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## **FIAN Parallel Report**

# **The Right to Adequate Food in Egypt**



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Impressum

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## Preface

FIAN, the International Human Rights Organisation for the Right to Feed Oneself, would like to present a parallel report to the periodic report on Egypt submitted by the Egyptian Government (UN Doc E/1990/5/Add.38). Of the many questions concerning economic human rights in Egypt FIAN, in cooperation with the Land Centre for Human Rights (a local Egyptian non-governmental human rights organisation), will concentrate on the right to freedom from hunger and the right to adequate food. Egypt is a State Party to the International Covenant on Economic, Social and Cultural Rights. In Art. 11 of the ICESCR, the States Parties guarantee the right to freedom from hunger and the right to adequate food. The right to adequate food is realised when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement.<sup>1</sup> More specifically, the right to adequate food derives from the following obligations of States implied by Article 11:

- a) The obligation to **Respect** existing access to adequate food requires States parties not to take any measures that result in preventing this access.<sup>2</sup>
- b) The obligation to **Protect** requires measures to be taken by the State to ensure that enterprises or individuals do not deprive individuals of their access to adequate food.<sup>3</sup>
- c) The obligation to **Fulfil**, means that the States must pro-actively engage in activities intended to strengthen people's access to and utilisation of resources and means to ensure their livelihood, including food security. Furthermore, wherever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, States have the obligation to fulfil (provide) this right directly.<sup>4</sup>

Based on **Art. 16 of the ICESCR**, the State parties, and Egypt among them, have the duty to present reports on the measures they have adopted and the progress they have made in order to guarantee the respect of the rights included in the International Covenant. In the fulfilment of this duty, the States have to follow certain guidelines. According to a note by the Secretary General of the UN, those guidelines have been adopted in order to facilitate the elaboration of these reports and to avoid inadequateness or insufficiency.

Article 11 of the Covenant, states very clearly what kind of information is needed. According to the guidelines for Article 11, Para 2, sufficient reference to the right to adequate food has to be made. Strictly speaking, a general description of the countries' implementation of the right to adequate food, the sources of information, studies on the food situation and supervisory measures, the statistical data on the

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<sup>1</sup> See General Comments Number 12 concerning the right to adequate food. E/C.12/1999/5, Para 6.

<sup>2</sup> See General Comments Number 12 concerning the right to adequate food. E/C.12/1999/5, Para 15.

<sup>3</sup> Ibid

<sup>4</sup> Ibid

existence of famine and/or malnutrition in the country has to be provided. Specific aspects of especially vulnerable or disadvantaged groups should be taken into account.

This report is aimed at providing the Committee with further information concerning the right to adequate food in Egypt. It documents how the government of Egypt is violating the right to adequate food through failing to provide an environment that facilitates the realisation of this right. This report focuses on two issues that have been brought to FIAN's attention. Firstly the implementation of the new tenancy law, which represents a direct threat to many individuals' right to feed themselves. The second issue concerns the implementation of a new law controlling the activities of non-governmental organisations. This law obstructs the free functioning of civil society, which is a fundamental prerequisite to the satisfaction of all human rights, including the right to adequate food.

These two issues are by no means the only issues of concern in Egypt. They are, however, the ones on which FIAN has verified information, and provide a good illustration of the Egyptian government's policy orientation towards the full implementation of the right to adequate food.

## **1. Introduction**

### **1.1. Geography**

Egypt is part of Northern Africa. It borders the Mediterranean Sea, as well as the Red Sea, the Gaza Strip, Israel, Lybia and Sudan. It has a total area of 1,001,450 sq km which is made up 995,450 sq km of land and 6,000 sq km of water. The country has a coastline of 2,450 km.

The terrain of the country is characterised by vast desert plateau interrupted by the Nile valley and delta. Natural resources include: petroleum; natural gas; iron ore; phosphates; manganese; limestone; gypsum; talc; asbestos; lead, and zinc.

Land use is as follows: arable land 3%, permanent crops: 2%, other 95%.

The main environmental issues are: agricultural land being lost to urbanisation and windblown sands; increasing soil salinisation below Aswan High dam; desertification; oil pollution threatening coral reefs, beaches, and marine habits; other water pollution from agricultural pesticides, raw sewage, and industrial effluents; rapid growth in population overtaxing natural resources.

Natural hazards are: periodic droughts; hot, driving windstorm called khamsin (occurs in spring), duststorms; periodic summer floodings in some regions of the country; and sandstorms.

### **1.2 Politics**

Egypt is a presidential republic. Its system of government follows a mixed Presidential - Parliamentary model. The President is nominated by the People's assembly for a six year term, which then must be validated by a national popular referendum (last held October 1999). The Constitution of 1971 delegates the majority of power to the President, Mohammed Hosni Mubarak (head of National Democratic Party). The President dominates two chamber legislature - lower People's Assembly and upper Consultative Council, created in 1978 from the old Central Committee of the Arab Socialist Union - and judiciary, each of which is constitutionally independent. The President possesses virtually unrestricted power to appoint and dismiss officials, including the Vice-Presidents, the Prime Minister and members of the Council of Ministers, military officers, as well as the governors of the twenty-six administrative subdivisions known as governorates.

