaves which trickles into Egyptian society today in regard to racism, classism, and domestic work, creates an exploitative environment in which black refugee women find themselves in due to the lack of alternate services or channels for meaningful employment.

In May 2019, there was controversy surrounding a video of a woman as her “black-face” sketch did rounds on the internet. Comedienne Shaimaa Saif, painted her face and other visible parts of her body black, and spoke to commuters on a bus on what she assumed was a Sudanese dialect of Arabic. The sketch was aired on the popular programme Sha'labaz, which was broadcasted by one of the largest entertainment channels in the region, an affiliate of Saudi-funded MBC¹²⁹. The fact that it was broadcast on one of the largest entertainment channels in the MENA region, and received no backlash in response by its audience, goes to illustrate and prove that these racist sentiments are widespread and accepted throughout the region.

¹²⁹ Al Jazeera. “Egypt Blackface Sketch about Sudanese Spotlights Racism in Region.” News | Al Jazeera, Al Jazeera, 18 May 2019, <https://www.aljazeera.com/news/2019/05/egypt-blackface-sketch-sudanese-spotlights-racism-region-190518104712685.html>.

In December of the previous year, Bushra, a famous Egyptian actor and singer, released a video clip showing a man in a black mask, pretending to be Black, and acting erratically. In 2016, an Egyptian high-level official was accused of calling other African diplomats “dogs and slaves”¹³⁰, at a high-level United Nations conference in Kenya. Renowned comedian Samir Ghanem and his daughter, during the holy month of Ramadan of the previous year, were seen sporting dreadlocks and darkened their skins for a largely watched and loved TV series, again receiving no backlash which indicates that these sentiments are accepted and clearly perpetuated through the region.

Racist and “anti-blackness” sentiments have contributed immensely in Egyptian cinema, thereby informing public opinion. “In the 1940s, Africans were juxtaposed to Egyptians with a “deeply ingrained vision of Africa as a place of adventure and inferiority¹³¹” that affirmed Egyptian Nationalist claims to Sudan, and Egyptians’ own modernity and liberation. In these films, black characters were silent and servile, and blackness represented violence and irrationality. Images like Free Officer Salah Salim playing “Tarzan in the ‘jungles’ of Sudan” were rooted in Egyptian histories of slavery, racial superiority, and claims to empire. The way Egyptian media and pop-culture portrays Africa surely contributes to the widespread perception of “Africans” as subordinate Others.¹³²”

These are a few of the many instances of racism in Egypt, which speaks on the underlying racist problem that Egypt has, further exacerbating ideas that Blackness is something to ridicule, and people who are ethnically Black, are “Others”, and have been treated as such. As art imitates life and life imitates art, the normative narrative of what is portrayed in Egyptian media depicting Blacks is a telling sign of the social environment of the country. In most Egyptian films, one will find that Africans and the darker-skinned Egyptians (Nubians) are almost exclusively featured as “illiterate and obedient domestic workers. Men would play the roles of doormen or cooks, while women would appear as nannies, maids or exotic fortune

¹³⁰ Al Jazeera. “Egypt Official Accused of ‘Dogs and Slaves’ Remark.” News | Al Jazeera, Al Jazeera, 1 June 2016, <https://www.aljazeera.com/news/2016/05/egypt-official-accused-dogs-slaves-remark-160531194914535.html>.

¹³¹ *Supra note 49*

¹³² *Ibid.*

tellers”¹³³. As film, music, dance, and other culture convey the social and political contexts of the present time, it is important to note that these racist caricatures, which portray black people in Egypt as thoughtless, reckless, animalistic, and only existing to be the bane of racist jokes in Egypt, actually convey in Egypt, and other parts of the Middle East, its racist history of slavery, colonialism, and modern day slavery¹³⁴. Moreover, these racist instances in the media are a trope in Egyptian media; they reinforce already existing racist sentiments about Africans in general, and these sentiments are especially problematic for African refugees, more than other Africans, as they try to navigate life in Egypt whilst trying to access social services, jobs, health care, or in the face of any social interaction. This is due to the fact that African refugees are visibly different, due to their darker skin-tone, and the language barrier that further alienates them from other refugees. Apart from North-Sudanese refugees and asylum-seekers who speak a dialect of Arabic, other African refugees are further alienated in the host-country if they are not bilingual and speak the language. This barrier impedes on their ability to access health care, negotiate pay, file reports with police, or generally better integrate within the host community. The sense of being an “outsider” is amplified as language directly impacts perception and experience, and allows for a better understanding of culture and norms. Non-African refugees seeking to integrate, or even file initial paperwork with will undoubtedly struggle more than their Arabic-speaking counterparts, further cementing the “us” and “them” notion already prevalent in Egypt (see chapter 3).

