

American University in Cairo

AUC Knowledge Fountain

Archived Theses and Dissertations

2007

The role of law in economic development: The Nasser era 1952-1970

Mohamed Kamel Saleh

The American University in Cairo AUC

Follow this and additional works at: https://fount.aucegypt.edu/retro_etds



Part of the [Law and Economics Commons](#)

Recommended Citation

APA Citation

Saleh, M. K. (2007). *The role of law in economic development: The Nasser era 1952-1970* [Thesis, the American University in Cairo]. AUC Knowledge Fountain.

https://fount.aucegypt.edu/retro_etds/2391

MLA Citation

Saleh, Mohamed Kamel. *The role of law in economic development: The Nasser era 1952-1970*. 2007. American University in Cairo, Thesis. *AUC Knowledge Fountain*.

https://fount.aucegypt.edu/retro_etds/2391

This Thesis is brought to you for free and open access by AUC Knowledge Fountain. It has been accepted for inclusion in Archived Theses and Dissertations by an authorized administrator of AUC Knowledge Fountain. For more information, please contact fountadmin@aucegypt.edu.

THE ROLE OF LAW IN
ECONOMIC DEVELOPMENT
THE NASSER ERA
1952-1970

MOHAMED KAMEL SALEM

2007

LIBRARY
USE
ONLY

Thesis
2007/14

2007 / 14

The American University in Cairo

School of Humanities and Social Sciences

The ROLE OF LAW IN ECONOMIC DEVELOPMENT: THE NASSER ERA
1952-1970

A Thesis Submitted to the

Department of Law

in partial fulfillment of the requirements for
The LL.M. Degree in International and Comparative Law

By

Mohamed Kamel Saleh

May 2007

The American University in Cairo
School of Humanities and Social Sciences

Department of Law

The ROLE OF LAW IN ECONOMIC DEVELOPMENT: THE NASSER ERA

1952-1970

Mohamed Kamel Saleh

May 2007

In partial fulfillment of the requirements for
(LL.M. Degree in International and Comparative Law)
Has been approved by

Professor Amr Shalakany

Thesis Supervisor

Affiliation

Date

Amr Shalakany
Asst Prof
27/5/07

Dr. Enid Hill

Department Chair

Date

Enid Hill
28-05-07

Dr. Ann Lesch

Dean of HUSS

Date

A Lesch
24/5/07

The American University in Cairo

School of Humanities and Social Sciences
Department of Law

**The ROLE OF LAW IN ECONOMIC DEVELOPMENT: THE NASSER ERA
1952-1970**

Mohamed Kamel Saleh

Supervised by: Amr Shalakany

ABSTRACT

This paper introduces the legal framework for economic development during the Nasser era as an indication of how the ruling elite viewed the role of law in the country's socialist transformation. I argue that one of the leading reasons for the Nasser-administration's failure to achieve its economic development targets resulted from underestimating the role of law in economic development.

TABLE OF CONTENTS

I.	Introduction.....	1
II.	IMPORT SUBSTITUTION-INDUSTRIALIZATION	4
	A. Post World War II: Economic theories.....	5
	1. Rodan: The Big Push.	6
	2. Nurkse: A theory of Balanced Growth	9
	3. Albert O. Hirschman: Unbalanced Growth Theory	11
	4. Lewis: Growth with unlimited supplies of labor	12
	B. General Framework.....	13
	1. Rejection of the market solution.....	14
	2. Key role of capital formation.....	15
	3. Isolation from developed countries.....	15
	C. Late vs. late-late industrialization	16
	D. ISI in Brazil.....	17
	E. ISI in Tanzania	20
III.	NASSER'S ECONOMIC PACKAGE: 1952-1970	22
	A. Egypt before the Revolution	22
	B. Egypt after the Revolution 1952-1970.....	23
	1. Agrarian Reform.....	24
	2. Industry in Egypt.....	27
IV.	NASSER'S LEGAL PACKAGE.....	39
	A. Agrarian Reform Laws.....	39

B. Corporations' laws	42
C. Labor Laws.....	46
D. Confiscation, Nationalization, & Sequestration.....	49
E. Rent Control Laws.....	54
V. Conclusion	62

I. Introduction

In 1952, a military coup was carried out by a group of officers of the Egyptian army calling themselves 'Free Officers'. Their goal was to take control over Egypt's leadership and replace the Royal Family's leadership. Since that time, the idea of an active dominant government in society has been the sine qua non doctrine of economic development. Nasser, the rebellions' leader, had no economic or legal agenda during the early years of the Revolution. Rather, strong and decisive measures were taken to correct past injustices, build new institutions, and seek social justice. Nasser found that legislating new laws was the easiest solution to make the radical changes he desired. The first of these laws was in 1952 when Nasser issued law no. 178 on land reform limiting ownership of cultivated land, followed by other laws confiscating land and property of the royal family.

A remarkable turning point in Nasser's era was the issuance of Social legislations in 1961. This legislation represented a grave breach of the Egyptian Constitution; and postponed the provisions of the Civil Code. Nasser's administration underestimated the rule of law; it wanted to implement its ideology with no respect for the rule of law. Moreover, Nasser's regime viewed the independent legal system – particularly the judiciary – as a potential threat for applying his philosophy. Consequently, Nasser took measures to ensure the dependency of the judiciary, resulting in a clash between Nasser and the judiciary after the disastrous defeat of the Egyptian military in 1967. He removed the legal professions, such as lawyers from any ruling positions. Whereas lawyers had

been prominent in earlier governments, Nasser's Cabinets typically comprised only 10-15 percent of members of the legal profession.¹

The reasons for Nasser's regime failure been largely debated. Those who analyzed Nasser's administration policies focused on economic policies as the main cause of Nasser-administration's failure to achieve its goals. Few have focused on the role of law in economic development during Nasser's era. Moreover, few have discussed how the ruling regime during Nasser's era viewed the role of law in economic development. Did they view law as an instrumental tool for achieving their targets? Alternatively, did they realize the importance of the role of law in achieving economic development?

In this paper, I argue that Nasser's ruling elite's failure to achieve their targets is not just for economic reasons. Rather, one of the reasons for Nasser-administration's failure to achieve its goals is its underestimation for the role of law in economic development. In addition, Nasser's administration failed to respect the rule of law at that era.

This paper is divided into three chapters, Chapter one discusses economic theories, which evolved at the post World War Two Period and assisted in formulating the Import Substitution-Industrialization policy and its application in Brazil and Tanzania. Chapter Two introduces Nasser's economic policy in Egypt during his

¹ Delwin A. Roy and William T. Irelan, *Law and Economics in the Evolution of Contemporary Egypt*, 25 Middle Eastern Studies, 163-188 (1989) at 167.

leadership and the measures he took for its implementation. Chapter three discusses Nasser's legal package and its effect on the development process. Finally, it concludes with a discussion of how Nasser's regime's failure to achieve its development goals was not related to economic factors per se. Rather the regime's disrespect for the role of law in economic development as well as the rule of law were significant factors in such a failure. Moreover, Nasser's regime, in seeking rapid and radical change, ruled Egypt with an authoritarian dictatorship ideology disrespecting the rule of law as well as the role of law in economic development.

II. IMPORT SUBSTITUTION-INDUSTRIALIZATION

One of the earliest general strategies of development is Import Substitution-Industrialization, (ISI). ISI, in one form or another prevailed in many developing countries during the 1950s and early 1960s. It evolved and implemented in developing countries during the postcolonial period after the Second World War. Developing countries during that era realized that colonialism is not only military, but also could take the form of economic colonialism, which would exist if they liberalized trade and welcomed products of developed countries into their domestic markets. In emphasizing the same meaning, According to President Sukarno of Indonesia: "Colonialism has also its modern dress, in the form of economic control, intellectual control, actual physical control by a small but alien community within the nation. It is a skilful and determined enemy, and it appears in many guises. It does not give up its loot easily. Wherever, whenever and however it appears, colonialism is an evil thing, and one which must be eradicated from the earth."²

The challenge of developing countries during the postcolonial phase was how to ensure the independence of their economies without foreign intervention in their markets in the form of economic control. One of the means of ensuring economic independence during that era was to prevent foreign imported goods from entering the domestic market. Developing states believed that industrialization must take place in order to provide people with essential goods without relying on foreign imported products.

² President Sukarno of Indonesia, Speech at the opening of the Bandung Conference, 1-19 (April 18 1955), at 1, available at Africa-Asia Speaks from Bandung, (Djakarta Indonesia Ministry of Foreign Affairs, 1955), 19-29.

This chapter introduces the main theories that assisted in formulating Import Substitution- Industrialization policies started with Rodan: The big push, followed by Nurkse: A theory of balanced growth, then followed by Albert O. Hirschman: Unbalanced growth theory, and then followed by Lewis: Growth with unlimited supplies of labor. In addition to that, it will introduce the general framework of the Import Substitution- Industrialization policies including general framework of Import Substitution- Industrialization, Rejection of the market solution, Key role of capital formation, Isolation from developed countries. Further, it will introduce the implementation of ISI in Brazil and Tanzania.

A. Post World War II: Economic theories

Import substitution was not a standard pattern that developing states could follow in the same manner. Ways of implementations differed from one country to another according to policy makers' and economists' views regarding this policy. Diverse ways of implementation evolved from the divergence of the economic theories created after the Second World War. Policy-makers' dream of achieving self sufficiency and industrializing without relying on foreign products forced them to choose the theory that fit best their way of thinking. Early economists such as Ragnar Nurkse, Paul Rosenstein-Rodan, Albert Hirschman, Sir Arthur Lewis, and Walt Whitman Rostow had different views and recommendations regarding hoe to foster economic growth. Their thinking influenced the thinking of many economists and policy makers at that time.