### **1.3 Economy**

Traditionally Egypt has had one of the largest public sectors of all the Third World economies with most industrial plants being owned by the government. Despite the country being in transition from a government controlled economy to a free market system, overregulation is still a predominant characteristic of the economy.

During the late 1970s and early 1980s the economy grew rapidly. This growth, however, came to an abrupt halt in 1986 with the collapse of world oil prices. Subsequently, Egypt began to face problems of low productivity and poor economic management coupled with adverse social conditions such as excessive

population growth, high inflation, and massive urban overcrowding. In the face of such pressures, Egypt has undertaken wide-ranging macro-economic stabilisation and structural reform measures, supported by both the World Bank and the IMF. These reforms have, apparently, already proved to be beneficial in terms of growth rates. In 1996 GDP grew by 5.1% and by 5.9% in 1997.<sup>5</sup> However, unemployment is becoming an increasing problem, and in recent years the economy has been affected by the decline in tourism, which has been a direct result of sporadic attacks by Islamic extremists on tourist groups.

Agriculture makes up just 18% of Egypt's GDP, while industry and services make up 32% and 50% respectively.<sup>6</sup>

Egypt still has considerable outstanding external debts, although they have decreased over the last decade. In 1985 its external debt was US\$ 36 billion (115% of GNP), by 1997 this has decreased to US\$29.85 billion (39% of GNP).<sup>7</sup>

#### **1.4 Population**

In 1999 Egypt's population was estimated at 67.3 million, with an annual growth rate of around 2%. Ninety-nine percent of all Egyptians live along the banks of the Nile River in 3.5% of the country's total area. Average population densities in the Nile Valley exceed 1,500 per square kilometer, which is one of the world's highest densities.

Although the ancestors of the Egyptian people include many races and ethnic groups, including Africans, Arabs, Berbers, Greeks, Persians, Romans, and Turks, the population today is relatively homogeneous linguistically and culturally. Nevertheless, approximately 3% of Egyptians belong to minority groups. Linguistic minorities include:

- Arabic-speaking beduins (nomads) in the Western and Eastern Deserts and the Sinai Peninsula constitute the principal cultural minority
- Small communities of Armenians and Greeks (largest non-Arab minority), who are predominantly located in the cities of Cairo and Alexandria;
- Groups of Berber origin in the oases of the Western Desert;
- Nubians living in cities in Lower Egypt and in villages clustered along the Nile in Upper Egypt.

#### **1.5 State of Emergency**

Since 1981 Egypt has been in a State of Emergency. This classification has enabled legislation that bypasses constitutional human rights guarantees to be implemented.

According to Egypt's Constitution the President is authorised to declare a State of Emergency "Whenever security or public order are jeopardised within the Republic or in any of its regions". The making of such a

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<sup>5</sup> See the World Bank Development Report 1999/2000.

<sup>6</sup> See UNDP Human Development Report for 1999

<sup>7</sup> Ibid

declaration empowers the President to adopt appropriate measures which can undermine constitutionally guaranteed rights and freedoms in order to safeguard security and public order. Appropriate measures can include the restriction of freedom of assembly and residence; ordering the censorship of any correspondence, newspapers, bulletins, publications, writing, illustration and any means of expression and publicity; and the evacuation and sealing off of certain areas. Such measures are usually classified as Emergency Law.

The Emergency Law in Egypt, like other emergency laws found in Arab States, is a remnant of the colonial era, when the British and French attempted to break the national liberation movements through enforcing laws and regulations unknown in their native lands.

Egypt was first exposed to a State of Emergency in 1914 when the British government, as a response to Turkey joining Germany in the war against Britain and her allies, imposed martial law. These actions then set a precedent, and after the Declaration of the Independence of Egypt on the 28th February 1922, the Egyptian Constitution, which was issued on 19 April 1923, included provisions for the State of Emergency. Since then Egypt has spent over 50 years in a State of Emergency.

The current State of Emergency was initially declared as a response to the assassination of President Anwar Sadat in 1981. In 1992, as a result of violent confrontations between armed Islamist groups, this State of Emergency was extended and new legislation was adopted. On 23rd February 1997 this situation was renewed for another 3 years.

## **1.6 Realisation of an Adequate Standard of Living**

According to the UNDP Human Development Report of 1999 Egypt is classified as having medium human development and is comparable to countries such as Mongolia and Nicaragua. In 1998 the GDP growth rate was estimated at 5% and real GDP per capita in 1997, measured using 1987 US\$ GNP was \$1015.<sup>8</sup> This is compared to just \$678 in 1980. Moreover, life expectancy has improved. In 1970, life expectancy at birth was 50.9 years and by 1997 this figure had risen to 66.3 years.

