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2004/23

THE AMERICAN UNIVERSITY IN CAIRO  
SCHOOL OF HUMANITIES AND SOCIAL SCIENCES  
DEPARTMENT OF POLITICAL SCIENCE

**LAW 96 OF 1992:**  
AN ANALYSIS OF THE AGRARIAN COUNTER-REFORM LAW WITHIN THE  
INTERNATIONAL LEGAL HUMAN RIGHTS FRAMEWORK AND ITS EFFECTS  
ON HUMAN RIGHTS IN EGYPT

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A THESIS SUBMITTED  
IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR  
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Law 96:  
An Analysis of the Agrarian Counter-Reform Law within the International Legal Human Rights Framework and Its Effects on Human Rights in Egypt

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To the Department of Political Science  
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For my father and mother:

Thanks for your patience over the past 2 years

Special thanks to:

Faye Wanchic  
Abdel Mouwla Ismail  
Heba Morayef  
Professor Naz Modirzadeh

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## LIST OF TERMS

*Delta*; Lower Egypt, or northern Egypt, where the Nile fans out from Cairo to the Mediterranean Sea

*Feddan*; unit of measurement of land, 1 feddan is roughly equivalent to 1 acre

*Fellah* (*pl. fellahin*); peasants in Egypt, in this paper all of the tenant farmers are fellahin

*Infitah*; ‘opening,’ the economic opening of Egypt under the rule of President Sadat

*Landowners*; in this paper, landowners are considered those owning land of more than five feddans

*Mufti*; Jurist who interprets Muslim religious law

*Non-derogable*; obligations or provisions that can never be violated or derogated from under any condition

*Sa'id*; Upper Egypt, or southern Egypt, beginning south of Cairo in the Giza governorate

*Shari'ah*; Islamic law, in Egypt the most of the civil code is based on the shari'ah

*Sheikh al-Azhar*; the leading religious leader of Al-Azhar mosque and university

*Waqf*; religiously endowed lands



## Selected Abbreviations

### *Organizations*

AI	Amnesty International
CAPMAS	Government statistical organization which produces the Household Income and Expenditure Surveys
ECOSOC	UN Committee on Economic, Social and Cultural Rights
EOHR	Egyptian Organization for Human Rights
FAO	Food and Agriculture Organization of the United Nations
HRW	Human Rights Watch
IMF	International Monetary Fund
LCHR	Land Center for Human Rights
MALR	Ministry of Agriculture and Land Reclamation (Egypt)
NDP	National Democratic Party
NGO	Non-Governmental Organization
UN	United Nations
USAID	United States Agency for International Development

### *Treaties*

CAT	Convention Against Torture, and Other Cruel, Inhumane or Degrading Treatment or Punishment
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
VCLT	Vienna Convention on the Law of Treaties

## CHAPTER I- INTRODUCTION

In 1992, Law 96 was passed by Egyptian Parliament and totally reversed the land tenancy reform laws instated by former President Gamal Abdel Nasser after the 1952 revolution. In this paper, Law 96 will be analyzed in order to determine whether it has had an effect on the human rights of rural Egypt. The contents of the Law 96 will be analyzed to establish if there are any prima facie violations of Egypt's international legal obligations. Additionally, the actual effects of Law 96 since its implementation in 1997 will be analyzed. After the law went into effect, protests and uprisings surfaced all over rural Egypt, and were ended violently by the Egyptian police and state security. The Egyptian government quickly labeled the protestors or opponents to the law as terrorists, allowing the government to use any force it deemed necessary to combat them. The protests and consequent government action will be analyzed in order to assess their effect on the fellahin in rural Egypt. In the wake of Law 96, the lack of jobs has left approximately 1 million families without income and thus without access to medical facilities, resulting in a huge increase in illness and disease. The government actions pursuant to Law 96 will be analyzed to determine if they could possibly be linked to the instability in the Egyptian agricultural community as a whole as well to determine whether they have had a detrimental effect on the Egyptian economy.

Law 96 will be analyzed within an international human rights framework, to see if the content of the law, both as it is written and as it has been applied, have violated Egypt's human rights obligations. Furthermore, the provisions in the Egyptian constitution will be examined to see if they are compliant with Egypt's international legal obligations.

Specifically, Law 96 appears to raise problems with a number of Egypt's human rights commitments.<sup>1</sup> These obligations are found in the International Covenant on Civil and Political Rights (hereinafter ICCPR)<sup>2</sup>, the International Covenant on Economic Social and Cultural Rights (hereinafter ICESCR)<sup>3</sup>, the Convention Against Torture and Other Cruel, Inhumane and Degrading Treatment (hereinafter CAT)<sup>4</sup> and the African "Banjul" Charter (hereinafter Banjul Charter).<sup>5</sup> Law 96 will also be examined in light of two regional human rights instruments: the Cairo Declaration on Human Rights in Islam (hereinafter Cairo Declaration)<sup>6</sup> and the Arab Charter on Human Rights (hereinafter Arab Charter),<sup>7</sup> which, although not binding, are reflective of regional trends in human rights.

The creation and implementation of Law 96 has been written about and discussed, but mainly in terms of development and economic growth. In this thesis, Law 96 will be analyzed within the framework of international law. This framework will allow us to determine whether Law 96 has had an impact on Egypt's human rights obligations. Furthermore, the relationship of the government of Egypt with foreign aid organizations has been extremely important and influential in the creation and implementation of Law

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<sup>1</sup> There are possible violations of the right to work, the right to health, the right to an adequate standard of living, the right to association, the right to be free from torture, the right to receive information, the right to the freedom of opinion, the right to freedom of assembly, the right to education, the right to life, and the right to the security of person.

<sup>2</sup> International Covenant on Civil and Political Rights, 16 December 1966, UN doc. A/6316, 999 U.N.T.S. 171 (entered into force 23 March 1976) [hereinafter ICCPR]

<sup>3</sup> International Covenant on Economic, Social and Cultural Rights, 16 December 1966, UN doc. A/6316, 993 U.N.T.S. 3 (entered into force 3 January 1976) [hereinafter ICESCR]

<sup>4</sup> Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment, 1984, UN doc A/39/51, UN doc A/39/51 (entered into force 26 June 1987) [hereinafter CAT]

<sup>5</sup> African "Banjul" Charter (27 June 1981) OAU doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (entered into force 21 October 1986) [hereinafter Banjul Charter]

<sup>6</sup> Cairo Declaration on Human Rights in Islam of 1990, U.N. GAOR, World Conference on Human Rights, 4<sup>th</sup> Session, Agenda Item 5, U.N. doc. A/CONF.157/PC/62/Add.18 (1993)

<sup>7</sup> Arab Charter on Human Rights, Council of the League of Arab State (15 September 1994) reprinted 18 Hum. Rts. L.J. 151 (1997)

96. This involvement will be analyzed to illustrate the possible detrimental effect on human rights. The analysis of Law 96 within this context will show if it has infringed on human rights, and if there are available steps for legal redress.

### **Methodology**

The purpose of this paper is to analyze Law 96 within the context of human rights law. There are many possibilities of analysis for Law 96, but this paper will be limited to an analysis of this domestic law in an international human rights context. In order to conduct this analysis, it is necessary to look at the materials regarding the formation of the law. It is also essential to include documents relating to the implementation of the law, such as interviews and statistics recorded by local non-governmental organizations (hereinafter NGOs) as well as academic writings, which need to be analyzed in order to determine whether Law 96 has violated any obligations under international law. All of the above materials must be analyzed within the framework of international human rights law, in particular the covenants and other instruments to which Egypt is party (mainly the ICCPR, the International Covenant on Economic and Social Rights, the Universal Declaration on Human Rights, the CAT, and the Banjul Charter). This analysis will be done in order to determine whether rights have been violated in this situation. Furthermore, the Egyptian constitutional provisions will be analyzed to ascertain how these international rights obligations have been implemented domestically.

First, it will be necessary to establish the legal framework within which Law 96 must be considered by identifying all relevant domestic and international legal commitments, as well as the Egyptian constitution. Next, research and reports on violations from a local NGO, the Land Center for Human Rights (hereinafter LCHR), UN

Human Rights Committee, other UN monitoring bodies and other human rights organizations will be analyzed. Also, economic and political statistics from the United States Agency for International Development (hereinafter USAID), the International Monetary Fund (hereinafter IMF), World Bank reports, and the analyses of prominent authors will be discussed to show the impact of Law 96. These will finally be analyzed within the framework of the domestic jurisprudence and international legal provisions. Thus, this review of Law 96 will be carried out in this context.

This paper approaches Law 96 from the perspective that human rights instruments are legally binding documents that states must not violate either in legislation or in practice. Also, this paper argues that human rights standards are primary and must take priority when implementing programs of economic liberalization, deregulation and privatization. These obligations will be analyzed with due consideration to the state of emergency declared by Egypt.

## CHAPTER II-HISTORY OF TENANCY LAW IN EGYPT

This chapter will explore the history of agrarian tenancy laws in Egypt prior to Law 96. The historical background shows the process through which Law 96 evolved as well as the prior experiences of landowners and tenants. To understand how the agrarian tenancy laws in Egypt evolved, it is necessary to examine them in several sections: pre-1952, under President Nasser, under President Sadat, and under President Mubarak prior to Law 96. The progression of the laws and the agricultural scene reveals how they set the stage for the introduction of Law 96.

### **Muhammad Ali to 1952**

Private land ownership and land tenancy in Egypt was first solidified during the rule of Muhammed Ali, from 1805-1848.<sup>8</sup> Prior to this period, most land was owned by the state, due in part to the frequent change in rulers.<sup>9</sup> Since the early 1900s every Egyptian government has attempted to increase small holdings of land, some even trying to give landless fellahin small bits of land for ownership, but with very little success in integrating a significant portion of the fellahin population into landowners.<sup>10</sup>

Muhammad Ali granted land to the royal family during 1812-1840 in order to break away from the French and the Ottoman Empire and gain Egyptian independence. By 1870, the royal family owned almost 25 percent of Egypt's privately held land.<sup>11</sup> Controlling such a large portion of land ensured the royal family political and economic

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<sup>8</sup> Khaled Fahmy, *The Era of Muhammad 'Ali Pasha, 1805-1848*, in THE CAMBRIDGE HISTORY OF EGYPT: VOLUME TWO MODERN EGYPT FROM 1517 TO THE END OF THE 20<sup>TH</sup> CENTURY 139 (M.W. Daly ed., Cambridge University Press 1998)

<sup>9</sup> Gabriel Baer, *A History of Landownership in Modern Egypt 1800-1950* 1 (Oxford University Press 1962); Sayed Marei, *Agrarian Reform in Egypt*, 3 (Le Caire Imprimerie de L'Instiut Francais D'Archeologie Orientale 1957)

<sup>10</sup> Baer, *Supra* note 8 at 83; Marei, *Supra* note 9 at 3

<sup>11</sup> M. R. El-Ghonemy *The Political Economy of Rural Development: the Case of Land Reform* 153 (London and New York: Routledge, 1990)

security. Most landowners owned very large estates and were powerful politically as well as economically. Prior to 1952, agriculture holdings in Egypt were a combined result of the personal politics and favors of Muhammad Ali and his successors and the European investors and owners.<sup>12</sup>

The majority of private landholdings were owned by Egyptians and Turkish landlords, and British, French and Belgian multinational companies.<sup>13</sup> Some fellahin were landowners at this time. However, they were “near landless,” meaning they owned only very small portions of land (between two and five feddans)<sup>14</sup>, and the majority remained landless. Their political activity reflected their lack of ownership, since the larger the landholding, the more political power one held.

The fellahin only began to play a major role in Egyptian society when Muhammad Ali conscripted the first native Egyptian army, and used this labor force for projects such as the Suez Canal, which created an obstacle for those fellahin who did own land. When they were drafted into hard manual labor for public works projects and had to leave their land to fulfill that obligation, they were forced to forfeit their land either to the state or large landowners.

During the reign of Muhammad Ali, the distribution of land and the effect it had on the population was characteristic of patterns of land ownership in the Ottoman Empire. Thirty-five percent of land was owned by 94 percent of landowners, and

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<sup>12</sup> Ray Bush, *Land Reform and Counter-Revolution in COUNTER-REVOLUTION IN EGYPT'S COUNTRYSIDE: LAND AND FARMERS IN THE ERA OF ECONOMIC REFORM 9* (Ray Bush, ed., 2002); M.R. El Ghonemy, *Land Food and Rural Development in North Africa*, 83 (Boulder. Westview, 1993)

<sup>13</sup> El-Ghonemy, *supra* note 11 at 152; El-Ghonemy *supra* note 12 at 84

<sup>14</sup> El-Ghonemy, *supra* note 11 at 153

approximately 60 percent of the land had insecure tenancy agreements,<sup>15</sup> meaning they had no formal contracts for renting the land. Insecure tenancy agreements did not protect the owner or the tenant from disputes that could arise regarding taxes, rental value, or which crops to plant and their rotations. This resulted in a decline in agricultural productivity, a rise in landlessness, low wages, high rental values, and general unrest among the landless and near landless population prior to 1952. Most of the large estates used a system in which resident permanent workers were remunerated in kind by allowing them to work the land to grow rotating crops.<sup>16</sup> Egyptian society at the time was a reflection of the skewed distribution of land ownership. The landowners were content with their economic and political situation and showed very little interest in resolving the discrepancies in land distribution.

The capital market in agriculture controlled by an elite group of landowners, supplemented land ownership, giving key players control of the political sphere as well.<sup>17</sup> They were members of Parliament, boards of directors in foreign companies, heads of the sugar and cotton industries, and directors of financial companies.<sup>18</sup> This elite landowning class gained their wealth partially through connections to either the government or the Europeans, who were heavily influencing the economy. Land ownership combined with economic and political power made it certain that this elite class dominated rural Egypt. The government controlled the agricultural scene through the introduction of new cotton varieties, irrigation projects, the rationing of basic staples, and stabilization of domestic

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<sup>15</sup> El-Ghonemy, *supra* note 11 at 226

<sup>16</sup> Marei, *supra* note 9 at 21

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*



prices to generate tax revenue.<sup>19</sup> The ruling class, which included foreigners, monopolized agriculture in Egypt prior to 1952, denying others access to land.<sup>20</sup> The Free Officers and Gamal Abdel Nasser would seek to eliminate this unbalanced and discriminatory environment.

### **President Nasser (1952-1970)**

The land reforms implemented by President Nasser throughout his presidency shifted the balance of power throughout Egypt, enabling the fellahin to gain both political and economic means. The land reforms were a monumental point in Egyptian history both socially and politically. Land reform can be, and will be for the purposes of this analysis, defined as “the redistribution of property in land for the benefit of small farmers and agricultural laborers.”<sup>21</sup> Nasser’s land reforms did exactly that by benefiting the small farmers.

Almost immediately after the Free Officers’ Revolution, agrarian reforms were implemented throughout Egypt. The motivations behind these reforms were strategic, as much as they were idealistic. In the beginning, the Free Officers wanted to eliminate the main opposition – the wealthy land owning class – and furthermore, by supporting the people, the Free Officers gained popular support in what would become a system of personal patronage. Later, when Nasser took power, his legitimacy came from the

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<sup>19</sup> A. Moursi, *The Role and Impact of Government Intervention in Egyptian Agriculture*

<sup>20</sup> *Id.* at 160; Mahmoud Abdel-Fadil, *Development, Income Distribution and Social Change in Rural Egypt (1952-1970): A Study in the Political Economy of Agrarian Transition*, 22 (Cambridge University Press 1975)

<sup>21</sup> D. Warriner, *Land Reform in Principle and Practice* xiv (Oxford, Clarendon Press 1969) Reem Saad, *Social History of An Agrarian Reform Community in Egypt*, 11 Cairo Paper in Social Science, Mono. 4, (The American University in Cairo Press Winter 1988)

masses and his political ideologies shifted towards socialism. Land reforms supported Nasser and socialism both in theory and practice.

The agricultural situation that the Free Officers came upon in 1952 after their seizure of power consisted of a highly unbalanced distribution of farmland. As discussed above, the wealthy landowners not only controlled most of the land, but they held all of the political power as well.<sup>22</sup> Most of the Free Officers, including Nasser himself, were not from wealthy backgrounds, and had advanced through the ranks in the military. Upon taking over power, they needed to win the approval of the masses in order to legitimize their power. The fellahin were living in a feudal-like state, and their political opinions were subject to those of landowners that they worked under.<sup>23</sup> Since the landowners held all the economic power, they also held all the political power and wielded it over the fellahin. Apart from gaining support for the group, once Nasser became president, he had to consolidate his own power by removing any immediate threats to his presidency.<sup>24</sup> His main opponents were the recently overthrown government of King Farouk, the British, their supporters, and any other insurgent opposition groups. The most direct way to undermine his opponents was to break down their landholdings.<sup>25</sup> Shortly after gaining power, the enormous land holdings of the economic elite, both Egyptian and foreign, were divided and redistributed as permanent

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<sup>22</sup> Bush *supra* note 12 at 9,18

<sup>23</sup> F. Abdelfattah, *The Contemporary Village between Reform and Revolution*, (Dar ath-thaqafa ag-Gadida Cairo 1975); Samir Radwan, *The Impact of Agrarian Reform on Rural Egypt (1952-1975)*, 8 (Rural Employment Policy Research Programme, World Employment Programme Research, International Labour Office, Geneva, January 1977); Saad *supra* note 21

<sup>24</sup> Sally Baynard, *Arab Republic of Egypt* 313

<sup>25</sup> Abdel-Fadil *supra* note 20 at 22; Saad *supra* note 21 at 4

tenures to the fellahin as part of the new social justice program.<sup>26</sup> Thus, only six weeks after the revolution, on 9 September 1952, the first regulations of tenant and owner relations were made part of the agrarian reform Law 178/52.<sup>27</sup> By more or less eliminating the economic strongholds of the landowning class, he also reduced their political power, and more importantly their political threat.<sup>28</sup> In the course of defining their goals, the government aimed for social equality, and thus land reform to be one of the major goals of the administration.<sup>29</sup> His reforms gained him mass popularity from the lower classes, which ensured that he did not have to worry about his power being threatened. Thus, the average fellah saw Nasser as their savior. Under his leadership, their living conditions, political rights, and economic status all saw major improvements.

Law 178 of 1952 limited the maximum amount of land ownership to 200 feddans per person and 300 feddans per family.<sup>30</sup> Rent was fixed at seven times the land tax, and tenancies were contracts and were open-ended. The law also regulated landlord/tenant relationships.<sup>31</sup> Importantly, the tenants were registered as land holders, just as the owners, which gave them ownership rights, and the only way they could be evicted was for failing to pay the rent.<sup>32</sup> Women were also allowed to register as tenants if they were

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<sup>26</sup> Baynard *supra* note 24 at 302

<sup>27</sup> Reem Saad, *Egyptian Politics and the Tenancy Law in COUNTER-REVOLUTION IN EGYPT'S COUNTRYSIDE: LAND AND FARMERS IN THE ERA OF EGYPT'S ECONOMIC REFORM* 105 (Ray Bush, ed., 2002)

<sup>28</sup> Radwan *supra* note 23 at 3

<sup>29</sup> Baynard *supra* note 24 at 308

<sup>30</sup> Law 178/52 Gamal Essam El-Din, *Political Economy of the Revolution*, Al-Ahram Weekly, 19-24 July 2002; Bush *supra* note 12 at 9; Graham Dyer, *Class, State and Agricultural Productivity in Egypt: A Study of the Inverse Relationship between Farm Size and Land Productivity* (London, Frank Cass 1991); El-Ghonemy *supra* note 12 at 87

<sup>31</sup> Saad *supra* note 27 at 105; Moursi *supra* note 19

<sup>32</sup> Saad *supra* note 27 at 105

heads of their households.<sup>33</sup> Furthermore, tenants became registered as landholders.<sup>34</sup> Land was redistributed in plots of between two and five feddans each, agricultural cooperatives were established with obligatory membership, land could be divided through any means including inheritance or otherwise, and rights were secured for agricultural laborers such as minimum wages and the right to form trade unions,<sup>35</sup> although the minimum wage was never set.<sup>36</sup>

The law required obligations from tenant farmers as well. The main obligations of the beneficiaries of this law were they had to plant by the crop rotation organized by the government, pay taxes and land installments, pay expenses of the co-op, and deliver a specified portion of each season's crop to the government.<sup>37</sup> After the later agrarian reforms, all farmers had mandatory memberships in an Agrarian Reform Cooperative or the Agricultural Credit Cooperative.<sup>38</sup>

The objectives of the Land Reform Act<sup>39</sup> were both social and political:

“A class of minority has directed the country's policy according to its own interest and in a manner inconsistent with the principles of democracy. The time has come to carry out land reform in Egypt as a basic step to build Egyptian Society on a new basis by providing free life and dignity to each peasant and by abolishing the wide gap between classes and by removing an important cause of social and political instability.”<sup>40</sup>

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<sup>33</sup> Saad *supra* note 21 at 56

<sup>34</sup> Saad *supra* note 27 at 105

<sup>35</sup> Law 178/52 Saad *supra* note 21 at 3

<sup>36</sup> Moursi *supra* note 19 at 150

<sup>37</sup> Saad *supra* note 21 at 60

<sup>38</sup> Sohair Mehanna, Nicholas S. Hopkins, Bahgat Abdelmaksoud, *Farmers and Merchants: Background to Structural Adjustment in Egypt*, 17 Cairo Papers in Social Science, Mono. 2 (Summer 1994) 7; Moursi, *supra* note 19

<sup>39</sup> Explanatory Note to Land Reform Act No. 178, 9 September 1952 (translated)

<sup>40</sup> *Id*; El-Ghonemy *supra* note 11 at 228

These were monumental steps not only in Egyptian agrarian history, but in the history of the fellahin as well. They not only gained access to land that was regulated in their favor,<sup>41</sup> but they gained a political voice as well.

Throughout Nasser's presidency, there was a continuous stream of land reform laws. Beginning with the first land reform law, Law No. 178/52, six more laws were passed before 1969, mainly limiting and restricting the ownership capacities of landowners. Law No. 598 of 1953 confiscated the former royal family estates; Law No. 152/57 and Law No. 44/62 reformed waqf land; Law No. 127/61 was the second major land reform reducing maximum ownership per household to 100 feddans; Law No. 15/63 acquisitioned the land of foreigners; Law No. 150/64 confiscated land owned by Egyptians that was put under sequestration. Finally, in 1969, the above laws were amended.<sup>42</sup> These reforms required the redistribution of almost 1 million feddans of land, which was not realized until 1980.<sup>43</sup>

The land ceilings were one of the most important reforms, as they caused the divisions of the major landholdings. The ceilings were set three times: the first in 1952 were set at 300 feddans; the second in 1961 were set at 100 feddans; and finally, in 1969, land ownership was limited to 50 feddans. The ceilings on land holdings severely changed the social makeup of the country as well as shifted the political sphere.

In addition to the land reforms, Nasser also embarked on the Aswan High Dam project. Although it was funded for by the Soviets and UNESCO, it was partially a nationalist project to show Egypt's new independence and partially an economic project,

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<sup>41</sup> Abdel-Fadil *supra* note 20 at 25

<sup>42</sup> Law 598 of 1953; Law 152 of 1957; Law 44 of 1962; Law 127 of 1961; Law 15 of 1963; Law 150 of 1964; El-Ghonemy *supra* note 11 at 229

<sup>43</sup> *Id.*; See Table 1

intended to give Egypt internal financial stability and improve production in the Nile Valley.

In 1961, after the failure of the union with Syria, Nasser pushed towards socialism and nationalized most industries, businesses and financial companies.<sup>44</sup> Land was still privately owned, although it remained government regulated through the mandatory memberships in government co-operatives.<sup>45</sup> The overall nationalization of projects greatly improved the status of the poor and minimized the gap between rich and poor.

Table 1 shows the amount of land in feddans that was redistributed in the series of agrarian reforms beginning in 1952 until 1969. The majority of land redistributed came from the confiscation of the former royal estates, as well as the ceilings on land holdings. Although most of the larger land reforms were made early in Nasser's presidency, they did continue to redistribute significant amount of land throughout his time in power. Most of the laws were not fully implemented until 1980.

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<sup>44</sup> Baynard *supra* note 24 at 311

<sup>45</sup> *Id.*

**Table 1 Area acquired for redistribution by Egyptian land reform laws 1952-1969**

	<i>Area in Feddans</i>
Initial Land Reform Law No. 178 of 1952	
Law No. 598 of 1953 for confiscation of ex-Royal family estates	450,305
Law No. 152 of 1957 and Law No. 44 of 1962 for transfer to land reform of Wakf lands for charitable and public purposes	148,787
Second Land Reform Law No. 127 of 1961 for reducing maximum land ownership of individual household to 100 feddans	214,132
Purchases of lands sequestrated in 1956 including those of Kom Ombo Land Company	28,307
Law No. 15 of 1963 for the acquisition of foreigners' land ownership	61,910
Law No. 150 of 1964 for the confiscation of land owned by Egyptians put under sequestration (Hirasah)	43,516
1969 law amending some of the above laws (estimate)	32,000
<b>Total</b>	<b>979,457<sup>46</sup></b>

Egypt's land reforms were the first in the region and were especially significant because they retained the concept of private property and the importance of individual family farms.<sup>47</sup> Although inarguably significant, there is dispute as to whether the redistribution of lands actually equalized economic wealth, even if they did help break up the political monopolies.<sup>48</sup> The fellahin did not become wealthy from the land reforms, but did increase their standard of living. Additionally, they gained political freedoms, and increased their involvement and participation in national politics.<sup>49</sup> However, even though the initial land reforms weakened the economic and political powers of the large

<sup>46</sup> El-Ghonemy *supra* note 11 at 229

<sup>47</sup> Bush *supra* note 12 at 8

<sup>48</sup> Radwan *supra* note 23 at 75

<sup>49</sup> Iliya Harik, *Mobilization Policy and Political Change in Rural Egypt* in *RURAL POLITICS AND SOCIAL CHANGE IN THE MIDDLE EAST* (Richard Antoun & Iliya Harik eds. 1972) (Indiana University, Bloomington); Saad *supra* note 21 at 7

landowning class, they did not totally eliminate them.<sup>50</sup> They returned to enter the agricultural scene again during Egypt's economic liberalization.

### **President Sadat (1970-1981)**

Anwar Sadat's presidency saw the initiation of privatization and economic liberalization mainly because of his political and economic involvement with the United States. These policies would eventually lead to the reversal of Nasser's agrarian reforms and once again shift the political and economic power in the countryside.