After the Second World War, several economists turned their attention to the question of economic development of less-developed regions. Among these early pioneers of development thinking were the Finish economists Ragnar Nurkse, the Austrian economist Paul Rosenstein-Rodan, the German born economist Albert Hirschman, the West Indian and latter Nobel Laureate economist, Sir Arthur Lewis, and the American economic historian Walt Whitman Rostow. The ideas of these early development economists supported economic growth for developing countries. They formed a school of thought on the issue of economic development. These early development economists had a notable preference for industrialization as the driving force of economic growth, believing industrialization would release a tide of prosperity lifting all other sectors of the economy. They were advocated large-scale, short-term governmental intervention into the economy. They viewed markets as means to realizing the end of economic development; they were not an end in themselves. Nevertheless, their theories differed regarding means of implementation.³

1. Rodan: The Big Push.

Paul Rosenstein-Rodan formed one of the earliest theories about how a country might create conditions of economic growth, where growth and development had not arisen spontaneously, based upon research he had conducted during the Second World War. Rosenstein-Rodan drew a number of conclusions, which became basic building blocks for the field of development economics emerging after the war. He emphasized that

³ Cypher, James M. & Dietz, James L. (ed.): THE PROCESS OF ECONOMIC DWVVLOPMWNT, New York: Routledge: at 135-64, 137 (1997).

large- scale planned industrialization projects in various sectors could assist in fostering economic development, as follows:

A 'big push' of concurrent industrial investments could launch a chain reaction of virtuous circles and complementary investments that would then ripple in many directions through the economic sector. Large-scale investments in several branches of industry would lead to a favorable synergistic interaction between these branches and across sectors. If economic development was to get a start in the now less-developed nations, Rosenstein-Rodan argued, it would have to come from a concerted and substantial 'push' from government to create, effectively, an entire industrial structure in one huge and interlocked undertaking.⁴

Rodan showed great interest in fostering economic growth through establishing an encompassing industrial structure in several major sectors through a huge and interconnected undertaking that was the responsibility of the government. He emphasized the role of government to provide that impetus since private individual entrepreneurs would be unlikely to invest enough to push the less-developed economy because under the profit and loss calculations their frame of reference would be too limited. For instance, "profit maximizing steel producers are not concerned about whether their own private investments, if sufficiently large, will induce other investments and technical change in metallurgy, which will then make the industry more profitable."⁵

Backward linkage effects, which may be provoked by the investment action of the steel industry, were not taken into consideration. Using Rosenstein Rodan's terms, the steel industry cannot appropriate the future potential benefits to be gained in other sectors

⁴ *Id.* For detailed information about Rodan's 'Big push' theory, see Paul Rosenstein-Rodan, *THE THEORY OF THE 'BIG PUSH'*, in Gerald Meier (ed.), *LEADING ISSUES IN ECONOMIC DEVELOPMENT*, 3rd edn. Oxford: Oxford University Press, 1976.

⁵ *Id.*

that are external to their business and hence they do not consider these effects in making their private investment decision. Consequently, insufficient economic development would occur because the private sector mechanisms in place in less-developed societies lead to economic decision-making that is inappropriate for public interest.

Moreover, individual entrepreneurs or market mechanism were not interested in what he called "social overhead capital or infrastructure,"⁶ such as roads, bridges, hospitals, and schools, though their establishment would generate positive external benefits to society as a whole. For instance, "if schools are built and operated under the profit motive, then they will be available only for the child whose parents can pay. Bright and ambitious children of poor parents will be less likely to gain needed skills, and society's labor force will be under-skilled and operating below its potential as a consequence."⁷ Hence, the hidden potential of the future labor force may never be realized if the market is left to provide social over-head capital, such as schools.

Summing up his own contribution to development economics, Rodan claimed that he had made four innovations. "First, he had stressed disguised unemployment, that is, those workers, particularly in agriculture, who receive very low, or no pay and whose work effort results in relatively little increase in total output."⁸ Their effort could be shifted to establishing social capital without decreasing output in the economy. Second, "Rosenstein-Rodan demonstrated that large-scale investments could have an impact on overall economic growth greater than might be expected based on the calculations of

⁶ *Id* at 138.

⁷ *Id* at 139.

⁸ *Id*.

individual entrepreneurs alone.”⁹ Third, “Rosenstein- Rodan’s third innovation was his emphasis on social overhead capital. Such investments, he argued should precede the expansion of consumer goods manufacturing investment if the latter is to be successful.”¹⁰ Fourth, “a ‘big push’ of investment through the economy could result in technological external economies. These effects he defined in terms of work force training.”¹¹

2. *Nurkse: A theory of Balanced Growth*

Nurkse, like Rosenstein Rodan, emphasized above all the need for a coordinated increase in the amount of capital utilized in a wide range of industries through massive injection of new technology, new machines, and new production processes spread across a broad range of industrial sectors held the key to achieving the development process in less-developed nations.¹²

Nurkse rejected the export-led road to development. He argued that developing countries who concentrate on increasing their exports of tropical products and raw materials, products in which they have a comparative advantage, would not achieve economic development for two basic reasons: “First, Nurkse maintained that in future the world demand for tropical products and raw materials would be relatively limited and slow to expand. An increase in supply under such under such conditions would result in a decrease in the market price. The reduction in price could be of such a magnitude that the

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* at 140.

¹² *Id.*

total revenue received "(=unit price x quantity of the product sold on the world market) after an increase in supply could be less than the export income that was received prior to the drive to increase such exports."¹³ The second reason for his rejection of the export-led road to development was based on Nurkse's interpretation of the tendency to import. It was assumed that a less developed nation with the ability to export either tropical or raw materials would use the income earned to import machinery, equipment, and manufactured consumer goods for domestic consumption. Hence, Trade would balance since the value of exports would equal the value of imports.¹⁴

In describing the causes of poverty in the developing regions, Nurkse believed that less developed regions were poor because productivity per worker was low since savings were low. In Nurkse's view, the market-based approach would more than likely fail since an individual business or a single industry alone attempted to raise its output level by increasing its individual capital investment.¹⁵

The only solution that Nurkse provided, as had Rodan was by balanced growth through large-scale increases in supply sweeping across a large number of industrial sectors. At the same time, this would be met by a large-scale increase in demand created by the same expansion. However, Nurkse did not advocate planning, as did Rosenstein Rodan, nor did he advocate large-scale government involvement in production decisions. Nevertheless, he advocated government's forced savings since the capital formation would occur through imposing high taxes on upper income recipients. The government

¹³ *Id.*

¹⁴ *Id.* at 141.

¹⁵ *Id.*

would then limit the level of consumption out of national income, thereby increasing the level of overall savings. The increased investment funds generated from savings could be allocated for the most promising industrial sectors. He advocated imposing high tariffs against cheaply manufactured imports from the advanced nations that might compete with the production of the new enterprises.¹⁶

3. *Albert O. Hirschman: Unbalanced Growth Theory*

Not all development economists believed that the resources needed for implementing a big push or a balanced growth strategy was available. One of those economists was Albert O. Hirschman. Hirschman agreed on the vast bulk of the ideas expressed by both Rodan and Nurkse. However, he emphasized that economic development needs a big push for only a limited range of industries. According To Hirschman, economic development is as follows:

Hirschman advocated a big push for only a limited range of industries, with the idea that by inducing development in key sectors first, over capacity would be created in these sectors, while supply bottle necks would simultaneously increase production difficulties elsewhere in the economic structure. These bottlenecks would create pressures for new investments to resolve the supply inadequacies. In other words, Hirschman deliberately advocated the unbalancing of the economy, creating disequilibrium situations.¹⁷

¹⁶ *Id.* at 142. For more information about Nurkse's economic theory, see Ragnar Nurkse: *Problems of Capital Formation in Underdeveloped Countries*, New York, Oxford University Press, (1953), Ragnar Nurkse, PATTERNS OF TRADE AND DEVELOPMENT, IN GOTTFRIED HABERLER AND ROBERT STERN (eds), and *Equilibrium and Growth in the World Economy*, Cambridge, MA: Harvard University Press, 282-336 (1962).

¹⁷ *Id.* at 144. For more information about Albert O. Hirschman, see Albert O. Hirschman, *The Strategy of Economic Development*, New Haven, and CT: Yale University Press, 1958.

One of Hirschman's best-known ideas was industrial linkages. When one industry expands, it requires inputs from other industries to be able to produce. These are called backward linkages. On the other hand, when an industry sells and transports its production to other firms and sectors in the economy, these are the forward linkages.¹⁸

4. *Lewis: Growth with unlimited supplies of labor*

The theory of Growth with unlimited supplies of labor is the foundation of Sir Arthur Lewis. He shared the idea of other development economists that industrialization was the route less developed nations needed to pursue to escape poverty and achieve a higher level of economic and social progress. However, he was not an export pessimist. On the contrary, he drew the conclusion that "rising incomes and rising level of production in the already developed nations would call forth a stronger demand for tropical products and raw materials. Thus the promotion of such exports promised higher levels of export income in the future."¹⁹

Lewis, as did Rodan, emphasized that labor in the agriculture sector can be utilized in the industrial sector in order to increase economic output. Lewis's view is that there was a high rate of consumption by a specific sector in developing countries that presents an economic surplus that must be utilized by raising the tax burden on the highest income recipients. "Lewis advocated raising the tax burden on the top 10, or the top 20 percent of income recipients to the point that government would receive 20 percent

¹⁸ *Id.* at 144-145.

¹⁹ *Id.* at 148. For detailed information about Lewis's theory, see Arthur Lewis, *Economic Development with Unlimited Supplies of Labor*, *Manchester School of Economic and Social Studies*, 139-91 (1954). And Arthur Lewis, *DEVELOPMENT ECONOMICS IN THE 1950S*, in Gerald Meier (ed.), *Pioneers in Development*. Oxford: Oxford University Press, 121-37 (1984).

of national income. The state, in turn, would devote roughly 60 percent of those revenue, or 12 percent of national income, to basic public services, such as schools, hospitals, social security, and 40 percent of tax revenues (8 percent of national income) to public capital formation or social overhead capital.”²⁰

To sum up, policy makers and economists while implementing the import substitution policy may have applied one or more of those theories that are illustrated above. All theories share the main concept of import substitution industrialization. However, they differ in defining means for formulating domestic capital used in the industrialization process.

B. General Framework

Economic theories, which evolved after World War Two, rejected market solutions as a path to foster economic development. Economists during that era supported governmental intervention, in one way or another, in the market in order to achieve economic development. However, the capital needed for development was the main obstacle to fostering the economy of post colonial states. Moreover, post colonial states’ fear of domination of foreign products over their domestic markets was one of the main incentives for applying ISI policies.

²⁰ *Id* at 156.

1. *Rejection of the market solution*

The view that a more or less free market would not solve the development problem was widely accepted. A commonly appreciated view in that era was that markets and free trade would not change the situation of developing countries. Opponents to the Import Substitution-Industrialization policy believed that market solutions would not achieve growth and development in poor countries. "[T]he specific arguments about the terms of trade were buttressed by more general views that the market was an instrument that kept poor countries poor and rich countries rich."²¹

The reasons for this view were that leaders that had led their countries to independence had lived their adult lives during two world wars, and had suffered from wars and military occupation to their lands. They were afraid of any foreign intervention in their states' sovereignty, even at the market level. The fear from the "center" and "periphery" had often occupied their thinking. The center/periphery theory simply means that developed countries, center, and utilize from developing countries', as the periphery, minerals, and raw materials. Further, they force developing countries to produce or provide the center with products that they require. Leaders in that era found themselves in a situation that the market solution could not be acceptable. They found that the only path for this economic crisis is to be independent at both the military and the economic level. Leaders found in the ISI policies the solution for all their economic problems.

²¹Singer (1950) and Prebich (1950) are early statements of this position at, Henry J. Bruton: *Journal of Economic Literature*, vol. 36, no.2, 903 (June 1998) at 905.

Scholars and policy makers that supported the ISI policies believed that the appropriate strategy for development and economic growth was to manufacture products that meet the basic needs of the local market to avoid the domination of the foreign products over the domestic market. Moreover, they rejected the market solution to foster economic growth. Rather, they advocated governmental intervention in order to achieve economic development through industrializing the basic needs of the domestic market.

