

Egypt: Margins of Repression

State Limits on Nongovernmental Organization Activism

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Glossary

Association	First of two basic legal structures of non-profit groups. A membership organization with an elected board of directors. (<i>jam`iyya</i>)
Board of Trustees	Governing body of civic foundation (<i>majlis al-umana'</i>) Members are appointed.
Board of Directors	Governing body of an association. (<i>majlis al-idara</i>). Members are elected.
Civil Company	A form of entity permitted by the courts under Egyptian civil law. (<i>sharika madaniyya</i>)
Civic Foundation	Second of two basic legal structures of non-profit groups. Has appointed board of directors and requires start-up capital (<i>mu'assassa ahliyya</i>)
Law Company	An entity governed by law 17 of 1983, the law of the legal profession. (<i>sharikat muhama</i>)
MISA	Ministry of Insurance and Social Affairs, the governmental body responsible for registering and enforcing compliance of most Egyptian NGOs.
NGO	Nongovernmental organization, used here to describe all forms of civil society groups. (<i>munadhamat ghair hukumiyya</i>)
Process server	<i>mahdar</i>
State Council	State administrative court (<i>majlis al-dawla</i>)

I. Summary

The government of Egypt has severely restricted freedom of association for more than four decades. Although the Egyptian constitution protects the right to freedom of association, the government has used a complex set of interlocking laws, decrees, and emergency powers to stifle the exercise that right. The ability to establish political parties and independent trade unions, for instance, is highly controlled. Although talk of reform has gained pace since the end of the 1990s, at the time of writing few tangible steps had taken place.

These restrictions have stunted Egypt's civil society. Egyptian nongovernmental organizations (NGOs) have long been burdened by cumbersome laws, an often hostile and inefficient government bureaucracy, and frequent interference by the security forces.¹ Nevertheless, NGOs in Egypt have grown in number, scope of activities and impact.²

In June 2003, after forty years of suffocating NGO regulation, a new associations law (Law 84/2002) entered into force. This report discusses the new law's impact on NGOs. It also examines other key barriers to the formation, work, and accountability of Egyptian civil society groups, based on documentation of the difficulties experienced by some thirty groups working in areas ranging from environmental awareness, adult literacy, women's empowerment, support services for child laborers, to human rights advocacy and research.

In some ways, Law 84/2002 is an improvement on the previous NGO law. Yet its provisions—and even more strikingly, the broad and arbitrary way in which it is applied—violate Egypt's international legal obligations to uphold freedom of association. It prohibits political and union-related activity, and allows NGOs to be dissolved by administrative order. It continues a host of intrusive administrative practices that restrict the natural development of civil society organizing activities and provides ample means for political or bureaucratic interference. It entrenches a system in which NGOs are treated as the children of a paternalistic government.

¹ In this study the "NGO" and "group" are used to describe all Egyptian civil society organizations. The terms "association" and "civil foundation" describe the two main forms of legal structure Egyptian NGOs may possess under law 84/2002.

² Some 4,000 groups were registered in 1964. Forty years later, most Egyptian commentators put the figure as at least 17,000. This is smaller than in many countries of comparable size. (Explanatory Memorandum of the Law No. 32 for 1964, reproduced in the Middle East Library for Economic Services *Law No. 32/1964 Concerning the Private Societies and Organizations/Qanun al-Jam'iyyat wa al-Mu'assassat al-Khassa, With Its Executive Regulations*, April 2002.)