Sadat was Nasser's vice-president and assumed the presidency upon the death of Nasser. He was also a member of the Free Officers who had led the revolution, and used this for legitimacy to become president. When Sadat came to power in 1970, he was seen as an unlikely figure to become Egypt's next president, since he worked quietly in the backstage of Nasser's presidency. In fact, many of the high government officials sought to take power from him including Vice-President Ali Sabri, the Minister of War and the head of intelligence.<sup>51</sup> Sadat, to everyone's surprise, was much stronger than expected, and in May of 1971 removed and tried for treason every high official who had opposed him. Although he did not proclaim it as such, one of Sadat's apparent goals was to create a new image differentiating himself from Nasser. In order for him to do so, he proceeded to reverse many of Nasser's policies. Perhaps one of his most influential policy decisions was the *infitah*, or economic opening to the West.<sup>52</sup> This began the reversal of the

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<sup>50</sup> Alan Richards, *Land Tenure in the Agriculture of the Middle East* (G.M. Craig, ed., Oxford University Press 1993)

<sup>51</sup> Baynard *supra* note 24 at 312

<sup>52</sup> *Id.*; El-Ghonemy *supra* note 12 at 88



nationalization policies and the beginning of privatization. The political and economic gains of the fellahin began to erode in light of Sadat's policies.<sup>53</sup>

During his presidency, Sadat shifted towards free trade and an open market for Egypt, and the first signs of the problems to come for the tenant farmers began to appear. Sadat's infamous quote that "we are now living in the age of constitutional legitimacy rather than revolutionary legitimacy"<sup>54</sup> spoke volumes about what the government's priorities and expectations of the current laws were. Although he used his military career for legitimacy, he had no intention of upholding the ideologies of the revolution and even created a new constitution in 1971.

In addition to serving to separate himself from the image of Nasser, Sadat's foreign policy also played a substantial role in shaping his domestic agricultural policies. His expulsion of the Soviets and subsequent shift towards a relationship with the United States was most clearly reflected in the move from socialism towards a capitalist society. Sadat became more involved politically with the United States and also came to rely on them financially. USAID began its operations in Egypt in 1974 as part of an attempt to make Egypt and the Middle East more economically and politically stable.

Sadat's main adversaries came from those who supported Nasser and his policies. High officials loyal to Nasser threatened Sadat's power, but he effectually eliminated them politically or by imprisonment during his corrective revolution in 1971. The Parliament under Sadat became supporters of the former landowning elite.<sup>55</sup> Sadat pushed for the return of economic and political power to the landholding elite, thereby

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<sup>53</sup> Ray Bush, *Economic Crisis and the Politics of Reform in Egypt*, (Boulder, Westview, 199 ) 16

<sup>54</sup> Saad *supra* note 27 at 106

<sup>55</sup> Bush *supra* note 12 at 3

weakening the fellahin.<sup>56</sup> The next powerholders that he had to eliminate were mainly those who opposed him in the military and the Arab Socialist Union.<sup>57</sup> In short, he turned to the working classes and the upper class in order to establish his own power base.<sup>58</sup>

The fight to establish Sadat's power base was also fought in the agricultural arena. He began to reverse some of Nasser's policies by promoting the desequestration of land that had been taken during Nasser's time, as well as ending the freezing of rents.<sup>59</sup> Furthermore, he ended the dispute committees that dealt with landowner-tenant conflicts, minimalized the political power of the cooperatives, and reconsolidated land back into the hands of wealthy landowners.<sup>60</sup> This all helped him win the support and backing of the upper class so he could legitimize his position and strengthen his power base.<sup>61</sup> Most, if not all, of the major landowners had felt wronged by the socialist policies of Nasser, and to them, Sadat was helping to return what was rightfully theirs. In addition, because of the *infatih*, new financial opportunities were being created for them, giving them more possibilities to improve or maintain their status in society.

Although Sadat's reform policies were on the agenda, many of them would not pass into law until Hosni Mubarak's presidency. Policy changes that began in the 1970s would not be legalized until 1992 with regard to tenancy reforms.<sup>62</sup> However, like

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<sup>56</sup> Bush *supra* note 12 at 11

<sup>57</sup> Saad *supra* note 27 at 106

<sup>58</sup> *Id.*

<sup>59</sup> Bush *supra* note 12 at 17

<sup>60</sup> *Id.*; ; Robert Springborg, *State-Society Relations in Egypt: the Debate over Owner-Tenant Relations*, 45 MIDDLE EASTERN JOURNAL 2, 234-35 (1991)

<sup>61</sup> Raymond Baker, *Egypt's Uncertain Revolution Under Nasser and Sadat* (Harvard University Press, Cambridge Massachusetts 1978) 149

<sup>62</sup> Bush *supra* note 12 at 47

Nasser, Sadat's agricultural policies and economic policies came as an extreme reaction to his predecessors, and were strategically motivated.

Sadat was successful in creating a power base for himself through his economic and agrarian reforms. By eliminating or co-opting Nasser's main supporters, and recruiting those who had been marginalized and alienated by Nasser, he created his own support base. Although Sadat's economic policies only took Egypt deeper into foreign debt and left President Mubarak with a large economic disadvantage, the political goals of his reforms were achieved.

Table 2 shows the changes in the size of land holdings by feddans in Egypt from 1961 until 1984. The changes reflect the agrarian reform laws and the effect they had on the number of ownerships of land as well as the area of the landholdings.

**Table 2 Changes in the size distribution of land ownership in Egypt, 1961-1984**

Size of land (feddans)	1951		1965		1984	
	O%	A%	O%	A%	O%	A%
Less than 5	94.3	35.4	95.0	57.1	95.2	53.0
5-10	2.8	8.8	2.5	9.5	2.5	10.4
10-20	1.7	10.7	1.3	8.2	1.3	10.9
20-50	0.8	10.9	0.9	12.6	0.7	11.9
50-100	0.2	7.2	0.2	6.1	0.2	7.5
100 and over	0.2	27.0	0.1	6.5	0.1	6.3

O% Number of ownerships, percentage

A% Area of ownership units, percentage

Inequality in the size distribution of landholdings is higher than ownership due to many owners leasing-in additional land.

Source: Calculated from data published by the Department of Agricultural Economics, Egypt, Ministry of Agriculture and the Statistical Yearbook, 1952-85, General Agency for Public Mobilisation and Statistics, Cairo, June 1986; cited p. 230 M.R. El Ghonemy<sup>63</sup>

<sup>63</sup> El-Ghonemy *supra* note 11 at 230; Calculated from data published by the Department of Agricultural Economics, Egypt, Ministry of Agriculture and the Statistical Yearbook, 1952-85 (General Agency for Public Mobilization and Statistics, Cairo, June 1986)

## **President Hosni Mubarak (1981-Present)**

Upon assuming the presidency, President Mubarak inherited serious economic problems, including about \$21 billion in foreign debt, which increased to \$51 billion by 1989.<sup>64</sup> Egypt was in an economic crisis and needed financial support. This support would come from USAID, the World Bank, and the IMF. While Nasser and Sadat had needed to build power bases domestically and consolidate their power, Mubarak needed both domestic support and the assistance of the international aid organizations. Mubarak continued down the same path as Sadat, with dependence on the United States through economic aid packages. These economic development agencies targeted economic growth and were contingent on the government's cooperation and implementation of the agencies recommendations. The World Bank specifically wanted to develop "progressive farmers"<sup>65</sup> – the larger landowners. They cited that security of privatization of tenure and higher rents would aid in the development of agriculture in Egypt.<sup>66</sup>

The economic recessions that Egypt faced left it with a decrease in international trade and inflow of capital.<sup>67</sup> The intent of the *infatih* under Sadat was to give Egypt greater independence, but did the opposite, leaving Mubarak with few options. The IMF and the World Bank began to create aid packages for Egypt beginning in the early 1990s. The Economic Reform and Structural Adjustment Programme (hereinafter ERSAP) of 1991, designed by IMF and World Bank, and implemented by the government of Egypt

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<sup>64</sup> Baynard *supra* note 24 at 312

<sup>65</sup> World Bank, *Arab Republic of Egypt: An Agricultural Strategy for the 1990s* (Agricultural Operations Division, Country Department, II, Middle East and North African Region, report no. 11083 11 December 1992) 35

<sup>66</sup> *Id.*

<sup>67</sup> Food and Agriculture Organization of the United Nations/Ministry of Agriculture and Land Reclamation, *Agricultural Policy Analysis in Egypt Selected Papers*, FAO Economic and Social Development Paper No. 129 (Workshop on Agricultural Policy Analysis in Egypt, Rome 1994) 11

was intended to improve not only the general economy, but also the standard of living of the population as well.

There is debate as to whether the agrarian reforms under Nasser until the time of Mubarak were economically successful or not. Most international economic organizations – such as the IMF, the World Bank, and USAID, along with the government of Egypt – had reported that the agrarian reforms of the 1950s were not alleviating the poverty in Egypt, but actually fueling it. Statements such as these justified Mubarak and his international allies in undertaking such serious projects as agrarian reform laws. The results of Nasser and Sadat’s land reforms have been highly debated, with many arguing that they did alleviate poverty.<sup>68</sup> Regardless of whether the reforms alleviated or accelerated poverty, the government of Egypt chose in favor of implementing the counter-reform laws, in order to keep the money flowing in that was needed to pay off the country’s debt.

The involvement of the international aid organizations and the economic liberalization and privatization policies that were pursued by the government of Egypt set the stage in the early 1990s for the creation of Law 96.

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<sup>68</sup> Demetrios Christodoulou, *The Unpromised Land: Agrarian Reform and Conflict Worldwide* (Zed Books. London 1990) 153 He states that Nasser’s reforms did not alleviate poverty and the increase in tenant standards of living was temporary.

### CHAPTER III- LAW 96 OF 1992

The tenancy situation in agriculture in Egypt prior to the passing of Law 96 was distorted and needed altering. The problems with agricultural tenancy were the fixed rents, the inheriting of tenancies, and the inability of landlords to remove or expel tenants from their land. The government of Egypt, in accordance with recommendations of the Food and Agriculture Organization of the United Nations (hereinafter FAO), the World Bank, the IMF and USAID made the decision to implement this law in order to improve the distortions, and thus the economy. However, the necessary safeguards were not in place to protect the rights of the rural agricultural population.<sup>69</sup>

The environment in which Law 96 was created was one of change. International aid organizations such as IMF, the World Bank, and USAID had recommended a number of political and economic changes and included cementing a capitalist market that had started to emerge during the rule of Sadat. One area that needed change was the tenancy laws, both in housing and in agricultural. Law 96 was created by the combined forces of pressure for change from international aid groups and the realization of the former landowning class that they had an opportunity to regain their lost land. This paper argues that while some changes were needed, the actions taken still should not have violated Egypt's constitution and international legal obligations.

In this chapter, the environment from which Law 96 was created will be analyzed in greater depth, including the role of the Egyptian government and population in the creation of the law. Additionally, the economic reforms in Egypt in the 1990s will be

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<sup>69</sup> *Economic and Environmental Questions: Food and Agricultural Development, Review and Analysis of Agrarian Reform and Rural Development: Report of the Secretary General ECOSOC*, Substantive session of 1996, E/1996/100 (New York, 26 June-26 July 1996) at <http://www.un.org/documents/ecosoc/docs/1996/31996-70.htm>

examined, as well as the role and influence of the IMF, World Bank and USAID, and the resulting reform and adjustment problems. Finally, the response of the Egyptian farmers to the creation of the law and their protests will be discussed.

### **Law 96 of 1992**

Prior to the introduction of this law, there were 1 million families benefiting from official rental contracts, totaling almost 6 million people.<sup>70</sup> Law 96 allowed landowners to remove tenants from their land at will, whereas previously they could not do so unless the tenants failed to pay rent. Although the law gave alternative housing and priority in farming desert land, neither of these options were actuated for the majority of tenants.

Law 96 came into practice on 28 June 1992 and was to be implemented after a five-year transitional period from October 1992 to October 1997. During the transitional period, all rental contracts were valid, and could still be inherited to descendants of tenants. The rental value of the agricultural land was estimated to be 22 times the current land tax on the present cash or crop-sharing contracts eventually terminated at the end of the crop year 1996-97 unless the parties to the contract decided otherwise. This implied that the amended rental value, the average of which reaches LE484 would continue at the above level until 1996-97. Under Law 178/52, rent was fixed at seven times the land tax.

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<sup>70</sup> Springborg *supra* note 60 at 235; in *The Ruling party stands with its feet in the camp of the owners* (Al-Hizb al-hakim yaqifu biqadamihi fi mu'askar al-mullak) 10, Al-Ahali (12 November 1986) Muhammad Iraqi claimed that there were 10 million people dependent on tenancy contracts.; in *Modifying the Relation between Absentee Owners and Peasant Tenants-In Whose Interest?* (Ta'dil al-alawa baina al-mullak algha'ibin wal-zarra 'al-musta'jirin-limaslaha min) 5, Al-Ahali (12 March 1986), Shahinda Muqalid estimated that around 8 million tenants were affected; *Al-Ahram Al-Iqtisadi* stated that there were about 1.3 million tenants, Al-Ahram Al-Iqtisadi (9 March 1992); Simon Commander, *The State and Agricultural Development in Egypt since 1973*, 122(London, Ithaca Press 1987), The 1981-1982 Agricultural Census stated that there were 925,142 tenancies and the average size of fellahin families was around 6, thus 6 million people were affected, meaning 12 percent of the population; Saad *supra* note 27 at 106; Ray Bush, *More Losers than Winners in Egypt's Countryside in COUNTER-REVOLUTION IN EGYPT'S COUNTRYSIDE: LAND AND FARMERS IN THE ERA OF ECONOMIC REFORM* 189 (2002) Bush estimated that 1 million tenants supported about 9 million family members in 1997.

The provisions of the civil code applied to the rental contracts of the agricultural land and would be concluded as from the date of enforcing the new law. Accordingly, the conditions of these contracts were supposed to be mutually accepted by the two parties and would generally reflect the prevailing circumstances of supply and demand. This would be the common practice throughout the various patterns of land rent as from the crop year 1996-97.

With regard to cash rental contracts having validity on the date of enforcing the new law, if the landlord decided to dispense his land before the end of the transition period (from 1992-93 to 1996-97), the tenant was entitled to choose between purchasing it at an agreed price or leaving the land in return for a suitable compensation for the remaining period of the contract; such compensation was estimated to be at 40 times the land tax for each complete crop year. A third choice was to continue as a tenant until the transition period eventually ends.

After the transitional period, all rent contracts were void and landowners have the complete right to dispose of their land without notification, which overturned Law 178/52 that had registered tenants as landholders and did not allow for eviction except for failure to rent. The law does not apply to houses or other structures inhabited by tenants on the rented land. If the determination of rent contracts was to be followed by eviction of the tenants from the houses, the state was obliged to find alternative housing with affordable cost. Tenants who lost because of the law had priority in owning desert lands reclaimed by the state, if they filed for it before the required deadline.<sup>71</sup>

The amendments, as stated above, attempted to fix the distortion in rental value

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<sup>71</sup> Law 96 of 1992; see *Appendix 1* for full text of law



and indicated that the controls over the tenant/landowner relationships would be removed.<sup>72</sup>

The immediate results from the implementation of the law were consistent. Most landowners immediately ended their contracts with tenants, and either refused to create new contracts or would only give them verbal contracts. The verbal contracts were insecure for the tenant farmers and caused them to not invest in the land, for fear of their contract being ended, or not upheld. Furthermore, many of the rental agreements had been with female heads of households. Land owners in most cases refused to renew contracts with females based on their gender alone. Additionally, those contracts that were made were with rents that were 10 times the original rent.

Additionally, most of the landowners were absentee and had no previous experience with farming.<sup>73</sup> Since the implementation of the law and the subsequent removal of many of the tenants, these agricultural areas have failed to be farmed and used to their fullest extent.

The government of Egypt did offer some compensation for those who had lost land,<sup>74</sup> but in a manner that was almost impossible to take advantage of. Desert land was offered to those tenant farmers, but by the time most of them realized they were being evicted, most of them had missed the application deadline of 25 May 1998.<sup>75</sup> Those that

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<sup>72</sup> Gamal Seyam & Asma El-Bilassi, *Land Tenure Structure in Egyptian Agriculture: Its Changes and Impacts* 59 (Egyptian Agriculture Profile, CIHEAM-Options Mediterraneenes Sér.B/no. 9 1995)

<sup>73</sup> Ghada El-Tantawi, *Tenancy Law of 1992: Socio-Political Aspects* (1999) (unpublished MA Thesis, The American University in Cairo) (on file with the American University in Cairo Library)

<sup>74</sup> Government spokesperson: "The government works to avoid all problems. One of the most important measures it has taken is giving tenants alternative lands in reclamation projects near their residence." *Akhbar al-Youm* (5 July 1997); Similar declaration by Minister of the Interior Hassan Al Alfi, "The State has prepared alternative lands for tenants who wish to continue their farming activity, once they hand over the land to the landlords". *Al-Akhbar* (27 June 1997); Saad *supra* note 27 at 117

<sup>75</sup> Bush *supra* note 70 at 188

did make the deadline to farm in the desert did not have the equipment or the skills necessary to be successful,<sup>76</sup> since desert farming is an entirely different undertaking from Nile valley cultivation, and it is also very expensive. Reem Saad describes “going out into the desert” as the government’s official solution to many of its problems such as overpopulation and unemployment,<sup>77</sup> which has yet to reap the successes claimed.

Law 96 has promoted the application of market land values and annual rents.<sup>78</sup> These rents for tenant farmers have risen by more than 400 percent since the law came into force in 1997.<sup>79</sup> The point of this specific counter-reform was to do exactly that: counter the earlier agrarian reforms of Nasser that had given more social equality in the countryside. It was clear that countering them would bring about a reversal of this. It is economically impossible for the tenant farmers to find new jobs after losing their land. Furthermore, the landowners were very bitter after the past 50 years of fixed rents and the inability to remove tenants from their property and therefore, contrary to reports from Parliament that said no Egyptian would ever kick a tenant farmer off from his land, most indeed were kicked off, or did not have the agreements renewed. In 1992, Prime Minister Atef Sidki stated at the closing of the Parliamentary Debate on the law:

“I hope that some people would not think that the purpose of this law is to give the landlords a sword to hit the tenants’ necks with, for the law has come to achieve balance and justice between the two parties. We should not forget that we are a compassionate and supportive society, that it is inconceivable that an owner would expel a tenant just because a law was issued.”<sup>80</sup>

This attitude was seen commonly throughout the lawmaking process.

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<sup>76</sup> Saad *supra* note 27 at 118

<sup>77</sup> *Id.* at 117

<sup>78</sup> Bush *supra* note 12 at 3

<sup>79</sup> *Id.*

<sup>80</sup> Al-Ahram (25 June 1992); Saad *supra* note 27 at 103



## **Economic Reforms in Egypt in the 1990s**

The economic and agricultural adjustment programs in Egypt will be analyzed, taking into consideration the state of the economy in Egypt and the national debt as well. Law 96 has been implemented as part of the ongoing development plan between the government of Egypt and foreign aid organizations.

When discussing economic rights in developing countries, a conflict often emerges between immediate realization of rights and long term reform and development plans that usually entail a temporary denial of these rights that in practice often becomes permanent. In this section, Egypt's economic and structural adjustment packages that were sponsored by USAID, the FAO, the World Bank and the IMF will be discussed to assess their impact on the creation of Law 96. The role of the IMF in international finance is to stabilize, meaning reducing expenditures, while the World Bank's role is that of structural adjustment, meaning changing prices and institutions designed to improve the economy.<sup>81</sup> The IMF and World Bank have designed their economic reforms and structural adjustment programs to: 1) reduce government intervention; 2) financially restructure; 3) implement fiscal reform; 4) attract targeted infrastructure investment; and 5) stimulate the private sector.<sup>82</sup>

In 1979, the FAO cited agrarian reform as an integral part of rural development, because reducing rural poverty requires changes in the land tenure system.<sup>83</sup> In its 1979 report, it stated that rural development needed to include growth of agricultural

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<sup>81</sup> FAO/MALR *supra* note 67

<sup>82</sup> *Id.* at 9, ¶14

<sup>83</sup> FAO, *Agrarian Reform and Rural Development in the Near East: Analysis of Policies since the Mid 1960's and the Task Ahead in the 1980's* (prepared by M. Riad El-Ghonemy, FAO Regional Office for the Near East 1979)

production in small farmers' holdings, income redistribution in favor of the rural poor including reform of the agrarian structure and improvement of pricing systems, the active involvement of the rural population, expansion of employment opportunities, and improving the quality of rural life as measured by indicators such as nutritional standards, health, education, sanitation and housing.<sup>84</sup>

As a result of the financial crisis in Egypt in the early 1990s, international economic organizations pushed Egypt towards privatization and economic liberalization. An initiative for macro-economic reform, structural adjustment and stabilization was implemented.<sup>85</sup> Due to the severe increase in Egypt's poverty and malnutrition levels, USAID recommended that Egypt intensify its "incorporation into the world economy and to emphasize private-sector development and public-private partnerships."<sup>86</sup> USAID has had two significant operations in Egypt since the late 1980s. The first was the Agricultural Production and Credit Project during the late 1980s-mid 1990s, at a cost of almost \$300 million.<sup>87</sup> This project was replaced by the Agriculture and Policy Reform Programme, estimated at \$775 million, whose goal was to implement "market-led growth, liberalization of inputs and prices and reducing the role of the state agricultural credit bank."<sup>88</sup>

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<sup>84</sup> *Id.* at 2

<sup>85</sup> Moursi *supra* note 19 at 153; World Bank *supra* note 65

<sup>86</sup> Bush *supra* note 12 at 16

<sup>87</sup> *Id.* at 13

<sup>88</sup> *Id.*

Egypt reached its first agreements with the World Bank in November of 1991, and the IMF in May of 1991 for a stabilization and adjustment package.<sup>89</sup> Since Egypt's agriculture is approximately 19 percent of the country's GDP, 36 percent of employment, and 22 percent of commodity exports,<sup>90</sup> it was bound to be one of the areas targeted by the economic reforms. Any agricultural reforms would have an enormous effect on Egypt's population since about half of its 65 million people live in rural areas.<sup>91</sup> FAO stated that "[p]rices are well known as the most important media that govern market operation. On the production side prices direct the type and level of use of resources, types and quantities of produced commodities, and the flow of commodities in marketing channels."<sup>92</sup> Thus, in an effort to correct the price problems in Egypt, market liberalization has been pushed by these international financial institutions, and one of their main targets was the landlord-tenant relations.

Egypt, like most developing countries, has experienced severe economic recessions in the last decade, during which international trade and the inflow of capital became minimal, thus restricting growth.<sup>93</sup> After the failed infitah of Sadat, Egypt became severely indebted and its economy worsened. The economic opening was intended to give Egypt greater independence but, instead, caused greater dependence on

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<sup>89</sup> Gouda Abdel-Khalek, in *COUNTER-REVOLUTION IN EGYPT'S COUNTRYSIDE: LAND AND FARMERS IN THE ERA OF ECONOMIC REFORM* 32 (Ray Bush, ed., 2002)

<sup>90</sup> Bush *supra* note 12 at 12; World Bank *supra* note 65 at 5

<sup>91</sup> USAID, Egypt Congressional Presentation (2000) at <http://usaid.gov/pubs//cp2000/ane/egypt/html>; Bush *supra* note 12 at 12

<sup>92</sup> FAO, *Comparative Advantage and Competitiveness of Crops, Crop Rotations and Livestock Products in Egypt 1997-2017* (FAO input to Agricultural Development Strategy, FAO Regional Office, Cairo January 1999)

<sup>93</sup> FAO/MALR *supra* note 67 at 11

the United States. This was partly because profits were not invested in industrial or agricultural production.

The increase of international aid given to Egypt has been correlated to the growing gap between rich and poor, and an increase in poverty.<sup>94</sup> Subsidies had also been used by the government in order to help maintain the standard of living of the poor. However, one of the major problems with the subsidies was the misallocation of resources.<sup>95</sup> In the case of the agricultural system in Egypt, not only subsidies were seen as problematic to the economy but other elements such as fixed rents on land and, in particular, the socialist tenancy laws that had been implemented by former-President Nasser. Since the economic reforms of the 1990s and the removal of many of the state regulations, the poor have become poorer and their numbers have increased.

Even in 1995, the Ministry of Agriculture and Land Reclamation (hereinafter MALR), the Principal Bank for Development and Agricultural Credit and USAID were still strongly supporting structural adjustment in addition to liberalizing policies, because they believed that reform would naturally lead to changes in the structure of agricultural production.<sup>96</sup>

The need for these economic and agricultural adjustment programs in Egypt has been proposed by international aid groups and the government, and rightly so given Egypt's flagging economy and foreign debt. However, the question remains of what the cost for these reforms and programs will be to the population of Egypt. The poor are

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<sup>94</sup> Bush *supra* note 53 at 26

<sup>95</sup> Marcelo Giugale, *The Rationale for Structural Adjustment: A Layman's Guide* 42

<sup>96</sup> USAID & MALR, *Land, Water, and Agriculture in Egypt: The Economywide Impact of Policy Reform* 35 (Agricultural Policy Conference: Taking Stock, Eight Years of Egyptian Agricultural Policy Reforms (26-28 March, 1995))

often the ones that face the most significant repercussions of these programs. In Egypt, the tenant farmers have borne the costs of these programs.

USAID Egypt's web page states its goals in Egypt and what its programs of liberalization and restructuring are intended to do.

“In the 1980s and 1990s, Egyptian Government efforts to restructure and revitalize food production resulted in a major liberalization of agriculture...the main objective of both the United States and Egypt has been to facilitate sustainable economic growth and increase the number of productive jobs...The liberalization of the agricultural sector starting in the mid 1980s led the national efforts in other sectors of the economy. Increases in agricultural productivity were the foundation that underpinned the macro-economic stabilization efforts of the 1990s. Greater domestic production and reduced imports of food commodities allowed increased imports of producer goods and services. Food aid imports from the United State were ended as a result of this success.”<sup>97</sup>

USAID began its operation in Egypt in 1974. The minister of agriculture and land reclamation during the beginning of the reforms, Youssef Wally, was a proponent of market liberalization and privatization in agriculture.<sup>98</sup> He worked in tandem with USAID to promote agricultural reform programs. One of the main reasons behind the privatization of the agricultural sector was the lack of incentive to improve goods and reduce their costs in the public sector.<sup>99</sup> The involvement of USAID was not merely to aid Egypt with its economic problems and help it take care of its citizens, but was also done as part of United States foreign policy considerations.

“U.S. economic assistance is crucial to support Egypt's moderating role in the Middle East and to help Egypt confront political and economic problems which could endanger Egyptian stability. The rationale for substantial assistance to Egypt in recognition of Egypt's role in maintaining stability in the Middle East has been reinforced by the current Persian Gulf crisis [1990-1991] and by Egypt's leadership role in trying to

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<sup>97</sup> USAID Egypt Agriculture Webpage, at <http://www.info.usaid.gov/eg/econ.htm>

<sup>98</sup> Bush *supra* note 53 at 33

<sup>99</sup> Giugale *supra* note 95 at 44



resolve it. The US national interest is well served by an Egypt which is strong enough to play this constructive role.”<sup>100</sup>

These political motivations were present throughout any agricultural reform program initiated by USAID.