2. Key role of capital formation

During the 1950s and early 1960s, economists, and policy makers believed that they must establish a large scale comprehensive economy capable of manufacturing essential goods that fulfilled the domestic needs without relying on imports. In order to establish a large scale comprehensive economy that was capable of manufacturing domestic goods, the process of capital formation needs to be taken into account. According to Henry J. Bruton, capital formation is a must for establishing a large scale comprehensive economy, “[t]he most obvious difference between firms in rich countries and those in poor ones was the extent to which physical capital was available to work with the labor.”²²

3. Isolation from developed countries

One of the main characteristics of ISI policy is the isolation of developing countries from developed countries specifically and other countries generally. The idea is to keep out

²² *Id* at 907.

that which is now imported from abroad and produce it at home. Isolationism, which is implemented through various means, is designed to protect domestic products from foreign products infringement. Laborers are encouraged to manufacture essential goods; luxury products do not exist. Opponents of this theory argued that luxury products are not needed, and consumed. However, developing countries were not isolated completely according to some economists.

C. Late vs. late-late industrialization

Import substitution industrialization starts with the manufacture of finished consumer goods that were previously imported and then moves on to the higher stages of manufacture, that is, to intermediate goods and machinery, through backwards linkage. The bulk of new industries are in the consumer goods sector and as they are undertaken in accordance with known processes, based on imported inputs and machines, the relation between industrialization and import substitution become sequential. This is its principal difference from industrialization in the advanced countries. However, developing countries, new comers to industrialization, are called late-late comers. Industrialization is here at first a matter of imitation and importation of tried and tested processes. Further, late-late industrialization may be contrasted not only with that of the presently advanced industrial countries in general, but particularly with that of the so called late comers among them. Gerschenkron has depicted the late industrialization of countries like Germany, Italy, and Russia through the following proposition:

- 1- The more backward a country's economy, the more likely was its industrialization to start discontinuously as a sudden great spurt proceeding at a relative high rate of growth of manufacturing output;
- 2- The more backward a country's economy, the more pronounced was the stress in its industrialization on bigness of both plant and enterprise;
- 3- The more backward the country's economy, the greater was the stress upon producers' goods as against consumers' goods;
- 4- The more backward a country's economy, the heavier was the pressure upon the levels of consumption of the population;
- 5- The more backward a country's economy, the greater was the part played by special institutional factors designed to increase the supply of capital to the nascent industries and' in addition, to provide them with less decentralized and better informed entrepreneurial guidance; the more backward the country, the more pronounced was the coerciveness of those factors;
- 6- The more backward a country, the less likely was its agriculture to play any active role by offering to the growing industries the advantages of an expanding industrial market based in turn on the rising productivity of agricultural labor.²³

Of these six characteristics, only the last one applies unconditionally to the late-late industrializers. Special institutions designed to supply capital and entrepreneurial guidance (point 5), became important in most of Latin America after the ISI process had already been underway as a result of private, decentralized initiative for a considerable time. As to the remaining four points, almost the opposite could be said to hold for our late-late comers. Their industrialization started with relatively small plants administrative "last touches" to a host of import inputs, concentrated on consumer rather than on producer goods.²⁴

D. ISI in Brazil

Brazil is one of the Latin America's countries that faced the problem of economic development after the Second World War. Like other developing countries, Brazil's economy was dependent on the traditional export of agricultural raw materials that it had a comparative advantage such as: coffee, coca, sugar, and cotton. However, economists

²³ Alexander Gerschenkron, *ECONOMIC BACKWARDNESS IN HISTORICAL PERSPECTIVE* (Cambridge, Mass: Harvard University press, 1962), 343-44, at Albert O. Hirschman, *The Political Economy of Import-Substituting Industrialization in Latin America*, 82 *Quarterly J. Econ.* 1 (1968) at 8.

²⁴ *Id.*

after the Second World War realized that the demand for developing countries' raw materials would decrease in the future.²⁵

Hence, Brazilian policy makers saw industrialization as their way to growth. However, the fear of competition between foreign and domestic goods, which would result in domination of foreign goods over the domestic ones, in the case of liberalizing trade, forced them to establish high trade barriers to hinder the entrance of foreign goods. Brazilian policy makers realized that applying ISI policies was necessary to achieve a high rate of growth.

Brazil implemented its ISI strategy by establishing the import licensing system from 1947 to 1953, and the multiple exchange rate system from 1953 to 1957 as direct trade control measures on consumers' goods. However, criticism at that time arose on the ground that those protection measures were protecting non-essential consumer goods rather than protecting basic or essential goods of consumers.²⁶

Moreover, certain measures and decrees had been taken in early 1955 to push the industrialization process. For instance, "In early 1955 a decree was issued by the central bank authorities who enabled foreign investors to import capital without the need of exchange cover, if the investment was deemed desirable for the authorities for the

²⁵ Supra, note 3 at 141.

²⁶ Werner Baer; Issac Kerstenetzky, *The American Economic Review*, Vol. 54, No. 3, Papers and Proceedings of the Seventy-sixth Annual Meeting of the American Economic Association, 411-425 (May, 1964), at 413.

development of the country. This was a great stimulus to the inflow of foreign capital, much of it directed into industries considered basic, like motor vehicles, steel, etc. . . .”²⁷

Brazil also issued the “law of similar” which allowed producers of a certain product similar to an imported one-claim protection for their manufactured products. This claim of protection is the basis for substantial tariff protection for certain products and a high and protective exchange rate. In addition, “sufficient quality and quantity” which is necessary to render protection was applied flexibly to encourage domestic products. Due to the fear of being excluded from the market, foreign firms in Brazil established industries supplying the initial products that were necessary for industrialization. However, the law encouraged local capital to establish supplying firms.²⁸

In the 1950s, Brazil established a development bank to finance certain infrastructure projects to enhance vertical integration in the Brazilian economy.²⁹ Industrialization’s key sectors in Brazil in the 1950s and early 1960s were consumer durables, basic intermediates, and even capital goods. Brazil was no more applying unified exchange rates, favoring Import Substitution, and penalizing exports.³⁰ Additionally, according to two well-known economists, some industries received exemptions: “favored industries received exemptions from duties on imports of capital and intermediate goods, favorable exchange rate treatment for the repayment of foreign

²⁷ *Id.* at 414.

²⁸ *Id.*

²⁹ *Id.*

³⁰ Samuel A. Morley, Gordon W. Smith, *Import Substitution and Foreign Investment in Brazil*, Oxford *Economic Papers*, New Series, Vol. 23, No. 1, 120-135 (Mar. 1971) at 121.

loans and profit remittances and special lines of credit."³¹ Subsequently, Brazil's annual growth from year 1949 to 1962 is 9.7 per year.³²

E. ISI in Tanzania

Compared to ISI in Brazil, ISI in Tanzania was implemented with a different view. At the end of the 1960s, Tanzanian president, Julius Nyerere decided to deal with the problem of development by forcing his citizens to depend on their own forces. The Tanganyika African National Union (TANU) adopted the 'Arusha Declaration' on 5 February 1967, which insists on Self-Reliance as a main way for development.³³ Self-reliance, which is the main theme of ISI, means that people who are tackling the problem of development rely on their own forces without being dependent on others.

After independence from military occupation in 1961, Tanzania found its income, as many developing countries, coming from exports of raw materials. TANU adopted the Arusha Declaration to foster economic development in Tanzania, promoted moral and social goals as well as economic ones.³⁴ At the same time, according to Gilbert Rist, The main themes of the Arusha declaration were; government shall ensure that basic rights are guaranteed to all citizens; dignity of the individuals shall assist in the country's independence; all people are workers, and no shall exploit another.

³¹ The government was particularly active in supporting the establishment of a domestic automobile industry, chemicals, consumer durables (electric machinery), and metallurgy at *Id.*

³² For data on Brazilian industrialization, see Joel Bergsman, *Brazil's Industrialization and Trade Policies* (Brazil Assistance Development Program, University of California, 1938).

³³ The Arusha declaration was published in a selection of Nyerere's writings, *Freedom and Socialism*, Dar Es-salaam: Oxford University Press, 1968, 231-50, as well as in Johan Galtung, Peter O'Brien and Roy Preiswerk, eds, *Self-Reliance, A strategy for Development*, Geneva, and London: Bogle-L'Ouverture Publications, 1980, 387-400.

³⁴ Gilbert Rist, *THE HISTORY OF DEVELOPMENT FROM WESTERN ORIGINS TO GLOBAL FAITH*, at 8.

Moreover, all people equally own and control means of production;³⁵ money is not the main weapon to foster economic development; Tanzania shall not depend on foreign aid since foreign assistance can not fulfill all the development's requirements; foreign investments are welcomed but can not be relied upon to achieve development. Further, Tanzanian people shall not pay too much attention to industrialization in the early stage of development since it requires financial, technological and human resources that Tanzania does not possess; resources shall go to peasantry rather than the towns; Tanzania must reach the level of food self-sufficiency; hard work is the root of the development. Furthermore, hard work plus intelligence has enabled the peasantry to establish many development projects; people shall be Self-Reliant without depending on the assistance of any foreign country in order to ensure independence.³⁶

The cases of Brazil and Tanzania illustrate the differences between ISI implantation in two different countries. Brazil implemented an ISI policy by taking several measures, including issuing decrees, and legislation in order to foster economic development through industrialization. Social concerns were not a priority in Brazil. On the other hand, Tanzania included social concerns and self reliance in the implementation of the ISI policy. It applied ISI from the socialist perspective, concentrating on social concerns rather on economic ones such as industrialization or capital formation.

³⁵ "After the Arusha declaration was adopted, the banks, industries, services, and export sectors were immediately nationalized", quoted from Gilbert Rist, *THE HISTORY OF DEVELOPMENT FROM WESTERN ORIGINS TO GLOBAL FAITH*, at 127.

³⁶ *Id.* at 127-128.

III. NASSER'S ECONOMIC PACKAGE: 1952-1970

Chapter one introduced economic theories, which evolved after the Second World War- the General Framework of the ISI policy, and different applications of ISI in Brazil and Tanzanian. It showed that ISI policy was formulated because of different understandings of economic theories evolving after the Second World War. Its application varies from one country to another.

In Egypt, the economic development during Nasser's era took different stages. In my view, Nasser had no specific economic philosophy during the early stages of the 1952 Revolution. The main objective of the Revolution was to ensure "social justice", and to eliminate the dominance of the Royal Family in Egypt.

This chapter will summarize how Nasser's administration started down the path of economic development. In addition, it will introduce the shift in Nasser's ideology during his leadership.

A. Egypt before the Revolution

Before the 1952 Revolution, Egypt's economic system was mainly agrarian and depended on the export of agricultural products. In addition, industries were almost entirely focused on agricultural products. According to Charles Issawy, Egypt's economic status before Revolution was underdeveloped:

In 1951, Egypt was an overwhelmingly agrarian country. In which industry accounted for under 10 percent of GNP. It had a predominantly free-enterprise economy with direct state activity restricted to such field as irrigation and railways although state supervision extended to other branches as well. Its fiscal system was characterized by the lower level of taxes, by the predominance of indirect taxation, and by the moderate share—little over 20 percent of national income absorbed by the government. Its income structure showed a very marked degree of inequality. The part played by foreigners in the national economy, although appreciably reduced from its previous level, was still very important, and in certain branches dominant. Lastly, Egyptian society was a civilian one, in which the army had a very minor role and in which a considerable amount of political and intellectual liberty prevailed.³⁷

Egyptian industry before the Revolution was mainly dependent on agricultural production. Industry served to form forward and backward linkages for agriculture. It was not an industrial sector that could push the economy to achieve economic development since its shares did not exceed 10% of the national income of that period.