However, despite this progress poverty is still predominant throughout Egypt. According to UNDP human development figures 13% of the population do not have access to safe water, 22.9% cannot even afford to fulfil their basic needs, 7.8 % are threatened by hunger, and the infant mortality rate is 7.3%.<sup>9</sup> Moreover, 10% of infants are born with a low birth weight indicating high levels of malnutrition present amongst their mothers.<sup>10</sup> This is reinforced by the fact that 75% of pregnant women have anaemia.

In Egypt income distribution is highly skewed. In 1991, the lowest 20% of the population just accounted for 7.7% of the income in rural areas and 7.2% in urban areas, whereas the highest 20% of the population

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<sup>8</sup> See UNDP Human Development Report for 1999

<sup>9</sup> Ibid

<sup>10</sup> Ibid

accounted for 41.5% of the income in rural areas and 43.1% in urban areas.<sup>11</sup> Furthermore, poverty in Egypt is unevenly distributed geographically, not only in terms of urban-rural locations, but also by region, particularly between Upper and Lower Egypt. The wealth of the country centres around upper Egypt, predominantly the area surrounding Cairo where approximately 75% of Egypt's manufacturing industry is located.

## **1.7 The Right to Adequate Food in Egyptian Legislation**

Internationally the government of Egypt has ratified or approved a number of international treaties and covenants, and political declarations that contain provisions explicitly referring to the right to an adequate standard of living including food.

Egypt has approved the Universal Declaration of Human Rights. Furthermore, as well as becoming a State Party to the International Covenant on Economic, Social and Cultural Rights in August 1967, it has ratified the Convention on the Rights of the Child.<sup>12</sup>

On the regional level, Egypt has also ratified the African Charter on Human and Peoples' Rights. While this does not make explicit reference to the right to adequate food, it does contain provisions which implicitly relate to it. The Charter recognises the right of all "*people to freely dispose of their wealth and natural resources*" and specifies that "*this right shall be exercised in the exclusive interest of the people (and) in no case shall a person be deprived of it.*" Moreover, it also provides that "*in the case of spoliation the dispossessed people shall have the right to the lawful recovery of its property as well as to adequate compensation*".<sup>13</sup>

As human rights violations occur within a State, principally in relations between a government and its own citizens, effective protection must come from the State. Therefore, upon the legitimate ratification of a human rights treaty States are required to bring their domestic law into conformity with their validly contracted international obligations. States are clearly obligated to transfer international obligations into domestic law. Such a transfer is not just confined to the passing of the appropriate legislation, law enforcement has to be assured as does access to legal resources. The realisation of individuals' human rights is dependent upon them having access to a country's independent judicial procedures, and being able to fully participate in political processes.

The Egyptian legal system is based on the Constitution, which is the basic law establishing the structure of the State and defining its system of government, the powers of its public authorities, the rights and freedoms of individuals and the fundamental guarantees of those rights. Constitutional rules rank higher than other legal rules established by the legislative or any other authority, which is obliged to act in accordance therewith and to refrain from any violation thereof.

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<sup>11</sup> See World Bank, World Development Report 1995: Workers in an Integrated World, New York.

<sup>12</sup> The Convention on the Rights of the Child recognises "*the right of every child to a standard of living for a child's physical, mental, spiritual, moral and social health.*" See Art. 27.

<sup>13</sup> See the African Charter on Human and Peoples' Rights, Art.21

There is no explicit reference to the right to adequate food in the Constitution. It is only implicitly referred to in the following article:

*“The national economy shall be organised 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 maximum limit for wages in a manner that guarantees lessening the disparities between incomes.”<sup>14</sup>*

Furthermore, Article 24 states that *“The people shall control all means of production and direct their surplus in accordance with development plan laid down by the State.”*

However, article 151 of the Constitution does state that

*“(Treaties) shall have the force of law after their conclusion, ratification and publication according to the established procedures.”*

Consequently, ratified human rights treaties become domestic law by virtue of ratification.

Furthermore, according to the State’s Initial Report, the status of such treaties allows redress to be sought in domestic courts of law.

*“Since such instruments are regarded as part of the country’s legislation, all their provisions are applicable and can be directly and immediately invoked before all the State authorities, which are bound by their provisions and the rules stipulated therein. Accordingly, anyone who suffers detriment as a result of their non-application has a direct right to resort, in accordance with the prescribed procedure, to the court competent to hear the type of offence involved in order to enforce his rights in this regard.”*

It is not enough, however, to just adopt such legislation. In order to fully implement any human right the state must take all the necessary measures to ensure that all of its legislation is in compliance with its international obligations. This report documents how Egypt is far from ensuring this. It illustrates how some recent legislation that has been adopted has not only violated the right to adequate food, has also affected its justiciability at the national level through interfering with individual freedom and empowerment.

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<sup>14</sup> Article 23.