PL480 was a program of U.S. food aid to Egypt which was also known as “Food for Peace.”<sup>101</sup> It consisted of three sections. The first and most important gave U.S. commodity exports to Egypt at lower rates; the second was the import of select foods on a grant basis to improve the nutritional status of target groups; and the third provided wheat and flour on terms that were forgiven.<sup>102</sup> This program was used on and off until 1974 when USAID began in Egypt.

This was the beginning of the United States role in Egypt’s economic problems. Many programs would be designed and implemented, but none of them would be successful. The full force of economic reforms began to be felt in 1991. The economic reform program from the minister of agriculture and land reclamation aimed at “releasing the agricultural sector from all restrictions and distortions; encouraging the private sector; improving terms of trade of agriculture and relieving the burden on it; encouraging the farmers to use modern technology in agriculture, increasing cultivable areas, productivity and farm income; improving the standard of living for the farmers ... and providing food ... at reasonable prices; increasing export and raising the share of the agricultural sector in the social and economic development of the country.”<sup>103</sup>

Upon the creation of Law 96, USAID noted that “the new law is consistent with

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<sup>100</sup> World Bank *supra* note 65 at 3; Bush *supra* note 53 at 23

<sup>101</sup> Bush *supra* note 53 at 18

<sup>102</sup> *Id.* at 20

<sup>103</sup> S. Nassar, *The Economic Impact of Reform Programs in the Agricultural Sector in Egypt* 3-4 (Ministry of Agriculture and Land Reclamation, Economic Affairs Sector, Cairo 1993); Bush *supra* note 53 at 34

the privatization and economic liberalization policies of the government of Egypt. It provides the basis for the development of a land market.”<sup>104</sup> The law itself was seen very positively by the organization. From its viewpoint, it gave Egypt a “more normal and balanced relationship between tenants and owners.”<sup>105</sup> Since 1997, USAID has further noted that police have been rarely called upon to settle disputes regarding Law 96, which has been argued against by the LCHR and will be discussed in Chapter V.

### **Reform and Adjustment Problems**

In rural development, the dominant theme that has emerged has been economic and political liberalization.<sup>106</sup> However, unless all the parties to the situation are included in this liberalization, it will not be effective.<sup>107</sup> The reforms were made in order to liberalize the economy and to create a better standard of living for Egyptians, but not all Egyptians were included in this process, and the fellahin and tenant farmers were marginalized, if not totally excluded, in the law making process. This was the result of discrimination by the government and law makers against them during the process.<sup>108</sup> It has been argued that the reform strategies are actually designed in order to exclude the fellahin from agricultural reform.

“It is in many ways a strategy for reform that *excludes* the peasant from the policies for modernization for two reasons: the continued absence of any political mechanism to facilitate the flow of information and grievance from the countryside to policy-makers locally at governorate or sub governorate level or at the center of the state, and the dominant view of agricultural modernization.”<sup>109</sup>

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<sup>104</sup> USAID, *The Land Tenure Policy Study Report* (no. 21 Cairo: APRP-RDI Unit, December 1997)

<sup>105</sup> USAID/MALR, *Land Tenure Study Phase II*, (Mohamed Shara & Jane Gleeson, APRP-RDI Unit, Cairo March 1999)

<sup>106</sup> ECOSOC *supra* note 69 at 8, sec. 1

<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

<sup>109</sup> Bush *supra* note 53 at 152

If this is the case, reforms that originally appeared to fall within the requirements of the ICESCR, are actually doing the opposite of what they purport. In the law-making process, as well as the aftermath of the implementation of the law, the fellahin have had no political outlet or voice to shape change as will be shown in the next section.

United States foreign policy in Egypt seeks to stabilize the political situation in the Middle East and continue to pursue these goals through USAID's encouragement of privatization and through economic liberalization. However, it remains necessary to look at the effect of these policies on the tenant farmer.

Problems with land reform proposed by aid packages are not specific to Egypt. In the 1960s and 1970s many developing countries instituted land reforms similar to those of Egypt. Similarly, in the 1980s and the 1990s they pursued economic and agricultural reform policies with the help of USAID, IMF and the World Bank. Reforms making advancements on the original reforms were probably necessary in most of the states, but the methods chosen to do them were not effective and were detrimental to part of society.<sup>110</sup> Usually, the main people affected by the law were not included in the law making process, and packages and programs were not tailored to specific local and rural needs. Egypt's situation remains unique due to its history and politics.

### **The Role of the Egyptian Government and Population in the Creation of Law**

The Egyptian government played a vital role in the creation of Law 96, but a negative one. After discussing the need for new regulations of tenant farmers, it quickly passed the law through Parliament basing it on few facts and statistics and many opinion and biases. Furthermore, it failed to include tenant farmers in the legislative process.

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<sup>110</sup> Bush *supra* note 12 at 17. He stated that the political consequences of economic reforms reinforced social and economic inequalities by confirming the power of the dominant rural classes.

In 1986, the special legislative committee of the People's Assembly (Majlis as-Sha'ab) stated the "necessity of reviewing the law which organizes relations between owners and tenants of agricultural land so that one does not dominate the other".<sup>111</sup> The minister of agriculture and land reclamation, Wally, reaffirmed that the issue would be placed before Parliament after being debated in MALR.<sup>112</sup>

In a 1988 paper produced by the MALR, Wally stated that agriculture had been the leader in the government's privatization and economic liberalization efforts under President Mubarak.<sup>113</sup> This paper recognized that the land reforms under Nasser had improved the economic and social position of small farmers,<sup>114</sup> but that the Agricultural Development and Credit Bank set up by the government to supply farmers with all of their farming needs, was usually unsatisfactory in quality, quantity and timing.<sup>115</sup> Within the government of Egypt there was an ongoing debate over privatization. Proponents argued that market distortions from nationalization had constricted economic growth, and that private firms would be quicker to respond to the market, unlike corresponding government agencies. Opponents feared that reform would undo the social gains that had been won under Nasser.<sup>116</sup> In addition, they were concerned of economic, social and

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<sup>111</sup> People's Assembly, Special Committee Report: The Communique of the Ministerial Program of the Prime Minister 64 (Majlis as-Sha'ab, *Al-Lajna al-khasa, Al-Mushkila lidirasa bayan al-sayyid al-duktur ra'is majlis al-wuzara' an burnamij al-wizara*) (19 January 1986); Springborg *supra* note 60 at 236; Robert Springborg, *Agrarian Bourgeoisie, Semiproletarians, and the Egyptian State: Lessons for Liberalization in* 22 *Int'l J. Middle East Stud.* 459 (1990)

<sup>112</sup> Nagwa Aways Dr. *Youssef Wally in a Comprehensive Conversation with al-Akbar* (Duktur Yousif Wali fi hadith shamil lil-Akhbar), *Al-Akbar* (4 February 1986); Springborg *supra* note 60 at 236

<sup>113</sup> Youssef Wally & Hassan Khedr, *Privatization in Egyptian Agriculture, Strategies, Accomplishments, Outlook* (7 December 1988)

<sup>114</sup> *Id.* at 4

<sup>115</sup> *Id.* at 5

<sup>116</sup> *Id.* at 6

political disruptions that could arise if private firms aimed for immediate profits, instead of reasonable profits over time. The government chose privatization saying that in the long run it would offset any short term disadvantages.<sup>117</sup> The MALR paper also stated that in addition to the Ministry of Agriculture supporting privatization of agriculture, Egyptians were united in their support of it as well.<sup>118</sup> The government also agreed with the programs created by the IMF and the World Bank, provided that the changes were gradual as to make them socially and politically viable.<sup>119</sup>

The decision to privatize was also made in reaction to a particular history. The former law under Nasser, Land Reform Act No. 178 of 9 September 1952 was intended to “build Egyptian Society on a new basis by providing free life and dignity to each peasant and by abolishing the wide gap between classes and by removing an important cause of social and political instability.”<sup>120</sup> Although in theory this law was intended to create a more just environment for the peasants, it was not as effective as originally intended and actually infringed on the rights of the landowning class. In the face of this history, privatization seemed a natural step in order to implement economic reforms that corrected past rights violations.

Law 96 was created through lobbying in the parliament mainly by landowners and supporting parties. The key players in the process were the press, political parties and the Parliament, and notably did not include and tenants.<sup>121</sup> Furthermore, several members of

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<sup>117</sup> *Id.* at 7

<sup>118</sup> *Id.* at 9

<sup>119</sup> *Id.* at 11

<sup>120</sup> Law No. 178/52; El-Ghomeny *supra* note 11 at 228; Bush *supra* note 53 at 13

<sup>121</sup> Springborg *supra* note 60 at 240 Springborg notes that there was not only underrepresentation of peasants in the policymaking, but other channels for expression were blocked as well. The Higher Council of Agricultural Cooperative Societies president stated that “it does not interfere in politics or religion. It is

the government were actually landowners who would benefit from the passing of the law.<sup>122</sup> The press also played a very crucial role in the creating and passing of the law.<sup>123</sup> Being government controlled, it took the position of the government which was pro-Law 96 and portrayed the fellahin as lazy peasants who abandoned the land and whose youth were suffering from living lush lives full of undeserved riches and Western corruption.<sup>124</sup> The landowners were portrayed as victims of great injustice, earning rents lower than the current market price and unable to evict tenants under any circumstances.<sup>125</sup> However, most of the evidence cited in Parliament was subjective or expert testimony given by officials of MALR and based on very little if not any research.<sup>126</sup> Sufficient data was not used in the drafting of the law, although statistics on sizes of landholdings, tenancies and tenants would have been gathered through the agricultural societies.<sup>127</sup> Even those in

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only concerned with agricultural issues and those in particular that touch on cooperatives”; Saad *supra* note 27 at 104

<sup>122</sup> Saad *supra* note 27 at 106

<sup>123</sup> *Id.*

<sup>124</sup> Jalal al-Din Al-Hammamsi, *Smoke in the Breeze* (Dukhan fil-hawa), Al-Akhbar, (15 June 1986); Springborg *supra* note 60 at 240; Saad *supra* note 27 at 105; An ex-Councillor at the Court of Appeals published this statement in *Al-Wafd*: “For over forty years the tenant’s pockets were filling with thousands of pounds...that he bought agricultural land and rode in Mercedes and Peugeot cars. This happened while the owner gave up half of his land so he can finance the marriage of his daughter or son or to be able to pay for his daily life expenses after prices have rocketed. The balance was tilted and the tenant became the owner of 70 and 80 feddans from selling crops he planted on the owner’s land...It is high time, especially during the reign of President Mubarak, who is known for his tendency to issue laws that are just and do not contradict Islamic Shari’a and are not imported from Communist countries, it is high time to get rid of those laws and to alleviate the injustice befalling the downtrodden citizens who have lost everything except their belonging to their country.” *Al-Wafd* (17 June 1992)

<sup>125</sup> Saad *supra* note 27 at 107-8; Springborg *supra* note 60 at 240; Muhammad Abd al-Sami Ramadan *A Policy- The Peasant Awaits It* (Hadya- Yantaziruha al-falah) Al-Akhbar (7 October 1986)

<sup>126</sup> Springborg *supra* note 60 at 240; Saad *supra* note 27 at 104

<sup>127</sup> Statement by Mohamed Abu-Mandour, agricultural economist, Al-Ahram Weekly ( 4-10 June 1992); Saad *supra* note 27 at 107

support of economic liberalization noted that the law was based on outdated information.<sup>128</sup>

One of the main anti-law positions was not concerned with the rights of the tenant farmers, but with the power of the landlords themselves.

“[T]enant eviction would lead to a process of land concentration in the hands of a small-landowning elite. That had implications for the process of inequality, but the concern was that changes in tenure would alter cropping patterns from ‘strategic crops’, to export-oriented cash crops.”<sup>129</sup>

This opinion was based on a serious effort to consider the economic effect that Law 96 would have on the country, as well as how it would increase Egypt’s reliance on the West, in particular the United States, for basic goods. One of the statements by the nationalist party Misr el-Fatah (Young Egypt) expressed that if the law passed it would be extremely detrimental to the country.

“Providing security for the peasant should be a priority because he provides food for all members of the society, for the social function of agriculture comes before its economic function. Egypt’s [control over its] decision-making was brought to its knees before the West in the present age mainly because of the decline in agricultural production. We cannot imagine a free state that does not produce its own food, and we cannot throw this responsibility on the peasant if we do not provide him with stability in his land.”<sup>130</sup>

The government created a conflict between the rights of tenured farmers and so called “national rights” in order to win more supporters for the new law.

The discussion of the law in Parliament was fervently defended by NDP members and other government officials for two main reasons.<sup>131</sup> The first was that the economic, social and political situation that existed when the original reform laws were issued was

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<sup>128</sup> Statement by Ahmed Al Goweili, Governor of Ismailia and head of Scientific Society for Agricultural Economy, supporter of Law 96, Al-Ahram Weekly ( 4-10 June 1992)

<sup>129</sup> Saad *supra* note 27 at 110

<sup>130</sup> Ali el-Din Salah, President, Misr el-Fatah (30 March 1992); Saad *supra* note 27 at 110-11

<sup>131</sup> El-Tantawi *supra* note 73 at 56

no longer, and second that the landowners were suffering a great injustice because of the tenants.<sup>132</sup>

The law was also legitimized through religious means. The General-Secretary of the NDP Secretariat for Peasants, Mahmud Abu Gharib, said that Law 96 was “in agreement with the Islamic shari’ah, preserved the principle of agrarian reform and the rights of small farmers, and would also realize justice between the owner and the tenant and preserve social peace in the Egyptian countryside.”<sup>133</sup> The Mufti and the Sheikh of Al-Azhar said that the new law was consistent with Islamic shari’a<sup>134</sup>, while the Gamaa’ al-Islamiyya strongly disagreed arguing that any law that would further impoverish the poor was against the core of Islam.<sup>135</sup> The supporters of the law even went so far as to say that since the Egyptian Constitution is based on Islamic shari’a, the old reform laws were unconstitutional since they contradict the shari’a. A comment of Galal Amin quoted in *Al-Ahali* newspaper sheds light on an interesting viewpoint of the role of religion in Law 96:

“I was struck by the astonishment accompanied by a great deal of distress when I read in the papers in the People’s Assembly discussions concerning amending agrarian reform law and the headline that included the following statement: ‘According to shari’a, the agrarian reform law is null and void.’... I said to myself: there it is, religion is being again forced into a purely political and class struggle, and there we see the rules of God being forced into a dispute that is about people’s interests. The government did not amend the agrarian reform law because it suddenly discovered, after 40 years, that the law did not comply with the Islamic shari’a, but because of pressures from the IMF and the World Bank.. Does the government not see anything else in Egypt where ‘people’s money is unlawfully consumed’ except the agrarian reform law?”<sup>136</sup>

<sup>132</sup> *Id.*; *Document of the Parliament*, no. 94, 4-5(2 June 1992); Springborg *supra* note 60 at 240

<sup>133</sup> Mahmud Abu Gharib, *Al-Akhbar* (11 February 1986); Springborg *supra* note 60 at 241

<sup>134</sup> *Document of Parliament supra* note 132 at 8; Saad *supra* note 27 at 115

<sup>135</sup> Bush *supra* note 12 at 18

<sup>136</sup> *Al-Ahali* (15 May 1992); Saad *supra* note 27 at 124, footnote 8



These two main opposing views on the role of religion in the creation of Law 96 would play an important role later, when the government used the view of Gamaa' al-Islamiyya and the Muslim Brotherhood to undercut the protests of the fellahin as part of the Islamic terrorist activity in rural Egypt.

The Tagammu' Party was one of the few political parties that supported the tenants and opposed Law 96. They suggested several alternatives that allowed the tenants to buy the land, while making it possible for them to pay it off over several years. All of their suggestions were rejected and the law passed quickly.<sup>137</sup>

During the creation of the law, there was no sign of any of the UN's necessary safety nets. Instead, there was a created environment that was extremely anti-fellahin that was encouraged by the press.<sup>138</sup> It was stated that 50 percent of individuals in the Parliament were peasants and workers, but most of those were actually rich farmers.<sup>139</sup> The positions of the landowners were pushed ahead, since most of them held the seats in government. Saad has argued that the legislative process in Egypt in the 1990s was motivated and controlled by the political and economic elite, marginalizing peasants politically.<sup>140</sup> Any opposition to the law on behalf of the fellahin was ignored. However, most of the opposition was not on behalf of the tenant farmers, but on agricultural details such as changing from "strategic cropping" to export-oriented "cash-cropping" being the main concern.<sup>141</sup> Furthermore, one of the main economic concerns was with Egypt's

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<sup>137</sup> El-Tantawi *supra* note 73 at 57; Document of Parliament *supra* note 132 at 9

<sup>138</sup> Saad *supra* note 27 at 104

<sup>139</sup> *Id.*

<sup>140</sup> *Id.*

<sup>141</sup> *Id.* at 110

continued reliance on the West and how equality and protecting the rights of the fellahin was essential for Egypt's economic improvement.

### **Protests**

Prior to the conclusion of the transition period and the implementation of the Law 96, there were already fatal confrontations. The government realized that it would have to crack down on opposition to the law in order for it to be actually implemented. Security forces were used to enforce a ban on all meetings and protests

Prior to the implementation of the law, it was protested by organizations representing fellahin such as the Land Center for Human Rights, the Farmers Union of the Tagammu' Party, the Nasserists and the Islamist Labor Party. Organizations such as these have tried to create political mobilization for farmers, but most have ended up taking matters into their own hands.<sup>142</sup>

The first protests began in Beni Suef when the Principal Bank for Development and Agricultural Credit yearbook was published on 31 December 1996 which stated the changes that would happen in 1997 when the law was to be implemented. Throughout 1997, landowners began to prepare to take back their land, which led to tensions between landowners and fellahin and often resulted in violence. Some of the following protests were recorded:

- Minya- Several thousand tenants protested in two southern villages in the province. Results were houses of landowners being burned, blockage of traffic and train, buses being set fire. 3 people died, 20 injured.
- Village of al-Attaf in Delta- Local branch of Ministry of Agriculture set on fire in order to destroy records establishing official land ownership. Over 160 people arrested.
- Village of Qamaruna, northeast of Cairo- 70-year-old farmer and his wife were

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<sup>142</sup> Karim El-Gawhary, *Nothing More to Lose: Landowners, Tenants, and Economic Liberalization in Egypt*, in Middle East Report (July-September 1997)

beaten to death by a landlord and his son after refusing to pay the rent increase

The government created committees in response to the protests,<sup>143</sup> but were met with a violent response in reaction to the government's bias towards the landowners.<sup>144</sup> The authorities arrested hundreds of peasants and political activists for organizing demonstrations and distributing leaflets during early 1997.<sup>145</sup> On 24 June 1997, two days after the weekly newspaper *Al-Arabi* called for tenants to demonstrate against the law outside government offices, fellahin in the Beni Suef governorate burned a cooperative and banks resulting in 26 arrests. In Giza on the same day, there were peaceful rallies in four villages, even though there were many arrests the night before. Arrests were also reported in the Delta in Minuifiya, Gharbiya, and Dakhaliya. In Tawfiqiya in the Minya governorate, gun battles broke out between landowning and tenant families.<sup>146</sup> Additionally, collaboration between landowners and state security in Dakhlayia, Beni Suef, and Fayoum, led to the torture of some tenants to force them to pay the new rental prices.<sup>147</sup>

Upon knowledge of farmer protests, Interior Minister Hassan Al Alfy declared that "[t]he Muslim Brotherhood is behind the peasants' demonstrations. They exploit the upcoming implementation of the law to inflame public opinion."<sup>148</sup> By the 1990s the

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<sup>143</sup> Land Center for Human Rights, *Events Taking Place in Rural Egypt from 1 January-20 August 1997*, (1998)

<sup>144</sup> El-Tantawi *supra* note 73 at 58

<sup>145</sup> Cairo Times (25 July 1997), Vol. 1, Issue 11, <http://www.cairotimes.com/content/issues/ecref/law9611.html>

<sup>146</sup> Cairo Times (10 July 1997), Vol. 1, Issue 10, <http://www.cairotimes.com/content/issues/ecref/farrev10.html>

<sup>147</sup> Land Center for Human Rights, *A File that has not Been Closed* 11 (1998) (Arabic)

<sup>148</sup> Al-Ahram (21 June 1997); The Nasserist Party also accused the Muslim Brotherhood of issuing declarations that supported the landowners against the tenants, Al-Ussbu' (7 July 1997 and 28 July 1997)

government had identified sabotaging the economic recovery and development in Egypt to prevent economic benefits as a goal of the Islamist groups.<sup>149</sup> The government had blamed these groups as the root of all of the problems of land reforms. However, the Muslim Brotherhood actually was not among the opposition groups working with farmer and fellahin organizations.<sup>150</sup> The government of Egypt appears to have used the problems already plaguing the countryside, such as Muslim/Christian tensions and terrorism, in order to apply emergency laws to the activities surrounding Law 96. This issue was addressed in the *Middle East Report*:

“In Upper Egypt, landowners are in many cases Coptic Christians while their tenants are Muslims. Here economic conflict could quickly turn into religious strife. An indicator of what this could mean occurred last year in the village of Kafr Demian, inhabited by 1,000 Copts and 3,000 Muslims. A crowd of several hundred Muslims raided Coptic houses, killed their animals and burned down their stables. The attack was triggered by rumors of an illegal church construction, but the real reason seems to have been of a more economic nature. Tensions rose sharply after it became clear that the mainly Muslim tenants would have to give back their land to its Coptic owners after the October deadline.”<sup>151</sup>

Because the government quickly attributed the violence to the Islamists, it ignored the real root of the problem. The implementation of the new law posits the idea that is has been used in order to further oppress Egypt’s lower rural class. The LCHR reports that “the most noteworthy feature of the way in which the Act has been enforced has been the continued abuse of farmers human rights, or increasingly institutionalized used [sic] of torture, beatings and unlawful imprisonment of tenants who have had the termerity [sic]

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<sup>149</sup> Eberhard Kienle, *A Grand Delusion: Democracy and Economic Reform in Egypt* 89 (London, I.B. Tauris 2001)

<sup>150</sup> Cairo Times *supra* note 146

<sup>151</sup> El-Gawhary *supra* note 142

to challenge Law 96"<sup>152</sup>. The regional security concerns that is reflected in United States foreign policy has played itself out in economic reforms not only in Egypt, but in Latin America and in Africa.<sup>153</sup> The government of Egypt has ridden on the wave of the threat of terrorism and the encouragement by the United States to severely repress, humiliate and torture a significant portion of its poor population.

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<sup>152</sup> Land Center for Human Rights, *Violence in the Egyptian Countryside 1998-1999* (1999)

<sup>153</sup> Bush *supra* note 12 at 26

## CHAPTER IV: THE HUMAN RIGHTS FRAMEWORK IN EGYPT

The human rights framework for Egypt is complex. All of the international covenants that Egypt is party to are legally binding documents, while the regional treaties are not legally binding, but merely guidelines. All of these international and regional documents are often implemented by being incorporated into domestic legislation or by having domestic law that does not conflict with them. In order for Egypt to uphold its international obligations it must ensure that its domestic legal provisions are consistent with the covenants. Egypt can do this by amending any laws that contradict with its international obligations, as well as ensuring that all new legislation that is passed does not conflict with the covenants, as the covenants become meaningless if they are not actuated.<sup>154</sup> Also, any passing of new legislation that conflicts with treaty obligations are violations of international law. Furthermore, even if such legislation or constitutional provision exists, if it is not correctly implemented or enforced, this also constitutes a violation of international law.

Law 96 appears to conflict with a number of Egypt's human rights commitments.<sup>155</sup> These are violations of the ICCPR, the ICESCR, and the African Charter. The Cairo Declaration on Human Rights in Islam (hereinafter the Cairo Declaration) and the Arab Charter on Human Rights (hereinafter the Arab Charter) will also be examined. Although these two documents are not binding, they are reflective of regional trends in human rights. Both the creation of Law 96 and the resulting outcomes

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<sup>154</sup> *Vienna Convention on the Law of Treaties*, 22 May 1969, entry into force 27 January 1980 1115 UNTS 331, Article 27 states that a party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.

<sup>155</sup> Right to work, right to health, right to an adequate standard of living, right to association, right to be free from torture, right to the freedom of opinion, right to assembly, right to economic development, right to education, right to life, and the right to the security of person.

will be analyzed within the human rights framework. Civil and political rights as well as economic, social and cultural rights will be analyzed. Finally, Egypt's declared state of emergency<sup>156</sup> will be considered with regard to its effect on upholding and implementing these standards through Law 96. Egypt has undertaken a duty to uphold the rights of individuals posited by these conventions and treaties, whether to prevent state actors from infringing upon these rights or stopping other individuals from violating them

### **The International Covenant Economic, Social and Cultural Rights (ICESCR)**

The ICESCR was the first of the covenants that were adopted in 1966. Egypt became party to the ICESCR on 14 April 1982,<sup>157</sup> six years after the treaty came into force.<sup>158</sup> Egypt has entered a reservation to the ICESCR.<sup>159</sup> The interpretive declaration by Egypt has stated that "taking into consideration the provisions of Islamic shari'a and the fact that they do not conflict with the text annexed to the instrument, we accept, support and ratify it."<sup>160</sup> Additionally, Egypt has an obligation to report to the Committee on Economic, Social and Cultural Rights. As of 1 September 2004, it has submitted only one report out of three that have been required of it.<sup>161</sup>

According to the preamble of the ICESCR, which gives a framework in which to read the articles contained in the convention, state parties understand that the principles found in the convention stem from the "inherent dignity and of the equal and inalienable

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<sup>156</sup> ICCPR, Art. 4; Cairo Declaration, Art. 20; Arab Charter, Art. 4; Constitution of the Arab Republic of Egypt (September 1971) (Amended 22 May 1980) (hereinafter Egyptian Constitution), Art. 48

<sup>157</sup> ICESCR Ratifications, <http://www.unhchr.ch/pdf/report.pdf>

<sup>158</sup> ICESCR *supra* note 3

<sup>159</sup> Danwood Mzikenge Chirwa, *An Overview of the Impact of the ICESCR in Africa*, (2002) [www.communitylawcentre.org.za/ser/doc\\_2002](http://www.communitylawcentre.org.za/ser/doc_2002); [http://www.unhchr.ch/html/menu3/b/treaty4\\_asp.htm](http://www.unhchr.ch/html/menu3/b/treaty4_asp.htm)

<sup>160</sup> ECOSOC, *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Libyan Arab Jamahiriya* (16 May 1997), E/C.12/1/Add.15

<sup>161</sup> Chirwa *supra* note 159

rights of all members of the human family.”<sup>162</sup> Additionally, it is meant to complement the ICCPR, and that everyone should “enjoy his economic, social and cultural rights, as well as his civil and political rights.”<sup>163</sup> The final paragraph states that state parties are under a “responsibility to strive for the promotion and observance of the[se] rights.”<sup>164</sup> So, according to the preamble, state parties must comply with the promotion and protection of economic, social and cultural rights layed out in this covenant. The preamble created a framework in which to read the articles of the ICESCR.

