

LEGAL PROTECTION OF ECONOMIC AND SOCIAL RIGHTS

In its last Universal Periodic Review in 2010, Egypt accepted two recommendations on reviewing its national laws to ensure they are in line with its international human rights obligations. It also committed to consulting with civil society organizations regarding Law 84/2002, which regulates their registration, funding and activities.

EGYPT HAS A WEAK LEGAL FRAMEWORK FOR HUMAN RIGHTS PROTECTION. Egypt signed and ratified the International Covenant on Economic, Social and Cultural Rights in 1982. However, it has not effectively translated the provisions of the Covenant into domestic legislation. In the absence of robust domestic laws protecting human rights, and without genuine commitment to respect human rights, many laws have been passed that negatively impact human rights in the country.

CONSTITUTIONAL GUARANTEES DO NOT ADEQUATELY SAFEGUARD ECONOMIC AND SOCIAL RIGHTS. Enacted in January 2014, Egypt's Constitution prioritizes several economic and social rights; most concretely, articles 18 and 19 provide for progressive increases in funding for education and health care. However, commentators have pointed out the lack of concrete mechanisms for guaranteeing full realization of these budget allocations. More broadly, by leaving many issues to be regulated "by law" without strong procedural guarantees of transparent, accountable and participatory decision making, the new Constitution gives the government unchecked discretion and broad scope for the undue limitation of rights.

THE INDEPENDENCE OF THE EGYPTIAN HUMAN RIGHTS COUNCIL HAS COME UNDER THREAT. Established in 2003, the National Council for Human Rights is mandated to raise awareness, ensure observance, and further the protection of human rights. Nevertheless, civil society groups have expressed concern about the degree of independence the Council enjoys in carrying out its mandate (CIHRS, 2013). In particular, the government retains control over the selection of members of the Council. In the absence of robust appointment procedures, the Council has been reshuffled numerous times since the Revolution, leaving it open to criticism for serving the political interests of the government of the day as a result.

Suggested Question: What steps is Egypt planning to take to eliminate any obstacles preventing the National Council for Human Rights from performing its duties with full independence and transparency?

EGYPT HAS NOT RATIFIED THE OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS. During its 2010 review, Egypt voluntarily committed to studying accession to the optional protocol. Nevertheless, it has yet to take steps towards meeting this commitment.

Suggested Question: Was the study into accession to the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights undertaken? If so, what were its results?

SPACE FOR CIVIL SOCIETY IS CONTRACTING AND CALLS FOR PARTICIPATORY AND TRANSPARENT DECISION-MAKING ARE BEING SUPPRESSED. The catalyst for the Revolution was a growing 'governance deficit', manifested, inter alia, in severely restricted options for participation and representation in policymaking. Yet political leaders continue to keep policies and state projects secretive. State-produced data has not been regularly updated. Many documents and plans are not released to civil society groups or to the general public.

Worryingly, in July 2014 the Ministry of Social Solidarity demanded that all non-government organizations (NGOs) in the country register under a controversial Mubarak-era law (Law 84/2002). In September, the registration deadline was extended for 30 working days, until 10 November 2014, in response to the demand for more time for NGOs to adjust their legal status.

During the first UPR, the government pledged to minimize the role of the administration and give NGOs greater autonomy. It accepted recommendations on state guarantees for freedom of association and to reform Law 84/2002 by putting in place simple, rapid, non-discriminatory procedures for establishing NGOs, not subject to administrative discretion and consistent with human rights standards.

A draft NGO bill was elaborated to this end in consultation with NGOs and civil society. Nevertheless, it has been transformed through numerous amendments and a close reading of the latest draft, prepared by the Ministry of Social Solidarity, shows that it imposes complete control over civil society groups



and subordinates them to security and administrative bodies. The bill provides for what it calls a “Coordinating Committee,” comprised of eight government bodies, including a representative of the Interior Ministry and a representative from the General Intelligence Service. The bill gives this committee broad authority to regulate the activities of civic associations by controlling their registration, funding (either authorizing or rejecting) and activities. The Committee proposal has been criticized by Egyptian organizations and the Office of the High Commissioner for Human Rights (OHCHR, 2014).

The draft law gives the Government the power to shut down any group, freeze its assets, confiscate its property and block funding and requests to affiliate with international organizations. The bill falls foul of Article 75 of the Constitution, which states that civic associations should be able to operate “freely” (ECESR, 2014).

It unequivocally prohibits the receipt or transfer of foreign funding from an Egyptian or foreign national, or a foreign body or its representative in Egypt without a permit from the Coordinating Committee, or the passing of 60 days without an objection from the committee, but the article lays out no legal basis on which the committee may object (ECESR, 2014).

Article 2 of the bill prohibits licensing any entity—such as a company—that the administrative body deems to be engaging in civic work without complying with the provisions of the law. The bill thus considers any license issued to such entities by any other government body to be null and void.

Like the notorious Law 84/2002, the new bill sets forth prohibited activities using ambiguous language that makes it difficult to describe or circumscribe them with any precision. For example, the bill bans activities that “threaten national unity or contravene the public order or morals”—terms in the existing law that have long been criticized by Egyptian organizations. In fact, these same terms were used to deny licenses to some organizations, which were only established later due to court order. The draft law also prohibits civic associations from engaging in political activity, without defining whether this is limited to support for parties or candidates in elections or extends to assertions of opinion in matters of public import. The bill also prohibits associations from engaging in trade union activities, which will obstruct the work of advocacy associations that defend the rights of workers.

More recently on September 21, Egypt amended Article 78 of the Penal Code, criminalizing the receipt of funds, local or foreign, in cash or in-kind, directly or indirectly, with the aim of undertaking actions to destabilize the consensus or undermine the national unity. The Article imposes a life sentence in addition to large fines. The article serves as a large umbrella that can be used to penalize independent journalists, human rights defenders, political actors and activists, as well as other opposition groups (Masr, 2014).

RECOMMENDATIONS

Strengthen measures for guaranteeing all economic, social and cultural rights in domestic law, including by ratifying the Optional Protocol to the Covenant on Economic, Social and Cultural Right.

Repeal Law 2002/84 and allow civil and human rights groups to carry out their work without arbitrary restriction, independently of the government to ensure the realization of economic, social and cultural rights.

Take steps to ensure the independence and effectiveness of the Egyptian Human Rights Council; ensure an open and transparent process for the appointment of councilors that provides for input from civil society and other stakeholders.

ABOUT THIS FACTSHEET SERIES

This Factsheet was prepared by the Egyptian Center for Economic and Social Rights (ECESR) and the Center for Economic and Social Right in light of Egypt’s appearance before the Human Rights Council’s Universal Periodic Review in 2014. The 11 factsheets in this series accompany the joint submission on economic, social, and cultural rights in Egypt endorsed by 130 non-governmental organizations and labor unions.

REFERENCES

- Cairo Institute for Human Rights Studies (CIHRS) 2013.** The National Council for Human Rights, Lacking Human Rights Defenders, *Opinion Articles* (January 4, 2013)
- Egyptian Center for Economic and Social Rights (ECESR) et al 2014.** Proposed Government Law Makes NGOs Subordinate to Security and Ministry Control, *Joint Statement* (July 9, 2014)
- Mada Masr 2014.** President amends law to include life sentence for receiving funds, arms, *Mada Masr* (September 23, 2014)
- OHCHR 2013.** Egypt risks drifting further away from human rights ideals that drove Revolution – Pillay, Press Release (May 8, 2013)