For African refugees and asylum-seekers looking to learn the language or put their dependents through Egyptian public schools, they are faced with more obstacles. Even within the Sudanese refugee and asylum-seeking community, there is widespread reluctance to put their children in Egyptian schools due to “discrimination, bullying, and abuse¹³⁵”. Racism in Egyptian public schools towards African students is rampant. An informant working at the RIT project in Cairo recalled how one Sudanese family pulled their children out of an Egyptian school only after a week of enrollment, due to the racist violence they endured:

¹³³ Lambert, Imogen, and Nada Ramadan. “Being Black in Egypt.” Alaraby, The New Arab, 23 July 2015, www.english.alaraby.co.uk/english/features/2015/7/23/being-black-in-egypt.

¹³⁴ *Supra note 37*

¹³⁵ *Supra note 60*

The Egyptian students in the school “touched the children’s bodies all the time, saying ‘why are you so black?’ ‘What did the sun do to you?’” While at the Egyptian school, the children had been unable to eat and went home and cried at night. This abuse could also get violent. Some parents reported their children being beaten in schools, hit with stones or glass bottles, and ignored by teachers. Some of the parents tried to talk to the teachers and the principals about these problems but reported that no one was interested¹³⁶.

When it comes to education, “everyone has the right to free and compulsory primary education regardless of their nationality¹³⁷”, however, Egypt has some leeway to navigate the law and discriminate between nationals and non-nationals, as they are permitted to give “preferential treatment to nationals of states with which they have close ties”. In essence, Sudanese, Libyan, Syrian and Yemeni students enjoy preferential treatment and access to primary school, whereas their African/non-Arabic speaking counterparts are essentially denied access to the institution that will enable them to overcome the language barrier. Egypt is not required to provide secondary and tertiary education for free, however, access to these institutions are financially inaccessible for refugees as they already have preceding financial difficulties. The rampant racism in Egyptian schools, the preferential treatment given to Arab students, and the general prohibitive nature of enrolling in Egyptian schools virtually shuns African, non-Arabic speaking refugees from learning the language of their host country, which can help them overcome the language barrier which in turn can allow them to integrate and communicate more liberally in various aspects in their lives¹³⁸.

According to the RIT (Cairo) project, African refugees collectively suffer from racism in Egypt. The report entails their complains of their continual harassment, such as being called “*chocalata*”, “*dalma*” (darkness), or “*samara*” (black)¹³⁹. Furthermore, according to this

¹³⁶ *Ibid.*

¹³⁷ *Supra note 5*

¹³⁸ *Supra note 5*

¹³⁹ *Supra note 49*

report, many African refugees have experienced harassment that has turned violent. “This harassment is longstanding and widely reported. In a 2012 study, 82% of Sudanese respondents reported facing harassment from the local community, 40% experienced robbery, 36% physical assault, 24% harassment from authorities, and 18% arrest or detention by police in the previous year. African school children are racially insulted or have rocks and trash thrown at them as they leave their schools”¹⁴⁰.

Of a bigger concern, there is a predominant gender dimension in the racism experienced by African refugees in Egypt. “Black women are sexually harassed and referred to as prostitutes in the street and asked to perform “indecent” acts. The racist stereotypes of black women and their bodies in Egypt have been documented elsewhere. African refugee domestic workers are portrayed as “sexual beings” and stereotyped as women who are “willing to do anything”¹⁴¹. This perception of black women in Egypt as prostitute stems from misperception attained through the media. Overt racism in Egyptian media towards black women, namely attributing them to prostitutes, has over time, normalized this narrative within Egyptian mainstream culture. In the widely watched and remembered 1998 movie “*Seaedy Fel Gamaa El Amrikiya*”, “samara”, the term that is still used today to harass black women in Egypt, is in fact the name of the black prostitute in this movie. Within the opening few minutes of the movie, the viewer is confronted with racist ideology that still reverberates today, such as overtly racist comments towards Samara by the protagonist, laced with “comedy”. This is one small-scale example of how media informs (or misinforms) public opinion and shapes public perception, and racist, anti-black sentiment has been and continues to be a trope in Egyptian media today.