B. Egypt after the Revolution 1952-1970

After 1952, the year of the 'Free Officers' Revolution, the picture was not wholly different at least in the first years of the Revolution. At the first years after the Revolution, nothing had changed in the industrial sector. The year of 1952 did not present a shift in the economic level of Egypt, except for the agrarian reform. Nasser-predecessors' economic system characterized by private ownership and capitalism prevailed throughout the 1950s. The first comprehensive plan was introduced in 1959/1960 for the years 1960/1961 to 1964/1965, according to Robert Mabro:

³⁷ CHARLES ISSAWY, *EGYPT ON REVOLUTION: AN ECONOMIC ANALYSIS*, OXFORD UNIVERSITY PRESS, 46 (1963).

Free officers did not have a clear economic philosophy at the early stage of the Revolution. However, Nasser's regime took significant economic decisions in the first years of its existence. Their importance was on their effect on shaping the economic development process. These decisions were as follows: a-The agrarian reform (1952); b- The building of the High Dam, an old and much discussed project conceived under the previous administration to which Nasser became committed in 1952; c- The setting-up in 1952 of a national company with the government as a major shareholder for the construction of a steel-mill at Helwan."³⁸

I would also argue that the Revolution's early years did not present a shift in the legislation process that could affect Egyptian society, except for the agrarian reform law. It was evident that Nasser's legal package- social legislations- took place in 1961. Before that date, some laws were issued as a tool for implementing some economic initiatives.

1. Agrarian Reform³⁹

Governmental intervention during Nasser's leadership prevailed in various domestic sectors through various forms. One of the first acts of governmental intervention after the Revolution was agrarian reform. Reform law no. 178 was issued on September 1952, law, and followed by additional agrarian laws in 1953, 1957, 1958, 1961, and 1962.

According to Charles Issawy, agrarian reform was not invented by the Revolution; rather the notion had existed for years. According to Charles Issawy: "Agrarian reform bills were introduced in Egypt in 1945 and 1950s and nothing happened regarding the approval of such bills since they were rejected by land lords who

³⁸ ROBERT MABRO, *THE EGYPTIAN ECONOMY 1952-1972*, OXFORD UNIVERSITY PRESS, 3 (1974).

³⁹ See text and analysis in SAIED MAR'I, *AGRARIAN REFORM IN EGYPT* (Cairo 1957).

dominated parliament and nothing was done until the law of 9 September 1952 was promulgated.”⁴⁰

The explicit objectives of such laws were to ensure social justice and to redistribute the agricultural land to small peasantries that were exploited by the domination of landowners. However, the hidden or the implicit objective of such laws was to break the economic and the political power of the land owning class, and to defeat them in the first political battle after the Revolution through restricting their property, which was at that time their main form of wealth.⁴¹

One could ask why the ‘Free Officers’ started with agrarian reform. They did because the agricultural sector was the largest and the most important sector over the others as the Egyptian economy before the Revolution was based on exporting agricultural products such as cotton, and onions. Moreover, large amount of the cultivated land was in the Royal family’s possession and the Free Officers wanted to undermine their dominant political position.

Ahmed Said El-Naggar argued that the objective of that reform was an economic one. ‘Free Officers’ aimed to shift labor forces working in the agricultural sector, where there was an over supply, to the industrial sector as the main path to economic development.⁴² This argument is not persuasive as the ‘Free Officers’ had no clear

⁴⁰ Supra, note 37.

⁴¹ In Egypt, wealth and power, at that time, were measured by the amount of land that one owns.

⁴² AHMED SAID EL-NAGGAR, *AL IQTISAD AL MASRI: MEN TAJREBAT YOLYWELA NAMWDHAG AL MOSTAKBAL*, 14 (Egypt 2002).

economic philosophy in the early years of the Revolution, this was in previous quote concerning.

The first Egyptian agrarian reform law, law no. 178 year 1952, stipulated that the number of feddans a person could own was limited to 200 feddans, with the right to assign 100 feddans to one's sons. Some articles of this law were issued to organize the relations between landowners and tenants and between the owners and agricultural laborers.

In 1953 law no. 598 of 1953 was promulgated,. This law confiscated the money and properties of the Royal family, including a large amount of cultivated land. In addition, article 38 of this law specified the amount of 18 piasters as a minimum wage for farmers per day.

In 1957, law no. 148 was issued to address personal ownership of uncultivated and desert land and substitute *waqf* (mortmain) land that was owned by public charity authorities.⁴³ This was followed by law no. 24 in 1958, which limited ownership of cultivated land for the whole family- husband, wife, and sons- to 300 feddans. Law no. 127 followed this in 1961 limiting the personal ownership of cultivated, uncultivated, and desert land to 100 feddans.

In 1963, law no. 15 stipulated that foreigners were prohibited to own any kind of land in Egypt. In addition, their property should be transferred to the Egyptian

⁴³ For more information about *waqf* system see Supra, note 37 at 58-59.

government. In 1969, law no. 50 limited family ownership- husband, wife, and sons- of any kind of land in Egypt to 100 feddans. Moreover, it limited personal ownership of land of persons, who did not fall under the previous definition of family, to 50 feddans.

The requisitioned lands were to be taken by the government to be redistributed to small land owners. The distribution process fell under certain criteria in return with governmental compensation, which was payable in bonds. Charles Issawy explained how the government distributed the requisitioned land and how it calculated the compensation, as follows:

The land thus requisitioned was to be redistributed to farmers owning under 5 feddans, at the rate not less than 2 and not more than 5 feddans, could not be subdivided, and was to be paid for by them in installments... As regards terms of compensation, the 1952 law stipulated that it was to equal ten times the estimated rental value of the land, which in turn was fixed at seven times the land tax imposed before the decree, plus that of buildings, machinery, and trees... beneficiaries were to pay an amount equal to the original owner plus 15 percent for expenses.⁴⁴

The whole expropriated land reached 939,000 feddans and was distributed to over 362,000 persons.⁴⁵ All of this illustrates that, Nasser's regime practiced a full governmental intervention not only in the agricultural sector, but also in the industrial.

2. Industry in Egypt

According to Aziz Sidky, the former Egyptian Minister of Industry 1957, interest in the industrial sector was present since 1930 followed by some amendments in custom

⁴⁴ Supra, note 37 at 159.

⁴⁵ Supra, note 39 at 270-271.

regulations for the benefit of certain industries. New industries were established and the existing factories were developed in an unstudied and improvised manner. There was no industrial plan before the Revolution or even in the first stages of the Revolution.⁴⁶ Moreover, "industry was established haphazardly as a consequence of the evolution of the protectorate system dominated by monopolies."⁴⁷

After the Revolution, Nasser's regime realized that occupation are not only military; it could take place at the economic level the liberalizing of trade, which, in their view, led to dependence on foreign commodities to fulfill domestic demand. They realized that Egyptian society could not achieve development unless the Egyptian society diverged from a traditional society that was dependent on the agricultural sector to a modern one capable of establishing an effective industrial sector. Nasser emphasized that meaning in National Charter.⁴⁸ He stated that industry was one of the main pillars of the nation, and the only thing capable of meeting the hope regarding economic and social development.⁴⁹ However, before the first economic plan in 1957, Nasser issued decrees and laws that illustrate how he shifted, in some respects, his understanding of economic development as time passed.

One of the problems, which faced Nasser's administration, was capital formation. In the early years of the Revolution, attempts were made to encourage foreign investment in order to provide the economy with foreign currency, which was essential for importing

⁴⁶ AZIZ SIDKI, *INDUSTRY AFTER REVOLUTION*, 3 (July 1957).

⁴⁷ *Id.*

⁴⁸ National Charter, issued by Nasser, is as a work sheet includes some general concepts and notions regarding achieving development in all sectors.

⁴⁹ *Id.*

machines and raw materials. However, in my view, Nasser's regime also encouraged foreign investment for political reasons, such as to obtain foreign support and recognition for his regime in the first phase of the Revolution.

To encourage foreign investment, Nasser issued several laws. Law no. 156 of 1953 was followed by laws nos. 26 and 475 in 1954. Under these laws, foreign capital was allowed to have a majority control over companies operating in Egypt, instead of only 49 percent of the shares as stipulated in the law of 1947. Moreover, provisions regarding the transfer of profits and original capital abroad were considerably eased; regarding concessions in the petroleum sector, the Mining, and Quarrying law of 1953 was issued to promote more liberal provisions than 1948 law. It granted new concessions to foreign as well as domestic petroleum companies and allowed longer extensions.⁵⁰

These liberal acts of Nasser's regime extended to domestic capital investment and were translated in laws and decrees. Charles Issawy, describing the governmental attempts for encouraging domestic investments, he stated that:

Attempts were also made to encourage domestic capital investment, especially in industry. Several changes were made in the tariff, raising duties on competing manufactured goods abolishing or reducing them on raw materials and equipment. In 1953, law no. 430 exempted from taxes on profits, for seven years, new companies, which were judged to promote economic development and, for five years, existing companies, which increased their capital; further, provisions, were made for reducing taxation on undistributed profits by 50%. A few measures were also passed affecting industrial organization. For example, the creation of a fund to promote the marketing of cotton textiles at home and abroad; making membership in industrial chambers compulsory for all establishments with a capital of L.E 10,000 or over. Slightly restricting

⁵⁰ *Supra*, note 37 at 53.

eligibility to company dictatorship, and giving the government the right to appoint not less than two directors in any company whose profits it guaranteed.⁵¹

On the 2nd of October 1952, the first step was taken by the Revolution, through the promulgation of law no. 213, which set-up the Permanent Council for Development of National Production. It was an independent organization, enjoying legal personality, and attached to the Council of Ministers. Its task was to study economic projects to promote industrial production.⁵²

A remarkable emphasis was on the development of projects significant to national strategy. These projects, according to Sidky were as follows:

Among this was the development of sufficient electrical power to supply the needs of agriculture, industry, and transport. A network of roads ensuring adequate communications was planned. An exhaustive survey of the mineral wealth of the country was undertaken. The basic industries: iron, steel, fertilizers, and oil refining, were to be established... Further emphasis was given to industries of essential needs to consumers such as food industries.⁵³

The establishment of the Permanent Council for Social Services followed the establishment of this council. According to Charles Issawy, new institutions and authorities followed the establishment of those councils, such as iron and steel company. Moreover, the government participated in the capital of a new commercial bank and establishing other authorities as follows:

⁵¹ *Id.* at 53-54.

⁵² *Supra*, note 46 at 10.