Perhaps the most serious barriers to meaningful freedom of association in Egypt lie outside of Law 84/2002. The first is the role of the powerful security services, which routinely review and reject NGO registrations and scrutinize their leaders, activities, and funding. This role has no legal basis in the associations law. When pressed, these security agencies justify their decisions according to grossly disproportionate interpretations of “public order.” The second is the network of interlocking laws, decrees, and restrictions that inhibit the exercise of meaningful political life in Egypt outside of government-approved margins and allow the Ministry of Insurance and Social Affairs (MISA) to reject, dissolve, or harass any organization that the government holds in disfavor. Egyptian civil society and Egyptian courts repeatedly attempt to widen those margins; the government and security forces strive to hold them back.³

When governments restrict people’s ability to speak, meet, and work together, they are wasting a vital source of energy, innovation, and ideas. If people cannot form, run, and fund civil society organizations, then there is little chance of a functioning democracy or equitable, sustainable development.⁴ Government attitudes and regulation have to help – not hinder – ordinary people to form groups, raise money, and work for the benefit of their fellow citizens.

NGOs should be accountable to funders, clients, and the wider public they serve. Governments do have an interest in ensuring that local laws and standards are met, including ensuring that for-profit ventures do not claim the financial benefits of NGO status. There is, however, a difference between well-designed, transparent accountability mechanisms, and excessive state powers that police and stifle the work, goals, and leadership of civil society organizations. Egypt’s laws fall squarely into the latter category.

³ A third extra-legal barrier to the meaningful exercise of freedom of association, not addressed in this report, is the government’s ability to use its influence over religious and other institutions, including major media, to encourage popular hostility toward NGOs and individual activists, often on the grounds that because they receive international assistance they therefore act on behalf of Western powers. In mid-March 2005, for example, preachers in a number of Cairo mosques, including several of the largest, used their Friday sermons to denounce Negad al-Bora’i, a prominent defense lawyer and activist who heads the Group for Democratic Development, and Saadeddin Ibrahim, head of the Ibn Khaldun Center for Development Studies, for “treason” and “espionage” because their groups had been named as recipients of U.S. government democracy-promotion grants. (See Lina `Atallah, “Preachers and parliamentarians condemn NGOs for receiving U.S. funds for democracy work,” *Cairo Magazine* Website (www.cairomagazine.com), received by Human Rights Watch in e-mail dated April 5, 2005, from News from Democracy Egypt. A source in the Ministry of Religious Endowments, which manages mosque affairs, insisted that these were “individual tendencies” rather than “an official stance.” The Ibn Khaldun Center, in a March 28, 2005, statement, estimated that the total foreign funding received by all Egyptian NGOs amounted to perhaps 1 percent of the foreign assistance provided to President Mubarak’s government, “the major recipient of foreign funding in Egypt.”

⁴ UNDP Regional Bureau for Arab States, *Arab Human Development Report 2002: Creating Opportunities for Future Generations* (New York, 2002), pp. 103-120; and UNDP, *Human Development Report 2002: Deepening Democracy in a Fragmented World* (New York, 2002), pp. 51-63.

II. Recommendations

In order to comply with its international obligations regarding freedom of association, the government of Egypt should:

- Amend Law 84/2002 to ensure that all non-profit groups formed for any legal purpose are allowed to acquire legal personality by.
 - Making registration and membership of NGOs entirely voluntary;
 - Abolishing penalties for participation in unregistered NGOs; and
 - Removing restrictions on the ability to affiliate with other NGOs, whether domestic or foreign.

- Remove all restrictions on peaceful activities that amount to the exercise of internationally-recognized human rights to freedom of expression, freedom of association, and freedom to participate in public life by:
 - Amending Article 11 of Law 84/2002 to eliminate its restrictions on political and trade union activities; and
 - Specifying in the amendments that any language on “public order or morals,” which also appears in Egypt’s Civil Code, should be interpreted in a narrow and proportionate fashion, in conformity with Article 22 of the International Covenant on Civil and Political Rights and the jurisprudence of the U.N. Human Rights Committee.

- Cease security force vetting of NGO registration requests, founding members, and candidates for board membership. In particular:
 - Remove the government’s ability to approve or reject founding members or board members. Associations should not be required to inform the administrative authority in advance of board nominees. Amend Article 34 accordingly; and
 - Remove the government’s ability to object to organizational decisions as set out in Article 23.

- Ensure that any involuntary dissolution of an NGO takes place only by judicial order, and only as a result of the most egregious violations by amending Article 42 to remove the administrative authority’s power to dissolve an NGO.