Consequently, African refugee women who are forced to work in the informal sector are prone to this racist-sexist violence, experienced within a domain where they find no legal protection, nor any type of support. Due to their preceding social, legal and financial inability to provide documents to gain legal employment via a work permit, or other forms of sustenance, most

¹⁴⁰ *Ibid.*

¹⁴¹ *Ibid.*

African refugee women turn to domestic work as the main means for financial support. Enclosed within these walls, they are subject to unspeakable violence, due to the many layers of oppression, which is indirectly perpetuated by the law, and due their intersecting identities as black, as women, and as refugees.

5. Employment

Black refugee women's right to meaningful employment is a case representative of the larger situation at hand. When it comes to employment, one can see how they suffer acute oppression and inequality due to the intersecting legal frameworks that govern refugees in general, which fail to address their collective identities which serves them as a major disadvantage within the social and political context of Egypt.

The laws regulating meaningful employment in regard to foreigners, which include refugees, seem inclusive on paper, but it is actually prohibitive in practice, at least in the case of refugees. Again, in this instance, intersectionality theory is an important tool that helps shed light on how the laws failure to address the different ways in which Black refugee women suffer in Egypt, implicitly causes them more suffering.

In general, the laws regulating refugee's right to work is included in what foreigners/non-Egyptians are entitled to. In other words, refugee's right to work is absorbed in the scope of the laws that regulate foreigners right to work in Egypt. Although Egypt has made no formal reservation to Article 17 of the Refugee Convention relating to wage earning employment, the reality is that "Egypt's reservations exempt refugees from workplace protections, such as law governing wages, hours, and benefits"¹⁴². Article 17 even goes further and "prohibiting any discrimination against refugees compared to other foreigners in obtaining work permits"¹⁴³.

Although this might sound inclusive on paper, in practice, this is not the case for refugees in Egypt, as the requirements to obtain a work permit "as any other foreigner", is presumably impossible for refugees due to their lower class and consequent financial limitations: "despite the fact that Egypt has acceded to the 1951 Convention, refugees are not allowed to work and can only secure an income through illegal employment in the informal sector of the economy"¹⁴⁴.

¹⁴² *Supra* note 36

¹⁴² *Ibid.*

¹⁴³ *Supra* note 4

¹⁴⁴ Sperl, Stefan "Evaluation of UNHCR's Policies in Urban Areas: A Case study review of Cairo." Pg. 3.

The right to work and thereby seek sustenance is a pillar for anyone who aims to live a self-sustainable life. Yet, for all foreigners (refugees included), the right to work relies on the ability to provide a work permit. In addition to the fact that foreign employees should not “constitute more than 10 percent” in any workplace, there are other limitations that prohibit refugees from acquiring a work permit. These mainly include¹⁴⁵:

- The foreigner’s qualifications match the work requirements and amount to a work experience of at least three years;
- If a professional license is required to practice a certain profession in Egypt, the foreigner needs to acquire said license;
- The foreigner must not compete with Egyptians for work opportunities;
- The economic need and benefit of hiring a foreigner has to be considered;
- For each foreign expert hired, two Egyptian assistants have to be assigned to the foreigner for training;
- Priority in job vacancies is to be given to foreigner’s born in and permanently living in Egypt.

Should the refugee be successful in attaining a work permit, it is only valid for one year, subject to renewal at the discretion of the employer. Moreover, obtaining a work permit is extremely costly; for the first year, refugees are subject to pay 3000 Egyptian pounds per year, and on the fourth year, the fee rises to 5000 Egyptian pounds, which can reach an increase of a maximum of 12,000 Egyptian pounds¹⁴⁶.

Subsequently, these formal blanket regulations that regulate foreigners/migrants and refugees equally in their right to work in fact exacerbate the inequality and hardships faced by refugees trying to find meaningful employment in the first place. These laws fail to recognize that Black refugees may very well be unable to provide the paperwork in order to obtain a work permit, due to their preceding financial and legal limitations, let alone afford the work permit fees. In practice, most refugees and asylum-seekers are therefore unable to acquire a work permit, as

¹⁴⁵ *Supra note 4*

¹⁴⁶ *Ibid.*

these conditions are virtually unattainable for most refugee groups, due to their preceding financial, social and legal conditions, causing them to go underground and seek work in the informal sector, where it is unregulated, and where there are no labor laws to protect them. Black refugee women are especially prone to this exploitation, as they seek work which is more accessible to them, such as domestic labor, but having to sacrifice their safety, as there are no labor laws nor any means of regulation to provide protection from exploitation.