The rights ensured under the ICESCR that are relevant to this discussion are the right to work,<sup>165</sup> the right to health,<sup>166</sup> the right to an adequate standard of living,<sup>167</sup> and the right to education.<sup>168</sup> When analyzing state party actions to determine if they are in violation of ICESCR obligations, several principles must be utilized. Unlike the ICCPR, in which violations are usually acts of omission, meaning that the state is failing to protect a civil or political right, violations of the ICESCR have been much more difficult to define. In 1987, the United Nations’ newly formed Committee on Economic, Social and Cultural Rights (ECOSOC) adopted the Limburg Principles in order to more effectively implement the ICESCR.<sup>169</sup>

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<sup>162</sup> ICESCR *supra* note 3, preamble

<sup>163</sup> ICCPR, *supra* note 2, preamble

<sup>164</sup> *Id.*

<sup>165</sup> ICESCR *supra* note 3, Article 6

<sup>166</sup> *Id.*, Article 12

<sup>167</sup> *Id.*, Article 11

<sup>168</sup> *Id.*, Article 13

<sup>169</sup> *Commentary on the Maastricht Guideline on Violations of Economic, Social and Cultural Rights; The Limburg Principles on the Implementation of the International Covenant on Economic, Social, and Cultural Rights*, (Dankwa, Flinterman, Leckie ) UN Document E/CN.4/1987/17; *The Maastricht Guidelines on Violations of Economic, Social and Cultural Rights*, ICJ Review No. 55 219-227 (December 1995)



Article 2 of the ICESCR sets the standards for interpreting the Covenant, stating that state parties must undertake steps “to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.”<sup>170</sup> The Limburg Principles address the nature and scope of the obligations of state parties and specifically the principles outlined in Article 2. Upon ratifying the Convention, states must take immediate steps towards full realization of the rights. Legislative measures alone do not fulfill the obligations of the ICESCR, and states must have effective remedies for possible violations in place.<sup>171</sup> The obligation to “progressively realize the rights” means that some of the rights require immediate implementation, while others must be achieved as quickly as possible, using available resources to the best of a state’s ability.<sup>172</sup> The Limburg Principles go on to address the issues of non-discrimination, non-nationals in developing countries, equal rights of men and women, limitations, prescription by law, necessity in a democratic society, national security, public order, the rights and freedoms of others, and the role of ECOSOC.<sup>173</sup>

In 1997, ten years after the Limburg Principles were adopted, the Maastricht Guidelines on Violations of Economic, Social and Cultural Rights<sup>174</sup> were adopted to address the evolution of international law as well as the understanding of violations of

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<sup>170</sup> ICESCR *supra* note 3, Article 2

<sup>171</sup> *The Limburg Principles on the implementation of the International Covenant on Economic, Social and Cultural Rights*, paras. 16-19, UN Doc E/CN.4/1987/17; ICESCR *supra* note 3, Article 2(1)

<sup>172</sup> Limburg Principles *supra* note 171 at paras. 21-24; ICESCR *supra* note 3 Article 2(1)

<sup>173</sup> Limburg Principles *supra* note 171

<sup>174</sup> Maastricht Guidelines *supra* note 169

economic, social and cultural rights.<sup>175</sup> The combination of the Limburg Principles and the Maastricht Guidelines have created a framework for analyzing state party violations in terms of core elements, setting standards and identifying minimum state obligations.<sup>176</sup>

The main obligations of a state party are to respect, protect and fulfill the rights enshrined in the Covenant.<sup>177</sup> Because economic, social and cultural rights are more difficult to define than civil and political rights, these three levels of obligations help clarify the duties of states. The respecting of these rights means that a state refrains from negative actions that would violate an individual's rights.<sup>178</sup> The obligation to protect human rights comes from the government's responsibility to regulate the behavior of third parties, often private companies or people.<sup>179</sup> Finally, the obligation to fulfill addresses the state's need to devote the maximum number of resources towards the progressive realization of these rights.<sup>180</sup> These obligations, found in the Maastricht Guidelines, have also helped with determining whether a state is in violation of the Covenant and the minimum compliance necessary to prevent being in violation.

According to General Comment No. 3 of ECOSOC, a state is allowed a "margin of discretion" in its implementation of the Covenant in order to account for differences that may exist between states, whether they are cultural, historical, religious or

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<sup>175</sup> *Id*

<sup>176</sup> Sage Russell, *Minimum State Obligations: International Dimensions* in EXPLORING THE CORE CONTENT OF SOCIO-ECONOMIC RIGHTS: SOUTH AFRICAN AND INTERNATIONAL PERSPECTIVES (Danie Brand & Sage Russell, eds., Pretoria, South Africa 2002)

<sup>177</sup> Maastricht Guidelines *supra* note 169 at para. 6; Russell *supra* note 176 at 18

<sup>178</sup> Commentary on the Maastricht Guideline on Violations of Economic, Social and Cultural Rights *supra* note 169; Maastricht Guidelines *supra* note 169 at para. 6

<sup>179</sup> Commentary on the Maastricht Guideline on Violations of Economic, Social and Cultural Rights *supra* note 169; Maastricht Guidelines *supra* note 169 at para. 6

<sup>180</sup> Commentary on the Maastricht Guideline on Violations of Economic, Social and Cultural Rights *supra* note 169; ICESCR *supra* note 3, Art. 2(1); Maastricht Guidelines *supra* note 169 at para. 6

developmental.<sup>181</sup> However, although states are allowed a margin of discretion, it cannot be used to preclude them from upholding their minimum core obligations.<sup>182</sup> The minimum core obligations usually include any rights that are cost-free to uphold. The minimum obligation of a state was discussed in General Comment No. 3:

“The Committee is of the view that a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights is incumbent upon every State party. Thus, for example, a State party in which any significant number of individuals is deprived of essential foodstuffs, of essential primary health care, of basic shelter and housing, or of the most basic forms of education is, *prima facie*, failing to discharge its obligations under the Covenant...In order for a State party to be able to attribute its failure to meet at least its minimum core obligations to a lack of available resources, it must demonstrate that every effort has been made to use all resources that are at its disposition in an effort to satisfy, as a matter of priority, those minimum obligations.”<sup>183</sup>

Thus, state parties must fulfill minimum core obligations under any circumstances, regardless of the margin of discretion allowed.

### **The International Covenant on Civil and Political Rights (ICCPR)**

Egypt became party to the ICCPR on 14 April, 1982,<sup>184</sup> six years after the treaty came into force.<sup>185</sup> The preamble of the ICCPR is almost identical to that of the ICESCR, and posits a similar framework in which to read the articles contained in the convention. Additionally, it complements the ICESCR by stating that everyone should “enjoy his civil and political rights, as well as his economic, social and cultural rights.”<sup>186</sup>

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<sup>181</sup> Commentary on the Maastricht Guideline on Violations of Economic, Social and Cultural Rights *supra* note 169; Maastricht Guidelines *supra* note 169 at para. 8

<sup>182</sup> Commentary on the Maastricht Guideline on Violations of Economic, Social and Cultural Rights *supra* note 169; ECOSOC, General Comment No. 3, Fifth session, 1990, UN doc. E/1991/23, Annex III; Maastricht Guidelines *supra* note 169 at para. 9

<sup>183</sup> General Comment No. 3 *supra* note 182 at para 10; Russell *supra* note 176 at 15-16

<sup>184</sup> ICCPR Ratifications, <http://www.unhchr.ch/pdf/report.pdf>

<sup>185</sup> ICCPR *supra* note 2

<sup>186</sup> *Id.*, preamble

The relevant articles in the ICCPR that will be examined are the right to be free from torture,<sup>187</sup> right to the freedom of opinion,<sup>188</sup> right to assembly,<sup>189</sup> right to freedom of association with others,<sup>190</sup> right to life,<sup>191</sup> and the right to the security of person.<sup>192</sup>

### **Egypt's State of Emergency**

The only exception Egypt has made is the state of emergency, which was declared for the first time after the revolution in 1958.<sup>193</sup> Egypt cancelled its state of emergency under President Sadat, but it was re-declared by the presidential decree of President Mubarak after Sadat's assassination in 1981. It was renewed by the People's Assembly for the thirteenth time on 23 February 2003, extending it for another three-year period.<sup>194</sup> According to Prime Minister Atef Ebeid, the law was extended to "protect Egypt from international networks of terrorism and organized crime" as well as to protect it from the "stalled Israeli-Palestinian peace process, worsening political instability in Sudan, and the U.S.'s campaign against Iraq."<sup>195</sup> It has been aimed specifically at enemies of the presidential regimes, which have been identified as armed Islamist groups such as Jama'a

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<sup>187</sup> *Id.*, Art. 7

<sup>188</sup> *Id.*, Art. 19

<sup>189</sup> *Id.*, Art. 21

<sup>190</sup> *Id.*, Art. 22

<sup>191</sup> *Id.*, Art. 6

<sup>192</sup> *Id.*, Art. 9

<sup>193</sup> Law No. 162 of 1958 Concerning the State of Emergency.

<sup>194</sup> Egyptian Organization for Human Rights, *The Effect of the Emergency Law on the Human Rights Situation In Egypt: 1992-2002*, <http://www.eohr.org/report/2003/emergency1.HTM>; Federation of Human Rights Leagues,; Question of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World, Written statement submitted by the International Federation of Human Rights Leagues (FIDH), a non-governmental organization in special consultative status, Commission on Human Rights, Sixtieth session, UN Economic and Social Council, Distr. General, E/CN.4/2004/NGO/163 (10 February 2004)

<sup>195</sup> Gamal Essam El Din *Three more years*, Al-Ahram Weekly (27 February-5 March 2003) (Issue No. 627), <http://weekly.ahram.org.eg/print/2003/627/eg4.htm>

Islamiyya and the Muslim Brotherhood.<sup>196</sup> The current Emergency Law allows the president to take “appropriate measures to maintain security and public order”<sup>197</sup> and thus restricts many individual freedoms.<sup>198</sup> The current state of emergency laws limit personal liberties, but the main limit of personal freedom is because the executive retains discretionary and arbitrary powers of detention.<sup>199</sup> This allows the government to use a suppressive policy towards peaceful opposition such as strikes and demonstrations.<sup>200</sup>

In the Constitution, state of emergency is briefly mentioned in regards to freedom of the press stating, “[i]n a state of emergency or in time of war, a limited censorship may be imposed on the newspapers, publications and mass media in matters related to public safety, or for purposes of national security in accordance with the law.”<sup>201</sup> Also allowed during a state of emergency are Egypt’s secret security courts and other national security mechanisms, which have allowed for the breakdown of protection of human rights, and have in some cases actually encouraged their violation. The emergency powers violate the Egyptian Constitution.<sup>202</sup>

According to Article 4(1) of the ICCPR:

“In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the State Parties to the present

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<sup>196</sup> Kienle *supra* note 149 at 89

<sup>197</sup> Law No. 162/58, Article 3; EOHR *supra* note 194; Egyptian Organization for Human Rights, *The Situation of Human Rights in Egypt, Annual Report 2001*

<sup>198</sup> Law No. 162/58; personal freedom (Article 41); the sanctity of the house (Article 42); freedom of residence and travel (Article 50); freedom of association and gathering (Article 54); personal freedom (Article 29); peaceful assembly (Article 21), and privacy, freedom of opinion and expression (Article 2); EOHR *supra* note 194

<sup>199</sup> Kienle *supra* note 149 at 90

<sup>200</sup> El-Tantawi *supra* note 73

<sup>201</sup> Egyptian Constitution *supra* note 156 at Article 48

<sup>202</sup> They violate the rights, freedoms, and guarantees provided by Article No. 41 (personal freedom), Article no. 50 (freedom of residence and transferring), Article no. 54 (freedom of assembly), *see* EOHR *supra* note 197 at 21

Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.”<sup>203</sup>

Egypt, according to the ICCPR, can, declare a state of emergency and derogate from the protections given under the covenant. However, any derogation must satisfy a two-prong test of necessity and proportionality,<sup>204</sup> and furthermore, the second part of Article 4 states that no derogation can ever occur from Articles 6, 7, 8, 11, 15, 16, and 18, meaning that they are non-derogable rights.<sup>205</sup> Under no circumstances can any State Party infringe upon these rights even under a state of emergency.

The current state of emergency in Egypt has continually been condemned by the international community and has often been cited as the justification for many human rights abuses. In 1993 the UN Human Rights Committee expressed its particular concern about the state of emergency in Egypt and said that it had impeded the application of the ICCPR.<sup>206</sup> It commented on particular rights protected by the ICCPR that were being

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<sup>203</sup> ICCPR *supra* note 2, Art. 4(1); General Comment 29, Human Rights Committee, *States of Emergency* (Article 4), UN Doc. CCPR/C/21/Rev.1/Add.11 (2001)

<sup>204</sup> EOHR *supra* note 194

<sup>205</sup> ICCPR *supra* note 2, Art. 4(2); Article 6 (Right to Life), Article 7 (Freedom from torture, cruel, inhuman or degrading treatment or punishment), Article 8 (Freedom from Slavery, Servitude or forced labor), Article 11 (Freedom from Imprisonment for failure of contractual obligation), Article 15 (Freedom to be held guilty of a crime that was not criminal at the time of the offense), Article 16 (Right to recognition as a person before the law), Article 18 (Right to freedom of thought, conscience, and religion); General Comment 29 *supra* note 203

<sup>206</sup> UN Human Rights Committee, Comments on Egypt, UN Doc. CCPR/C/79/Add.23 (1993), Human Rights Committee Forty-eighth session, Consideration of Reports Submitted by States Parties under Article 40 of the Covenant, paras. 4, 7; Amnesty International, Egypt Report, January-December 2002, <http://web.amnesty.org/web/web.nsf/print/2003-egy-summary-eng>

violated under the emergency laws such as the death penalty and torture.<sup>207</sup> Regarding the emergency law, the Human Rights Committee stated:

“The Committee also expresses concern at the long duration of the state of emergency in Egypt. Moreover, under the Emergency Act, the President of the Republic is entitled to refer cases to the State security courts, to ratify judgments and to pardon.”<sup>208</sup>

In February of 2004, the Commission on Human Rights once again discussed the same concern which was raised by the International Federation of Human Rights Leagues (hereinafter FIDH).<sup>209</sup> The FIDH reiterated the Commission’s concern about the human rights situation in Egypt due to the emergency laws. It stated that the state of emergency is no longer justifiable and is allowing for serious violations of freedom of assembly (Article 21), freedom of expression (Article 19), right to fair trial (Article 14), and freedom from torture (Article 7).<sup>210</sup> FIDH continues to push for an end to the emergency laws in Egypt.<sup>211</sup>

Additionally, Human Rights Watch (hereinafter HRW) has reported on Egypt’s state of emergency as well, citing violations of Article 9 (freedom from arbitrary arrest), Article 14 (right to fair trial), Article 18 (freedom of thought), Article 19 (freedom of

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<sup>207</sup> UN Human Rights Committee *supra* note 206 at paras. 8, 10

<sup>208</sup> *Id. at*, para. 9

<sup>209</sup> Federation of Human Rights Leagues *supra* note 194; Federation of Human Rights Leagues, *Question of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World: Written Statement submitted by International Federation of Human Rights Leagues (FIDH), a non-governmental organization in special consultative status, UN Economic and Social Council, Distr. General, E/CN.4/2003/NGO/233, 17 March 2003*

<sup>210</sup> Federation of Human Rights Leagues *supra* note 194

<sup>211</sup> In addition to the reports presented before the UN Economic and Social Council, the FIDH addressed a letter to President Hosni Mubarak regarding its concern about the emergency laws, Federation of Human Rights Leagues, Communique to President Hosni Mubarak, <http://www.fidh.org/communiq/2003/eg2302a.htm>

expression), and Article 22 (freedom of association).<sup>212</sup> HRW states that “[t]he wide-ranging and extensive powers given to the security authorities under the state of emergency enables them to arrest at will people suspected of being a threat to national security and public order.”<sup>213</sup> Many other international NGO’s have reported on many human rights violations that have been committed under the auspices of the emergency laws.<sup>214</sup>

The government of Egypt has responded to the condemnations of its state of emergency, specifically to the Human Rights Committee in 2003.<sup>215</sup> Egypt stated that it has the right to declare a state of emergency per Article 4 of the ICCPR, and that Egypt has taken precautions to protect from potential abuses under it. The government states that Law No. 162/58 regulates the state of emergency allowing it to conform to the Egyptian Constitution.<sup>216</sup> Additionally, the emergency laws were amended by Law No. 50/82 which allowed courts the competence to hear complaints against detention, which according to the government brought it into line with the provisions of Article 4 of the ICCPR.<sup>217</sup> In its conclusion, the government of Egypt stated that the emergency laws

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<sup>212</sup> Human Rights Watch, *The State of Emergency and the Supreme State Security Court* (2002) <http://www.hrw.org/reports/2002/egypt/egypt0102-05.htm>; Human Rights Watch, *Egypt’s Emergency without End: Rushed Renewal of Repressive Legislation* (25 February 2003) <http://www.hrw.org/press/2003/02/egypt022503.htm>

<sup>213</sup> Human Rights Watch 2002 *supra* note 212; Russell *supra* note 176

<sup>214</sup> Neil Hicks, *Does Islamist Human Rights Activism Offer a Remedy to the Crisis of Human Rights Implementation in the Middle East?*, 24 *Human Rights Quarterly* 2 (2002) 361-381

<sup>215</sup> Concluding Observations of the Human Rights Committee, Egypt, UN Doc. CCPR/CO/76/EGY/Add.1 (2003), <http://www1.umn.edu/humanrts/hrcommittee/egypt2003.html>

<sup>216</sup> *Id.* at paras. 3-4

<sup>217</sup> *Id.* at para. 5



were valid under the ICCPR, because, since the assassination of President Sadat, Egypt has remained under a threat from terrorism.

Since Egypt became party to the ICCPR, it has remained under a constant state of emergency. The international human rights community has scrutinized Egypt's treatment of the rights protected by the ICCPR to determine whether Egypt has actually protected them. They have received many reports leading to the conclusion that it simply used its state of emergency as a cover to pursue policies contradictory to the Covenant.

All of the articles in the ICCPR should be able to be upheld by Egypt during the period of the creation and implementation of Law 96. At the bare minimum, the non-derogable rights in the ICCPR should have been protected during this time according to Article 4. If they have not been, Egypt is in breach of the ICCPR.

#### **Cairo Declaration on Human Rights in Islam and Arab Charter on Human Rights**

Both the Cairo Declaration and the Arab Charter will be examined briefly to see what they reveal about the status of regional human rights documents and treaties in the Middle East. Both of these documents attempt to mimic the international covenants, but fall short of actually protecting human rights. These documents have not been taken very seriously, as there are not even mechanisms to implement and monitor them. However, they will be analyzed as part of the human rights framework, regardless of their shortcomings, since they are part of Egypt's human rights framework.

#### *Cairo Declaration on Human Rights in Islam*

The articles in the Cairo Declaration relevant to Law 96 are the right to work,<sup>218</sup> the right to health,<sup>219</sup> the right to an adequate standard of living,<sup>220</sup> the right to the

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<sup>218</sup> Cairo Declaration *supra* note 6, Article 13

freedom of opinion,<sup>221</sup> the right to education,<sup>222</sup> the right to life,<sup>223</sup> and the right to the security of person.<sup>224</sup> Although these articles correspond to articles in the international covenants, they are not as detailed and do not provide protection against human rights abuses.

The Cairo Declaration is not a binding document and has not been widely commented on.<sup>225</sup> It was adopted by the Islamic Ministerial Conference of August 1990 in Cairo, Egypt.<sup>226</sup> It has often been criticized by the international community as being a shield that Middle Eastern governments hide behind. Although the Declaration is in the name of Islamic shari'ah, it is often concluded to be yet another mean for the governments to push their political agendas. This can be seen through the shortcomings of the articles of the Declaration, despite their similarity to the ICCPR and ICESCR. When comparing the wording of the Declaration with that of the ICCPR and the ICESCR, the Declaration always comes up short – failing to define terms or rights, and usually including an undefined clawback clause that declares that the right exists, unless incompatible with Islamic shari'ah. In the preamble, the Declaration states that the Organization of the Islamic Conference “reaffirm their commitment to the UN Charter

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<sup>219</sup> Cairo Declaration, Art. 17(6)

<sup>220</sup> Cairo Declaration, Art. 17(6)

<sup>221</sup> Cairo Declaration, Art. 22

<sup>222</sup> Cairo Declaration, Art. 8

<sup>223</sup> Cairo Declaration, Art. 2

<sup>224</sup> Cairo Declaration, Art. 18

<sup>225</sup> Donna E. Arzt, *Religious Human Rights in the World Today: A Report on the 1994 Atlanta conference: Legal Perspectives on Religious Human Rights: Religious Human Rights in Muslim States of the Middle East and North Africa*, 10 Emory Int'l L. Rev. 139 (Spring, 1996)

<sup>226</sup> Abdullahi A. An-Na'im, *Human Rights in the Arab World: A Regional Perspective*, 23 Human Rights Quarterly 713 (2001) 19<sup>th</sup> Islamic Conference of Foreign Ministers (Session of Peace, Interdependence and Development), Cairo, Egypt (31 July-5 August 1990)

and fundamental human rights, the purposes and principles of which provide the basis for fruitful co-operation amongst all people.”<sup>227</sup> Although a brief examination of the Declaration shows that it does not agree with the UN Charter and other human rights treaties and covenants, but actually contradicts them or does not offer equally high standards of protection.<sup>228</sup>

Specifically, in Article 24 the Declaration states that “[a]ll the rights and freedoms stipulated in this Declaration are subject to the Islamic Shari’ah”<sup>229</sup> and does not go any further to define or clarify what these limitations are.<sup>230</sup> The Declaration also deals with the emergency laws briefly, but only in the context of arrests and torture.<sup>231</sup> However, it does not provide safeguards or serious protection against emergency laws and what should be temporary derogation from some rights and no derogation for others.<sup>232</sup>

#### *Arab Charter on Human Rights*

The relevant articles in the Arab Charter that will be looked at are the right to work,<sup>233</sup> right to association,<sup>234</sup> right to be free from torture,<sup>235</sup> right to the freedom of

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<sup>227</sup> Cairo Declaration *supra* note 6, preamble

<sup>228</sup> Ann Elizabeth Mayer, *Universal Versus Islamic Human Rights: A Clash of Cultures or a Clash with a Construct?*, 15 Mich. J. Int’l L. 307 (Winter 1994)

<sup>229</sup> Cairo Declaration *supra* note 6, Art. 24; Arzt *supra* note 225

<sup>230</sup> Mayer *supra* note 228

<sup>231</sup> Cairo Declaration *supra* note 6, Art. 20: “It is not permitted without legitimate reason to arrest an individual, or restrict his freedom, to exile or to punish him. It is not permitted to subject him to physical or psychological torture or to any form of maltreatment, cruelty or indignity. Nor is it permitted to subject an individual to medical or scientific experiments without his consent or at the risk of his health or his life. Nor is it permitted to promulgate emergency laws that would provide executive authority for such actions.”

<sup>232</sup> Mayer *supra* note 228

<sup>233</sup> Arab Charter *supra* note 7, Article 30

<sup>234</sup> *Id.* Art. 28

<sup>235</sup> *Id.* Art. 13

opinion,<sup>236</sup> right to assembly,<sup>237</sup> right to education,<sup>238</sup> right to life,<sup>239</sup> and the right to the security of person.<sup>240</sup> Similar to the Cairo Declaration, these rights are underdeveloped in the Charter and lack implementation and monitoring mechanisms.

The Arab Charter on Human Rights was adopted in September 1994 by the Arab League.<sup>241</sup> However, it has not been ratified by any Arab states since it was adopted.<sup>242</sup> Even if it was ratified, there are no mechanisms to enforce the Charter such as exist for the international covenants and other regional systems like the European Court of Human Rights and the Inter-American Court of Human Rights.

Most of the articles in the Charter fall short of the higher standards of the ICCPR and the ICESCR. The mechanisms for the implementation of the rights enshrined in the Charter are very weak and consist only of examining reports made to the Permanent Commission of Human Rights of the Arab League.<sup>243</sup> The government of Egypt itself has not taken the Charter seriously. The Egyptian spokesperson towards the Council described the Charter as a regional shield against international pressures on Arab states in the field of human rights.<sup>244</sup>

The Cairo Declaration and Arab Charter leave a lot to be desired in respect to their protection of human rights, but they are a start towards a regional human rights

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<sup>236</sup> *Id.*, Art. 26

<sup>237</sup> *Id.*, Art. 28

<sup>238</sup> *Id.*, Art. 34

<sup>239</sup> *Id.*, Art. 5

<sup>240</sup> *Id.*, Art. 5,8

<sup>241</sup> *Id.*

<sup>242</sup> An-Naim *supra* note 226 at 714

<sup>243</sup> *Id.* at 715

<sup>244</sup> *Id.* at 715

program. Still, they have a long way to go before they can reach the success of other regional institutions such as the European Court of Human Rights and the Inter-American Court of Human Rights. They represent the beginnings of regional human rights standards to which Law 96 would be measured.

### **African Banjul Charter**

Egypt ratified the African “Banjul” Charter in March of 1984. The relevant articles in the Charter that will be included in the human rights framework are the right to work,<sup>245</sup> right to health,<sup>246</sup> right to association,<sup>247</sup> right to be free from torture,<sup>248</sup> right to receive information,<sup>249</sup> right to the freedom of opinion,<sup>250</sup> right to assembly,<sup>251</sup> right to education,<sup>252</sup> right to life,<sup>253</sup> and the right to the security of person.<sup>254</sup>

Egypt has entered a reservation to the Charter regarding article 8(3), 9, and 18(3) with a clawback clause, stating they will be implemented in accordance with Islamic shari’ah law.<sup>255</sup> The African Union has a much more developed regional human rights system than any corresponding systems in the Middle East. The Banjul Charter differs from other international human rights instruments by dealing with civil, political,

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<sup>245</sup> Banjul Charter *supra* note 5, Art. 15

<sup>246</sup> *Id.*, Art. 16

<sup>247</sup> *Id.*, Art. 10

<sup>248</sup> *Id.*, Art. 5

<sup>249</sup> *Id.*, Art. 9

<sup>250</sup> *Id.*, Art. 22

<sup>251</sup> *Id.*, Art. 11

<sup>252</sup> *Id.*, Art. 17

<sup>253</sup> *Id.*, Art. 4

<sup>254</sup> *Id.*, Art. 6

<sup>255</sup> Nsongurua J. Udombana, *Can the Leopard Change Its Spots? The African Union Treaty and Human Rights*, 17 Am. U. Int’l L. Rev. 1177. Egypt ratified the Charter on 20 March 1984.

economic, social, cultural, and group rights.<sup>256</sup> Additionally, it not only protects human rights, but also posits duties as well.<sup>257</sup> It has duties for individuals in their communities and countries in addition to the protection of individual rights.