- Permit receipt of donations or transfers from foreign donors, as long as all foreign exchange and customs laws are satisfied. Amend Article 58 accordingly. In particular:
 - State clearly any restrictions and make all criteria transparent; and

- Make clear that the absence of a government response to a request for approval of foreign funding within sixty days means that approval has been given.
- Allow NGOs to work in the thematic and geographical areas of their choosing. Abolish the requirement that NGOs seek permission from the Ministry of Insurance and Social Affairs (MISA) for working in more than one field of activity or governorate.
- Review both Law 84/2002 and its executive (implementing) regulations so as to create a reporting system that is less complex, intrusive and burdensome, and abolish provisions that inappropriately prescribe internal governance mechanisms.

In addition, the government should:

- Remove additional licensing requirements for NGOs to engage in field research, carry out media activities, and publish publications;
- Ensure that MISA officials are adequately trained and have sufficient resources to carry out their obligations under the NGO law;
- Ensure that MISA officials enforce a unified set of procedural requirements for NGO registration and reporting procedures; and
- Establish capitalization requirements for foundations that are uniform and do not represent an unreasonable or arbitrary barrier to their establishment.

III. Background

Egypt has a long history of nongovernmental social activity, traditionally enabled by the Muslim charitable endowment system (*waqf*). In the aftermath of the 1952 revolution, the government sharply restricted rights relating to freedom of association, expression, and political participation. Anxious to eliminate any possible role for the Muslim Brotherhood, the government used a suffocating legal regime codified in Law 32 of 1964 to subordinate all nongovernmental organizations to government control.⁵

This legacy of state corporatism has profoundly affected the development of Egyptian civil society. Government-defined boundaries circumscribe civil society spheres of action and expression. To be successful, NGOs must maintain a good a relationship with the state bureaucracy — and individual bureaucrats. One knowledgeable observer who wished to remain unnamed described the situation to Human Rights Watch as follows:

You have to understand: universities and research centers in other societies are independent. That is not the case here. Here they are the second face of the government. The only way we can talk about independent civil society organizations is NGOs and community service organizations...

[NGOs] are all divided. The government takes control by division and segregation and affiliates them to a different minister. Everyone in civil society has a godfather. Even if they're useful, they're corrupt. This is something from the first years of the revolution. Even the Boy Scout movement was completely destroyed.⁶

As in the rest of the world, civil society activities in Egypt expanded dramatically in the mid-1980s and early 1990s, particularly around the United Nations International Conference on Population and Development, held in Cairo in 1994. Intense local lobbying led the government in 1998 to announce its intention to reform Law 32/1964, the law of associations. After a consultation process with civil society that NGO activists

⁵ For example, under Law 32 of 1964, NGOs were allowed to work only in one of a group of twelve fields. Government officials could reject a group's creation, its board candidates, and board decision-making for unspecified reasons. Officials could dissolve or amalgamate any groups at any time. A notorious example of politically motivated dissolution is the 1982 closure of the Arab Women's Solidarity Association, led by prominent feminist Dr. Nawal al-Sa'dawi. See Human Rights Watch [Middle East Watch], "Egypt: Court Upholds Closure of Women's Organization," available at <http://www.hrw.org/reports/1992/egypt/>.

⁶ Human Rights Watch interview, name withheld, Cairo, September 27, 2004.

characterized as “heavily controlled,”⁷ then-Social Affairs Minister Dr. Mervat Tellowi presented a draft law to the government that, if passed, would have marked a substantive break from past practice. Instead, the draft was substantially altered by the cabinet. This new associations law was enacted but promptly declared unconstitutional.⁸ The current law of associations (Law 84/2002) was passed hastily on June 3, 2002.⁹

Law 84/2002 was a missed opportunity. Although it eased some of the worst restrictions of the 1964 law, it also eliminated some of the improvements codified in the 1999 law. Overall, it created a legal regime that gives the state excessive latitude to dissolve, reject, or slowly choke any organization financially, should it wish to do so. Government corruption and inefficiency exacerbate the intrusive bureaucratic requirements. Worse still is the significant but unwritten role of the security services, which routinely reject applications to register new groups or candidates for board member elections, despite having no legal basis for doing so. Even groups that have successfully registered continue to endure close monitoring and sometimes harassment from security service agents.