The identity of Black refugee women, and their intersecting identities of race, class, and gender, causes these women to fare the worst within this environment. These conditions make it virtually impossible for refugees to attain meaningful employment, due to their preceding financial (class), social (refugee), race (black [prone to racism]) and legal (asylum seeker) conditions, and with refugee women, their condition is even more exasperated due to their identities as women (gender). Their collective identity as black, refugees, and women, relegate them to a unique space that is prone to exploitation due to the lack of protection as disadvantaged groups not only as women but as Black women under international or national laws.

By the Egyptian government shifting its responsibilities to the UNHCR, and the UNHCR accepting the roles of the Egyptian government as a host state, “but without the capacity to fully substitute for a host government¹⁴⁷”, gaps occur within the legal frameworks provided for refugees which affects the lived experiences of refugees in Egypt. For example, under international refugee law, Egypt has certain obligations towards refugees, and has to essentially provide refugees with an adequate standard of living. However, the reservations that Egypt has made to the Convention, and the fact that the UNHCR is the main legal framework that governs refugees in Egypt, causes multiple gaps in the application of these laws (as will be discussed in chapter 5). The UNHCR mandate is not binding on Egypt. What is binding is the 1951 Refugee convention, and even still, Egypt has made reservations that significantly impact the lives of refugees in Egypt. Under the Convention, refugees like other foreigners, are expected to be treated “no less favorably than nationals/foreign nationals”, however, in reality, these

¹⁴⁷ *Supra note 36*

reservations allow the state to grant privileges to refugees on a “case-by-case basis”. Thus, what is left is a quagmire of national laws, UNHCR policies, ministerial decrees, and domestic laws that attempt govern refugees. This defragmentation creates a culture of ambiguity, which in turn forces refugees to be in a state of confusion as they feel overlooked by the host country.

As a consequence, black refugee women due to their intersecting identities, suffer oppression on different dimensions: because of their gender, their race, their legal status, and class. Non-African refugees, whether male or female, fare better, although they may share the same identity markers. Non-African refugee women can assimilate better in the host country, as most speak a dialect of Arabic and therefore can communicate more liberally as opposed to African refugees, who may be further alienated due to the language barrier. For non-Black refugee women who work as domestic helpers, they too fare better than Black refugee women, as they are precluded from racist sentiments of their employers, and potential sexual harassment, abuse and violence.

Sexual and gender-based violence, or SGBV, is not a new phenomenon in Egypt, neither is it essential to only black refugee women nor Egyptian women. It is a widespread issue in many countries that occurs during war and times of peace. This issue is grossly overlooked, and deserves much more attention and research. Although local women may experience SGBV, female refugees experience it in a different way: “when a refugee uproots her family to flee persecution, her entire frame of reference is altered, and the social structure that she knew turns out to be only a thing of the past. Changes in access to services, community support, resources, and security diminish the capacity of refugees to feel empowered”¹⁴⁸, and not only that, but refugees and asylum-seekers, unlike local women, may be disadvantaged due to the language barrier. Not knowing the language or the culture creates a “dependency that is easy to exploit”¹⁴⁹. The fact that female refugees can almost never find work that is outside of domestic work which takes place in secluded areas such as homes, restaurants and businesses, the

¹⁴⁸ Miller, L. (n.d.). The Irony of Refuge: Gender-Based Violence against Female Refugees in Africa. Human Rights & Humane Welfare. <https://www.du.edu/korbel/hrhw/researchdigest/minority/Africa.pdf>.

¹⁴⁹ Margaret Konstanski, An Environment of Impunity: Criticisms of Current Approaches to Sexual Violence, The American University in Cairo (2011).

seclusion of female refugees in these spaces increases their vulnerability to exploitation. Female refugees and asylum-seekers in transit and upon their arrival to the host country are more prone to sexual violence than stationary women. “UN Resolution No. 98, specifically referencing forced female migrants, cited that there were distressing reports of sexual violence against women during flight and upon arrival”¹⁵⁰. This reinforced the notion that refugee and asylum-seeking women in transit were by nature at greater risk to sexual exploitation and violence than local women.