Although more developed and advanced than the Cairo Declaration or the Arab Charter, there is still room for development of the enforcement mechanisms of the African system. States are supposed to submit reports to the African Commission, a treaty monitoring body, every two years. The Commission is charged with examination of state party reports, interstate, NGO and individual complaints and communication.<sup>258</sup> Complaints can be filed by states, NGOs and individuals per articles 55-58 of the Charter.<sup>259</sup> Recently in January of 2004, the Protocol to the African Charter on Human Rights on the Establishment of an African Charter on Human and People's Rights.<sup>260</sup>

### **Egyptian Constitution**

The Egyptian Constitution must also be included in the context of the human rights framework since it is the domestic tool for implementation of the international human rights covenants and treaties. The articles that are relevant to Law 96 in the Egyptian Constitution that will be analyzed are the right to work,<sup>261</sup> the right to health,<sup>262</sup>

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<sup>256</sup> Banjul Charter *supra* note 5. The preamble states: "Convinced that it is henceforth essential to pay of particular attention to the right to development and that civil and political rights cannot be dissociated from economic, social and cultural rights in their conception as well as universality and that the satisfaction of economic, social and cultural rights is a guarantee for the enjoyment of civil and political rights."

<sup>257</sup> *Id.* The preamble states: "Considering that the enjoyment of rights and freedoms also implies the performance of duties on the part of everyone..."

<sup>258</sup> Banjul Charter *supra* note 5

<sup>259</sup> Banjul Charter *supra* note 5, Articles 55-58

<sup>260</sup> *Protocol to the Charter on Human and People's Rights on the Establishment of an African Court on Human and People's Rights*, OAU/LEG/MIN/AFCHPR/PROT.1/rev.2/1997 (entry into force 25 January 2004)

<sup>261</sup> Egyptian Constitution *supra* note 156, Article 13

<sup>262</sup> *Id.* Article 16

the right to the freedom of opinion,<sup>263</sup> the right to assembly<sup>264</sup> and the right to the security of person.<sup>265</sup> The protection of rights is limited in the constitution by the law and by the state of emergency.

The preamble sets the stage for the rest of the Constitution and gives the intent of the document as a whole. In the preamble, or the constitutional proclamation, the third provision states that the “constant development of life in our nation” is a priority. It is followed by the fourth provision stating that “freedom for the humanity of the Egyptian man” is another base for the constitution. These provisions, stated in the preamble, give the intent and purpose of the Egyptian constitution and the following articles should follow their spirit. However, the rights ensured by the Constitution are limited and defined by law, so there is little room left for judicial review of the constitutionality of the law. The preamble is not legally binding, but it gives a basic summary of the context in which the constitutional provisions are meant to be interpreted. Thus, by taking the preamble into account, it gives the framework in which the articles will be seen.

Not all of the rights that are stated in international law are seen in the Egyptian Constitution, and further, it is lacking a true bill of rights in order to protect the rights of individuals. In order for a constitution to protect rights, it must limit power of the branches of government in order to protect the people, which the Egyptian Constitution fails to do. The executive holds most of the power, which is often unchecked according to the constitution.<sup>266</sup> Furthermore, Articles 87, 101, 102, 106, 109, 113, 127, and 132

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<sup>263</sup> *Id.*, Article 47

<sup>264</sup> *Id.*, Article 54

<sup>265</sup> *Id.*, Article 41

<sup>266</sup> *Id.*, Articles 73-85. These articles define the position of the head of state. They give the President the right to create law by referendum, give no limit to the number of terms that he may serve. Article 108 gives

state the president's duties and rights in regards to the People's Assembly, in respect to his role in creating or rejecting law. In Article 137-152 in Chapter III, the executive, or President of the Republic, is given a significant amount of unchecked power. These constitutional provisions allow the president of Egypt to act without checks or balances to ensure his office is upholding these rights.

In Egypt, some aspects of the ICCPR and ICESCR have been incorporated into the domestic law. International law has supralegal value in Egypt and thus should be incorporated into the Constitution as well as the law. Regardless of the value, Egypt is under the obligation to bring its Constitution and legislation into conformity with the two Covenants that it has signed. Some of the articles of these covenants correspond to the provisions within the Egyptian Constitution. However, they cannot all be enforced in accordance with the Covenants because of the emergency clauses that exist within the constitution.

Prior to 1990, Egypt was one of the few African States that had economic, social and cultural rights in its constitution. Articles 7-39 of the 1980 Constitution guarantee the right to the protection of the family, motherhood, childhood, health, social security, education, work and property.<sup>267</sup>

Article 11 of the Egyptian Constitution states that “[t]he State shall guarantee the proper coordination between the duties of women towards the family and her work in society, considering her equal with men in the fields of public, social, cultural and economic life without violation of the rules of Islamic jurisprudence.” This is a great

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the President's resolutions the force of law, Article 112 gives the President the right to promulgate laws, or object to them.

<sup>267</sup> Chirwa *supra* note 159



example of the “clawback clauses” that exist in the Egyptian Constitution as well as in Egypt’s reservations to international conventions and treaties. It states that it will give a right, in this case equality of men and women, but then gives the possibility for it to be taken away if it violates Islamic shari’ah. The Islamic shari’ah has often been used as justification for the lack of fulfillment of human rights obligations in Egypt.

The right to work is set forth in Article 13 of the Egyptian Constitution as a right, duty and honor ensured by the State.<sup>268</sup> Article 16 of the Egyptian Constitution guarantees “cultural, social and health services, and shall work to ensure them particularly for villagers in an easy and regular manner in order to raise their standard.”<sup>269</sup> Articles 41 and 47 address the right to the security of the person<sup>270</sup> and the freedom of opinion.<sup>271</sup> Articles 54, 55, and 56 of the Constitution allow Egyptians the right to peaceful and private assembly, the right to form societies, and to create and participate in syndicates and unions. However, the clawback clauses exist here as well, prohibiting anything “hostile to the social system, clandestine, or having a military character,”<sup>272</sup> and being subject to the law. State security forces have often been used under the auspices of the emergency laws to prevent these rights from being implemented.

In regards to land rights, Article 37 of the Constitution states, “the law shall fix the maximum limit of land ownership with a view to protecting the farmer and agricultural laborer from exploitation and asserting the authority of the alliance of the

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<sup>268</sup> Egyptian Constitution *supra* note 156, Article 13

<sup>269</sup> *Id.*, Article 16

<sup>270</sup> *Id.*, Article 41

<sup>271</sup> *Id.*, Article 47

<sup>272</sup> *Id.*, Article 55, “Citizens shall have the right to form societies as defined by law. The establishment of societies whose activities are hostile to the social system, clandestine, or have a military character shall be prohibited.

people's working forces in the village." This article relates directly to Law 96, and does not exist in any of international human rights conventions or treaties, but exists to add additional protection to the farmer. Article 23 of the Constitution provides for a comprehensive economic development plan whose end goal is to lessen the disparities between incomes.<sup>273</sup>

The Egyptian Constitution remains perhaps the most important instrument in ensuring that human rights and Egypt's obligations under the Covenants are upheld. The Constitution is the way in which the rights are incorporated domestically and the way in which individuals are actually exposed to or interact with their rights.

In conclusion, one of the most detrimental aspects of this situation is the confusion and inconsistency of the Egyptian Constitution itself. Since the time of Nasser, Egypt has had four constitutions and one amended constitution. There was no constitution from 1952-1956, the time immediately following the revolution. In 1956, Nasser finally created his first constitution, which was to be replaced in 1958 upon the joining with Syria. From 1962-1964, there was again no constitution, and then another new one was created in 1964. Sadat also created a new constitution in 1971, which was amended in 1980. This frequent change of constitutions resulted because of changes in the political alignments of the government, such as the alliance with Syria, or simply the changing of the president. However, many of the laws have remained in force throughout the constitutional changes. This is problematic, since a law established under an older constitution might be sound, but under the next may be unconstitutional. Furthermore,

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<sup>273</sup> *Id.*, Article 23, The national economy shall be organized in accordance with a comprehensive development plan which ensures raising the national income, fair distribution, raising the standard of living, solving the problem of unemployment, increasing work opportunities, connecting wages with production, fixing a minimum and a maximum limit for wages in a manner that guarantees lessening the disparities between incomes.

the discrepancies can create serious problems in the long run, such as those experienced with Law 96. When Law 96 came into force, people were genuinely confused; the previous tenancy laws fit perfectly with the constitution under which they were created. The main reaction was one of disbelief. In the words of one of the evicted tenants in Upper Egypt, “According to our understanding, when the law [of agrarian reform] came Gamal Abdel Nasser said, this is the Constitution of the Revolution and it cannot be undone.”<sup>274</sup>

Constitutions should protect human rights by dividing, limiting and controlling power, as well as submitting the power to the rule of law. The Egyptian Constitution does none of these things to the extent necessary to truly protect the human rights of Egyptian citizens.

### **Conclusion**

The human rights framework in Egypt holds the government to a high legal standard as far as human rights protection is concerned. The regional instruments, although not legally binding, reiterate the rights of the ICCPR and the ICESCR in which rights should be protected. The Constitution also offers provisions that should protect these rights. Thus, after setting up this framework, Law 96 must be analyzed to see if it does reach these standards of protection of human rights.

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<sup>274</sup> Saad *supra* note 27 at 116

## CHAPTER V: ANALYSIS OF LAW 96 WITHIN THE HUMAN RIGHTS FRAMEWORK

Law 96 of 1992 will now be discussed within the international human rights framework that has been established. Law 96 will be analyzed in terms of types of specific human rights provisions, which will be combined into the following groups for analysis: economic, social and cultural rights, and civil and political rights.

### **Economic, Social and Cultural Rights**

Land reforms clearly raise a conflict of economic rights. Claims can be made both by the landowners and tenants about violations of economic rights. However, the scope of this analysis will be limited to violations of Egypt's obligations that can be found in human rights law. The relationship between landlords and tenants is very important with the economic liberalization policies that were adopted by the government of Egypt.<sup>275</sup> Law 96 was meant to aid the new liberal market-oriented economy based on free enterprise and reduce government involvement in the economy.<sup>276</sup> However, the economic and social gains of this counter-reform primarily benefited landlords, and rarely fellahin or tenants.<sup>277</sup> There are other ways to achieve more social and economic equity in land reform, including progressive taxation, better public services, food subsidies and employment opportunities.<sup>278</sup>

Through the application of the covenants and other human rights instruments, I will examine the effect on rights of the steps taken by the government of Egypt through the implementation and enforcement of Law 96. Rights implicated include: right to

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<sup>275</sup> Seyam & El-Bilassi *supra* note 72 at 59

<sup>276</sup> *Id.*

<sup>277</sup> S.L. Barraclough, *An End to Hunger, the Social Origins of Food Strategies* (London, Zed Books 1991) 130

<sup>278</sup> *Id.* at 134

work,<sup>279</sup> right to health,<sup>280</sup> right to an adequate standard of living,<sup>281</sup> right to association,<sup>282</sup> right to be free from torture,<sup>283</sup> right to receive information,<sup>284</sup> right to the freedom of opinion,<sup>285</sup> right to assembly,<sup>286</sup> right to economic development,<sup>287</sup> right to education,<sup>288</sup> right to life,<sup>289</sup> the right to be free from arbitrary or unlawful interference in one's home<sup>290</sup> and the right to the security of person.<sup>291</sup> Additionally, the situation surrounding the creation and implementation Law 96 will be examined to see if the civil/political rights violations are interrelated with the violations of economic/social rights. Furthermore, the idea of a minimum standard for human rights will be analyzed to see if the government of Egypt can be held to this standard. Specifically, the right to be free from torture and other basic civil, political, economic, social and cultural rights will be examined under this minimum standard. Finally, Egypt's declared state of

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<sup>279</sup> Egyptian Constitution *supra* note 156, Article 13; ICESCR *supra* note 3, Article 6; Banjul Charter *supra* note 5, Art. 15; Cairo Declaration *supra* note 6, Article 13; Arab Charter *supra* note 7, Article 30

<sup>280</sup> Egyptian Constitution *supra* note 156, Article 16; ICESCR *supra* note 3, Article 12; Banjul Charter *supra* note 5, Art. 16; Cairo Declaration *supra* note 7, Art. 17(6)

<sup>281</sup> ICESCR *supra* note 3, Article 11; Cairo Declaration *supra* note 6, Art. 17(6)

<sup>282</sup> Banjul Charter *supra* note 5, Art. 10; Arab Charter *supra* note 7, Art. 28

<sup>283</sup> CAT *supra* note 4; ICCPR *supra* note 2, Art. 7; Banjul Charter *supra* note 5, Art. 5; Arab Charter *supra* note 7, Art. 13

<sup>284</sup> Banjul Charter *supra* note 5, Art. 9

<sup>285</sup> Egyptian Constitution *supra* note 156, Article 47; ICCPR *supra* note 2, Art. 19; Banjul Charter *supra* note 5, Art. 22; Cairo Declaration *supra* note 6, Art. 22; Arab Charter *supra* note 7, Art. 26

<sup>286</sup> Egyptian Constitution *supra* note 156, Article 54; ICCPR *supra* note 2, Art. 21; Banjul Charter *supra* note 5, Art. 11; Arab Charter *supra* note 7, Art. 28

<sup>287</sup> Egyptian Constitution *supra* note 156, Article 23

<sup>288</sup> ICESCR *supra* note 3, Art. 13; Banjul Charter *supra* note 5, Art. 17; Cairo Declaration *supra* note 6, Art. 8; Arab Charter *supra* note 7, Art. 34 (specifically illiteracy)

<sup>289</sup> ICCPR *supra* note 2, Art. 6; Banjul Charter *supra* note 5, Art. 4; Cairo Declaration *supra* note 6, Art. 2; Arab Charter *supra* note 7, Art. 5

<sup>290</sup> ICCPR *supra* note 2, Art. 17 (1)

<sup>291</sup> Egyptian Constitution *supra* note 156, Article 41; ICCPR *supra* note 2, Art. 9; Banjul Charter *supra* note 5, Art. 6; Cairo Declaration *supra* note 6, Art. 18; Arab Charter *supra* note 7, Art. 5,8

emergency<sup>292</sup> will be considered with regard to its effect on upholding and implementing these standards through Law 96.

Since economic rights are difficult to define and even more problematic to immediately enforce, as many factors as possible surrounding the creation and implementation of Law 96 will be examined in order to determine if the government of Egypt has fulfilled its obligations in respect to the economic, social and cultural rights of tenant subsidies.

The introduction of Law 96 as part of Egypt's counter-agrarian reforms and as a part of an economic liberalization policy has had many detrimental effects on the population. Not only has the economy failed to improve, but Egypt's agricultural system has experienced an increase in problems. Now, instead of being able to support the country, as it once did, the crops raised by farmers are mainly cash crops for export. This has accelerated Egypt's heavy reliance on imports causing the Egyptian economy to be heavily effected by international market fluctuations. In addition, the relationships between the tenants, landlords and government are fragmented at best and have often turned violent. Instead of helping Egypt's agricultural sector, Law 96 has only created economic dependency, violence, destruction and a new arena to violate human rights.

It is not an easy task to assess violations of economic, social and cultural rights in regards to land reform, but the United Nations has published guidelines. In 1996, the Secretary-General of the ECOSOC Committee produced a document called *Economic and Environmental Questions: Food and Agricultural Development*,<sup>293</sup> which was an

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<sup>292</sup> ICCPR *supra* note 2, Art. 4; Cairo Declaration *supra* note 6, Art. 20; Arab Charter *supra* note 7, Art. 4; Egyptian Constitution *supra* note 156, Art. 48

<sup>293</sup> ECOSOC *supra* note 69

analysis of agrarian reforms and development. It is a guideline to help both member states in the United Nations and other U.N. bodies such as the FAO to implement economic and political liberalization while still upholding rights in the ICESCR. This report recognized the growing trend of political and economic liberalization and reforms by member states. It also saw that these reforms were not benefiting the rural poor, as had been expected. One important concept that was repeated throughout the document was that economic and political reform would not be successful without “the strengthening of rural institutions and voluntary social organizations which facilitate the active participation of the rural people in development. It must include specific measures to target the needs of the rural poor, ‘safety nets’ should be established in order to prevent the marginalization or complete exclusion of the rural poor from the development process.” It further stated that during privatization many states cut public expenditure, usually creating a negative impact on the quality and availability of education. The report recognized the FAO’s role in the agrarian reforms, and that while rural poverty had decreased in some regions, patterns of government expenditure reflected continuing distortions and that economic restructuring was problematic.<sup>294</sup> The ECOSOC report reiterated the extra precautions that must be taken to include the rural poor in the benefits of political economic reform, since most of the data showed that they were being denied any benefits.

The document also addressed the structural adjustment packages created by the IMF and the World Bank that were meant to reduce government intervention, support financial restructuring and fiscal reform, target infrastructure investment and stimulate

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<sup>294</sup> *Id.*, Section I

the private structure. However, it saw these programs as problematic because most of them have had a negative impact on the rural poor, through reductions in rural wage and employment levels, increases in product prices, and increases in costs of factors of production and reduced public sector welfare expenditure. In order to show that liberalization could be a positive thing in rural agricultural communities, the Secretary-General stated that “[e]conomic and political liberalization are not ends in themselves. Instead, liberalization is a platform for change. It has the potential to act as a vehicle for poverty alleviation and eventual eradication.” He went on to say:

“Liberalization is neither straightforward nor easy. It requires profound reform and multi-sectoral interventions. Governments must be aware of the need to provide appropriate support and incentives to the agricultural sector. Without this support the rural populations will be unable to reap the benefits of economic and political liberalization, and the deficiencies in the agricultural sector may stifle growth in other sectors.”

In Section 3 of the note, devoted to people’s participation, the active role of rural people was stressed. It stated that “[d]ecentralization efforts will not succeed without strengthening rural institutions and voluntary social organizations which facilitate the active participation of rural people in the development and policy-making process.” Most governments did provide for rural people’s participation through local governments or agricultural cooperatives, but the report stated that they were used in a “top-down” fashion, pushing governmental objectives instead of functioning freely to respond to farmers needs. Additionally, most other participation has been “passive,” meaning that the rural people have been receivers of services from the government instead of “active,” directly contributing to the cooperatives. The U.N. recommended “safety nets”<sup>295</sup> were not established as preventative measures to protect the fellahin and tenant farmers from

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<sup>295</sup> *Id.*, at 3, 8



marginalization and exclusion from the lawmaking and overall development process

For the rights of the ICESCR to be implemented in Egypt, one of the first and most important principles of the Covenant must be adhered to: that of non-discrimination, especially regarding class or social status. The fellahin and tenant farmers must have equal rights and equal access to the process of law making or protection of these rights as other Egyptians. If the powerful land owners and urban governments simply ignore these rights, they will continue to destroy the economy and development of agrarian Egypt.

Law 96 seriously affected the fellahin's status in society by taking away any pride of "ownership" that the tenants had. Although they were never the legal owners of the land, they had permanent tenancies that their children could inherit and they could not be evicted unless for a serious reason. As a result of Law 96 these tenants lost their inheritance rights, tenure rights and dramatically increased rents,<sup>296</sup> which had been the stability of their livelihoods for over forty years. Because agreements to farm the land are no longer written, many tenants cannot renew their contracts, or they are simply broken. It puts approximately 9 million fellahin in an extremely impoverished situation, whereas before, although they were poor, they could feed their families and sustain life. Female heads of households who had been successfully running farms prior to Law 96 were particularly affected when they were dispossessed, because landowners refuse to renew contracts with women in fear of their inability to properly care for the land.<sup>297</sup>

Bush sees USAID's involvement with agricultural policies in Egypt as a failed initiative and that it has further marginalized Egyptian farmers, accelerating underdevelopment and minimizing their political rights. In a 2001 article in *Al-Ahram*

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<sup>296</sup> Bush *supra* note 12 at 22

<sup>297</sup> *Id.* at 22

*Weekly*, Bush states that the four main obstacles to agricultural growth under USAID's plan are the "legacy of inappropriate pricing policies, the anti-competitive statist institutional framework, the need for technological innovation, and the more efficient use of available land and water."<sup>298</sup> USAID has declared their policy initiatives to be "grassroot," however Bush argues that most of the fellahin who the changes effected were not involved in the policy making. He says that all policy initiatives that were designed without fellahin representation have failed, citing Law 96 as a key example. Results of the implementation of this law have been: increases in rural debt; dispossession of tenants; difficulties of farming households to obtain credit from banks; decreased availability and quality of transport, health, education and access to food; tenants can only cultivate cheaper crops, while the large landowners regained their control over the more expensive crops such as cotton; and general insecurity.<sup>299</sup>

By reaching out to USAID, the World Bank, and the IMF, Egypt was taking progressive steps to alleviate its economic problems, and thus improve, at a minimum, the standard of living of its people. However, it can be debated whether it did so using "the maximum of its available resources,"<sup>300</sup> since it devoted and still devotes an enormous amount of its expenditures to defense. The Economic and Social Council has recognized that "[h]igh levels of military expenditure and continuing conflicts continue to produce negative impacts on agriculture and the rural poor."<sup>301</sup> Where it was supposed to help the poor, it instead has had a negative impact due to reductions in rural wages and

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<sup>298</sup> Ray Bush, *Time to Go*, Al-Ahram Weekly (21-27 June 2001) Issue No. 539, <http://weekly.ahram.org.eg/2001/539/fo72.htm>

<sup>299</sup> *Id.*

<sup>300</sup> ICESCR *supra* note 3, Article 2

<sup>301</sup> ECOSOC *supra* note 69

employment and an increase in costs of production because of the liberalization process.<sup>302</sup> Thus, by implementing the law, the fellahin have been deprived of their work by their dispossession of the land, and furthermore, their profits are not as high do to the increased costs of land rental as well as costs of fertilizers and other necessary input for agricultural production.

### **Economic Rights**

The immediate enjoyment of economic rights has often been sacrificed for the sake of economic reform. However, in the case of Law 96, the immediate enjoyment should have been given priority. The structural adjustment programs and economic reforms were supposed to improve the life of the Egyptian, including the fellahin, not make it significantly worse. Because of this huge gamble, the basic economic rights of the farmers are no longer being protected. Thus, the minor cost that the fellahin were supposed to pay with their economic means in the name of agricultural development ended up being a major violation of their rights.

In the future, is it worth the supposed temporary suspension or violation of some of the population's rights for the greater cause of the country such as programs of economic reform and structural adjustment? The answer is no – immediate rights cannot be traded for the assumption of better rights in the future. The risk of failure is too great. Often the failure will not lead the individual back to the same state of life that they had experienced before the reforms, but will actually deteriorate his standard of living. The risks that are undertaken by a government when deciding to implement economic reforms

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<sup>302</sup> *Id.* at 9, par. 15

and structural adjustments and the correlating legislations, such as Law 96, are so great that long term improvement cannot be guaranteed.

The next problem is how agrarian and economic reforms can be guaranteed or improved in the long run. Most definitely, Egypt will buy into future economic and agricultural reform programs. Looking at the state of its economy, it has no choice. Some have argued that it is not a matter of choosing to implement structural adjustments or not, but choosing when to implement them. This line of thinking is plausible as long as it does not violate the rights in the ICESCR in the event of either success or failure. These rights are guaranteed by the Covenant and the government of Egypt has taken upon itself, under international law, to protect those under its jurisdiction from violations of those rights. Consequently, it is never an option to suspend the rights.

### **Right to Work**<sup>303</sup>

The right to work is found in most of the human rights covenants, although it is most thoroughly addressed in the ICESCR. The right to work has been violated by Law 96. While large landowners have increased in their production and work, the tenants have been deprived of their livelihood. Landowners are not renewing contracts nor are they renting them out at reasonable prices. Unlike in urban areas, choices of employment in the countryside, are very limited with farming often acting as the only option. The government made slight concessions by offering desert land for farming, which is entirely different enterprise. Nile valley farmers do not have the skills or equipment needed in order to be successful desert farmers, and it would uproot them from the families and communities, marginalizing them even further.

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<sup>303</sup> Egyptian Constitution *supra* note 156, Article 13; ICESCR *supra* note 3, Article 6; Banjul Charter *supra* note 5, Art. 15; Cairo Declaration *supra* note 6, Article 13; Arab Charter *supra* note 7, Article 30

Article 6 of the ICESCR stipulates the right to work, and further emphasizes the state's duty to safeguard that right as well as to undertake "training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual."<sup>304</sup> Those expelled from their land had not been properly informed that the law would actually take effect. No information was distributed by the government, nor was any effort made to educate or assist the tenant farmers in any way.<sup>305</sup> No genuine effort has been made on behalf of the Egyptian government to actively offer alternative employment opportunities to those tenant farmers who have lost their livelihoods because of Law 96. Taking away jobs in this manner is additionally a violation of Article 13 of the Egyptian Constitution which ensures employment as a right, duty and honor ensured by the state.<sup>306</sup> Tenant farmers have been denied their livelihood of the past 50 years, and thus their right to work.

### **Right to Housing<sup>307</sup>**

The right to housing includes several rights such as the right to land and the right to be free from forced eviction. When Law 96 was initiated, one of the most frequent actions taken against the tenant farmers was forced eviction, and often destruction of their houses and burning of their fields. Furthermore, those who were offered alternative

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<sup>304</sup> ICESCR *supra* note 3, Article 6

<sup>305</sup> Mohamed H. Abdel Aal, *Agrarian Reform and Tenancy in Upper Egypt* in COUNTER-REVOLUTION IN EGYPT'S COUNTRYSIDE: LAND AND FARMERS IN THE ERA OF ECONOMIC REFORM (ed. Ray Bush 2002) 151

<sup>306</sup> Egyptian Constitution *supra* note 156, Article 13

<sup>307</sup> ICESCR *supra* note 3, Article 11 (1)

housing could not afford the housing the government offered.<sup>308</sup>

In General Comment No. 7, the ECOSOC Committee stated that the right to adequate housing in Article 11 of the ICESCR can be protected in several ways.<sup>309</sup> First, all people should have security of tenure, which protects against forced eviction, harassment and other threats. The Commission on Human Rights has reiterated that “forced evictions are a gross violation of human rights.”<sup>310</sup> It also addressed the issue of forced eviction occurring in the name of development, which is the case of Law 96 in Egypt. It stated that states have the obligation to use “all appropriate means”<sup>311</sup> to promote the right to adequate housing. Essentially, states must refrain from forced evictions and enforce this by law. Additionally, Article 17.1 of the ICCPR supports the right not to be forcefully evicted without adequate protection, *inter alia*, the right to be protected from “arbitrary or unlawful interference” with one’s home.