## **2. Documentation of legislation threatening the realisation of, and violating, many people's right to adequate food.**

### **2.1 Tenancy Law**

Since the realisation of the right to adequate food is dependent upon people's access to productive resources such as land, under the International Covenant on Economic, Social and Cultural Rights governments must pro-actively engage in activities intended to strengthen people's access to and utilisation of such resources.<sup>15</sup> However, despite ratifying this Covenant the Egyptian government, in conjunction with the World Bank and the IMF, has adopted policies which have directly destroyed this access for many individuals. Their ability to feed themselves and their families has, therefore, been severely jeopardised.

#### **2.1.1 Traditional Land Relations in Egypt**

In Egypt agricultural land is a scarce resource. Agricultural land is limited to the narrow Nile river valley (upper Egypt), the Nile delta in the North (lower Egypt) and the shore of the Suez Canal in the East, and represents only 3% of total land. Furthermore, due to the incredible increases in population, every year 50,000 acres of agricultural land is turned into urban land and lost. Competition for this type of land is, therefore, intense.

Typically agricultural land is not owned by real agricultural investors but by people who live and work in the city. This land is then leased to small tenant farmers. In Egypt it is estimated that there are about 5.3 million tenants, the overall majority of whom are small holder farmers or poor peasantry, renting areas of less than five feddans (acres). The term tenant is used to classify somebody who rents land belonging to somebody else. Complexity is the main feature of Egypt's tenancy map. Rental relationships do not just involve clean patterns of access to land such as owner-operator, sharecropper or tenant-cultivator. In reality they involve a multitude of interrelated factors. The relations are therefore not only influenced by state law but also by customary and religious laws, tribal relations, economic interests and many other such variables.

#### **2.1.2 The First Agrarian Reform Law**

Tenants' access to land, until recently, has been governed by the 1952 agrarian reform law, most commonly known as the "First Agrarian Reform Law". This law of September 1952 was based on safeguarding the interests of the small tenant farmer. It limited landownership to 200 feddans, the surplus of which was nationalised and redistributed to the farmers with less than five feddans. Furthermore, it established agricultural co-operative organisations for the farmers who had acquired the requisitioned land, protected the rights of the labourers and gave the tenant's heirs the right to inherit the rent contract. Rent prices were fixed at seven times the original value of the land tax paid annually. Most importantly it regulated the landlord tenant relationship, making it difficult for evictions to take place. The 1952 agrarian reform law, thus, provided the small tenant farmers with security of tenure.

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<sup>15</sup> See General Comments Number 12 concerning the right to adequate food. E/C.12/1995/5, Para 15.

### 2.1.3 Structural adjustment programmes and land liberalisation

However, as a result of the 1992 structural adjustment negotiations with the World Bank and the International Monetary Fund (IMF), the government of Egypt pushed through a neoliberal tenancy reform (Law 96) that has resulted in undermining the tenants' security. It was drafted and implemented as part of the structural adjustment programme package prescribed to the country by the World Bank and the IMF. Advocates of this law perceived it as a crucial component of the economy's liberalisation, another necessary step out of the socialist era. Others have viewed its implementation as a serious setback to the previous commitments given to tenants, and as a reversed or counter land reform.

The World Bank is increasingly believing in the importance of the role market forces play in the allocation of resources. Consequently, this role has, in recent years, formed a cornerstone of the World Bank's land policy. The World Bank believes it is an effective means of alleviating poverty in rural areas. Through basing land reform on allowing market determined land allocation, this type of reform, according to the Bank, is more cost effective, and will provide an efficiency and equity enhancing redistribution of assets in developing countries. The implementation of this type of programme has not just been confined to Egypt, it has also been implemented elsewhere, in countries such as Brazil, Columbia and Mexico. The data available on the results of these programmes, however, is providing increasing evidence that, rather than achieving its objectives, such programmes are failing in these countries, and are even undermining the struggle for land.

The creation of land markets through the privatisation of land has led to many peasant farmers losing their land. The World Bank is, thus, contributing to the existence of a situation where land is no longer owned by those who need it but merely by those who can pay for it.

The Egyptian Law 96/1992 was passed as an amendment to Law No. 178 of 1952, and for the first time since 1952, made the extension and continuity of rental contracts for agricultural land invalid. Moreover, the law has regulated for, after a five year transitional period, the total replacement of existing land-holding agreements. Upon the completion of this period the law has legislated for the suspension of all existing lease contracts, thus placing the distribution and allocation of agricultural land under the jurisdiction of market forces. As of this date the tenant farmers were thus required to rent or purchase land at its market price. Effectively, the new law through the liberalisation of agricultural land tenancy has jeopardised tenants' access to land.

As a direct result of the World Bank's land policy, the price of leasing or purchasing arable land in Egypt has dramatically increased. Agricultural land in Egypt is a scarce resource and demand is high. Following the implementation of Law 96 of 1992 rents have increased 300%. Rent rates for agricultural land are now approximately 22 times the value of the land tax as compared to 7 times the value, which was the rent value before the law came into action.