⁵³ *Id.* For more information about these projects, see AZIZ SIDKI, *INDUSTRY AFTER REVOLUTION*, (July 1957).

In 1954 various government organizations, members of the Misr group, and a German firm combined to found a large iron and steel company and the following year the government also participated in the capital of a new commercial bank and a company for making railway wagons. A General Petroleum authority was founded in 1954 and a High Dam organization in 1955.⁵⁴

Nasser's regime before 1956, the year of the great shift in Nasser's ideology, tended to establish infrastructures for various sectors. In my view, he copied Rodan's big push theory by developing various sectors at once.

The year 1956 presented a great shift in Nasser's strategy as well as the liberal acts of the Egyptian government towards foreign investment. The Egyptian government issued a decree egyptianizing all foreign establishments, which was a consequence of the Anglo-French- Israeli attack on Egypt on 31 October 1956 after Nasser nationalized the Suez Canal. In that year, Nasser began the process of egyptianization followed by excessive waves of sequestration in 1961.⁵⁵ During the same period, Nasser issued decrees regarding the nationalization of foreign property. During these years, one could argue that governmental intervention in the economic and social life was more rapid and intensive resulting in greater state control of business.

As for egyptianization, the first and biggest steps were taken on 14 January 1957. Law no. 22 decreed that banking business could be carried on only by Egyptian joint-stock companies, with nominative shares owned by Egyptians and with Egyptian

⁵⁴ Supra, note 37 at 54.

⁵⁵ Sequestration is a temporary measure, which should be distinguished from confiscation. Sequestration, in principle, does not touch property rights, but in many instances, owners eventually regained possession or received financial compensation.

directors and managers; banks were given one year, later extended to five, to effect the necessary changes. Law no. 23 applied the same provisions to insurance companies and law no. 24 stipulated that export and import agencies and commercial representatives must be Egyptian citizens; both were allowed a delay of five years. On 12 August 1958, law no. 114 decreed that at least 51% of company directors, instead of at least 40 percent, should be UAR citizens. Finally, law no. 115 made the use of Arabic language compulsory in business establishments.

According to Charles Issawy, the causes of that shift in Nasser's ideology were the universal trend towards planned economies, his desire to make radical change in Egypt's economy, and finally, the desire of gaining more popularity in the Arab world.

First, there is the world wide trend towards socialism and planning. Secondly, there was a slow realization that Egypt's economic and social problems were far more intractable than had been realized in the first days of revolutionary enthusiasm, and the conclusion may have been drawn that much more drastic methods were required for their solution. Thirdly, there has been, in recent years, the desire to increase president Abdul Nasser popularity among the masses in Egypt, and still more in other Arab countries by representing him not only as the promoter of Arab unity, but also as the champion of the people and the enemy of the ruling groups and classes.⁵⁶

As a result of the 1956 attack, sequestration of British, French, and Jewish property took place, followed by the expulsion of British and French citizens and many Jews. As a result of agrarian reform, sequestration, and nationalization of foreign property, the government found itself possessing very large assets that could be used in

⁵⁶ Supra, note 37 at 54-55. For a full text for other political concerns caused this shift in Nasser's ideology, see JOHN WATER BURRY, *THE EGYPT OF NASSER AND SADAT: THE POLITICAL ECONOMY OF TWO REGIMES*, PRINCETON UNIVERSITY PRESS, 1983.

the capital formation process. These sequestrations were followed by egyptianization measures. Laws 22, 23, and 24 of January 1957 required all foreign banks, insurance companies, and local branches of foreign commercial concerns to change their status to Egyptian majority shareholding and Egyptian management.

Other decrees were issued for changing and increasing the tax burden on high income receivers, one of the well-known notions embedded in Sir Arthur Lewis's economic theory. There was no remarkable change in the tax burden until 1961, according to Charles Issawy:

As regards taxation, there was no drastic change until 1961. The general income tax introduced in 1949 had a maximum rate of 50% on incomes over L.E. 100,000. In 1950, the maximum was raised to 70% on incomes above L.E. 50, 000 and in 1952 to 80%. By the end of 1960, the rate of 80% was levied on incomes above L.E. 30, 000. On 19th July 1964, law no. 115 raised the rates on all incomes, one of 90% being applicable to incomes above L.E. 10,000; this was followed, on 25 July, by law no. 129, which replaced the former flat tax of 10% of annual rental value on buildings by a progressive tax rising from 10 to 40%. Earlier, under law no. 153 of 1957, an additional tax had been imposed on earnings of directors of joint-stock companies, ranging from 10% for incomes above L.E. 2000 to 80% on those above 10,000.⁵⁷

In 1957, measures were taken placing the private sector more closely under government control. Law no 153 prohibited establishment of any insurance company without government authorization and stipulated that a certain percentage of all reinsurance had to be done with Egyptian reinsurance companies. On 28 April 1958, law No. 21 stipulated that it was necessary for any one wanting to establish or expand any industrial establishment to have government permission. On 14 August 1958, law no. 114

⁵⁷ *Id.* at 56.

stated that the number of directors of any company should not fall below three or above seven. In 1959, law no. 7 was issued to amend company law 1954 to force companies to set aside 5% of their net profits for the purchase of government securities.⁵⁸

Nasser's administration believed in the importance of establishing governmental institutions as a significant element in the development process. The Permanent Council followed the establishment of the Permanent Council for National Production for Social Services. In 1956, the National Planning Committee absorbed both of these bodies.⁵⁹ While on 14th January 1957, the economic development organization was founded to administer sequestered businesses, holding in joint companies, and certain public owned companies.⁶⁰

After the Ministry of Industry was founded in 1957, Aziz Sidky searched for an economic policy that fit Egypt's economic and social status. Until then no specific economic policy or plan was founded. Presidential decrees and laws issued regarding various sectors were more a reaction to political problems. To clarify, the measures of nationalization had not arisen except after the Anglo-French-Israeli attack in 1956. It was not a matter of implementing a certain economic philosophy, rather punishment of these foreign companies. Before 1956, foreign investment was encouraged as well as the use of the private sector to push the development process. After the attack, Nasser's

⁵⁸ This is not all the laws issued in this concern, rather an overview for some measures taken in that period. For the full English text of some of these laws, together with an explanatory statement, is given in *New Laws to Implement and Consolidate the Socialist, Democratic, Cooperative Society in the UAR*.

⁵⁹ Institute of National Planning, Memo no. 5, see also no. 63.

⁶⁰ *Supra*, note 37 at 64.

administration sought to apply an economic policy that ensured economic independence and self-reliance.

One of the most popular economic policies at that time was ISI. Nasser did not invent this economic policy; rather he implemented it in providing a social framework that translated in a later stage in what he called social legislations.

According to Aziz Sidky, several problems faced the industrialization policy, such as the lack of experience in the industrialization field. He stated, “[w]e must realize that our lack of experience in the industrial field may drive us into an exaggerated hesitation and cause us to refrain from taking positive steps, which is a natural feeling.”⁶¹

Aziz Sidky started his first economic plan in 1957, followed by the first general five-year plan in 1960/61 to 1964/65. Sidky found himself facing either of two options. These two options according to Sidky were “to wait until the preparation of a comprehensive economic plan is completed; or to formulate industrial policy and prepare a program for industrial development according to priorities.”⁶² Sidky chose the second option to exploit wasted efforts in preparation for the general five-year plan.

Before implementing the first economic plan, the Egyptian economy was still importing its domestic needs from abroad such as manufactured goods, and food products. According to Sidky, in order to achieve economic development, imports of

⁶¹ *Supra*, note 47 at 89.

⁶² *Id.*

machines for industry must increase; however, the achievement of self-sufficiency in all essential domestic needs by replacing imported products with those produced locally-
ISI.⁶³

The objective of this policy was to encourage domestic industries of consumer durable goods as well as opening room for increasing the employment rate. Further, the expansion in industries that may find export markets must take place in order to earn foreign currencies and increase national income.⁶⁴ Hence, the question arose at that time regarding the industrial policy whether emphasis should be placed on basic industries or industries producing consumer goods.⁶⁵ According to Montasser Essam El-Din, "During the 1950s it emphasized heavy industrial inputs such as iron and steel but since the 1960s this policy was changed in favor of more emphasis on consumer goods industries."⁶⁶

A shift was needed towards industrializing commodities of domestic needs in order to exploit the foreign currency in importing machines necessary for industrialization. The emphasis on consumer goods' industries stemmed from a desire to break the bottle-neck, created by the scarcity of foreign currency. The bottle-neck was presented by the scarcity of foreign currency as a result of the importing consumer goods.

The implementation of this policy required the increase of tariff protection on imported goods. Moreover, exchange controls and import licensing were required to

⁶³ *Id* at 90.

⁶⁴ *Id.*

⁶⁵ *Id* at 91.

⁶⁶ MONTASSER ESSAM EL- DIN H., EGYPT'S PATTERN OF TRADE AND DEVELOPMENT: A MODEL OF IMPORT-SUBSTITUTION GROWTH, PRINCETON UNIVERSITY, PH.D, p.90 (1972).

discourage imports of luxury goods for the rich. Drafting legislations that ensured the implementation of this policy was thus required.

As for tariff protection, in 1950 and 1951, modifications for previous tariff protection laws existed.⁶⁷ Those modifications aimed at exempting most machinery and industrial equipment from custom duties; according to Mabro, the explicit reason was to encourage investment. The development of Tariff protection from 1952-1970 can be summarized as follows:

On 6 January 1952, a fourth revision of specific duties raised their existing levels by 25 percent. On 6 August 1952 the 1 percent uniform '*ad valorem*' duty of 1932 was raised to 8 percent (machinery, fuel, and important raw material for industry and some other items are either exempted from this levy or rated at less than 8 percent... Three additional taxes were imposed at the 1952 Revolution. The first is on import tax of 7 percent charged on all items except important industrial raw materials, machinery, books, periodicals, and goods for re-exportation 'law 418 of 1955'. Although this tax was introduced as an import licensing fee, it was treated as part of the total duty on which wharfage taxes were charged. This tax raised to a 9 percent in 1958, was abolished in 1961. The second is a statistical tax imposed in 1956 on all imports, except printed matter of educational or scientific nature, at the rate 1 percent. This rate was raised to 5 percent in a 'quay', sometimes called 'paving' duty, levied for the benefit of municipalities and fixed by law 631 of 25 December 1955 at the rate of 2 percent of the total duty paid on imports and at 0.5 percent on the value of export... Additional excise duties were imposed in 1952 on imported alcoholic beverages.⁶⁸

As for importing licenses, according to Mabro, public enterprises had to apply for import licenses; the import licensing system continued until 1961. Since that year, a direct system of import allocation replaced the licensing procedure. Moreover, import

⁶⁷For more information on Tariff protection system before the Revolution, see ROBERT MABRO, *THE INDUSTRIALIZATION OF EGYPT 1939-1975: POLICY AND PERFORMANCE*, CLAREDON PRESS-OXFORD, 1976.