General Comment No. 4 addressed the right to adequate housing found in Article 11.1 of the ICESCR.<sup>312</sup> The right to adequate housing includes the following components: legal security of tenure, availability of services, materials, facilities and infrastructure, affordability, habitability, accessibility, location, and cultural adequacy. In the case of Law 96, it undid any security of tenancy that the tenant farmers had had enjoyed for 50 years. Furthermore, there was widespread destruction of homes by

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<sup>308</sup> ECOSOC, *Consideration of Reports Submitted by State parties in Accordance with Articles 16 and 17 of the Covenant: Initial Report of Egypt*, 22<sup>nd</sup> Session, 9 May 2000, E/C.12/2000/SR.13.

<sup>309</sup> *General Comment No. 7*, (the right to adequate housing, article 11.1, forced evictions) 20 May 1997, ICESCR, Office of the High Commissioner for Human Rights

<sup>310</sup> Commission on Human Rights resolution 1993/77, para. 1

<sup>311</sup> ICESCR *supra* note 3, Art. 2.1

<sup>312</sup> *General Comment No. 4 (The Right to Adequate Housing (Article 11.1))* 13 December 1991, ICESCR, Office of the High Commissioner for Human Rights.

landowners, police, and state security and no alternative housing was offered.

In regards to land rights, Article 37 of the Constitution states, “the law shall fix the maximum limit of land ownership with a view to protecting the farmer and agricultural laborer from exploitation and asserting the authority of the alliance of the people’s working forces in the village.” The tenants who have been directly negatively affected by this law are the main working force in the villages and countryside, and have been wronged in contradiction to this article. This article was designed to safeguard against laws such as Law 96. Although the main result of this article is to fix the size of land ownership, the motivation is clearly stated, and that is to protect the farmer in the Nasserist spirit.

The right to land and to be free from forced eviction is very important, and when this right is not protected or upheld, it has a domino effect, violating other rights such as the right to an adequate standard of living and the right to health.

### **Right to an Adequate Standard of Living<sup>313</sup>**

The ICESCR stipulates that a minimum adequate standard of living is required by all state parties to the convention. Article 11 stipulates that the government must continuously improve the food, clothing and housing of everyone under its jurisdiction<sup>314</sup> and one of the stipulated methods to do that is through participation in specific international programs,<sup>315</sup> such as, the USAID, IMF or World Bank initiatives that Egypt

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<sup>313</sup> ICESCR *supra* note 3, Article 11; Cairo Declaration *supra* note 6, Art. 17(6)

<sup>314</sup> ICESCR *supra* note 3, Article 11 (1) State parties to the covenant shall guarantee the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing, and housing, and to the continuous improvement of living conditions. The State Parties will take appropriate steps to ensure the realization of these rights, recognizing to this effect the essential importance of international cooperation based on free consent.

<sup>315</sup> ICESCR *supra* note 3, Article 11 (2) State parties to the covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international cooperation, the

has participated in. Article 11(2)(a) of the ICESCR addresses the development and reform of agrarian systems in order “to achieve the most efficient development and utilization of natural resources.”

For most rural inhabitants, access to land means the right to work and food and shelter. If the land is taken away from them, then they lose these things as well. Thus, a minimum adequate standard of living is taken away from them. In this analysis, the minimum adequate standard of living will be defined as above the poverty line. The poverty levels that the tenants are currently facing, which also leads to deprivation of education, is in severe violation of their human rights. It has been shown that “those who were near or below the poverty line before economic transformation are increasingly unable to attain minimum reproductive thresholds in the initial post reform period.”<sup>316</sup> Approximately a million fellahin have been directly affected with their family members numbering 9 million. Whereas before the law passed they could at least sustain life, now they are facing unlivable conditions.

Although, the FAO recommendations for adjustment of land tenancy were made “in order to achieve the equity and efficiency in the agricultural sector,”<sup>317</sup> it has actually further increased the gap between rich and poor. The standard of living of the rural poor was not high prior to the implementation of Law 96, but has now plummeted to a new low. Since the beginning of these reforms and adjustment programs in 1990-1991, the number of poor doubled in almost five years going from 20 percent to 40 percent of the

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measures, including specific programmes, which are needed: (a) to improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources.

<sup>316</sup> ECOSOC *supra* note 69 at 13, par. 26

<sup>317</sup> FAO *supra* note 92 at 2; Bush *supra* note 12 at 19



population.<sup>318</sup> Further evidence of increased poverty can be seen in the decline of real per capita expenditure on food, which has decreased by 13 percent in rural areas, implicating a serious deterioration of the standard of living in only five years.<sup>319</sup>

The Egyptian Constitution provides for a comprehensive economic development plan whose end goal is to lessen income disparities.<sup>320</sup> However, this law has, instead, created more unemployment, decreased work opportunities and aided the growing gap between rich and poor. Egypt's economic reforms began in 1991. The economic reform program from the MALR were aimed at

“releasing the agricultural sector from all restrictions and distortions; encouraging the private sector; improving terms of trade of agriculture and relieving the burden on it; encouraging the farmers to use modern technology in agriculture, increasing cultivable areas, productivity and farm income; improving the standard of living for the farmers...and providing food...at reasonable prices; increasing export and raising the share of the agricultural sector in the social and economic development of the country”.<sup>321</sup>

Based on this statement by the minister, the proclaimed goals of the economic reform programs fall inline with the ICESCR. The ICESCR stipulates that a minimum adequate standard of living is required by all state parties to the convention. Article 11 stipulates that the government must continuously improve the food, clothing and housing of

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<sup>318</sup> Bush *supra* note 12 at 16

<sup>319</sup> Nader Fergany, *Poverty and Unemployment in Rural Egypt* in COUNTER-REVOLUTION IN EGYPT'S COUNTRYSIDE: LAND AND FARMERS IN THE ERA OF ECONOMIC REFORM (Ray Bush, ed. 2002) 216

<sup>320</sup> Egyptian Constitution *supra* note 156, Article 23, The national economy shall be organized in accordance with a comprehensive development plan which ensures raising the national income, fair distribution, raising the standard of living, solving the problem of unemployment, increasing work opportunities, connecting wages with production, fixing a minimum and a maximum limit for wages in a manner that guarantees lessening the disparities between incomes.

<sup>321</sup> Nassar *supra* note 103 at 3-4; Bush *supra* note 53 at 34

everyone under its jurisdiction<sup>322</sup> and one of the ways to do that is through international cooperation through specific programs,<sup>323</sup> such as PL480 and other USAID, IMF or World Bank initiatives. However, these reforms did not achieve the ends that were claimed in the beginning.

In almost all countries, such as Egypt, where land reform has been implemented, access to food has improved because the beneficiaries of the reforms, usually poor peasants, gained the right to own their own land.<sup>324</sup> Since they did not have to give their food to their landlords, as they did prior to the reforms, they were able to eat it instead.<sup>325</sup> Ownership of land allowed the fellahin to secure the minimum needed for their subsistence because they controlled their own food production.<sup>326</sup>

Article 11(2)(a) of the ICESCR addresses the development and reform of agrarian systems in order “to achieve the most efficient development and utilization of natural resources.” Examination of this article along with the agrarian reforms instituted by the government of Egypt such as Law 96/92 shows that adequate protection of the poor was not offered by the government and thus, there is a violation of the right to an adequate standard of living.

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<sup>322</sup> ICESCR *supra* note 3, Article 11 (1) State parties to the covenant shall guarantee the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing, and housing, and to the continuous improvement of living conditions. The State Parties will take appropriate steps to ensure the realization of these rights, recognizing to this effect the essential importance of international cooperation based on free consent.

<sup>323</sup> ICESCR *supra* note 3, Article 11 (2) State parties to the covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international cooperation, the measures, including specific programmes, which are needed: (a) to improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources.

<sup>324</sup> Barraclough *supra* note 278 at 129

<sup>325</sup> *Id.*

<sup>326</sup> Saad *supra* note 21 at 57

## Right to Health<sup>327</sup>

The deterioration of the standard of living since the introduction of Law 96 has also had a serious affect on the health of the fellahin. Egyptian children already exhibit tendency towards low height and low weight for their age, due to malnutrition.<sup>328</sup> Low height is ascribed to lack of food, and is irreversible. In 1992, the National Population Council Demographic and Health Survey reported that one quarter of Egyptian children were stunted in growth. By the time of the next report in 1996, prevalence of stunting rose to 30 percent, with the rate in rural areas at 34 percent. In Upper Egypt, the rate of stunted growth had reached 40 percent.<sup>329</sup> According to CAPMAS, the government statistical organization which produces the Household Income and Expenditure Surveys, a rapid deterioration in the standard living has occurred since the economic reforms began, disproportionately affecting the countryside.<sup>330</sup> Thus, it can be seen that the implementation of Law 96 has been a vital factor in the decrease of health in the fellahin population.

Article 16 of the Egyptian Constitution guarantees “cultural, social and health services, and shall work to ensure them particularly for villagers in an easy and regular manner in order to raise their standard.”<sup>331</sup> Egyptian lawmakers argued that the creation of Law 96 was necessary to protect these services. Although, it did not decrease the number of medical facilities, doctors, or social groups, it reduced their standard of living,

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<sup>327</sup> Egyptian Constitution *supra* note 156, Article 16; ICESCR *supra* note 3, Article 12; Banjul Charter *supra* note 5, Art. 16; Cairo Declaration *supra* note 6, Art. 17(6)

<sup>328</sup> Fergany *supra* note 320 at 216

<sup>329</sup> National Population Council, *Demographic and Health Survey (1995)*, Cairo, September 1996; National Population Council, *Demographic and Health Survey (1992)*, Cairo, November 1993; Fergany *supra* note 320 at 216

<sup>330</sup> Fergany *supra* note 320 at 216

<sup>331</sup> Egyptian Constitution *supra* note 156, Article 16

which reduced access to medical facilities thereby further reducing their standard of living.

The LCHR has conducted surveys of the health of the farmers.<sup>332</sup> Since Law 96 was passed in 1992, the number of illnesses has skyrocketed due to the extreme poverty levels and lack of money to cover the expense of the medical treatment. The fellahin previously had the resources necessary to access to these medical facilities. Additionally, the government has failed to provide adequate public health care.<sup>333</sup> In their report of January 2000,<sup>334</sup> the LCHR identified violations of the right to health specifically noting problems with drinking water, drainage, livestock and access to healthcare as main factors.

In the village of Shubra in the Minufiya governorate, there was a sudden rise in the population of poisonous snakes that killed several people and injured nearly 50. The reported cause was that farms and homes abandoned after the eviction of the tenants had become a breeding ground for the poisonous snakes. The public health unit in the village of Meit Abu-Khaled was not equipped to handle approximately 55 farmers that came down with typhoid. Test results showed that the disease had come from the village water, which had been polluted and neglected due to the results of Law 96. Polluted water has also been the cause of schistosomiasis in over 32 villages in the governorate of Minya. In Dakhliyya the rate of typhoid has increased because of pollution in the canals. Furthermore, those affected by the disease did not have adequate access to medical treatment. In the governorate of Sohag, an increase in kidney failure was also attributed

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<sup>332</sup> Land Center for Human Rights: The Series of issues of Land and Farmer, *Farmers Disputes... Victims and Violations* (January 2000)

<sup>333</sup> *Id.*

<sup>334</sup> *Id.*

to water pollution after water analysis. In many of these areas, police and hired accomplices have contaminated the water supplies in order to get the tenants to evacuate the land.<sup>335</sup> The privatization of the farming community and health care, treatment and services has led to a serious decline in the health of the tenant farmers.<sup>336</sup> As a significant part of privatization and economic reform policies, Law 96 has violated certain economic and social rights that exist in the ICESCR. Instead of taking the steps toward the required progressive realization of these rights, the state has done the opposite and has been progressively violating rights such as the right to health.

The right to health also exists in the ICESCR<sup>337</sup> and has been indirectly violated similarly to the provision in the Egyptian Constitution. The privatization of the farming community and to health care, treatment and services has led to a serious decline in the health of the tenant farmers. Thus, the privatization and economic reform policies of which Law 96 is a part of have violated certain economic and social rights that exist in the ICESCR.

### **Right to Education<sup>338</sup>**

Prior to the passing of Law 178 in 1952, landlords were hostile to the education of tenants' children.<sup>339</sup> The first agrarian reform laws gave the fellahin the ability to educate their children, as it resulted in surplus that both paid for the expenses of education and

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<sup>335</sup> *Id.*

<sup>336</sup> *Id.* All of these examples were listed, with several more regarding polluted water and a variety of water-related diseases that were minimal before the passing of the law, and have become a noticeable, serious problem since.

<sup>337</sup> ICESCR *supra* note 3, Article 12

<sup>338</sup> ICESCR *supra* note 3, Art. 13; Banjul Charter *supra* note 5, Art. 17; Cairo Declaration *supra* note 6, Art. 8; Arab Charter *supra* note 7, Art. 34 (specifically illiteracy)

<sup>339</sup> Richards *supra* note 50

meant the family had enough so that the children did not have to work.<sup>340</sup> Because of the nature of privatization, however, less funds have been put into public projects, including education. Furthermore, due to a drop in income and access to land and food, children are needed to support the family and have gone back to work in the fields.

Given this situation, the right to education has also been violated by the results of Law 96. Basic education is an important tool and for both men and women it is “closely related to productivity in agriculture.”<sup>341</sup> About 24 percent of rural children are never enrolled in school and approximately 21 percent drop out. Thus 45 percent of children are not educated mainly due to poverty.<sup>342</sup>

Instead of making the rural agricultural arena stronger and more productive, Law 96 has done the reverse, recreating a pre-Nasser, feudal-like society, where many people are not receiving education. Furthermore, there is gender discrimination within the right to education, since it is the female children who are often the first to be pulled out of school. The education of females has been pointed out by the Economic and Social Council as being “essential to promote economic growth.”<sup>343</sup>

### **Civil and Political Rights**

Civil and political rights violations have occurred through the actual physical removal of tenants from the land, violent responses to protests and farmer organizations against the law, as well as the forced signing of documents, destruction of crops, forced

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<sup>340</sup> Saad *supra* note 21 at 70

<sup>341</sup> ECOSOC *supra* note 69 at 29

<sup>342</sup> *Id.*

<sup>343</sup> *Id.* at 30

eviction, arrests, detentions, torture and deaths of individuals who opposed Law 96.<sup>344</sup>

Eberhard Kienle argues that there is a link between economic liberalization and repression in Egypt, and specifically cites that case of Law 96.<sup>345</sup> During the implementation of the Law, certain amendments to the penal code, which address terrorism and had previously only been used against Islamists, were invoked against opponents to the law, including members of the Labor Party and the Tagammu' Party, which is notably anti-Islamist.<sup>346</sup> The amendments allowed the government to arrest individuals based on terrorist charges, preventing the application of the constitution and law. The amendments to the penal code were passed three weeks after Law 96 was passed. Once Law 96 came into force in 1997, it was clear that these amendments covered all of the protests and other events in opposition to the implementation of the law, and allowed the police and State Security to respond with overwhelming force.

There have been constant and various violations of the tenants' civil and political rights. They have been denied any participation and input in the creation or implementation of the law. The landlords held the most power to effect the creation of Law 96. Furthermore, police violated the right to public gatherings was violated, forbidding farmers to meet or protest. Additionally, many of the tenants were either severely torture, threatened with torture, had their families threatened by police, or were threatened by landowners while police looked the other way in order to get them to give up the land.

Most of the civil and political rights violations took place during the process of

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<sup>344</sup> Land Center for Human Rights, *Liberalization of Agricultural Land and the Peasant Movement in the Egyptian Countryside*, 97-99

<sup>345</sup> Kienle *supra* note 149 at 158

<sup>346</sup> *Id.* at 158

eviction. The eviction of the tenants from their previously legal tenure was extremely violent because it was met with resistance on the part of the tenants. USAID reports stated the contrary, that the transition was fairly smooth. However, the LCHR reports tell a different story. In their report on the violence in the Egyptian countryside during 1998 and 1999, they detail the violent removal of tenants from their lands by both police and hired mercenaries. From 1998-2000, the LCHR reported that the disputes arising from Law 96 had totaled over 100 deaths and almost 1400 arrests and over 800 injuries.<sup>347</sup>

**Table 3: Recorded Deaths, Injuries, and Arrests in Rural Egypt, January 1998-December 2000, Relating to Events Surrounding Law 96**

Governorate	Deaths	Injuries	Arrests
Assyut	24	92	157
Aswan	1	8	3
Beheira	4	39	74
Beni Suef	9	27	46
Dakhaliyya	6	21	36
Damietta	-	-	42
Fayyum	6	44	103
Gharbiyya	5	58	123
Giza	12	116	169
Ismailia	-	6	9
Kafr el Sheikh	1	27	31
Minufiyya	1	35	84
Minya	8	69	61
Port Said	-	25	30
Qalubiyya	4	34	46
Qena	13	53	66
Sharqiyya	10	122	243
Sohag	15	70	79
Suez	-	-	7
<b>Total</b>	<b>119</b>	<b>846</b>	<b>1409</b>

Source: Land Center for Human Rights, Cairo

Blackmail was used to get farmers off the land as well as violence. Many farmers report being forced at gunpoint or knifepoint by police to sign over deeds, blank checks,

<sup>347</sup> LCHR *supra* note 152



and contracts yielding their crops and land.<sup>348</sup> There are countless reports of the police burning farms, land, crops almost ready to harvest, tenants' houses, and torturing not only the tenants but their wives and children as well. Directly following the implementation of Law 96 (January of 1997 until May of 1998), the LCHR reported over 750 injuries and a near 2,500 arrests, most of them arbitrary<sup>349</sup> and from January of 1998 to December of 2000, an additional 119 deaths, 846 injuries and almost 1500 arrests.<sup>350</sup> These figures show that there has not been a decrease in oppositional activity, but indeed there has been an increase in violence and disputes arising from the implementation of Law 96. An expulsion incident in April of 1999 in a village near Port Said involved the police attacking the houses of over 560 families. The police response included destroying the homes in the entire, burning fields, and confiscating property as well as humiliating women and children and the elderly.<sup>351</sup>

### **Right to Life<sup>352</sup>**

The right to life is a non-derogable right. According to data from the Land Center for Human Rights there have been over 100 deaths relating to the implementation of Law 96, a serious violation of the right to life.

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<sup>348</sup> *Id.*

<sup>349</sup> Saad *supra* note 27 at 120

<sup>350</sup> Land Center for Human Rights, *Farmer Struggles Against Law 96 of 1992* in COUNTER-REVOLUTION IN EGYPT'S COUNTRYSIDE: LAND AND FARMERS IN THE ERA OF ECONOMIC REFORM (Ray Bush, ed. 2002) 127

<sup>351</sup> *Id.* at 132

<sup>352</sup> ICCPR *supra* note 2, Art. 6; Banjul Charter *supra* note 5, Art. 4; Cairo Declaration *supra* note 6, Art. 2; Arab Charter *supra* note 7, Art. 5

### **Right to the Security of Person/Right to Receive Information/Right to Freedom of Opinion<sup>353</sup>**

These rights have been seriously infringed upon by landowners, police and state security as detailed above. The arbitrary arrest, detention for protesting the law, inquiring about the law, or simply refusing to leave the land by the fellahin are violations of these rights. Furthermore, the lack of information and failure to educate tenant farmers about the law, violates the Banjul Charter's assurance of the right to receive information.

### **Right to be free from Torture, Inhumane or Degrading Punishment or Treatment<sup>354</sup>**

The Egyptian government has been criticized for its failure to stop the active, systematic and systemic torture or inhuman and degrading treatment or punishment towards the population. Torture and inhuman or degrading punishment is prohibited by Article 7 of the ICCPR as well as the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984.<sup>355</sup> The right to be free from these abuses cannot be derogated from under any circumstance

In its concluding observations, the Committee Against Torture noted that the state of emergency prevents Egypt from a full application of the Convention.<sup>356</sup> Furthermore, they stated that torture is still widespread in Egypt, citing police custody, administrative detention, the slow pace of trials, and military courts as factors that lead to violations.

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<sup>353</sup> Egyptian Constitution *supra* note 156, Article 41; ICCPR *supra* note 2, Art. 9; Banjul Charter *supra* note 5, Art. 6; Cairo Declaration *supra* note 6, Art. 18; Arab Charter *supra* note 7, Art. 5,8; Banjul Charter *supra* note 5, Art. 9; Egyptian Constitution *supra* note 156, Article 47; ICCPR *supra* note 2, Art. 19; Banjul Charter *supra* note 5, Art. 22; Cairo Declaration *supra* note 6, Art. 22; Arab Charter *supra* note 7, Art. 26

<sup>354</sup> CAT *supra* note 4; ICCPR *supra* note 2, Art. 7; Banjul Charter *supra* note 5, Art. 5; Arab Charter *supra* note 7, Art. 13

<sup>355</sup> CAT *supra* not 4

<sup>356</sup> Concluding Observations of the Committee Against Torture: Egypt, 12 June 1994, A/49/44 para. 74-96

Finally, they stressed that terrorism is the cause of this alarming situation, as it is the excuse under which Egypt has derogated from its obligations.

Large numbers of individuals who spoke out or inquired about Law 96 were arrested and tortured. The UN Special Rapporteur has reported specifically on the issue of torture in Egypt, stating that the reports are well-founded. The practice has been called systematic and institutionalized by the government of Egypt, specifically the State Security forces.<sup>357</sup> Torture consequently remains one of the most serious violations occurring in the context of Law 96. These rights guaranteed by the Constitution have indeed been seriously violated as a result of the passing of Law 96. The law itself has not directly violated these rights, but the process of enforcing the law has resulted in violations.

Illegal detention and torture has been used or allowed by the Egyptian police in their response to the uprisings by the tenant farmers, and its use has been a rampant and systematic policy of the state. The figures reported by the LCHR corroborate that torture and physical abuse both before and after arrest is widespread. Additionally, according to the individual testimonies, the arrests were often arbitrary and unjustified involving torture both during the arrests and during the detention.

Article 10 of the ICCPR provides for all persons deprived of their liberty to be treated with humanity and respect for their dignity, which has been frequently violated by the police. The police were indiscriminate in their torture and arrests, including children and women who were protecting their homes or livestock as victims. The torture seen as a result of Law 96 is similar in nature to other torture reported in Egypt and includes

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<sup>357</sup> LCHR *supra* note 351 at 132; Commission on Human Rights, *Civil and Political Rights Including the Questions of Torture and Detention, Report of the Special Rapporteur, Sir Nigel Rodley, Submitted pursuant to Commission on Human Rights Resolution, 2000/43 E/CN.4/2001/66*. 25 January

beatings and electrical shocks to the body.<sup>358</sup> Additionally, many prisoners have been deprived of humane conditions, including deprivation of food and water.

One of the main themes in the complaints of the tenant farmers was of humiliation. The police and landowners constantly humiliated them in any manner possible including by destroying their crops and homes, and forcing them to sign over their land by threat of violence to them or their families. One of the main results has been that the fellahin have been stripped of any pride or sense of ownership over the land they work, and even of their homes as a result. These actions constitute degrading treatment at the hands of the government.

### **Right to Freedom of Peaceful Association & Protest/Freedom of Assembly<sup>359</sup>**

In the aftermath of the implementation of Law 96 there was unprecedented political activity among tenant farmers and the fellahin in general. However, the government refused to allow many of the protests, associations and organizations that were attempted in response to the law. Citizens were detained and arrested both for participating in protests and assemblies and, in some cases, simply for publicly criticizing the law. The Egyptian Constitution protects individual freedom (Article 41) but limits it for the preservation of public security. Additionally, Article 47 allows for freedom of opinion stating that self-criticism is necessary, but within the limits of the law. These rights are summed up in Article 57 which criminalizes any assault on individual freedoms listed in the constitution.

Articles 54, 55, and 56 of the Constitution have been violated. They allow

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<sup>358</sup> LCHR *supra* note 351 at 133

<sup>359</sup> Banjul Charter *supra* note 5, Art. 10; Arab Charter *supra* note 6, Art. 28; Egyptian Constitution *supra* not 156, Article 54; ICCPR *supra* note 2, Art. 21; Banjul Charter *supra* note 5, Art. 11; Arab Charter *supra* note 7, Art. 28

Egyptians the right to peaceful and private assembly, the right to form societies, and to create and participate in syndicates and unions. However, they have clawback clauses prohibiting anything “hostile to the social system, clandestine, or having a military character,”<sup>360</sup> and being subject to the law. In April of 1997, the Tagammu’ Party organized a demonstration against Law 96 in Tahrir Square in Cairo, in which hundreds of protestors were arrested.<sup>361</sup>

Most of these rights have been limited by the government in not allowing public displays of opposition to Law 96. The government of Egypt has not made a cooperative effort with the farming community.<sup>362</sup> The police stopped any public assemblies, and political parties discontinued their support of the law’s opposition for fear of the government’s reprisals.<sup>363</sup> The government even went so far as to go to agricultural cooperatives and replace tenant names in record books with the names of landowners.<sup>364</sup> State Security forces were often used to perpetrate these acts under the auspices of the emergency laws.

Article 21 and 22 of the ICCPR that give the right to peaceful assembly and freedom of association has also been curtailed by the Egyptian government in that none of the tenants have been allowed to protest or even gather to discuss the law and its implications. All attempts to do so have been met with brutality by the police forces.

Protests and petitions have been put together including a rally of over 7,000

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<sup>360</sup> Egyptian Constitution *supra* note 156, Article 55, “Citizens shall have the right to form societies as defined by law. The establishment of societies whose activities are hostile to the social system, clandestine, or have a military character shall be prohibited.

<sup>361</sup> Kienle *supra* note 149 at 92

<sup>362</sup> LCHR *supra* note 351 at 126

<sup>363</sup> *Id.*

<sup>364</sup> *Id.*, Giza governoate

farmers in Cairo and a petition with over 350,000 names submitted to the minister of agriculture, which he refused to accept.<sup>365</sup> Females have joined the protests since they have also been directly affected by the law.<sup>366</sup> The LCHR reports that Egypt's countryside has seen unprecedented political activity,<sup>367</sup> which the government attributes to the growing presence of Islamists. Targeting the tenants by tying them to terrorism has been easy. With the consent and support of the United States, the government of Egypt has been able to mercilessly crack down on them. In addition, the number of agricultural conferences has grown to almost 200 all of which were under the organization of the Farmers Committees for Resistance to Law 96 in order to provide a political outlet for the fellahin.<sup>368</sup>

#### **Individual Cases on Law 96 Reaching International Attention**

Many of the protestors of Law 96 were subject to arrest and often charged under articles 86, 86a and 86b, which punish terrorism.<sup>369</sup> HRW, AI and UN human rights monitoring bodies have recorded and reported violations. Reporting them in an international public arena is a form of redress. Often the only form of redress for human rights violations that takes place is that of "naming and shaming," in which a government's violations are put on public display. The following are cases that received international attention.