In addition, the type of work that Black refugee women usually find themselves in, such as domestic labor¹⁵¹, is not protected by any labor laws, therefore, it is highly exploitative. Refugee and asylum-seeking women working in this sector are largely “invisible by working and living in the “sacred” realm of the household that law-enforcement agencies are reluctant to intrude upon”¹⁵². Black refugee women, as opposed to non-Black refugee women suffer more than their non-Black counterparts “due to the unequal power relations at work based on the combined oppressions of gender, class, nationality and ethnicity.”¹⁵³

For example, under Egyptian labor law, refugees are treated was “no less favorably” than nationals/foreign nationals; this is fully legal under the Refugee Convention, as stated in Article 17(1) that only requires “The Contracting State shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage-earning employment¹⁵⁴”.

Within this context; in other words, refugees, like migrants, are allowed to work in Egypt so long as they are able to provide the necessary paperwork to acquire a work permit. However, this is virtually impossible for refugees. Egypt within itself has a range of internal issues that

¹⁵⁰ *Ibid.*

¹⁵¹ *Supra note 60.*

¹⁵² Jureidini, Ray. Irregular Workers in Egypt: Migrant and Refugee Domestic Workers. *IJMS: International Journal on Multicultural Societies*. 2009, vol.11, no.1, pp. 75-90, UNESCO. ISSN 1817-4574. www.unesco.org/shs/ijms/vol11/issue1/art4.

¹⁵³ True, Jacqui. *The Political Economy of Violence Against Women: A Feminist International Relations Perspective*, 32. Australian Feminist Law Journal. 46, 39-69

¹⁵⁴ *Supra note 52*

exacerbate the struggle of refugees trying to find work. According to the UNDP Human Development Index (HDI), Egypt is ranked 116 out of 177 states in 2019, ranking below countries such as the Libya, Algeria and Iran¹⁵⁵. As a low-middle-income country, it suffers from two main problems: high illiteracy rates and rapid population growth¹⁵⁶. Due to these two main pressing concerns on the host country, there is immense pressure on the educational system as well as a high unemployment rate for Egyptian nationals. “Due to high unemployment in Egypt...the government places restrictions on foreigners’ right to work in order to protect its domestic labor force. Most of the Egyptians are either unemployed or underemployed, and even those with higher education have to often work in the informal sector.¹⁵⁷” Due to these reasons, it is highly unlikely that policies and laws in place will eventually change in the near future that will automatically grant refugees the right to work even after being granted refugee status. According to national law, refugees, must go through the same process to acquire a work permit like other foreign nationals, which within itself is essentially impossible for refugees, as the process of obtaining a work permit is essentially prohibitive. What can happen, however, at least as a starting point, is the provision of protection of domestic workers that work in the informal sector. Many refugees, asylum-seekers and failed asylum-seekers turn to this type of work as it is virtually the only kind offered to them, due to their preceding inability to acquire a work permit.

In regard to obtaining employment, refugees are subject to law No. 137 of 1981¹⁵⁸, refugees are treated as any other foreigner when obtaining the right to work legally in Egypt. Until 2003, the refugee blue card, an identity card issues by the UNHCR on behalf of the Egyptian government, was stamped with “Not permitted to work”¹⁵⁹. However, although there are many separate issues that refugees will face when trying to obtain a work permit, legally, they, like any other foreigner, may exercise their right to do so, as under Egyptian labor law, refugees are considered as foreigners¹⁶⁰.

¹⁵⁵ Human Development Report 2019. UNDP, 2019, <http://hdr.undp.org/en/content/2019-human-development-index-ranking>.

¹⁵⁶ *Ibid*

¹⁵⁷ *Supra note 85*

¹⁵⁸ *Supra note 45*

¹⁵⁹ *Ibid.*

¹⁶⁰ *Supra note 78*

Although this formal equality may seem ideal on the surface, it exacerbates the already existing dire conditions of refugees, as refugees are seldom able to provide the necessary paperwork to obtain a work permit, such as not competing with the nationals for the same vacancy, submitting an HIV test, travel documents, a copy of his/her passport, a letter of reference, legal documents such as the UNHCR refugee card, and finally, finding an employer who will agree to pay the work permit fee which can amount to 3000 EGP¹⁶¹. This is the perfect example of how intersectionality theory can be deployed to comprehend how formal/blanket equality provided to all refugees in general indirectly perpetuate the oppression of a distinct group, as it sweeps *all* refugees in one category, and treats them as such, failing to address their particularities.