### 2.1.4 The consequences of this Law's implementation

Small tenant farmers are unable to compete with large agribusinesses or real estate speculators in the purchasing or leasing of agricultural land. Although, the government has supposedly made provisions for the granting of loans to assist the tenants, in reality this has made little or no impression on their position.

This is attested by the fact that, according to the Agricultural Minister Dr. Youssuf Wally, a year after the law came into force only 1500 tenants (approximately 0.3% of the estimated tenant population to be affected by this law) had actually benefited from such loans. Consequently many tenant farmers have had to leave the land they were farming and try to seek alternative means of subsistence. In many instances the family's only source of income has become their children. Although, due to the complexity of the tenancy map, it is difficult to specify exactly how many tenants have actually lost their land and been adversely affected by this law, it is estimated that the number is in the thousands rather than hundreds.

#### 2.1.5 The Violence Surrounding the Implementation of Law 96/1992

Moreover, the law has not been implemented smoothly. Many peasants, after the initial five year transitional period was over, were forcibly and violently expelled off the land they were farming. FIAN has received information concerning the forced eviction of peasants in the village of Albar Alsharki. In this case the landowner insisted on expelling his tenants, and did so with the use of machine guns, knives and cudgels. This was not an isolated incidence, similar occurrences have been reported to have occurred throughout Egypt's agricultural areas<sup>16</sup>, and represent a direct violation of these peoples' rights,<sup>17</sup> as well as of Law 96 of 1992. Law 96 of 1992 states that if the contract of rented farmland is terminated, and that necessitates the evacuation of the house attached to that farm, the government is required to provide the evacuee with an alternative suitable dwelling at the same locality. An evacuation can, therefore, only be ordered once an alternative dwelling has been made available. This, in the majority of cases, has quite simply not happened. Furthermore, although promises were made to the contrary, tenants have not been provided with alternative land or appropriate compensation. Article 5 of Act 96 of 1992 affirms the right of tenant farmers who have had their contracts terminated, according to the rules of this law, to have priority in acquiring desert land. However, despite this provision only a fraction of the affected tenants have received alternative plots. It is, therefore, clear that the local authorities have ignored at their convenience not only the law's provisions governing how it is to be implemented, but also the country's judicial procedures.<sup>18</sup>

Those peasants who refused to leave their land were subject to immense harassment by both the landlords and the local authorities. For instance many landowners have imposed harsh and unjust conditions for

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<sup>16</sup> It has come to FIAN's notice that in many villages the tenants have been chased off the land they were farming. FIAN has received information concerning incidences where security forces have terrorised tenants into leaving their land.

<sup>17</sup> This has been recognised in the CESCR's General Comment Number 4 on the right to adequate housing. Paragraph 18 states that "instances of forced evictions are prima facie incompatible with the requirements of the Covenant (ICESCR) and can only be justified in the most exceptional circumstances, and in accordance with international law". This view has also been emphasised by the Commission on Human Rights. It declared in resolution 1993/77 that forced evictions constitute a gross violation of people's human rights.

<sup>18</sup> According to Egypt's judicial procedures a law cannot be used to expel leasing farmers out of their land especially if they have expressed their willingness to continue contracting the same lands that they have used. No body may force a tenant to quit his land unless a court warrant has been issued in support of such an act. Effectively this means that the relations between the tenant and landlord have been allowed to be terminated illegally.

those leaseholders wanting to remain on the land such as raising the price of the leasehold to two or three thousand pounds. Often tenants, despite their right to elongate their period of tenancy, were forced to surrender their land by signing deeds of cession. They were often detained at the local police station where they were subjected to torture. An example of such a situation was in the village of Meniat Alnasr. On 13 October 1997 the police arrested 12 tenants aged between 35 and 60 who were working between 1.5 and 3 acres of land. The police then ordered them to give back their land and to sign the deeds of cession. When they refused to do so they were tortured, which in this case continued for 25 hours until they signed the deeds. Furthermore, FIAN has received information of instances where individuals refusing to sign the deed of cession have died because of the torture inflicted.

Violence has not only been confined to the tenants refusing to hand over their land. Following the completion of the five year transitional period, academics, the general public as well as many tenant farmers have been involved in and orchestrated demonstrations against the implementation of Law 96 of 1992, such as the staging of public protests. The government has reacted violently to such demonstrations. Often the demonstrations have resulted in people being shot and in some cases, fatally wounded. Furthermore, hundreds of opponents to this new law have been arrested and detained without being charged or given a fair trial.<sup>19</sup>

#### 2.1.6 Violations of the Right to Adequate Food

Rented land is the main, in many cases the only, source of income for the majority of the tenant farmers. Their dependence upon this resource has been heightened by the increasing level of unemployment present in recent years, particularly in rural areas. Loss of land for the tenants equates with a loss of livelihood.