⁶⁸*Id* at 58.

quotas were fixed for each ministry and the ministry had discretion in allocating them due to the various enterprises under its control. Soon after, this discretion was removed, as ministerial decisions had to be approved and coordinated by a central authority.⁶⁹

The first plan in 1957, the partial industrial plane, was followed by a general industrial five year plan. The aim of this plan was to double national income by 1970 and to increase it by 40 percent by 1965 and at the same time to reduce the prevailing inequality of incomes.⁷⁰ Further, the social framework of implementing the plan was one in which the greater part of the production means would continue to be privately owned. This, however, was shifted totally by the sequestration and nationalization measures.⁷¹

As for pricing policies, as a result of the extension of public ownership over modern industry after 1960, most manufactured goods were sold at administered prices.

To conclude, Nasser didn't come to Egyptian leadership with a definite economic or legal package, rather he promoted general concepts that he believed in. I believe that those concepts, in Nasser's view, were above the law implementing them. However, the change in Nasser's administration policy after the Revolution was mirrored in the legislation issued. In Chapter 3, more emphasis will be given to Nasser's legal package including a summary of the legislation.

⁶⁹ *Supra*, note 38 at 73.

⁷⁰ *Id.*

⁷¹ *Id.*

IV. NASSER'S LEGAL PACKAGE

In the field of social legislations, important measures were taken by Nasser's administration. A significant feature of the social legislation was that it represented a grave breach to property rights guaranteed by the constitution. Moreover, they restricted the general principles of civil law, especially provisions dealing with the freedom of people to agree over the provisions of their contractual relationship. However, a great shift in the legislation process occurred to abolish these restrictions in order to reactivate the general provisions of the civil law to prevail over various contracting relationships. In emphasizing the same meaning, Amr Shalakany stated, "Socialist laws from the Nasser era were dismantled, and civil code provisions governing free market relations were reactivated."⁷² This chapter will discuss the most important socialist laws issued during Nasser's era.

A. Agrarian Reform Laws

One of the first acts of governmental intervention after the Revolution was agrarian reform. Agrarian reform laws under Nasser's regime started in September 1952, with law no. 178, followed by other agrarian laws in 1953, 1957, 1958, 1961, and 1962.

The first law for agrarian reform was law no. 178 in 1952. It stated that the ownership of cultivated land was limited to 200 feddans for each person with the right to transfer not more than 100 feddans to children. Moreover, any contract that contradicted

⁷² Amr Shalakany, *I Heard it All Before: Egyptian Tales of Law and Development*, *Third World Quarterly*, Vol. 27, NO. 5, 833-853, (2006) at 863.

or breached the previous limitations would be deemed void. As for associations and corporations, they had the right to own more than 200 feddans of land were for selling them. Further, people could own more than 200 feddans of uncultivated and desert land in order to cultivate them. An exception to this limitation was granted to industrial corporations that had been instituted before the issuance of this law if their land was being used for industrial exploitation purposes. Another exception was granted to *Waqf* land. This law stated also that the process of confiscation should start with the largest ownership to the smallest ones, and as an exception to articles 598 and 599 of the civil law, landowners could not remove the farmer, who farmed the land, whether he was a principal tenant or a sub-tenant.

On 10th of February 1953, law no. 598 was issued, which confiscated all properties and land owned by Mohamed Ali's family in Egypt. Moreover, this law placed criminal sanctions on people who breached the provisions of this law.

On 24 August 1958, the terms of compensation and payment were changed. The interest rate was reduced to 1.5 percent instead of 3. The maturity of governmental bonds was extended to 40 years from 30. This law was limited ownership of cultivated land by the family including husband, wife, and children. It limited the ownership of the cultivated land for the whole family- husband, wife, and sons- to 300 feddans if that increase was the result of contractual relation. Under this law, the reform extended to include some provisions regarding public charity mortmain.

On 25 July 1961, law no. 127 was issued. It limited the personal ownership for lands, cultivated, uncultivated, and desert land, to 100 feddans. It also stated that any contractual relation that breached this provision was void and could not be registered. Further, in the case of owning land through succession or heritage the beneficiary had the right to transfer land that exceeded the previous limitation to small peasantries during one year, but under certain conditions. This was followed by law no. 44 in 1962 concerning private charity mortmain. Under this law, the government was more generous in the rate of interest since it was exceeded to 4 percent. Moreover, maturity of the government bonds was reduced to 15 years.

On 19 January 1953, law no. 15 was issued. It stipulated that foreigners and foreign corporations were prohibited from owning any kind of land in Egypt. This law gave the jurisdiction for settling disputes arising from this law to the Judicial Committee for Agrarian Reform that was established by article 13 of law no. 178 in 1952. Further, the decision of this committee could not be appealed or annulled. This law stated that all lands that were owned by those foreigners should be transferred to the government.

In 1969, law no. 50 stated that, family ownership- husband, wife, and confined sons- of any kind of land in Egypt was limited to 100 feddans. Moreover, it limited personal ownership for persons, who did not fall under the previous definition of family, to 50 feddans.

These laws were applied until the issuance of law no. 96 in 1992. This law stated that, all farming lease contracts should end by the year 1996/1997, unless the parties had agreed to the contrary. Moreover, the rent value was to be determined according to the general principals in the Civil Law.

B. Corporations' laws

As for corporations' laws, the first law issued during Nasser's era was law no. 26 in 1954. The main features of this law can be summarized as follows. This law prohibited the establishment of any joint stock company if the number of the shareholders was less than seven. The capital of any newly established company could not be less than twenty thousand Egyptian pounds. Moreover, not less than 49% of newly established corporations shares could be offered through a general contribution for Egyptians at the first instance and for a period not less than one month; however, this limitation could be overrode if any of Egyptians had not requested these shares. Further, this restriction was not applied, according to law no. 26, for corporations if their capital or most of it was from foreign capital. As for remunerations, this law stated that, it was not allowed to grant the board of directors more than 10% from the net profit. The percentage of profits distributed among shareholders could not be less than 5% of the corporation capital. This law stated also that, except for the managing director, the amount of money that each member of the board of directors earns could not exceed 600 pounds per year. Article 28 of this law decreed that the percentage of Egyptians in the board of directors in any joint stock company could not be less than 40%.

Additionally, under law no. 26 of 1954, no one was allowed to accumulate more than 6 memberships in joint stock companies, an exception being made for persons owning not less than 10% of the shares of the companies in question; in addition, no one could be a managing director for more than two corporations. As for laborers, this law decreed that, the percentage of Egyptian laborers in any company could not be less than 90% of its labor force; on the other hand, the percentage of employees could not be less than 75%. In addition, Egyptian laborers could not receive less than 80% percent of the amount of salaries distributed among labors in any company; on the other hand, the percentage of Egyptian employees could not be less than 60%. Additionally, it prohibited public employees from being a member of the board of directors or manage or participate in incorporating any company, whether he/she received fees or not, without the permission of the prime minister.

Some of the provisions of the law no. 26 of 1954 were amended during Nasser's leadership. On 20 January 1955, law no. 27 was issued to modify some provisions regarding the *quorum* specified for taking resolutions; this was followed by law no. 155, which was issued on 17 March 1955, to modify some provisions concerning the articles of incorporation of companies and obliging shareholders to follow the pattern drafted by the competent authority. This law was followed by law no. 314 in 1955 to modify some requirements for valid board of directors' resolutions. Additionally, law no.159 of 1956 was issued on 8 April 1956. It stated that the board of directors of any company, which the government guaranteed a certain percentage of profit, should include two governmental representatives at least, to be appointed by the Cabinet Council. In

addition, according to this law, joint stock companies that the government contributed their capital should not be subject to financial review from the accounting administration of the government. On 4 February 1957, law no. 44 was issued to amend and modify requirements for the board of directors' members regarding their financial status and the time for presenting their financial declarations; these requirements were amended by law no. 143 in 1957.

On 12 August 1958, law no. 114 was issued. It modified the number of shareholders that was specified in law no. 26 to be not less than 3 and not more than 7 shareholders, instead of at least 7 share holders, which law no. 26 stipulated. No one, under law no. 114 was allowed to accumulate more than two directorships instead of six as previously stated, an exception was made for persons owning not less than 10% of the shares of the companies in question; managing directors were ordered to confine their activities to one company. Moreover, the maximum remuneration received by directors from any company could not exceed 2500 L.E. per year, and any decree that breached this provision should be deemed void. Moreover, it stated that, the majority of company director, instead of at least 40 percent, should be UAR citizens⁷³.

On 10 January 1959, law no. 7 was issued, amending companies' law no. 26 of 1954. It decreed that companies should set aside 5% percent of their net profit for purchasing governmental bonds, after distributing at least 5% percent of their net profit to shareholders. Future distributions of profits over shareholders could not exceed the level of the law of 1958 plus 10% of the value of this distribution, whether in cash or shares,

⁷³ After the unity of Egypt and Syria in 1958, their name was United Arab Republic.

raised under law no. 90 in 1959 to 20%. For new companies, whose 1958 profits were not more than 10 percent of nominal capital, future dividends were to be limited to 10 percent. On 19 July 1961, law no. 111 1961 was issued amending companies' law no. 26 of 1954. It stated that, companies must set aside 5% of their net profit to purchase governmental bonds and the rest of the net profit be distributed as follows: 1- 75% for shareholders; 2- 25% for labors and employees as follows:

- A- 10% for labors and employees when distributing the net profit among shareholders;
- B- 5% for social and housing services;
- C- 10% for central social services for labors and employees.

On 21 May 1962, Law no. 96 was issued. It decreed that, the president of republic had the right to issue a decree to distribute a percentage of the net profit of any company to laborers in other companies that achieved lower profits when the reasons for that was not the laborers themselves. The last companies' law that was issued during Nasser's era, which was law no. 143 in 1963 modifying provisions concerning board of directors' meetings, followed this law.

Two more decrees made may be noted: Presidential Decree no. 258, of 7 February 1959, which subjected thirteen public utility companies to the control of the State Audit Department and law no. 134, of 27 July 1961, authorizing the Minister of Industry to determine the volume of production of industrial establishments as well as the number of their working shifts.⁷⁴

⁷⁴ *Supra*, note 37 at 58.

C. Labor Laws

Labor legislation was very important since it could have a positive influence on labor performance through wages, conditions of work, hours of work, and productivity. However, it may have a negative influence if it leads to industrial discontent. The new regime of 1952 did not immediately introduce legislation for the betterment of workers' conditions. In fact, one of its early acts was to make strikes illegal after the events of Kafr el-Dawar of 14 August 1952, when two workers were sentenced to death and hanged for leading the occupation of the textile factory. The regime was two weeks old and probably nervous.⁷⁵

Before and during the early years of the Revolution, labor legislation was incorporated in the Egyptian Civil code no. 131 of 1948 from article 674 to article 698, under the section of the named contracts. The provisions of the Civil law governed labor contracts. Relations between labors and employers were balanced under this law since the civil law gave the two parties the freedom to agree on the provisions and the duration of their contractual relationship. However, some balanced obligations were given under this law for laborers, and employers.