Although Egypt has no reservations to Article 17 concerning employment, enabling refugees to work legally in Egypt¹⁶², it is extremely difficult in practice for a refugee to acquire a work permit. Not only is there no specific physical office where refugees can go to apply for a work permit, the UNHCR is also unable to provide work permits for its own refugee employees, such as their translators and interpreters. This means that the agency tasked with the responsibility to oversee refugees in Egypt has to illegally employ its refugee staff¹⁶³.

The RIT Project¹⁶⁴ is a comprehensive project that promotes and explores the lives of migrants and refugees by drawing on their experiences, as well as the host community, and works with refugees to develop case studies within the towns which they live. According to RIT (Cairo), a project that deals with the experiences of black refugees in Cairo, nearly 70% of the 565 Sudanese individuals who were interviewed for the purpose of this survey reported working in “casual day labor”¹⁶⁵. According to this report, the most common jobs are housecleaners, street vendors, factory workers, henna drawing/perfume making, and security guards¹⁶⁶. The data from this report, as well as the data compiled by Grabska in her report¹⁶⁷, found that most

¹⁶¹ *Ibid*

¹⁶² *Supra note 49*

¹⁶³ *Ibid*

¹⁶⁴ *Ibid*

¹⁶⁵ *Supra note 49*

¹⁶⁶ *Ibid.*

¹⁶⁷ *Supra note 85*

refugee women did domestic work. This is of special concern, as these women are forced to jeopardize their safety, in order to seek sustenance through informal and unregulated means, in a country and a system that inherently rejects them by cultivating a culture of neglect by failing to redress their oppression as black refugee women.

As most African refugee women virtually have no choice for employment except for in the informal sector, most of these women find work as maids, cooks, house cleaners and helpers, nannies, and other forms of domestic workers¹⁶⁸. This is of special concern because these women, who are already vulnerable due to their lack of legal protection, the hostile and racist environment in which they work, and the informal nature of their work where work is unregulated and lacks labor laws, these women find themselves in acute danger of sexual violence as well. In order to understand the ways, and why, black women, especially black refugee women suffer the brunt of sexual violence in Egypt, one must view the experiences of African refugee women's experiences in Egypt through an intersectional lens, and understand the concept of "racist-sexism", a term coined by Himani Bannerji¹⁶⁹, which helps explain the particular abuse that black refugee women face as opposed to their non-black counterparts.

A non-Black refugee woman working in domestic work may be susceptible to sexist and misogynistic harassment, but studies show that Black refugee women are confronted with racist-sexist remarks, due to the added layer of race to their identities. The Centre for Migration and Refugee Studies, in its 2007 study, discovered that "59% of foreign domestic (African, non-Arab) workers in Cairo are exposed to verbal abuse by their employing families, with 30% are being insulted, 27% are being physically abused, and 10% exposed to sexual harassment, attempted rape and gang rape"¹⁷⁰.

The same study showed that African domestic workers are increasingly faced with racial discrimination and human rights violations, and due to the informal nature of their work, they

¹⁶⁸ *Supra* note 49

¹⁶⁹ Bannerji, Himani. "Building from Marx: Reflections on Class and Race." *Social Justice*, vol. 32, no. 4 (102), 2005, pp. 144–160. JSTOR, www.jstor.org/stable/29768341. Accessed 7 Apr. 2020.

¹⁷⁰ El-Sheikh, Sarah. "Hell in the Household for Domestic Workers in Egypt." *Al Bawaba*, 21 May 2015, www.albawaba.com/business/hell-household-domestic-workers-egypt-697524.

are not protected by Egyptian labor laws¹⁷¹. The abuse experienced by African refugee domestic helpers ranges from “racial discrimination to sexual harassment¹⁷²”.

Further expanding on the notion of racist-sexism, the abuse that Black refugee women working as domestic helpers is telling of this reality. The verbal abuse hurled at these women ranges from “*abda* (slave)”, “*kalb aswad* (black dog), *ya aswad* (you black one)” “*bint al wiskha* (dirty girl)” and “*sharmouta* (prostitute)¹⁷³”. Not only are these slurs sexist, but these slurs have a racist dimension to them, as non-Black domestic workers will not be called “slaves”, “black dogs” or “you black one”, deeming this racist-sexism.