By rendering many tenants landless the implementation of Law 96 is clearly threatening the ability of small tenant farmers to feed themselves and their families. Not only has the new legislation jeopardised tenants' access to land, it has been implemented violently, without any regard for Egypt's judicial procedures or human rights obligations. When the government ratified the International Covenant on Economic, Social and Cultural Rights it obligated itself to guarantee the right to food for all of its population without discrimination. Since the right to food is dependent upon sustainable access to productive resources such as land, the State has clearly not met its obligations. By continuing to threaten these individuals' access to land the State is clearly violating their right to adequate food.

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<sup>19</sup> See Amnesty International Annual Report 1998 on the Middle East and North Africa.

## **2.2 The New Law Regulating the Activities of Non-Governmental Organisations (Law 153/1999)**

The Egyptian Government is obstructing the realisation of the right to adequate food through passing legislation which deliberately restricts the work of local non governmental human rights organisations.

During the 1990s Egypt experienced an increasing rise in the number of non-governmental organisations working for human rights and other social issues. These organisations have become quite active and effective. The Egyptian Organisation for Human Rights, for instance, was involved in monitoring the 1997 elections. Furthermore, NGOs have also heavily been involved with opposing the implementation of the new tenancy law. It is, thus, apparent that civil society, and the non-governmental movement, have become an effective means of challenging and opposing adverse governmental policies.

### **2.2.1 The Importance of Civil society**

Human rights are indivisible, interrelated and interdependent.<sup>20</sup> The ability of individuals to articulate and defend their interests forms an essential ingredient of the realisation of economic and social rights. A true democratic system and the full enjoyment of all human rights are therefore mutually supportive and interconnected. Since participation is an integral component of a true democratic system, the free functioning of civil society forms a fundamental prerequisite to the satisfaction of all human rights. Concerning the right to adequate food this then means that, as according to the UN Special Rapporteur for the Right to Adequate Food, “The right to adequate food cannot stand alone, but depends on the respect for fundamental freedoms.”<sup>21</sup>

The importance of civil society’s role in securing individuals’ right to adequate food has been recognised in the General Comments Number 12. The General Comments were formulated to give a better definition of the right to adequate food and the obligations it incurs. The role civil society plays is recognised in the document by the following statement.

*“States parties should respect and protect the work of human rights advocates and other members of civil society who assist vulnerable groups in the realization of their right to adequate food.”<sup>22</sup>*

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<sup>20</sup> The principles of indivisibility and universality were reaffirmed by the international community of States in the Vienna Declaration of the 1993 Conference on Human Rights:

*‘All human rights are universal, indivisible and interdependent and interrelated. The international community must treat them human rights globally in an equal and fair manner, on the same footing, and with the same emphasis.’ Vienna Declaration, Art. 5.*

<sup>21</sup> Eide, A. “A Realization of Social and Economic Rights and the Minimum Threshold Approach.” in Human Rights Law Journal Vol 10 1987.

<sup>22</sup> See General Comments Number 12 on the Right to Adequate Food, UN Doc E/C.12/1999/5, Para 35.

This viewpoint is echoed by civil society itself. The Code of Conduct on the Human Right to Adequate Food, which was drafted by NGOs as a proposed new legal instrument for the better implementation of the right to adequate food, states that:

*“States should respect and actively promote the space needed by civil society, including individuals, families, people’s community based organizations, social movements and non-governmental organizations, to fulfill their role in realizing the right to adequate food. States shall respect and protect the work of human rights advocates and prevent all forms of discrimination of civil society.”<sup>23</sup>*

### 2.2.2 The New Law on Civil Associations and Institutions - Law 153/1999

A new law regulating the activities of civil society was passed in May 1999 (the Law on Civil Associations and Institutions - Law 153/1999). It was intended to be a replacement of Law 32 of 1964. Law 32 was heavily criticised by local and international human rights groups, and they had called for its replacement with less restrictive legislation. The law governed private associations and was criticised for reserving broad powers to the State to deny or rescind legalisation of any group. In the past this law had been used to close down independent NGOs and to deny legal status to others. Organisations such as the Egyptian Organisation for Human Rights operated without any legal status and remained subject to arbitrary closure at any time. However, rather than improving the situation, the issuing of Law 153 has suppressed democratic movement further.

Mary Robinson, the UN High Commissioner for Human Rights has criticised the new law and has accused the government of deliberately resorting to flexible terminology in order to escape its international obligations.