Domestic Protections and Realities

A powerful network of legal and practical restrictions limits freedom of association in Egypt. Understanding this framework is vital to any assessment of civil society’s operational environment and the NGO law.

In principle, the Egyptian constitution protects the right to: freedom of speech (Article 47); freedom of the press (Article 48); literary and scientific research (Article 49); peaceable assembly (Article 54); to form association (Article 55); and to create unions and professional syndicates (Article 56). The Egyptian Constitutional Court has often upheld these constitutional rights, as has the State Council (*majlis al-dawla*, or administrative court).

In reality, however, the government has severely undermined these rights through its long-term use of restrictive legislation. Since the assassination of former President

⁷ Dr. Seif al-Dawla is a founding member of several NGOs, including the Egyptian Association against Torture and the Nadim Center for the Rehabilitation of Victims of Violence.

⁸ The Constitutional Court ruled law 153 of 1999 unconstitutional in May 2000 (case number 153 of Judicial Year 6, issued on June 3, 2000). The court found it had been issued without seeking the required approval of Egypt’s upper house of parliament, the Shura Council. The court also found that many of the law’s provisions violated the right to freedom of association established by article 55 of the Egyptian constitution.

⁹ Law Number 84 of 2002, published in the Official Gazette – Number 22 – Supplement (A) June 5, 2002. For details of the preceding parliamentary debate, see Negad al-Bora’i, *Al-maqsala wa al-tanur: Hurrayyat al-ta`bir fi Misr 2002-2003 al-mushkilat wa al-hulul*, (Cairo: The United Group, 2004), pp. 495-502.

Anwar Sadat in 1981, President Husni Mubarak has ruled Egypt with emergency powers.¹⁰ These powers have created an environment where the authorities abuse fundamental human rights on a wide scale and with impunity, and where they adopt arbitrary measures to silence their critics in the name of safeguarding national security.¹¹ The wide-ranging and extensive powers given to the security forces under the state of emergency enable them to arrest at will people suspected of being a threat to national security and public order absent any showing of probable cause. Such persons can be held in detention without charge for prolonged periods. Similarly, censorship of the press can be imposed and newspapers ordered to shut down if the authorities decide that such measures are required for reasons of national security or public safety. Under Article 80(d) of the penal code, individuals can be sentenced from six months to five years for disseminating damaging information abroad.¹² Strikes, public meetings, and election rallies are prohibited: many have been dispersed violently.¹³

The state of emergency has also made it possible for the authorities to refer civilian defendants to military courts or to exceptional state security courts, in effect creating a parallel court system that lacks elemental due process protections. Political activists, including those who were not involved in any violent activity, have been tried before military courts that did not meet minimum fair trial standards, and charged with acts that amount to peaceful exercise of the rights to freedom of expression, association, and assembly.

For example, in April 2003 Ashraf Ibrahim Marzuq was arrested and held for three and half months before being charged before the Emergency Higher State Security Court with being on the steering committee of a “revolutionary socialist group,” “holding and possessing publications disseminating advocacy and propaganda for the group’s purposes,” and “sending false information to foreign bodies—foreign human rights organizations— which include, contrary to the truth, violations of human rights within the country, the content of which weakened the position of the state.”¹⁴ Ibrahim was eventually acquitted on March 11, 2004.

¹⁰ Including the Emergency Law 162 of 1958, the Anti-Terror Law 97 of 1992, and related military decrees. The Egyptian parliament has successively approved each renewal of the state of emergency. The current state of emergency is due to expire in 2006.