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<sup>365</sup> Bush *supra* note 70 at 190

<sup>366</sup> Land Center for Human Rights, *Labor Conditions in Egypt During the 1<sup>st</sup> Half of 1999*, Economic Social Rights Series, 7<sup>th</sup> Issue (June 1999)

<sup>367</sup> LCHR *supra* note 351 at 126

<sup>368</sup> *Id.*

<sup>369</sup> Kienle *supra* note 149 at 96

## *Human Rights Watch*

There were many protests against Law 96 prior to its implementation. Many of the protestors were arrested under counter-terrorism legislation.<sup>370</sup> A letter from HRW addressed to President Hosni Mubarak on stated:

“Farmers interviewed by Human Rights Watch in July described a campaign led by State Security Investigation (SSI) personnel, local police, and landowners to suppress protest by forcing farmers to remove black flags symbolizing opposition to the law, detaining local activist without charge, interfering with peaceful demonstrations by rounding up leaders ahead of planned days of protest, and threatening farmers if they involved themselves in protest activities.”

The letter addressed specific individuals that had been arrested for protesting the law.

The following individuals were cited in the letter:

- Professor Ahmed al-Ahwany, Cairo University, arrested for photocopying a paper critical of the reform law, charged under provisions of the Penal Code prohibiting the dissemination of “false or biased news” and “inciteful propaganda”
- Hamdin Sabbahi, Journalist and Director of Al-Watan Al-Arabi Information Center; Hamdi Haikal, lawyer; Muhammed Fayad, lawyer; and Muhammed Abdu, veterinarian: SSI officers arrested these individuals, charged under Article 86(bis) and 86(bis)(a) of the Penal Code, included in the 1992 counter-terrorism legislation, for “promoting ideas intended to incite a social class to use violence against other classes,” “acquiring printed materials prepared for distribution” furthering these ideas, and related charges
- Sayyid Ahmad Al-Toukhi, lawyer and researcher, Egyptian Organization for Human Rights. Arrested for involvement in opposing Law 96, charged under Article 86(bis) of the Penal Code. Family was interrogated, pressured and beaten to disclose his whereabouts. Brother, Al-Toukhi Ahmad Al-Toukhi was beaten for his own role in the protests by SSI officers; another brother, age 11, was detained overnight; mother was accosted

Human Rights Watch believes that Article 86(bis) is in violation of the right to freedom of expression guaranteed in Article 19 of the ICCPR and the right to

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<sup>370</sup> Human Rights Watch, *Human Rights Watch Condemns Measures Against Egyptian Agrarian Activists*, Letter to Pres. Hosni Mubarak, <http://www.hrw.org/press/egypt.htm>

peacefully protest.

*Amnesty International*

In AI's 1998 country report on Egypt, it stated that prisoners of conscience were among hundreds of people detained throughout the year in connection to opposition to Law 96.<sup>371</sup> AI documented many of the same cases as HRW. Dr. Ahmad al-Ahwany, professor of nuclear physics at Cairo University, was arrested in April and held in Tora Prison. He was charged with planning to distribute documents "damaging to public interest." Apparently, he was in possession of a bulletin critical of the new law. Al-Tokhi, lawyer at EOHR, arrested and held in Tora for connection with peaceful opposition to Law 96. By the end of 1998, AI said at least 150 farmers continued to be held without charge or trial for public protests against the law. AI reported at least 20 had been killed in violent confrontations between farmers, landowners and security forces. Additionally, Hamdein Sabbahi, journalist, Mohammed 'Abdu, veterinarian, and Fayyad and Haykal, both lawyers, were arrested in June for non-violent opposition to Law 96. They were allegedly tortured in Tora Penitentiary.

*UN Human Rights Commission*

The UN Commission on Human Rights has addressed the cases brought to international attention by HRW and AI. On 23 September 1997, the Special Rapporteur of the UN Commission on Human Rights appealed to the Egyptian government regarding the arrest of lawyers Mohammed Sulayman Fayyad and Hamdi Haykal, both arrested in

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<sup>371</sup> Amnesty International 1998, Annual Report on Egypt, <http://www.amnesty.org/ailib/aireport/ar98/mde12.htm>



June 1997 for criticizing Law 96 at a public gathering.<sup>372</sup> The report stated that the lawyers were protesting peacefully, but after their arrest, they were tortured in the Tora Prison by State Security officials. Their families were not notified of their whereabouts until 19 June, and they were forbidden visits even by their lawyers. Another lawyer Sayyed Ahmad al-Tokhi, was arrested in the Cairo airport for his peaceful opposition to Law 96. He was held without charges being brought against him. He was also sent to Tora prison where he was ill-treated, and finally charged with “verbally promoting ideas which contradict the fundamental principles of the ruling regime.” The government’s response to the Special Rapporteur was that Fayyad and Haykal had both conducted premeditated and organized agitation, instigating farmers to oppose by force the implementation of Law 96. Additionally, al-Tokhi was attempting to escape an arrest warrant for the same reasons. The government denied that their arrests and detentions had nothing to do with their profession as lawyers. The Special Rapporteur’s response was concerned with the government identifying the lawyers with their clients’ causes, and intimidating and harassing them, thus violating the United Nations Basic Principles on the Role of Lawyer<sup>373</sup>, as well as violating their human rights. Principle 18 states that “[l]awyers shall not be identified with their clients or their clients’ causes as a result of discharging their functions.” The Special Rapportuer noted:

“There has also been an increase in complaints of Governments’ non-compliance with internationally accepted standards of due process, particularly in terrorist-related crimes, raising questions concerning the integrity, independence and impartiality of the courts”.

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<sup>372</sup> *Question of the Human Rights of All Persons Subjected to Any Form of Detention or Imprisonment, Report of the Special Rapporteur on the independence of judges and lawyers, Mr. Param Cumaraswamy, Commission on Human Rights, 54<sup>th</sup> Session, ECOSOC, E/CN.4/1998/39, 12 February 1998*

<sup>373</sup> *Basic Principles on the Role of Lawyers, Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August to 7 September 1990, UN Doc. A/CONF.144/28/Rev.1 at 118 (1990).*

**Table 4: Violence in Egypt's Countryside Resulting from  
The Implementation of Law 96 of 1992**

**Expulsion of Tenants from Land**

<b>Location</b>	<b>Incident</b>	<b>Date</b>
Al Kanater	Farmer forced at knifepoint to sign blank checks for owners	27 July 1998
Al Saad, Al Tafatesh, Al Barania	200 farmers refused to hand over land to owner; forced to sign blank checks	Spring 1998
Ashamon	Police violently expelled 100 farmers from land, claimant had no proof of ownership	May 1999
Beni Suef	4 farmers killed, 6 wounded when owners expelled tenants	July 1999
Dakhaliyya	Forced expulsion and violence against 150 farmers; 23 detained	January 1998
Fakous	Detention & torture of Moh. Beshara Hassan to force him to leave land	Late 1997
Giza	Farmer killed, 11 injured, 4 arrested for failing to leave land	September 1999
Port Said	560 households attacked by auxiliary and marine police, burnt fields, killed animals, confiscated personal belongings, inquiries into this led to arrests and torture in prison	24 April 1999
Port Said	Police burnt houses, destroyed farms, and forced expulsion	April 1999
Port Said	Detention, torture of farmer who was forced to leave land at gunpoint, tear gas used	April 1999
Sohag	Farmer killed, 1 injured over leaving land	September 1999
Tanta	Farmer killed for failing to leave land	August 1999
<b>Contesting Land Ownership</b>		
Al Anaina	Farmer injured in land dispute involving security forces	July 1999
Al Naggetti	Farmer arrested, animals and crops destroyed	September 1998
Assyut	Farmer attacked and forced to sign blank check	January 1998
Assyut	Farmer shot, attacked, livestock killed, house destroyed	January 1998
Assyut	Lawyer killed farmer over land dispute	October 1999
Bahiriyya	Police Chief arrested, detained, and tortured 4 farmers	11 November 1998
Beni Suef	Farmer killed, 6 injured fight over land dispute	May 1999
Beni Suef	Farmer killed by nephews over land dispute	August 1999
Dakhaliyya	Farmer killed over land dispute	February 1999
Dakhliyya	Farmer killed, 3 injured in land dispute	October 1999

Dir Mowas	Farmer killed, 2 injured in land dispute	July 1999
Gharbiyya	Farmers arrested and tortured in detention	8 November 1998
Gharbiyya	8 injured over land dispute	November 1999
Imbaba	Violent dispute between 2 families led to 3 deaths	February 1998
Kom Ombo	Farmer killed, 8 injured over land dispute	October 1999
Manflout	4 farmers killed, 5 injured over land dispute	November 1999
Minufiyya	Boy stabbed to death because of dispute	April 1999
Minya	Farmer killed, 5 injured	June 1999
Minya	2 shot and injured over land dispute	October 1999
Minya	Farmer killed, 7 injured over land dispute	December 1999
Qalubiyya	Farmer shot over land dispute	October 1999
Sahel Salim	Farmer killed, 8 seriously injured from gunshot over land dispute	April 1999
Sharqiyya	12 farmers injured from land dispute	May 1999
Shebeen al Kanatr	Farmer killed	November 1999
Sihouag	Violent disputes between 2 families	1998
Sohag	6 killed, 2 injured over land dispute	October 1999
Sohag	3 shot and injured over land dispute	October 1999
Sohag	7 farmers injured, 23 arrested over land dispute	November 1999
Zagazig	Police attacked house using teargas and firearms, one man died	2 February 1998
<b>Agrarian Reform Farmlands Dispute</b>		
Fayyum	Farmers were hung, whipped, tortured by cigarette burns, electrical shocks until giving up land	October 1997
Fayyum	Wives of farmers detained, sexually assaulted, beat to give up land	November 1997
Fayyum	Security forces detained and forced farmers to leave land	September 1997
Fayyum	Although case was pending over land, police arrested and detained over 50 farmers and tortured them in custody	October 1997

Source: Land Center for Human Rights, *Violence in the Egyptian Countryside 1998-1999*

## CHAPTER VI- LEGAL RESPONSIBILITY

The Egyptian government holds the ultimate responsibility for any human rights violations that have occurred on its territory. Legally, it is responsible because it is the party that has signed and ratified the Covenants and treaties, and has undertaken the obligation to uphold and protect human rights. It is responsible for both acts of commission and omission in the failure to protect human rights in its country. Its obligations are both regional, domestic and international, and thus, Egypt is legally responsible for the creation, passing and resulting actions of Law 96.

However, although groups such as USAID are not without fault, they cannot be held responsible for violations of Egypt's obligations. Currently there are no specific provisions in international public law that would hold another country responsible for human rights violations outside of wartime. There has been discussion in the ECOSOC Committee about International trade, investment, and finance and the role of economic, social and cultural rights.<sup>375</sup> In the general observations, it was recognized that there was a need for an international human rights framework connecting human rights and international economic development.

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<sup>375</sup> *Workshop on International Trade, Investment and Finance and Economic, Social and Cultural Rights*, 6 May 2000, Record of the Workshop on International Trade, Investment and Finance and Economic, Social Cultural Rights: The Role of the Committee on Economic, Social and Cultural Rights

## CHAPTER VII- REDRESS AND REPARATION

The options for redress and reparation for human rights violations depend on the obligations placed on the government in the Covenants, international mechanisms as well as domestic solutions. Methods of redress are found in the ICESCR, ICCPR and CAT, and there are also reporting mechanisms with the African Banjul Charter.

Within the United Nations system, government delegations have an opportunity to discuss agrarian reform or to submit for discussion within the UN Secretariats.<sup>376</sup> However, it is mostly dealt with in the FAO or in ECOSOC, and with violations in the Human Rights Commission.

Regarding the ICESCR, *General Comment No. 9* of the ICESCR committee deals specifically with the domestic application of the Covenant.<sup>377</sup> It recommends that State transform the ICESCR into domestic law by supplementing or amending existing legislation, or adopting it and incorporating it into domestic law. It also reminds that the right to remedy does not have to be a judicial remedy, but can be administrative as well, as long as it is accessible, affordable, timely and effective. Finally, it states that domestic law must conform to the State's international legal obligations.

In pursuing redress for violations of economic, social and cultural rights, there are several steps that can be taken. The Housing and Land Rights Network has a *Strategic Action and Solution Menu* that offers many different options for redress and prevention

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<sup>376</sup> Christodoulou *supra* note 68 at 162

<sup>377</sup> *General Comment No. 9 (The Domestic Application of the Covenant)* 3 December 1992, E/C.12/1998/24, Substantive Issues Arising in the Implementation of the ICESCR, Committee on Economic, Social and Cultural Rights

including legal action, public information campaigns, building civil society, engaging the UN human rights system, and others.<sup>378</sup>

For both economic, social and cultural rights as well as civil and political rights violations due to Law 96, redress can be pursued through the following means. Domestic law suits can be filed for those farmers whose rights have been violated, pursuant to either a violation of Law 96 itself, a violation of the Egyptian Constitution or a violation of Egyptian international legal obligations, which can be argued in domestic courts.

Regarding economic, social and cultural rights, both the *Limburg Principles and the Maastricht Guidelines* state that State parties “shall provide for effective remedies, including, where appropriate, judicial remedies”.<sup>379</sup> In the *Van Boven Principles*, it states that any individual who claims that their rights have been violated has the right to a remedy, which includes the right of access to national and international procedures for their protection.<sup>380</sup>

Additionally, the *Van Boven Principles* address reparation which should “render justice by removing or redressing the consequences of the wrongful acts and by preventing and deterring violations. Reparations shall be proportionate to the gravity of the violations and the resulting damage and shall include restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.”<sup>381</sup>

The Human Rights Commission dealt specifically with the right to remedy of all persons subjected to any form of detention or imprisonment and stated that individuals

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<sup>378</sup> See *HLRN Housing Rights Tool Kit, Strategic Action & Solution Menu*, [www.hlrn.org](http://www.hlrn.org)

<sup>379</sup> *Limburg Principles supra* note 171, principle 19

<sup>380</sup> *Van Boven Principles, Basic Principles and Guidelines on the Right to Reparation for Victims of Gross Violations of Human Rights and Humanitarian Law*, Commission on Human Rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities, Appendix 8 at para. 4

<sup>381</sup> *Id.* at para. 7

have the right to remedy, reparations in the form of restitution and compensation for any violations.<sup>382</sup>

Regarding forced evictions, the government of Egypt is under an obligation to: “ensure, prior to carrying out any evictions, and particularly those involving large groups, that all feasible alternatives are explored in consultation with the affected persons, with a view to avoiding, or at least minimizing, the need to use force. Legal remedies or procedures should be provided to those who are affected by eviction orders. Egypt shall also see to it that all individuals concerned have a right to adequate compensation for any property, both personal and real, which is affected.”<sup>383</sup>

The right to adequate housing depends heavily on the availability of domestic legal remedies. According to *General Comment No. 4*, the legal system should allow for eviction appeals, legal procedures seeking compensation following an illegal eviction, complaints against landowners in relation to rent levels or discrimination. Thus, forced evictions and the right to adequate housing in relation to Law 96 should be able to be pursued in Egypt’s domestic courts.

Law 96 is currently being challenged in Egypt’s Supreme Constitutional Court. In *Ali Ismail Hassanein v. President of the Republic, et al.*<sup>384</sup>, the petitioners has raised several claims regarding the unconstitutionality of Law 96 of 1992. Both the petitioners rented land from the defendants under Law No. 178 of 1952. This law stated that the lease cannot terminate by the death of the lessor, but is inherited by his descendants if

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<sup>382</sup> *Question of the Human Rights of All Persons Subjected to Any Form of Detention or Imprisonment*, Commission on Human Rights, 53<sup>rd</sup> session, Economic and Social Council, E/CN.4/1997/104

<sup>383</sup> General Comment No. 7 *supra* note 310 at para. 13

<sup>384</sup> *Ali Ismail Hassanein and Elwan Abu Zeid El Wali of Giza v. President of the Republic, Prime Minister of the Republic, Farag Abdel Khalik El Sheikh, and Heir of the late Afifi El Taher*, Lawsuit No. 680 of 1997, Egypt Supreme Constitutional Court

they are farmers. Law 96 stated that the leases would end at the end of the 1997 agricultural year. The first claim was that Article 37 of the Constitution states that the law determines the maximum agricultural ownership to protect farmer and agricultural laborers from exploitation. Additionally, Law 96 violates Article 195 of the constitution, which states that the draft law must be submitted to the State Council before it can be approved by the People's Assembly. In this case of Law 96, it was immediately passed by the People's Assembly without approval by the State Council.

The petitioners in this case stated that the legislator's main objective in creating Law 96 was for the interests of a certain category of citizens, and not public welfare. They went on to state that Law 96 was created because of the recommendations of the IMF for economic reforms at the expense of the public. Furthermore, the law violates the right to litigation of disputes, because it simply allows for the dissolution of contracts outside of the courts. They also claimed that the law threatened social solidarity, destroyed the socialist gains of tenant farmers, which violates Article 59 of the Constitution,<sup>385</sup> as well as Article 4.<sup>386</sup> Petitioners claim that Article 182 has been violated as well, since the majority of the members of the People's Assembly did not vote on it.<sup>387</sup> Thus the petitioners pleadings were that Law 96 be ruled unconstitutional because it violated Article 154 and 195 of the Constitution and because its objective contradicts the Constitution. Although this case has not yet been decided, it is the first of what could be numerous challenges to the law within Egypt's domestic legal system.

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<sup>385</sup> Egyptian Constitution *supra* note 156, Article 59: Protecting, supporting and preserving the socialist gains are national duties.

<sup>386</sup> Egyptian Constitution *supra* note 156, Article 4: states that the economic base of Egypt is the socialist democratic system based on sufficiency and justice avoiding exploitation and leads to equalizing access to resources.

<sup>387</sup> Egyptian Constitution *supra* note 156 at Article 182: Provisions of law in non-criminal article may be applied by the approval of the majority of the members of the People's Assembly



Additionally, the LCHR has filed petitions on behalf of many tenant farmers with the local prosecutors against the violations of human rights that have been discussed above. One of the main problems has been the involvement of police and security forces in evictions without a court order. The LCHR has often filed cases on behalf of individuals as well as with groups of petitioners. The majority of cases have yet to be decided.

### **Conclusion for Redress**

Domestically, there are several plausible options for redress. Lawsuits can be filed individually with possible collaboration with local lawyers or NGO's such as the LCHR or the EOHR. Although the number of cases that have been filed are not representative of the number of violations, it is a pliable option. Internationally, NGO's are vital as well in reporting the violations to international human rights organizations or to UN monitoring bodies. Since Law 96 has caused massive violations of human rights for millions of the rural agricultural population, and there is a lot of evidence for possible cases and reports to be made.

## **CHAPTER VIII- POSSIBLE SOLUTIONS/CONCLUSIONS**

This analysis has shown how Law 96 violates a series of Egypt's human rights obligations. It is Egypt's legal duty to uphold their international obligations and to protect the human rights of all individuals in its territory. The history of Egypt's land reform and tenancy laws has been volatile. Nasser's land reforms led to immense changes in rural Egypt, and so too did Law 96. Regardless of whether Nasser's land reforms violated human rights or not, this analysis has shown that the changes that came under Law 96 had a negative effect on the fellahin and have tarnished Egypt's human rights record concerning both civil and political rights and economic, social and cultural rights. Law 96 affected a large portion of the population, specifically the segment living in rural areas. Unless the current cases in the Supreme Constitutional Court determine that Law 96 is unconstitutional, individuals who have been harmed by this law will have to seek other methods of legal redress as well as adapt to a new lifestyle.

## Appendix 1: Law 96 Text

Stipulation of article 33 of no. 178/1952 is that the annual rental value of the agricultural land shall be determined by twenty two times as much as the property tax in force.<sup>388</sup> If the tax is re-assessed than then rent shall be 22 times the new tax. If there is no tax or a tax of less than 2 L.E. per year, than the owner can assess the rental value through the Assessment Committee per law no. 53/1935. Both the owner and the renter can appeal against the assessment before the Appeal Committee.

### *Art. 33 bis:*

The limit of rent listed above does not apply to land leased for growing orchards, banana, permanent vegetation or vegetation for more than one year, except sugar cane. In these cases an additional property tax shall be assessed at a rate of 40% increase over the legally prescribed limit. The additional tax shall be paid with the last installment of the original property tax.

### *Art. 33 bis (c)*

In addition to the 22x tax, the renter shall be obliged to pay costs of irrigation as well as taxes imposed under the law of the lessees of agricultural land. They shall further be required to fumigate and maintain streams, brooks and subsidiary drainages situated within the scope of the land on lease unless otherwise agreed upon.

### *Art. 33 bis (g):*

The lease contracts of agricultural land, cash or sharecropping, in force prior to this law shall terminate at the end of the 1996/1997 agricultural year unless otherwise agreed on by parties. The lease contract shall not terminate by death during this period. The right will pass to the heirs until the abovementioned period. The provisions of Civil code shall apply upon the expiry of the five years period referred to.

If the owner wants to sell the land before the expiry period indicate above, the renter shall have the right to choose to buy the land at the price agreed upon, vacating the land after obtaining from the owner 40 times the tax of the land from the period until the expiry period.

### *Art. 35 bis (b), para 2:*

A judgment shall be delivered for ejecting the lessee from the land effective from the end of the agricultural year. This obliges the owner to compensate the lessee by the equivalent of 200 times as much as the property tax prescribed for the land on lease.

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<sup>388</sup> Law No. 96/1992 Article 33

**Article 2:**

The rental value is 22 times the property tax applicable to lease contracts that exist at the time of this law. They shall apply from the first agricultural year following such date.

**Article 3:**

The provisions of Chapter 1, part 2, book2 of the Civil Code applies to the lease contracts of agricultural land when this law comes into force.

**Article 4:**

This law shall not prejudice the legal/contractual rules at the date of the coming into operation thereof for occupying the houses annexed to the land lease.

But, if the termination of the contract pursuant to this law has the consequence of vacating by the lessee of the house annexed to the land in which he lives... if this house is the only house in which he and dependents live, than the state shall have to find another house for him with a suitable rent at the local unit in which he has been residing and he may not be ejected before this house has been provided.

**Article 5:**

The lessees of land whose contracts end because of this law shall have priority to own desert land reclaimed by the state in accordance with the bases, facilities, aspects of care, rules and procedures re: Art. 14 of law no. 143/1981 re: desert land.

**Article 6:**

Art. 34 of no. 178 will stop to exist after the 5 years expiry period or on the expiry of any contract. Para 2 or Art. 36 and Art. 36 bis, 36 bis (a) and 36 bis (b) shall be abolished. Also Art. 5 of law 52/1966 amending law 178.

**Appendix 2: Law No. 178 of 1952**  
**(Articles relating to Regulation of Landlord-Tenant Relationship)**

*Article 31*

As from the beginning of the agricultural year following the coming into force of this Decree, the relations between the tenant and the owner of land shall be governed by the provisions of the following Articles:

*Article 32*

Agricultural land may be let only to a person undertaking to farm it personally. By a decision of the Minister of Finance and Economy and with the approval of the Minister of Finance and Economy and with the approval of the Minister of Irrigation, island land between the two banks of the Nile owned by the Government and let to the Ministry of Finance and Economy under special conditions for reclamation, are exempt from the application of the aforementioned Article.

*Article 33*

The rent of agricultural land may not exceed seven times the amount of the basic tax assessed upon such land. In the case of a rent based on crop-sharing the owner's share shall not exceed one half after deduction of all expenses.

*Article 34*

The tenant of agricultural land shall be entitled to recover from the owner any sums paid by him in any way in excess of the maximum limit set in the previous Article. He must prove such excess payment by lawful means.

*Article 35*

Leases of agricultural land may not be concluded for less than three years. Land requisitioned according to Agrarian Reform Law shall be exempt from this provision. The Higher Committee for Agrarian Reform may cancel rent contracts of the requisitioned land if required by distribution procedures or if the tenant obstructs any important obligation stipulated in the contract or the Law. Such decision shall be final and shall be put into effect by administrative procedure. Notwithstanding the legislative Decree of the Council of State and the legislative Law concerning Judicial Organization, such decision is not liable to annulment or suspension.

*Article 36*

The contract shall be concluded in writing irrespective of its value. It shall be drawn up in two original indentures, one to be retained by the owner and the other by the tenant. Should there be no written contract, the rent shall be deemed to be based on crop sharing for a period of three years, during which the owner's share shall be one half after deduction of all expenses.

*Article 37*

In conformity with the previous provisions and notwithstanding the provisions of Article 598 and 599 of the Civil Code, no one cultivating the land himself may be evicted, whether he be an original tenant or a sub-tenant. In the latter case, the relationship shall be directly between the sub-tenant and the owner.

### **Appendix 3: Example of a Tenant Experience**

This example of the experience of the tenants in a village in the Delta was documented by the LCHR in 2000.<sup>389</sup> In the village of Damnhur el-Wahsh in the Delta, police attempted to evict tenants from the land they had been given as a result of being veterans of the Yemeni War in the 1960. The police came with pickup trucks, ambulances and bulldozers and proceeded to destroy the fields with the tractors and bulldozers as well as setting fire to them and the animal stands. Those who attempted to stop them, or even to save the animals were arrested and severely beaten. Two young women, ages 18 and 20, were severely beaten by police when they attempted to save the family animals from being burnt to death. The police tied them to a car and beat, abused and humiliated them, and then took them to the station where one of them was deprived of food for three days, before being released.

This scene describes a pattern of violence that took place after the passing of Law 96. The tenants were mostly not informed and did not understand what was happening. In this particular village, they had not been leased land in September of 1952 as many others had, but had been given the land for their military service to Egypt. The government of Egypt claimed that the State of Emergency allowed them to strike with such unnecessary and disproportionate force against this village. However, the beatings and humiliations that took place, as seen through the example of the two young women, are not acceptable. They constitute torture and inhuman treatment. Furthermore, the villagers stated that they could not even seek medical attention after these incidents because the police were arresting people if they went to the hospital. The majority of

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<sup>389</sup>Land Center for Human Rights, *Damnhur el-Wahash- A village appeals for help and security* (19 June 2000)

those arrested were detained without being charged, while others were charged with resisting authority. Most of the people detained were eventually released.



#### **Appendix 4: Example from a Landowners Perspective**

In an interview with a former landowning family from the governorate of Assuyt in the village of Al-Zawiat,<sup>390</sup> a different perspective on Law 96 can be seen. The family had approximately 100 feddans before Nasser's agrarian reform law was passed, which was reduced to approximately 30 feddans, which they could rent out. The rent per feddan was set at *LE500* although the market rate was approximately *LE2000*. The family agreed that the rent needed to be raised to closer to the market rate, but also recognized the need to keep a written contract for their tenants in order to ensure fairness on both sides. They argued however, that these were their lands that had been cultivated and expanded through generations of their family, and by Islamic law it was theirs through inheritance. They said that they called on the police to aid them in getting their land back, but a lot of unnecessary violence was used.