Bannerji makes a point in defining racist-sexism, a definition of utmost relevance when understanding the oppression faced by black refugee women in Egypt. In her definition, she states that “this combination of "race," gender, and class is often expressed through the concept of "intersectionality," in which three particular strands of social relations and ideological practices of difference and power are seen as arising in their own specific social terrain, and then crisscrossing each other "intersectionally" or aggregatively”¹⁷⁴. Bannerji’s concept of racist-sexism, and Kimberlé Crenshaw’s work on intersectionality helps in understanding the reality faced by Black refugee women in Egypt. Crenshaw initially uses the concept in her 1989 essay to tackle and discuss the marginalization of Black women in feminist and antiracist theory and politics viewed through antidiscrimination law. She further expanded on her work on intersectionality two years later in her critical essay “Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color.”¹⁷⁵

In this article, Crenshaw discusses the recent developments in political organizations, namely the growing number of political movements based on identity politics. She mentions the Civil Rights movement primarily organized by African Americans, and the feminist’s movement

¹⁷¹ *Supra note 129*

¹⁷² *Ibid.*

¹⁷³ Jureidini, Ray. Irregular Workers in Egypt: Migrant and Refugee Domestic Workers.11 IJMS. 88,75-90 (2009) www.unesco.org/shs/ijms/vol11/issue1/art4

¹⁷⁴ *Supra note 129*

¹⁷⁵ Crenshaw, Kimberlé. “Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color.” *Stanford Law Review*, vol. 43, no. 6, 1991, pp. 1241–1299. *JSTOR* www.jstor.org/stable/1229039.

organized by women. She discusses in this article how a byproduct of these identity movements is the erasure of intragroup differences, and thinking more broadly, within the context of refugees in Egypt, providing formal equality to all refugees in general causes the same effect: it allows for the erasure of distinct groups within this overall group, which leads to their invisibility and consequent oppression. In other words, by failing to recognize their specific identity, the law contributes to their marginalization. The various and fragmented refugee instruments in Egypt fail to address the specific needs of Black refugee women in specific, and when this happens, they become invisible before the law, and any potential remedial measures vanishes as well.

Positioned in the Egyptian context, this article gives us a lens to understand and analyze the ways in which women with intersecting identities of race, gender and class are vulnerable and how their vulnerability is perpetuated due to their collective identity being ignored as a disadvantaged group, and the State's failure to redress their oppression further leads to the exacerbation of their inequality, and the continued marginalization and subordination of this group.

Egypt's racist history provides a challenging and unwelcoming environment for all African refugees; however, African refugee women suffer the most within this state-sanctioned culture of neglect as this racist history also has a gendered dimension. This group endures oppression from different facets, such as their race, gender and class, which merges into one collective experience of violence and exploitation, which takes place right before the eyes of the law which at the least, must provide a framework where they are not oppressed due to their disadvantaged identity of black, refugee, and women.

6. Concluding recommendations

As it has been demonstrated, the Egyptian government fails to play a constructive role in the lives of refugees, and the UNHCR, through its MoU with the Egyptian government, has inherited the government's responsibility towards refugees and attempts to fill the void. Until today, the lack of interaction between the Egyptian government, its duty towards refugees and the various legal frameworks (international and national) regarding refugees continues to allow Egypt to be successful in rejecting its legal obligation towards its refugees. The government's passing on of its responsibilities to other actors, who at best "plug a few holes" seem to be the modus operandi of dealing with refugees. In an example that is representative of a larger problem, when it comes to employment, this culture of neglect forces refugees to go underground, forced to get by while in legal limbo, jeopardizing their safety, to seek sustenance through informal and unregulated means, in a country and a system that inherently rejects them. Black refugee women are under constant attack on different dimensions. Their collective identity as Black, refugee women within the social and political context of Egypt, and the failure of the legal frameworks that are designated to govern refugees in Egypt to redress the inequality that Black refugee women face in different realms as they interact with the different laws, demonstrates how the intersecting legal frameworks marginalize African refugees in Egypt, especially African refugee women. Through their intersectional identities based on their class, race, and gender, African refugee women face layers of oppression, which is overlooked by the very laws that are in theory supposed to provide them with protection. The legal framework provided by the government, by providing formal equality for all refugees, in fact fails to address the layers of oppression faced by Black refugee women in Egypt, and instead perpetuates it.