¹¹ The authorities announced in 2003 that the Higher State Security Courts had been abolished, but the Higher Emergency State Security Court remained intact. For background see Human Rights Watch *The State of Egypt vs. Free Expression*, Vol. 14 No. 1(E), January 2002; Amnesty International *Egypt: Muzzling Civil Society*, September 2000 AI Index MDE 12/21/00.

¹² For a fuller discussion of the impact of Article 80(d), see *The State of Egypt vs. Free Expression*, p. 13.

¹³ See Human Rights Watch, *Egypt: Security Forces Abuse of Anti-War Demonstrators*, Vol. 15 No. 10(E), November 2003.

¹⁴ Human Rights Watch, *Egypt: Security Forces Abuses of Anti-War Demonstrators*, p. 11.

Since 1998 two prominent human rights activists have been arrested on the basis of Military Decree No. 4 of 1992, which lays down prison sentences for several offences that encompass the internationally protected exercise of freedom of association and expression. In 1998, Hafez Abu Saeda, secretary general of the Egyptian Organization for Human Rights, was accused of accepting funds from a foreign donor without prior authorization after publishing a report on torture and other abuses related to the government's handling of a Muslim-Coptic disturbance in Upper Egypt. The case did not go to trial. Dr. Saadeddin Ibrahim, along with his co-workers at the Ibn Khaldun Center and the Hoda Association, an affiliated organization that promotes women's voting rights, were arrested in June 2000 and later convicted on several charges, including accepting foreign funds without permission and disseminating false information about Egypt. After being sentenced to seven years' imprisonment on July 31, 2002, the verdict against Ibrahim and his co-defendants was quashed on December 3, 2002.¹⁵

The government's dominant role in public life is reinforced by other legislation as well. Heavy restrictions on trade unions and political parties date from the Nasserist era. The Trade Union Law establishes a central pyramidal trade union structure, under which all trade unions are compelled to affiliate with the only legally recognized labor federation, the Egyptian Trade Union Federation. Union elections and other matters are supervised solely by the Ministry of Manpower. All collective bargaining mechanisms are subject to trade union approval, and trade union membership is compulsory for all public sector employees.¹⁶ The Press Law (Law 96/1996) imposes custodial sentences for offences such as slander, insult, and libel. In its quest to suppress the Muslim Brotherhood and other critics, the government also intervened extensively in the elections and governance of professional associations in the mid to late 1990s, including at one point the sequestration of the Egyptian Bar Association.

Overview of Law 84/2002

Law 84/2002 establishes two main forms of non-profit organizations: associations (*jam`iyyat*) and civic foundations (*mu'assasat ahliyya*). All non-profit groups of ten members or more working in social development activities must register with the Ministry of Insurance and Social Affairs (MISA) or face criminal penalties, including up to one year's imprisonment (article 76). A group of less than ten persons can neither apply for association status nor carry out volunteer activities. Non-profit groups working

¹⁵ Human Rights Watch, *The State of Egypt vs. Free Expression*.

¹⁶ The ILO has informed the government of Egypt repeatedly that these infringe workers' freedom of association. See CEACR: Individual Observation concerning Convention No. 87, Freedom of Association and Protection of the Right to Organize, 1948 Egypt (ratification: 1957) Published: 2004. Available online <http://www.ilo.org/ilolex/english/newcountryframeE.htm>, accessed December 4, 2004.

in other fields are answerable to other ministries: for example, the Ministry of Health regulates non-profit medical clinics.

In a welcome development, the new associations law has widened the scope of permissible NGO activities, including human rights activism.¹⁷ In theory, the law also allows NGOs to work in more than one field of activity, though in practice they must seek MISA permission before doing so.