The law provides that organisations must file applications for registration with the government. Although, this in itself is a normal practice in the majority of countries, Law 153/1999 proceeds to provide additional unreasonable clauses. It gives the government control over the rights of the members of the non-governmental organisation to manage their own activities. Such control is established through mandating prior administrative approval on basic organisational issues including types of activities and identity of funders. It allows the State to veto candidates who would serve on the board of directors, as well as appoint government representatives to NGOs’ board of directors. Law 153/1999 also specifies that NGOs must obtain government approval before receiving any funds from abroad, or in fact joining any non-Egyptian organisations.<sup>24</sup> Moreover, it is forbidden for any non-registered entity to function as an NGO. The new law also prohibits NGOs from carrying out or participating in “political or trade union activity

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<sup>23</sup> See the International Code of Conduct on the Human Right to Adequate Food, Art.9.2

<sup>24</sup> Art. 17 of Law No. 153/1999 for Non-Governmental Organizations states that:

*“In all cases, no association shall have the right to obtain money from abroad either from an Egyptian or foreign persons or a foreign body or its local representatives. Nor shall the association send any of the above mentioned, save for books, publications, technical and scientific magazines, to persons or organizations abroad unless so authorized by the Minister of Social Affairs.”*

exclusively restricted to political parties and trade union” and other activities which “threaten national unity or violate public order or morals”.<sup>25</sup>

Penalties for violating the law include temporary closure or dissolution, imprisonment of up to two years, and fined.<sup>26</sup>

The Law was passed without any input made by the non-governmental community. In fact the Cabinet ignored all suggestions made by NGOs during the discussions held on the draft law. The law was discussed and passed by the Egyptian Parliament in a mere ninety minutes, ignoring the request of NGOs and opposition parties to postpone parliamentary discussion until human rights organisations had been given a chance to present their views directly to parliament. The passing of Law 153 has evidently occurred without any meaningful consultation with the affected parties.

### 2.2.3 Effects of the Law

It is clear that Law No. 153/1999 seeks to establish unreasonable governmental control over existing and future non-governmental organisation. Their ability to operate freely and effectively will be severely endangered by this law’s implementation. If implemented, the law gives “the government an array of legal tools to interfere with virtually every aspect of the operations of NGOs, from the composition of boards of directors to solicitation of funds.”<sup>27</sup> In fact this law would radically alter civic life in Egypt and be a step towards a closed society.

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<sup>25</sup> Art. 11. of Law No. 153/1999 for Non-Governmental Organizations states that:

*“Associations seek to implement their purposes in various community development domains according to the rules and procedures set forth by the executive regulations.*

*Subject to the opinion of the competent federation and approval of the administrative body, an association may operate in more than one field.*

*Secret associations shall be banned. Associations shall not be allowed to conduct any of the following purposes or activities:*

- 1. Form military or para-military formations or detachments.*
- 2. Threaten national unity, violate public order or morality or advocate discrimination against citizens, on account of sex, origin, color, language, religion or creed.*
- 3. Practise any political or trade-union activity exclusively restricted to political parties and trade unions.*
- 4. Seek profit or practise any profit-orientated activity. However, adopting commercial controls to generate such income that contributes to the realization of the association’s purposes shall not be considered a contravening activity.”*

<sup>26</sup> See Arts. 41 to 53 of Law No. 153/1999 for Non-Governmental Organizations.

<sup>27</sup> Human Rights Watch, June 6th 1999 “Proposed New Law Threatens Independent Organisations in Egypt.” New York.

Through giving the government authority over the right to form organisations the law allows the government to control the establishment of new organisations. Furthermore, the vague wording of the law allows the government to ban any NGO at whim. Human rights and pro-democracy groups are especially targeted through the ambiguity of Article 11. Article 11 refers to the prohibition of organisations to conduct any kind of “political or trade union activity exclusively restricted to political parties and trade union” and other activities which “threaten national unity or violate public order or morals”. Since the purpose of human rights and pro democracy groups is to protect the rights of the individual against the adverse actions of the state it is easy for such charges to be levelled against them.

The capability of non-governmental organisations is limited further by the law’s provisions relating to external financing. Such organisations need sufficient sources of income to allow them to finance, sustain, and upgrade their programmes. Traditionally such income is dependent upon foreign sources of funding, rather than on contributions and donations from members and supporters. Obstructing NGOs’ access to this source will severely constrain their financial resources, and limit their operational effectiveness.

#### 2.2.4 Justification

The government is justifying the drafting and implementation of the new law by claiming that the law will prevent the formation of secret organisations with hidden agendas using funding from hostile powers. It is alleging that the implementation of this law is in the interest of national security.

Since 1981, following the assassination of President Sadat Egypt has been declared to be in a State of Emergency. As the implementation of Law No. 153/1999 clearly undermines constitutionally guaranteed rights and freedoms in the interest “of national security”, it is classified as emergency law, justified by the Declaration of a State of Emergency.

The government’s argument, however, appears to lack conviction. Anti- terrorist provisions are already contained in Egypt’s emergency law, as well as other measures concerned with safe-guarding public security. Why is it necessary for the government to create new provisions relating to this? It is evident that the real reason lying behind the implementation of this law is the desire to heavily censor the activities of all NGOs. The growing activism of Egypt’s non-governmental sector has become an increasing nuisance to the government, and in some cases an embarrassment. Through creating such legislation the government now has a tool with which to control dissent.