This paper demonstrated the gaps that occur when the overlapping and intersecting legal frameworks regarding refugees in Egypt interact with Black refugee women. Black refugee women under the various legal frameworks are enclosed in pre-established categories, which does a disservice to their collective identities as Black refugee women, and subsequently obscuring the inequality that they face on a daily basis, which in turn exasperates their oppression and the inequality which they endure. By shedding light on the plight of African

refugee women, within the social and political context of Egypt as a host country, it can open up avenues and channels that perhaps can create more determinant and clear laws that address disadvantaged groups directly, whether it is Black refugee women, refugees who ascribe to the LGBTQ+ community, among others. The social and political environment and the intersecting legal frameworks designated to govern refugees in Egypt work in tandem to create a less-than welcoming environment for refugees. Although Black refugee men and women suffer in similar realms, Black refugee women experience more inequality as the oppression that they face not only exacerbated by their preceding legal, social, and financial status, but it also has a gendered dimension.

Recommendations:

As this paper addresses the oppression faced Black refugee women, the following recommendations will be in regard to this group—that is not to say that the systems in place that govern refugees in general in Egypt cannot benefit from a deep overhaul.

One of the main aspects that can be undertaken in order to ensure better quality of life for Black refugee women in Egypt is to increase access to protection for domestic workers, as most refugees and asylum-seekers and failed asylum-seekers find themselves working in this type of job¹⁷⁶. Generally speaking, there needs to be more interaction between the host government and refugees, as the UNHCR's MoU is outdated and evidently lacking. More protection mechanisms should be installed for refugees and asylum-seekers, who are shunned from seeking protection as some studies show that they face greater harassment on the part of police when reporting incidents¹⁷⁷. Most importantly, as incoming migration sees no possible decrease in the future, it will be beneficial to include more robust and holistic community engagement projects between refugees and the host community, so refugees can be viewed as human beings, rather than Others, or a threat.

¹⁷⁶ *Supra note 4*

¹⁷⁷ *Supra note 49*

The Egyptian government should include domestic work in its Labor Code which will allow domestic workers to be regulated and protected by the law, or create a new protection mechanism for domestic workers which will include a new mechanism for filing and handling complaints, and installing a mechanism to justly handle complaints of maltreatment and other abuses. As going to the police to file reports and complaints is a tried and untrusted channel, perhaps the UNHCR can include in its policy programming a less tone-deaf approach when dealing with a particular group of refugees whose struggles are overlooked.

More concretely, refugees should not be treated as “all other foreigners” in obtaining a work permit because they don’t share the same economic liberty as foreigners and migrants to obtain the overly pricey work permit. There should be a separate and parallel channel in which refugees can obtain a work permit which does not lump them up with “foreign nationals”, a more sensitive approach to the economic difficulties refugees and asylum-seekers already experience. Moreover, as covered in the preceding chapter, obtaining a work permit is prohibitive for refugees and asylum-seekers, not only in regards to its cost, but also the paperwork needed, which may require individuals to get papers formally stamped or issued at their respective embassies, which is impossible for refugees and asylum-seekers.

Recognizing the prohibitive nature of acquiring a work permit for refugees, the government can lift/decrease/change the restrictions that are in place in order to access employment, as the requirements currently in place assumes that the refugee and the foreigner were already equal to begin with, which is never the case. The laws regarding “foreigners” and “refugees” should be separate: foreigners may not necessarily fit within the refugee category; they can be well-off economic migrants. Therefore, this requirement which treats all non-citizens is highly tone-deaf, and highly detrimental and devastating to refugees and asylum-seekers as most cannot fulfil the requirements, furthering alienating and marginalizing them.

The Egyptian government needs educate its national authorities into recognizing and accepting the yellow and blue refugee cards as valid ID, as many refugees have reported that police do not recognize or accept these cards as forms of ID, and instead require to see national ID,

something refugees and asylum-seekers obviously do not possess. As the main dispenser of affairs of refugees, the UNHCR should take this more seriously the educating of police and other authorities.

Black refugee women in Egypt are faced with many interwoven prejudices due to their multidimensional identity. They are multi-burdened due to their race, their social standing, their legal status, and their gender. However, in all of the refugee instruments, no law or decree was located that recognized the particularity of Black refugee women and the corresponding struggles. By including this overlooked group of people in their programming and policies, the UNHCR can begin with recognizing this group as a distinct group with distinct struggles, and consequently tailor programs and policies, community engagement and other social cohesion programs in order to better address their issues.

By overlooking their collective identity, the law inadvertently perpetuates their inequality, further contributing to their subordination and marginalization. There needs to be more robust and determinant laws and policy programming that recognize and identify issues faces and needs of this particular group. For starters, the law can start with the identification of this group, in order to make significant remedial measures that will make it easier for them to access social services and navigate life in Egypt.