According to this family, the main problem was the extremeness of both the original agrarian reform law and the new Law 96, which resulted in two groups of peoples who had claims to the land: the original owners and their descendants and later the tenants. Both were claiming permanent ownership, although the tenants could never own, but had "permanent tenancy." Both measures were too drastic especially for a region that has not significantly changed in hundreds of years. The family decided to cultivate about half of their land and rent the other half to tenants. As seen from this example, important discussions need to occur between the landowners, the government and the tenants to create a lasting probable solution that can benefit all parties in the Egyptian agricultural scene.

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<sup>390</sup> Interview with Abu Zeid family, Village of Al-Zawiat, Assyut governorate (15 May 2003)

## TABLE OF AUTHORITIES

### TREATIES AND INTERNATIONAL INSTRUMENTS

Arab Charter on Human Rights, Council of the League of Arab States (15 September 1994) <i>reprinted in</i> 18 Human Rts. L. J. 151 (1997) .....	18, 72, 73, 81, 82, 83, 89, 98
Cairo Declaration on Human Rights in Islam of 1990, U.N. GAOR, World Conference on Human Rights, 4 <sup>th</sup> Session, Agenda Item 5, U.N. doc. A/CONF.157/PC/62/Add.18 (1993).....	15, 57, 67, 68, 69, 78, 79, 80, 86, 89, 93, 95, 99, 100
Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment, 1984, UN doc A/39/51, UN doc A/39/51 (entered into force 26 June 1987) .....	15, 79, 100
International Covenant on Civil and Political Rights, 16 December 1966, UN doc. A/6316, 999 U.N.T.S. 171 (entered into force 23 March 1976) ...	15, 57, 58, 61, 62, 64, 79, 80, 99, 100, 102
International Covenant on Economic, Social and Cultural Rights, 16 December 1966, UN doc. A/6316, 993 U.N.T.S. 3 (entered into force 3 January 1976)	15, 57, 58, 59, 60, 78, 79, 84, 86, 87, 88, 89, 92, 93, 95
Protocol to the Charter on Human and People's Rights on the Establishment of an African Court on Human and People' Rights, OAU/LEG/MIN/AFCHPR/PROT.1/rev.2/1997 (entry into force 25 January 2004) ...	72
Vienna Convention on the Law of Treaties, 22 May 1969, entry into force 27 January 1980 1115 UNTS 331 .....	56

### CONSTITUTIONAL PROVISIONS

Constitution of the Arab Republic of Egypt (September 1971) (Amended 22 May 1980) .....	57, 72, 73, 75, 76, 78, 79, 80, 86, 87, 91, 93, 100, 102, 103, 115
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Explanatory Note to Land Reform Act No. 178, 9 September 1952 (translated).....	24
Law 127 of 1961 .....	25
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Law 150 of 1964 .....	25
Law 152 of 1957 .....	25
Law 178/52 .....	23, 24, 47
Law 44 of 1962 .....	25
Law 598 of 1953 .....	25
Law 96 of 1992 .....	36, 118
Law No. 162 of 1958 .....	62, 63

## UNITED NATIONS DOCUMENTS

Basic Principles on the Role of Lawyers, Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August to 7 September 1990, UN Doc. A/CONF.144/28/Rev.1 at 118 (1990) .....	107
<i>Commentary on the Maastricht Guideline on Violations of Economic, Social and Cultural Rights; The Limburg Principles on the Implementation of the International Covenant on Economic, Social, and Cultural Rights, (Dankwa, Flinterman, Leckie ) UN Document E/CN.4/1987/17.....</i>	58, 60, 61
Commission on Human Rights resolution 1993/77 .....	88
Commission on Human Rights, <i>Civil and Political Rights Including the Questions of Torture and Detention, Report of the Special Rapporteur, Sir Nigel Rodley, Submitted pursuant to Commission on Human Rights Resolution, 2000/43 E/CN.4/2001/66.</i> 25 January .....	101
Concluding Observations of the Committee Against Torture: Egypt, 12 June 1994, A/49/44 .....	100
Concluding Observations of the Human Rights Committee, Egypt, UN Doc. CCPR/CO/76/EGY/Add.1 (2003), <a href="http://www1.umn.edu/humanrts/hrcommittee/egypt2003.html">http://www1.umn.edu/humanrts/hrcommittee/egypt2003.html</a> .....	66
<i>Economic and Environmental Questions: Food and Agricultural Development, Review and Analysis of Agrarian Reform and Rural Development: Report of the Secretary General ECOSOC, Substantive session of 1996, E/1996/100 (New York, 26 June-26 July 1996) at <a href="http://www.un.org/documents/ecosoc/docs/1996/31996-70.htm">http://www.un.org/documents/ecosoc/docs/1996/31996-70.htm</a> ....</i>	34, 38, 39, 44, 80, 81, 82, 84, 85, 90, 96
ECOSOC, <i>Concluding Observations of the Committee on Economic, Social and Cultural Rights: Libyan Arab Jamahiriya</i> (16 May 1997), E/C.12/1/Add.15 .....	57
ECOSOC, <i>Consideration of Reports Submitted by State parties in Accordance with Articles 16 and 17 of the Covenant: Initial Report of Egypt, 22<sup>nd</sup> Session, 9 May 2000, E/C.12/2000/SR.13 .....</i>	88
ECOSOC, General Comment No. 3, Fifth session, 1990, UN doc. E/1991/23, Annex III .....	61
Federation of Human Rights Leagues,; Question of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World, Written statement submitted by the International Federation of Human Rights Leagues (FIDH), a non-governmental organization in special consultative status, Commission on Human Rights, Sixtieth session, UN Economic and Social Council, Distr. General, E/CN.4/2004/NGO/163 (10 February 2004).....	62
General Comment 29, Human Rights Committee, <i>States of Emergency</i> (Article 4), UN Doc. CCPR/C/21/Rev.1/Add.11 (2001).....	64
<i>General Comment No. 4 (The Right to Adequate Housing (Article 11.1))</i> 13 December 1991, ICESCR , Office of the High Commissioner for Human Rights.....	88

<i>General Comment No. 7, (the right to adequate housing, article 11.1, forced evictions)</i> 20 May 1997, ICESCR, Office of the High Commissioner for Human Rights.....	88, 114
<i>General Comment No. 9 (The Domestic Application of the Covenant)</i> 3 December 1992, E/C.12/1998/24, Substantive Issues Arising in the Implementation of the ICESCR, Committee on Economic, Social and Cultural Rights .....	112
ICCPR Ratifications, <a href="http://www.unhchr.ch/pdf/report.pdf">http://www.unhchr.ch/pdf/report.pdf</a> .....	61
ICESCR Ratifications, <a href="http://www.unhchr.ch/pdf/report.pdf">http://www.unhchr.ch/pdf/report.pdf</a> .....	57
<i>Question of the Human Rights of All Persons Subjected to Any Form of Detention or Imprisonment</i> , Report of the Special Rapporteur on the independence of judges and lawyers, Mr. Param Cumaraswamy, Commission on Human Rights, 54 <sup>th</sup> Session, ECOSOC, E/CN.4/1998/39, 12 February 1998 .....	107
<i>Question of the Human Rights of All Persons Subjected to Any Form of Detention or Imprisonment</i> , Commission on Human Rights, 53 <sup>rd</sup> session, Economic and Social Council, E/CN.4/1997/104.....	114
<i>Question of the Human Rights of All Persons Subjected to Any Form of Detention or Imprisonment</i> , Promotion and protection of the right to freedom of opinion and expression, Report of the Special Rapporteur, Mr. Abid Hussain, submitted pursuant to Commission on Human Rights resolution 1997/26, Commission on Human Rights, 54 <sup>th</sup> Session, ECOSOC, E/CN.4/1998/40, 28 January 1998.....	108
<i>Question of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World: Written Statement submitted by International Federation of Human Rights Leagues (FIDH), a non-governmental organization in special consultative status, UN Economic and Social Council, Distr. General, E/CN.4/2003/NGO/233, 17 March 2003</i> .....	65
<i>The Limburg Principles on the implementation of the International Covenant on Economic, Social and Cultural Rights</i> , UN Doc E/CN.4/1987/17 .....	59, 113
<i>The Maastricht Guidelines on Violations of Economic, Social and Cultural Rights</i> , ICJ Review No. 55 219-227 (December 1995).....	58, 59, 60, 61
UN Human Rights Committee, Comments on Egypt, UN Doc. CCPR/C/79/Add.23 (1993), Human Rights Committee Forty-eighth session, Consideration of Reports Submitted by States Parties under Article 40 of the Covenant .....	64, 65
Van Boven Principles, <i>Basic Principles and Guidelines on the Right to Reparation for Victims of Gross Violations of Human Rights and Humanitarian Law</i> , Commission on Human Rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities, Appendix 8 at para. 4 .....	113
<i>Workshop on International Trade, Investment and Finance and Economic, Social and Cultural Rights</i> , 6 May 2000, Record of the Workshop on International Trade, Investment and Finance and Economic, Social Cultural Rights: The Role of the Committee on Economic, Social and Cultural Rights .....	111

## NATIONAL CASE LAW

*Ali Ismail Hassanein and Elwan Abu Zeid El Wali of Giza v. President of the Republic, Prime Minister of the Republic, Farag Abdel Khalik El Sheikh, and Heir of the late Afifi El Taher*, Lawsuit No. 680 of 1997, Egypt Supreme Constitutional Court..... 114

## REPORTS

- Amnesty International 1998, Annual Report on Egypt,  
<http://www.amnesty.org/ailib/aireport/ar98/mde12.htm> ..... 106
- Amnesty International, Egypt Report, January-December 2002,  
<http://web.amnesty.org/web/web.nsf/print/2003-egy-summary-eng> ..... 64
- Department of Agricultural Economics, Egypt, *Ministry of Agriculture and the Statistical Yearbook, 1952-85* (General Agency for Public Mobilization and Statistics, Cairo, June 1986)..... 31
- Egyptian Organization for Human Rights, *The Effect of the Emergency Law on the Human Rights Situation In Egypt: 1992-2002*,  
<http://www.eohr.org/report/2003/emergency1.HTM>..... 62, 63, 64
- Egyptian Organization for Human Rights, *The Situation of Human Rights in Egypt, Annual Report 2001* ..... 63
- FAO, *Agrarian Reform and Rural Development in the Near East: Analysis of Policies since the Mid 1960's and the Task Ahead in the 1980's* (prepared by M. Riad El-Ghonemy, FAO Regional Office for the Near East 1979)..... 39
- FAO, *Comparative Advantage and Competitiveness of Crops, Crop Rotations and Livestock Products in Egypt 1997-2017* (FAO input to Agricultural Development Strategy, FAO Regional Office, Cairo January 1999)..... 40, 90
- Federation of Human Rights Leagues, *Communique to President Hosni Mubarak*,  
<http://www.fidh.org/communiq/2003/eg2302a.htm> ..... 65
- Food and Agriculture Organization of the United Nations/Ministry of Agriculture and Land Reclamation, *Agricultural Policy Analysis in Egypt Selected Papers*, FAO Economic and Social Development Paper No. 129 (Workshop on Agricultural Policy Analysis in Egypt, Rome 1994) ..... 32, 41
- Gamal Seyam & Asma El-Bilassi, *Land Tenure Structure in Egyptian Agriculture: Its Changes and Impacts* (Egyptian Agriculture Profile, CIHEAM-Options Mediterraneenes Sér.B/no. 9 1995)..... 36, 78
- Human Rights Watch, *Egypt's Emergency without End: Rushed Renewal of Repressive Legislation* (25 February 2003) <http://www.hrw.org/press/2003/02/egypt022503.htm>66
- Human Rights Watch, *Human Rights Watch Condemns Measures Against Egyptian Agrarian Activists*, Letter to Pres. Hosni Mubarak,  
<http://www.hrw.org/press/egypt.htm> ..... 105
- Human Rights Watch, *The State of Emergency and the Supreme State Security Court* (2002) <http://www.hrw.org/reports/2002/egypt/egypt0102-05.htm> ..... 66

Land Center for Human Rights, <i>A File that has not Been Closed</i> (1998) (Arabic).....	53
Land Center for Human Rights, <i>Damnhur el-Wahash- A village appeals for help and security</i> (19 June 2000).....	122
Land Center for Human Rights, <i>Events Taking Place in Rural Egypt from 1 January-20 August 1997</i> (1998).....	53
Land Center for Human Rights, <i>Labor Conditions in Egypt During the 1<sup>st</sup> Half of 1999</i> , Economic Social Rights Series, 7 <sup>th</sup> Issue (June 1999).....	104
Land Center for Human Rights, <i>Liberalization of Agricultural Land and the Peasant Movement in the Egyptian Countryside</i> .....	97
Land Center for Human Rights, <i>Violence in the Egyptian Countryside 1998-1999</i> (1999).....	55, 98, 99
Land Center for Human Rights: The Series of issues of Land and Farmer, <i>Farmers Disputes... Victims and Violations</i> (January 2000).....	94, 95
National Population Council, <i>Demographic and Health Survey (1992)</i> , Cairo, November 1993.....	93
National Population Council, <i>Demographic and Health Survey (1995)</i> , Cairo, September 1996.....	93
People's Assembly, Special Committee Report: The Communique of the Ministerial Program of the Prime Minister (Majlis as-Sha'ab, <i>Al-Lajna al-khasd, Al-Mushkila lidirasa bayan al-sayyid al-duktur ra'is majlis al-wuzara' an burnamij al-wizara</i> ) (19 January 1986).....	46
S. Nassar, <i>The Economic Impact of Reform Programs in the Agricultural Sector in Egypt</i> 3-4 (Ministry of Agriculture and Land Reclamation, Economic Affairs Sector, Cairo 1993).....	44, 91
USAID & MALR, <i>Land, Water, and Agriculture in Egypt: The Economywide Impact of Policy Reform</i> (Agricultural Policy Conference: Taking Stock, Eight Years of Egyptian Agricultural Policy Reforms (26-28 March, 1995).....	41
USAID, Egypt Congressional Presentation (2000) at <a href="http://usaid.gov/pubs//cp2000/ane/egypt/html">http://usaid.gov/pubs//cp2000/ane/egypt/html</a> .....	40
USAID, <i>The Land Tenure Policy Study Report</i> (no. 21 Cairo: APRP-RDI Unit, December 1997).....	44
USAID/MALR, <i>Land Tenure Study Phase II</i> , (Mohamed Shara & Jane Gleeson, APRP-RDI Unit, Cairo March 1999).....	44
World Bank, <i>Arab Republic of Egypt: An Agricultural Strategy for the 1990s</i> (Agricultural Operations Division, Country Department, II, Middle East and North African Region, report no. 11083 11 December 1992).....	32, 39, 40, 43
Youssef Wally & Hassan Khedr, <i>Privatization in Egyptian Agriculture, Strategies, Accomplishments, Outlook</i> (7 December 1988).....	46, 47

## BOOKS

- A. Moursi, *The Role and Impact of Government Intervention in Egyptian Agriculture* in THE AGRICULTURE OF EGYPT, (E.M. Craig, ed., Oxford University Press 1993) ..... 20, 23, 24, 39
- Alan Richards, *Land Tenure in the Agriculture of the Middle East* (G.M. Craig, ed., Oxford University Press 1993) ..... 27, 95
- D. Warriner, *Land Reform in Principle and Practice* (Oxford, Clarendon Press 1969) .. 21
- Demetrios Christodoulou, *The Unpromised Land: Agrarian Reform and Conflict Worldwide* (Zed Books. London 1990)..... 32, 112
- Eberhard Kienle, *A Grand Delusion: Democracy and Economic Reform in Egypt* (London, I.B. Tauris 2001) ..... 54, 63, 97, 103, 104
- El Ghonemy, M.R., *Land Food and Rural Development in North Africa*, 83 (Boulder. Westview, 1993) ..... 19, 23, 28
- F. Abdelfattah, *The Contemporary Village between Reform and Revolution*, (Dar ath-thaqafa ag-Gadida Cairo 1975)..... 22
- Gouda Abdel-Khalek, in COUNTER-REVOLUTION IN EGYPT'S COUNTRYSIDE: LAND AND FARMERS IN THE ERA OF ECONOMIC REFORM (Ray Bush, ed., 2002) ..... 40
- Graham Dyer, *Class, State and Agricultural Productivity in Egypt: A Study of the Inverse Relationship between Farm Size and Land Productivity* (London, Frank Cass 1991). 23
- Iliya Harik, *Mobilization Policy and Political Change in Rural Egypt* in RURAL POLITICS AND SOCIAL CHANGE IN THE MIDDLE EAST (Richard Antoun & Iliya Harik eds. 1972) (Indiana University, Bloomington)..... 27
- Khaled Fahmy, *The Era of Muhammad 'Ali Pasha, 1805-1848*, in THE CAMBRIDGE HISTORY OF EGYPT: VOLUME TWO MODERN EGYPT FROM 1517 TO THE END OF THE 20<sup>TH</sup> CENTURY (M.W. Daly ed., Cambridge University Press 1998) 18
- Land Center for Human Rights, *Farmer Struggles Against Law 96 of 1992* in COUNTER-REVOLUTION IN EGYPT'S COUNTRYSIDE: LAND AND FARMERS IN THE ERA OF ECONOMIC REFORM (Ray Bush, ed. 2002)... 99, 101, 102, 103, 104
- Mahmoud Abdel-Fadil, *Development, Income Distribution and Social Change in Rural Egypt (1952-1970): A Study in the Political Economy of Agrarian Transition*, (Cambridge University Press 1975)..... 21, 22, 24
- Marcelo Giugale, *The Rationale for Structural Adjustment: A Layman's Guide* ..... 41, 42
- Mohamed H. Abdel Aal, *Agrarian Reform and Tenancy in Upper Egypt* in COUNTER-REVOLUTION IN EGYPT'S COUNTRYSIDE: LAND AND FARMERS IN THE ERA OF ECONOMIC REFORM (ed. Ray Bush 2002)..... 87
- Nader Fergany, *Poverty and Unemployment in Rural Egypt* in COUNTER-REVOLUTION IN EGYPT'S COUNTRYSIDE: LAND AND FARMERS IN THE ERA OF ECONOMIC REFORM (Ray Bush, ed. 2002) 216..... 91, 93

Ray Bush, <i>Economic Crisis and the Politics of Reform in Egypt</i> , (Boulder, Westview, 2001) .....	28, 41, 42, 43, 44, 45, 47, 91
Ray Bush, <i>Land Reform and Counter-Revolution in COUNTER-REVOLUTION IN EGYPT'S COUNTRYSIDE: LAND AND FARMERS IN THE ERA OF ECONOMIC REFORM 9</i> (Ray Bush, ed., 2002) 19, 22, 23, 27, 29, 30, 37, 39, 40, 45, 50, 55, 83, 90, 91	
Ray Bush, <i>More Losers than Winners in Egypt's Countryside in COUNTER-REVOLUTION IN EGYPT'S COUNTRYSIDE: LAND AND FARMERS IN THE ERA OF ECONOMIC REFORM</i> (2002) .....	35, 37, 104
Raymond Baker, <i>Egypt's Uncertain Revolution Under Nasser and Sadat</i> (Harvard University Press, Cambridge Massachusetts 1978) .....	30
Reem Saad, <i>Egyptian Politics and the Tenancy Law in COUNTER-REVOLUTION IN EGYPT'S COUNTRYSIDE: LAND AND FARMERS IN THE ERA OF EGYPT'S ECONOMIC REFORM</i> (Ray Bush, ed., 2002)23, 28, 29, 35, 37, 38, 48, 49, 50, 51, 77, 99	
Reem Saad, <i>Social History of An Agrarian Reform Community in Egypt</i> , 11 Cairo Paper in Social Science, Mono. 4, (The American University in Cairo Press Winter 1988) 21, 22, 23, 24, 27, 51, 92, 96	
S.L. Barraclough, <i>An End to Hunger, the Social Origins of Food Strategies</i> (London, Zed Books 1991) .....	78, 92
Sage Russell, <i>Minimum State Obligations: International Dimensions in EXPLORING THE CORE CONTENT OF SOCIO-ECONOMIC RIGHTS: SOUTH AFRICAN AND INTERNATIONAL PERSPECTIVES</i> (Danie Brand & Sage Russell, eds., Pretoria, South Africa 2002) .....	60, 61
Sally Baynard, <i>Arab Republic of Egypt in THE GOVERNMENT AND POLITICS OF THE MIDDLE EAST &amp; NORTH AFRICA</i> (David E. Long & Bernard Reich, eds., 3 <sup>rd</sup> Ed., Boulder, Westview 1995) 313 .....	22, 23, 26, 28, 31
Samir Radwan, <i>The Impact of Agrarian Reform on Rural Egypt (1952-1975)</i> (Rural Employment Policy Research Programme, World Employment Programme Research, International Labour Office, Geneva, January 1977) .....	22, 23, 27
Simon Commander, <i>The State and Agricultural Development in Egypt since 1973</i> , (London, Ithaca Press 1987) .....	35

## PERIODICALS

Abdullahi A. An-Na'im, <i>Human Rights in the Arab World: A Regional Perspective</i> , 23 Human Rights Quarterly (2001) 19 <sup>th</sup> Islamic Conference of Foreign Ministers (Session of Peace, Interdependence and Development), Cairo, Egypt (31 July-5 August 1990) .....	68, 70
Ann Elizabeth Mayer, <i>Universal Versus Islamic Human Rights: A Clash of Cultures of a Clash with a Construct?</i> , 15 Mich. J. Int'l L. 307 (Winter 1994) .....	69



Dagwood Mzikenge Chirwa, <i>An Overview of the Impact of the ICESCR in Africa</i> (2002), www.communitylawcentre.org.za/se/docs_2002 .....	57, 74
Donna E. Arzt, <i>Religious Human Rights in the World Today: A Report on the 1994 Atlanta conference: Legal Perspectives on Religious Human Rights: Religious Human Rights in Muslim States of the Middle East and North Africa</i> , 10 <i>Emory Int'l L. Rev.</i> 139 (Spring, 1996) .....	68, 69
Karim El-Gawhary, <i>Nothing More to Lose: Landowners, Tenants, and Economic Liberalization in Egypt</i> , in <i>Middle East Report</i> (July-September 1997) .....	52, 54
Neil Hicks, <i>Does Islamist Human Rights Activism Offer a Remedy to the Crisis of Human Rights Implementation in the Middle East?</i> , 24 <i>Human Rights Quarterly</i> 2 (2002) 361- 381.....	66
Nsongurua J. Udombana, <i>Can the Leopard Change Its Spots? The African Union Treaty and Human Rights</i> , 17 <i>Am. U. Int'l L. Rev.</i> 1177.....	71
Robert Springborg, <i>State -Society Relations in Egypt: the Debate over Owner-Tenant Relations</i> , 45 <i>MIDDLE EASTERN JOURNAL</i> 2, 234-35 (1991).....	30, 35, 46, 48, 50
Robert Springborg, <i>Agrarian Bourgeoisie, Semiproletarians, and the Egyptian State: Lessons for Liberalization in</i> 22 <i>Int'l J. Middle East Stud.</i> (1990).....	46
Sohair Mehanna, Nicholas S. Hopkins, Bahgat Abdelmaksoud, <i>Farmers and Merchants: Background to Structural Adjustment in Egypt</i> , 17 <i>Cairo Papers in Social Science</i> , Mono. 2 (Summer 1994).....	24

## NEWSPAPER ARTICLES

Ahmed Al Goweili Al-Ahram Weekly ( 4-10 June 1992).....	49
Akhbar al-Youm (5 July 1997) .....	37
Al-Ahali (15 May 1992) .....	51
Al-Ahram (21 June 1997) .....	54
Al-Ahram (25 June 1992) .....	38
Al-Ahram Al-Iqtisadi (9 March 1992).....	35
Al-Akhbar (27 June 1997) .....	37
Ali el-Din Salah, <i>Misr el-Fatah</i> (30 March 1992).....	49
Al-Usbu' (7 July 1997 and 28 July 1997).....	54
Al-Wafd (17 June 1992) .....	48
Cairo Times (10 July 1997), Vol. 1, Issue 10 .....	53
Cairo Times (25 July 1997), Vol. 1, Issue 11 .....	53, 54

Gamal Essam El Din <i>Three more years</i> , Al-Ahram Weekly (27 February-5 March 2003) (Issue No. 627), <a href="http://weekly.ahram.org.eg/print/2003/627/eg4.htm">http://weekly.ahram.org.eg/print/2003/627/eg4.htm</a> .....	62
Gamal Essam El-Din, <i>Political Economy of the Revolution</i> , Al-Ahram Weekly, 19-24 July 2002 .....	23
Jalal al-Din Al-Hammamsi, <i>Smoke in the Breeze</i> (Dukhan fil-hawa), Al-Akhbar, (15 June 1986) .....	48
Mahmud Abu Gharib, Al-Akhbar (11 February 1986) .....	50
<i>Modifying the Relation between Absentee Owners and Peasant Tenants-In Whose Interest?</i> (Ta'dil al-alawa baina al-mullak algha'ibin wal-zarra 'al-musta'jirin-limaslaha min) Al-Ahali (12 March 1986) .....	35
Mohamed Abu-Mandour, Al-Ahram Weekly ( 4-10 June 1992) .....	49
Muhammad Abd al-Sami Ramadan <i>A Policy- The Peasant Awaits It</i> (Hadya- Yantaziruha al-falah) Al-Akhbar (7 October 1986) .....	48
Nagwa Aways Dr. <i>Youssef Wally in a Comprehensive Conversation with al-Akbar</i> (Duktur Yousif Wali fi hadith shamil lil-Akhbar), Al-Akbar (4 February 1986).....	46
Ray Bush, <i>Time to Go</i> , Al-Ahram Weekly (21-27 June 2001) Issue No. 539, <a href="http://weekly.ahram.org.eg/2001/539/fo72.htm">http://weekly.ahram.org.eg/2001/539/fo72.htm</a> .....	84
<i>The Ruling party stands with its feet in the camp of the owners</i> (Al-Hizb al-hakim yaqifu biqadamih fi mu'askar al-mullak) Al-Ahali (12 November 1986).....	35

## OTHER AUTHORITIES

<i>Document of the Parliament</i> , no. 94(2 June 1992) .....	50, 51
<i>HLRN Housing Rights Tool Kit, Strategic Action &amp; Solution Menu</i> , <a href="http://www.hlrn.org">www.hlrn.org</a> .....	113
USAID Egypt Agriculture Webpage, at <a href="http://www.info.usaid.gov/eg/econ.htm">http://www.info.usaid.gov/eg/econ.htm</a> .....	42

## UNPUBLISHED MATERIALS

Ghada El-Tantawi, <i>Tenancy Law of 1992: Socio-Political Aspects</i> (1999) (unpublished MA Thesis, The American University in Cairo) (on file with the American University in Cairo Library) .....	36, 50, 51, 53, 63
Interview with Abu Zeid family, Village of Al-Zawiat, Assyut governorate (15 May 2003) .....	124