Yet the scope of permissible NGO activities remains severely limited. Article 11 of Law 84/2002 forbids groups from pursuing the goals of “threatening national unity” or “violating public order or morals.” As this report will demonstrate, this language echoes that of international human rights law but the Egyptian government’s application of these concepts is broad and excessive in ways that are grossly inconsistent with international standards. Egyptian laws, for instance, effectively prohibit independent political or trade union activities.¹⁸ These prohibitions are defined further in the executive (implementing) regulations (articles 24-25). The regulations state that groups may not undertake or fund election-related activities, or represent employees in discussions with employers. In practice, Article 11 has given the security forces and government officials unacceptably wide powers to harass activists and dissolve civil society groups (see below.) The government may use Article 11 as a basis to block an NGO’s registration; to reject particular persons as founders or board candidates; or to dissolve a group and seize its assets.¹⁹

When a group applies for registration, it undergoes an official inspection and lodges the required forms at its local MISA office. According to NGO activists, applicants were typically asked to fill out the application in pencil and then go through it with a MISA official who instructs them what to change and what to keep. The ministry is required to respond by registered letter within sixty days. If a group’s objectives include any activities MISA considers banned by Article 11, the ministry may refuse the group permission to

¹⁷ Under Law 32 of 1964, NGOs were previously limited to working in only one of twelve fields; the twelfth field, human rights, was added by ministerial decree in 2000. The expanded field of permissible NGO activities is set out in Article 48 of the executive (implementing) regulations of Law 84/2002.

¹⁸ The relevant language reads:

...it is also forbidden to include amongst an organization’s goals the performance of the following activities:

1. Forming military or paramilitary detachments or formations.
2. Threatening national unity, violating public order or morals, or calling for discrimination between citizens because of race, origin, color, language, religion, or creed.
3. The exercise of any political activity shall be restricted to political parties in accordance to the parties law, and exercising any unionist activity shall be restricted to unions in accordance to the trade unions law.

¹⁹ Articles 8, 34 and 42.

register, although it must give reasons for its decision in writing (Article 6). The ministry also has the powers to object to a group's bylaws or founders (Article 8).

If more than sixty days have passed without an official MISA response, then a group can assume to be registered, although in practice it is impossible to function without an official registration number. Registered groups are entitled to significant tax privileges, as well as discounted telephone and utilities charges (Article 13). Because registration is compulsory, non-registered groups are forbidden from conducting any activity.

NGOs that have been refused permission to register may bring a complaint before the State Council (*majlis al-dawla*, or administrative court). Rejection of registration is the only circumstance in which the law allows an NGO to go straight to the administrative court. Registered NGOs that have disputes with the ministry may take complaints to a three-person dispute committee. If the committee has not decided the issue within sixty days, the NGO may take a case to the administrative court (Article 7). Complaints over dissolution, board membership and other issues must also be taken to the dispute resolution committee before resorting to the administrative court.²⁰

Under Law 153 of 1999, later declared unconstitutional, the ministry had to go to court if it wished to reject the application of an association. Under Law 84, the NGO must initiate any court involvement. This puts the burden on the fledgling NGO and thus is a step backwards.

The new law limits the ministry's previously absolute power to reject, amalgamate, and otherwise control organizations.²¹ However, it still provides ample means for governmental officials to intervene in internal governance – including the power to dissolve organizations by decree. Article 42 gives the minister unacceptably wide grounds on which to dissolve groups, including receiving foreign funds or affiliating with foreign organizations without permission, conduct of political or trade union activities, and violations of the law, public order or morals. Interestingly, the minister's power to dissolve organizations had been eliminated from the 1999 law of associations, law

²⁰ Throughout the process of registration and appeals, the founding members must pay rent for the premises of an as-yet unauthorized organization. Aida Seif al-Dawla, a founding member of the Egyptian Association against Torture, told Human Rights Watch that in the case of the Egyptian Association against Torture this has been going on for more than two years (e-mail communication from Aida Seif al-Dawla, May 4, 2005).

²¹ See, for example, articles 29, 57, and 79 of Law 32/1964, justified on the grounds of coordination, prevention of overlap, and security: "it was imperative that the efforts which are exerted in the field of social service shall be subject to sound planning within the framework of a comprehensive general plan to be supervised by the State, which shall direct it and control its execution." Explanatory Memorandum of the Law No. 32 for 1964, p. 35.