Furthermore, continuation of this State of Emergency has drawn heavy criticism from international human rights organisations. While the State of Emergency is deemed as necessary by the Government in its struggle to end terrorism, human rights groups have claimed that the regime is using it as an excuse to curb all forms of dissent.<sup>28</sup> This concern has been echoed by the United Nations’ Human Rights Committee. In 1993 the United Nations Human Rights Committee expressed grave concern “at the long duration of the state of emergency”.<sup>29</sup> Moreover, the Committee proceeded to recommend that “the Egyptian authorities

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<sup>28</sup> See International Herald Tribune, 24 November 1995

<sup>29</sup> See Concluding Observations of the Human Rights Committee: Egypt 09/08/93 UN Doc. CCPR/C/79/Add.23.

should establish a closer and constructive dialogue with non-governmental organisations active in the field of human rights".<sup>30</sup>

### 2.2.5 Conclusion

The free functioning of non-governmental organisations is recognised as essential for the protection of all human rights. In Egypt this recognition is particularly valid since the NGO movement has become the only viable channel to bring about social and political change.

When the government ratified the International Covenant on Economic, Social and Cultural Rights it committed itself to ensuring the right to adequate food for all of its population. However, by threatening the existence of non-governmental human rights organisations, the government is creating an environment which actively hinders the realisation of this right. The implementation of this law has severely hampered the ability of individuals to defend and assert their basic rights. Individual empowerment is a key element to all human rights principles, and in order to comply with their human rights obligations states must respect, protect and foster this. The Egyptian government, through actively undermining this individual empowerment, is clearly failing to comply with its international obligations and is endangering the realisation of the right to adequate food for many individuals.

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<sup>30</sup> See Concluding Observations of the Human Rights Committee: Egypt 09/08/93 UN Doc. CCPR/C/79/Add.23.

### **3. General Conclusion**

This report clearly documents how, in spite of its ratification of the relevant treaties and covenants, the government of Egypt is creating an environment that actively hinders the realisation of the right to adequate food for a substantial number of its citizens.

The implementation of the new tenancy law (law 96/1992) has clearly jeopardised many small tenant farmers' ability to feed themselves through destroying their access to productive agricultural land. Rents have dramatically increased and the small tenant farmers are unable to compete with large agribusiness or real estate speculators in the purchasing or renting of land. In many instances they have been violently evicted off their land without the provision of adequate compensation and rehabilitation. Their means of subsistence has, therefore, been substantially diminished, and their right to adequate food actively violated.

The issuing of law 153/1999, the new Law on Civil Associations and Institutions, unreasonably restricts the activities of civil society, particularly those of non-governmental organisations. Through threatening the existence, and operational effectiveness, of these organisations the law is directly jeopardising individual empowerment, which is a basic precondition to the realisation of all human rights. The government is, therefore, evidently failing to comply with its international human rights obligations.

The government of Egypt is clearly exhibiting blatant disregard for basic human rights principles. It has implemented two different pieces of legislation that are "manifestly incompatible with pre-existing legal obligations relating to the right to food"<sup>31</sup> and is, therefore, failing to meet its obligations under the International Covenant on Economic, Social and Cultural Rights.

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<sup>31</sup> See General Comments Number 12 on the Right to Adequate Food, UN Doc E/C.12/1995/5, Para 19.

#### **4 Suggested Questions to the government of Egypt**

This report clearly illustrates how the government of Egypt is threatening, and violating, the realisation of the right to adequate food. FIAN would, therefore, like to ask the Committee on Economic, Social and Cultural Rights to put the following questions to the government of Egypt.

##### **4.1 Concerning the New Tenancy Law**

- a) What statistical analysis is the government conducting in order to evaluate the impact of this new tenancy law on the tenant farmers?
- b) How are the tenant farmers able to participate fully and freely in this analysis? Have they been able to thoroughly articulate their concerns, throughout this law's implementation process?
- c) In the future how will the government ensure that the implementation of law 96/1992 complies with the law's own provisions and international human rights standards?
- d) What compensation and rehabilitation is being offered to the tenant farmers that have been adversely affected by the implementation of law 96/1992?
- e) How has the level of compensation and rehabilitation to be provided been determined? How have the tenant farmers been involved in this process of determination?
- f) What is the general ability of small tenant farmers to maintain their access to the land that they are farming, either by purchasing the land or renting it at the new higher rate? What is the government doing in order to improve this ability?

##### **4.2 Concerning the New NGO Law**

- a) What are the governments' arguments for the implementation of this law? Why is it necessary to control factors such as funding from overseas? Since measures already exist in Egyptian legislation to deal with terrorism activities, and other threats to national security, why is it necessary to regulate so strongly the activities of the non-governmental community?
- b) What does the government perceive the function of civil society to be? How does it view the contribution non-governmental organisations make to the existence of a true democratic system of governance?
- c) Following the implementation of law 153/1999 how will the government ensure that civil society are still able to participate effectively in political processes?