Labor contracts were subjected to the provisions incorporated in Law 131 of 1948 until Nasser issued law no. 91 in 1959, which is the first labor law in Nasser's era. This law issued on 7 April 1959, revoked all previous provisions contradicted with its provisions. Moreover, this law revoked all the contracts' terms that contradicts with law,

⁷⁵ *Supra*, note 67 at 135.

even if these contracts had been concluded before the issuance of this law. Article 7 in this law exempted all labor, and labor union cases in front of Egyptian courts from any fees, moreover, it obliged courts to decide labor cases promptly.

As for foreign laborers, article 35 of this law obliged all foreign laborers to get a license from the Ministry of Social Affairs in order to work in Egypt. Article 48 of this law decreed that if the laborers ended his/her work, he/she should receive his/her wage from the employer immediately; however, if the labor ended his work him/herself, he/she should get his/her wage within 7 days maximum. As for working hours, article 114 of this law stated that daily working hours could not exceed 8 hours for adults and six hours for juveniles. Article 156 stated that a committee should be formed for determining labor wages in each city. This committee was required to include a representative from the Ministry of Social Affairs to be a president of the committee, and a representative from the Ministry of Industry, and a representative on behalf of employers, and finally, a representative on behalf of labors, chosen by the labor associations union. This committee was competent to determine the minimum rate for laborers' wages.

As for labor unions and associations '*Niqabat*', article 160 of law no. 91 gave laborers, who worked in the same place or in related work, the right to formulate an association to organize their affairs to defend their rights, and to improve their living standard. These associations had the juridical personality and the right to establish a savings fund and sporting clubs, in addition, to providing social and health services. Further, article 173 stated that it was prohibited from dismissing any laborers from

his/her association unless two thirds of the board of directors decreed that dismissal. Another immunity was given to the managers of any association. They could not be dismissed without the approval of the General Assembly of the association. Article 182 of the same law stated that general associations in each territory, Egypt-Syria, had the right to form unions protecting their common interests.

Various laws followed Law no. 91 of 1959, amending or modifying some of its articles regarding increases in sick payments, in indemnities for termination of employment, and in the length of paid annual holidays. Additionally, some modifications were concerned with the prohibition of child employment and extending the insurance schemes to all industrial firms in the republic.

A remarkable and an important turning point was marked by the Socialists Laws of 1961 and 1962 which brought considerable new benefits to industrial workers. On 19 July 1961, law no. 111 was issued amending companies' law no. 26 of 1954. It granted laborers the right to share in shareholders' net profit from any company. The net profit was distributed, according to this law as follows:

* 5% of their net profit to purchase governmental bonds and the rest of the net profit distributed as follows:

- 75% to shareholders;

- 25% to laborers and employees as follows:

- 10% for labors and employees when distributing the net profit among shareholders;
- 5% for social and housing services;
- 10% for central social services for labors and employees.

In addition, law no. 114 of 1961 decreed that the board of directors of every company should include a representative of its employees and another of its laborers among its seven members. Law no. 125, of 21 July 1961 prohibited the holding of more than one post in government or company employment. Further, law no. 133, of 28 July of the same year, fixed the maximum workweek in industrial establishments to 42 hours, with no loss of pay for the shortening of the working week. Later on, in 1963, Nasser issued his decree on 17 October, to revoke law no. 114 of 1961. He decreed that the board of directors of every company should not exceed 9 members including four workers who worked at the company.

D. Confiscation, Nationalization, & Sequestration

One of the first measures taken after the Revolution was the confiscation of property of the Royal Family, Mohamed Ali. In the early years of the Revolution, the aim was to break the power of all powerful and dominant groups in Egyptian society. The beginning was with the agrarian reform law 178 of 1952, followed by other laws that aimed to open the space for the new regime without disturbance.

One of the first laws that followed the first agrarian reform law was Law no. 598. It was issued on 10th of February 1953. It confiscated all money and land owned by Mohamed Ali's family in Egypt. Moreover, this law criminally sanctioned people who breach the provisions of this law. Article 14 of this law restricted the right to litigate or resort to the courts regarding the confiscated properties. Moreover, article 15 prohibited the right to claim compensation regarding confiscated properties.

In the same year, a related law was issued to beat political powers in Egypt that law was Law no. 37 in 1953 issued to dissolve political parties in Egypt and to confiscate their properties.

A remarkable turning point in Egyptian society during Nasser's era was the issuance of emergency laws. The first emergency law was issued by the presidential decree no. 329 in 1956. This decree was preceded by what was called martial law, 'Ahkam 'rfia', no. 523 of 1954. Presidential decree no. 329 announced the emergency state in Egypt. According to these decrees and laws, the president excepted himself from any rule or law, especially laws that related to property and freedom rights. Martial laws were issued to give some exceptions to the regime in the time of war in order to ensure security and peace; however, these laws were developed to present a continuously emergency state in Egypt until present. Emergency laws during Nasser's era were more concerning with the restriction of people's freedom and the confiscation of their property rights.

In 1956, decree no. 4 was issued setting a system for managing the property of detained people. It granted the manager of the administration, which was competent to administer the property of the detained people, unlimited authority over those people's properties. For instance, the manager of this administration, according to decree no. 4, had the right to agree to the termination of any contracts concluded by the detained persons with other people. Moreover, this decree gave employers the right to dismiss detained persons without prior notice and compensation even in the case of the existence of written contracts. Further, any one who contradicted the provisions of this decree could be subjected to criminal sanction.

In the same year, order no. 5 was issued prohibiting and terminating any transaction or trade with German and French nationals, without the right to claim damages or compensation. Moreover, this order obliged persons not to pay British and French nationals any financial payments resulted from any relation, whether contractual or not, even if this relation was before the issuance of this decree.

In 1958, Nasser issued decree no. 162 regarding the state of emergency in the UAR. This decree revoked law no. 533 of 1954 of the martial laws and its equivalent in the Syrian territory. Decree no. 162 stated that only the president, or any one he delegated, had the right to announce the emergency state. Additionally the emergency announcement should include the reason for announcing the state of emergency, the place that would subjected to the emergency state, and the starting date of the emergency announcement. This decree granted the president significant authority, such as the right to

set restrictions on people's freedom to meet, move from one place to another, live in a certain place, or even the passage in certain place and time. Furthermore, the decree permitted inspecting people's houses, cars, and their personnel as an exception from the criminal procedure code. The president had the right to appropriate people's property through the sequestration measure. This decree was followed by other decrees that announced the continuity of the emergency state. The last one during Nasser's era was decree no. 60 in 1968.

As for nationalization laws, Nasser's administration began the flow of nationalization laws in 1961. On 20 July 1961, law no. 117 was issued to start the flow of nationalization among various corporations. Law no. 117 nationalized all banks, insurance companies in both regions of the UAR, as well as 42 large industrial, transport, commercial, financial, land reclamation companies in Egypt, and 51 in Syria. Law no. 118 of the same year decreed the partial nationalization of 82 companies and establishments in Egypt and 11 in Syria; these enterprises were to be converted into Arab joint-stock companies, at least 50 percent of the shares of which were to be owned by a public organization. Law no. 119 followed these laws to prohibit any person or corporate entity from owning shares with a market value of more than 10,000 L.E in 148 companies in Egypt and 11 in Syria. The surplus had to be transferred to the government. The three laws provided for compensation in the form of fifteen year negotiable government bonds, bearing 4 percent interest and redeemable after ten years. Laws no. 72 of 1963 and 77 of 1963 followed the three laws of nationalization to nationalize some companies.

As for sequestration laws, the main measures were taken in 1961, as a part of the social legislation issued in the same year. In 1961, Nasser issued presidential decree no. 138 to impose sequestration measures over money and properties that belonged to some people. Nasser issued the decrees of sequestration as part of his authority provided for in emergency law no. 162 year 1958. Decree no. 138 was followed by decree no. 140 in 1961 to impose the sequestration measures over money and properties of some people, who were specified in a separate index attached to that decree. Decree no. 5 of 1961 was issued to specify some free jobs that would be excluded from the application of decree no. 138 of 1961, such as lawyers, medical practitioners, engineers, accountants, and experts.

In 1963, Nasser issued decree no. 99 obliging the judicial authority to refuse any appeal regarding the sequestration measures, whether for annulment or claiming compensation for these measures.

In 1964, law decree no. 150 was issued to remove the sequestration measures over money and properties that belonged to certain people in order to transfer their titles to the government with a 30,000 L.E compensation, unless their value was less than 30,000L.E, through government bonds, bearing 4 percent interest. Finally, this decree was followed by the decree no. 930 year 1967 to exclude money and properties that belonged to the sequestrated persons' families, when their names were not specified in the sequestration decree no. 150 of 1964.

E. Rent Control Laws

The history of rent control laws started in post World War Two period through the Military Governor Decree no. 151 of 1941 and ended with law no. 136 of 1981. These were followed by law no. 4 of 1996 subjecting the landlords-tenant's relationship to the general principles of the Civil Law. One could say that rent control laws ended as they had started, applying the general principles of the Civil Code.

In 1947, King Faruq I, the king of Egypt at that time, issued law no. 121 to regulate the relations between tenants and landlords. It decreed that persons could not lease more than one flat in the same country or conclude a sublease contract. Moreover, it stated that the contractual relationship between tenants and landlords could be evidenced by any means of proof. It specified the scope of application of this law. However, this law balanced the relation between tenants and landowners without giving any party preferential provisions. In 1948, Civil Law no. 131 was issued, which included the general provisions applied to lease contracts and the relation between tenants and landlords from article 558 to article 609, under the named contracts section.

After the Revolution, law no. 199 in 1952 was issued to amend some of the lease contract's provisions in the Civil Law. The amendments were to reduce the amount of rent to 15% of the rental value. This percentage was increased to 20%, for the existing flats established after 18 September 1952, by decree no. 55 in 1958. This decree imposed criminal sanctions, of a maximum of 3 months in jail, and a fine that could not exceed 200 L.E on landlords who ignored this decree.

In 1954, Nasser issued law no. 56. This law decreed that a committee composed of four persons determined rent value- two of them were public officials and others were the landlords of the city in which the committee was formed. Further, the head of this committee was obliged to be a public official.

In 1961, Nasser issued the decree no. 168 to apply the same percentage, 20% of the rental value, on the places established after the law decree no. 55 in 1958. This was followed by law decree no. 169 for some tax exemptions over established buildings and reducing rents by the same rate of exemptions.

Nasser then issued law no. 46 in 1962 regarding rent control over flats that were established after the issuance of law no. 168 in 1961. This law laid down certain criteria for valuing rent values. It differed from previous laws since it was not just reducing the rent value through paying a specific percentage, 20% according to law no.168, from the original rent value of the place; it changed the original rent value through specifying a certain criteria for calculating the rent value of all places. It decreed that the rent value of any place was be determined by adding of 5% of the land and the building's value in return for investing the building plus 3% of the building's value as a return on capital for consuming, repair, and maintenance fees. Hence, the rent value for each tenant per year was the amount of money resulting from the previous equation. This law specified rent value by the force of law. Finally, any one that breaches the provisions of this law would be imprisoned not more than 3 months and pay a fine that did not exceed 200 L.E.

In 1969, Nasser issued law no. 52. It decreed that laborers who moved to another city instead of another job had the right to lease the flat that was exploited by the laborer whom he was replacing. Moreover, landlords were prohibited from renting any of the flats unless the new tenant had not notified him of his desire to lease the flat two weeks before the day of the evacuation.

One of the most important rent control laws, that its consequences exists till present, is law no.52 of 1969. It decreed that the lease contract could not be terminated after the tenant's death, or departure; rather, the contractual relationship was extended to the tenant's father, mother, sons, daughters, or third level relatives if they had been living in the same flat for at least one year before the date of death or departure.

Nasser's regime had a grand development design of its own, which wished to implement by force or inducement while disregarding the role of law in economic development. While waiting for real and legitimate solutions, the easiest thing for Nasser's regime was to pass new laws. Laws were exploited during Nasser's era as a tool to ensure people's commitment to his own ideology. Many of these laws represented a grave breach of people's freedom to agree on the provisions of their contractual relationship. Moreover, they imposed restrictions on one part of the contract, such as employers, land-lords, and landowners, in favor of the other party, which included laborers, tenants, and peasants.

The government's favoring one of party to a contractual relationship over the other party resulted in a state of disturbance in Egyptian society whose consequences continue till present. For instance, favoring tenants in the provisions of rent control laws issued during Nasser's era have deprived landlords of their assets. The rent extension provision, provided for in law no.52 of 1969 made it impossible for landlords to specify an end date or an equitable rent value for the contractual relationship between them and tenants since this law prohibited the termination of the lease contract in the case of the main tenant's death. Rather, it allowed the extension of the previous contract to relatives to the third level. It is interesting to note that lease contracts concluded during Nasser's era have extended to present at the same rent value paid in 1950s and 1960s. For example, the rent value of an apartment in Zamalek, an upper class residential district in Cairo, has not exceeded 100 L.E. up until today. On the other hand, today, the market value of an apartment at the same address costs not less than 10,000 L.E. per month. After issuing the law no. 4 in 1996, returning back the general provisions of the civil law to govern rent relations, the relation between tenants and landlords is balanced with their freedom to agree on the terms of their contractual relationship.

Nasser's administration marginalized the role of law in economic development exploiting laws as an easy tool for achieving their goals and disregarding the constitutionality of these laws. This is evident in the Supreme Constitutional Court's decisions. For instance, on 6 April 1995, the Egyptian Constitutional Court decreed the unconstitutionality of article no. 29 of law no.49 of 1977, which substituted law no. 52 of 1969 including the same provisions regarding the extension of the lease contract to

relatives till the third level.⁷⁶ In its reasoning, the Constitutional Court stated that people property rights are protected and no one has the right to restrict their private ownership as follows:

The private ownership are guaranteed by the constitution.... Private ownership is the owner's asset or capital that can be exploited by him/her for the purpose of improving his/her life giving.... Hence, no one, even the legislator has the right to restrict or appropriate the private ownership of some one... the ownership is like the river that its streams flow of national wealth resources and cannot be limited or restricted.⁷⁷

As for nationalization, the Constitutional Court decided in 1983 the unconstitutionality of article 3 of the nationalization law no. 117 of 1961. This article prohibited appeal of the decisions of the committee responsible for determining the amount of compensation as a result of nationalization. In its reasoning, it stated, "People's right to litigate is guaranteed by the constitution and no one has the right to deny the people their right to resort to courts."⁷⁸ The same decision was given by the court regarding the unconstitutionality of the first paragraph of the law decree no.99 in 1963, obliging the judicial authority to refuse any appeal on the sequestration measures, whether for annulment or claiming compensation for these measures.⁷⁹

As for agrarian reform laws, the Egyptian Supreme Constitutional Court decided many cases regarding the unconstitutionality of various provisions of law reform laws. One of the most important decisions was the unconstitutionality of article 5 of law no.

⁷⁶ The High Constitutional Court, Case no. 7 year 9, 6 April 1995, 1-16 (Egypt).

⁷⁷ *Id.* at 7.

⁷⁸ The High Constitutional Court, Case no. 7 year 2, 30 April 1983, 1-5 (Egypt) at 4.

⁷⁹ The High Constitutional Court, Case no. 5 year 5, 3 July 1976, (Egypt).

178 of 1952 specifying the compensation for appropriating land at 10 times of rental value of the land, which was valued as 7 times of the tax imposed on this land. Moreover, the court decided to abolish article 6 of the same law concerning the compensation determined on the ground of property tax. It decided the unconstitutionality of article no. 4 of the law no127 of1966 that stipulated the same provision of article no. 5 of the law no. 178 year 1952.⁸⁰ In its reasoning, the court stated, "The process of land reform is like expropriation in which the injured party has the right to claim for complete compensation."⁸¹ Moreover it stated that "article 36 of the constitution prohibited the confiscation, unless by a judicial decision."⁸²

All these unconstitutional laws reflect Nasser-ruling elite's view on the role of law in economic development. The regime issued socialist laws in order to ensure social justice without taking into account the correlation between issuing these laws and their effect on the process of economic development. Egypt at that time was not a state of law; rather, it was a state that was governed by law.

Further, Nasser's administration disrespected the rule of law during that era. The clash between Nasser's ruling elite and the legal profession, especially the judiciary, was great evidence of Nasser-administration's disrespect for the rule of law. According to Delwin A. Roy and William T. Irelan, Nasser's regime's disregard for the law was in evidence from early on. Text from an early speech indicated as such:

⁸⁰ The High Constitutional Court, Case no. 28 year 6, 6 June 1998, 1-13 (Egypt).

⁸¹ *Id.* at 14.

⁸² *Id.*

I'm against the principle of the separation of powers, and I consider the carrying out of this separation an enormous illusion. Why? Because in reality there is no such thing as the separation of powers; because whoever has the majority in parliament takes over the executive and legislative powers. Thus, the political leadership that has the majority also has two things: executive power and legislative power, and, consequently judicial power. For, no matter what they say about its independence, the judicial power is subordinate to the legislative power. That talks (*Kallam*) that emerged in France in the days of *Montestequieu* on such separation was all theory and never implemented.⁸³

Nasser's general view over the judiciary independence was disclosed in an incident involving Abd al-Razzaq al Sanhuri, president of the council of the state at that time and the most respected judge and jurist in the entire Middle East. Nasser sent a mob to attack him in his office as a result of displeasing with the decisions questioning the legality of certain actions of Nasser's regime.⁸⁴ Moreover, Nasser established military courts to decide cases of political importance to the regime.

Nasser emphasized on interfering in the affaires of the judiciary by various means. According to Delwin A. Roy and William T. Irelan:

The best known and most egregious attempt by Nasser to interfere in the affairs of the judiciary involved the so called 'Massacre of the Judges in 1969. Following the disastrous defeat of the Egyptian military in the June 1967 war, Nasser, in a weakened position, invited suggestions for overcoming the consequences of defeat. The judges of the Civil Judiciary obliged him by publishing a statement through their professional association, the Judges Club (the General Assembly of Judges of the United Arab Republic), on 28 March 1968 expressing, *inter alia*, the following principles for the renewal of the nation.⁸⁵

⁸³ JOHN WATERBURY, *THE EGYPT OF NASSER AND SADAT*, (PRINCETON UNIVERSITY PRESS, 1983), at 343 quoting Nasser's speech in 1963.

⁸⁴ Delwin A. Roy and William T. Irelan, at 166.

⁸⁵ *Id.* at 167.

The principles declared by judges were mainly on peoples' freedom to hold opinions and to ensure the independence of judges. Nasser tried to politicized judges through forcing them, as he did with members of the lawyers' Syndicate, to become members of the Arab Social Union. The judges resisted this membership. In response, Nasser took several measures to breakdown the judicial authority. On 31 August 1969, Nasser took a broad range of measures directly affecting the judiciary. According to Delwin A. Roy and William T. Ireland, by these measures Nasser:

- (1) Established a new high court, the Supreme Constitutional Court, for the principal purpose of deciding Constitutional issues, by establishing this Court Nasser reduced the jurisdiction and importance of the Civil Judiciary, as constitutional matters had previously been the province of the Court o Cassation (Supreme Court). Nasser also gained control of this important new court by giving himself authority to appoint the judges and limiting their term to three years.
- (2) Abolished the Supreme Council of Judges of the Civil Judiciary.
- (3) Gave himself the authority to 'reappoint' within 15 days the entire Civil and Administrative Judiciaries, judges and prosecutors alike.
- (4) Gave himself the sole right, in the future, to appoint all members of the Civil and Administrative judiciaries, eliminating the traditional approval authority of the judiciaries themselves.
- (5) Dismissed the elected Board of the Judges Club of the Civil Judiciary.⁸⁶

By these actions, the judiciary was under the control of Nasser's regime.⁸⁷

⁸⁶ *Id* at 168-169.

⁸⁷ For more information about the 'rule of law' over several decades in Egypt and the clash between judges, lawyers and Nasser see Amr Shalakany at *Supra*, note 72.

V. Conclusion

Development is not purely an economic matter separated from law. Law has paramount importance when achieving development in any region. In the past, development scholars have occupied themselves with economic theories and approaches as a way to foster economic growth and achieve development. They later changed their focus to give more importance to the role of institutions to achieve development. However, recently, development scholars and International Financial Institutions, (IFIs), have incorporated social concerns such as health, education, and gender equality into the mainstream agenda of market reform and economic development. These social concerns cannot be incorporated into the reform package of any state without issuing new laws. Hence, second generation reform and IFIs have found that legal reform is needed to establish the legal framework for realizing social goals.

Legal reform has been identified as the key to successful development. The importance of new laws or legal reform is no longer limited to its role in fostering economic growth; rather they are now seen as critical to the achievement of development. Moreover, second generation reform efforts emphasize the importance of legal rules that promote a healthy climate and legal framework for investment and economic growth. Kerry Rittich described the importance of the role of law as promoting a market friendly legal framework.

The basic thrust of the reform agenda since its inception has been to promote a market friendly legal and institutional order organized around the protection of property rights, the enforcement of contracts, and the

provisions of other rules and institutions required to ensure a stable and attractive investment climate.⁸⁸

Moreover, laws can affect development policy-making since laws are the legitimate umbrella under which development policies can be achieved. They determined the development policy available to states to achieve development. For instance, laws that promote a legal framework for private and foreign investors encourage the private sector to act freely without the intervention of governments and encourage inter band competition.

Nasser-regime's failure to achieve its development goals was not related to economic factors per se. Rather the regime disrespect for the role of law in economic development as well as the rule of law were significant factors for such failure. Moreover, Nasser's regime, in seeking rapid and radical change, ruled Egypt with an authoritarian dictatorship ideology disrespecting the rule of law as well as the role of law in economic development.

⁸⁸ Kerry Rittich, *'the Future of Law and Development: Second Generation Reforms and the Incorporation of the Social'*, Mich. J. INT'L L., 26, 2004, at 208.

3 8534 01314 0078