153/1999, which specified that organizations could be dissolved only as a result of a judicial order.²²

Another fundamental problem is the ministry's power to object to an association's proposed board members (Article 34). If an NGO is electing new board members, it must notify MISA of the nominees at least sixty days before the elections. The ministry, and in fact any "interested party," have the power to notify the NGO that certain candidates *cannot* be nominated, although the grounds for such action are not stated clearly.²³ MISA does not have the same ability to object to the leadership of foundations, making the latter a more popular organizational structure.²⁴

The new law no longer stipulates what color inks NGOs must use, but it does specify NGO governance and administrative procedures with a significant level of detail.²⁵ MISA defines the number of board members and their terms of office, procedures for annual general meetings (AGMs) and quorum requirements, frequency of executive committee meetings and procedures, fundraising requirements, organizational record-keeping and so on (Executive Regulations Articles 81-90). In particular, organizations must provide MISA with advance notice as well as minutes of annual general meetings. MISA must approve invitations to conferences before the members of an association can participate. MISA can itself convene an NGO's AGM if it considers it to be necessary. MISA also has the power to object to any organizational decision it considers illegal; the law does not indicate that it must explain the basis for its objection (Article 23). Groups may not work in more than one governorate, or beyond the limits of the governorate in which their main office is located, without seeking MISA permission.²⁶

Crucially, the ministry also has the power to block an organization's funding. The law's ambiguous language on funding is clarified by the executive (implementing) regulations. If they notify MISA, organizations may receive funds from local sources, and from foreign organizations that operate in Egypt under agreement with the Ministry of Foreign Affairs. But every grant from external sources must be reviewed and approved

²² Article 62, Law No. 153 of the Year 1999, The Non-Governmental Organizations Law/*Qanun al jam'iyyat wa al mu'assasat al-ahliyya*, published in the Official Gazette (*al-jarida al-rasmiyya*) – Issue 21 – Supplement (B) – May 27, 1999.

²³ Article 34 and Executive (Implementing) Regulations Article 81. According to Article 34, the administrative authority or any interest party can reject candidates for "non-fulfillment of the nomination criteria." The only specific criteria are contained in Article 33, which states every nominee must be in possession of his or her civil rights—that is, over the age of 21.

²⁴ Instead of holding board elections, the founding members of a foundation instead appoint a board of trustees (article 60).

²⁵ The implementing regulations of law 32/1964 required that corrections to organization registers be made in red ink.

²⁶ Executive (Implementing) Regulations, Article 48. There are twenty-six governorates.

by the minister, who is officially required to respond within sixty days (Article 58). A group must hold any foreign funds it has received in escrow until it has received MISA approval. A group may become affiliated with non-Egyptian organizations if the minister is informed and does not object (Article 16).

The law establishes the right of any ten organizations working in the same field to join and form a union. In practice, however, those organizations that want to form a union must submit the names to MISA, which then groups organizations in unions corresponding to what the ministry understands to be their chief activity or activities. Such authority belongs with the organizations concerned, not with the state.

The law also establishes a General Union of Associations and Civic Foundations (Article 69). Headquartered in Cairo, the union is designed as a government-organized representative body for all NGOs. Although the union has the potential to play a positive role, it also constitutes an additional and unneeded layer of state-designed bureaucracy. One third of its board members are government-appointed. The law states that union representatives must be consulted on a variety of issues, including government orders for NGO dissolution. A member of the union also sits on the three-person dispute resolution committee established by Article 7.

IV. Egypt's International Legal Obligations

The right to freedom of association, and the associated rights to freedom of expression and assembly, is well established in international law. Egypt has obligations under several international treaties to uphold these rights, including the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Social, Economic and Cultural Rights (ICESCR), and the African Charter on Human and People's Rights (ACHPR).²⁷ Egypt is also a member of the International Labor Organization, and thereby obliged to respect and promote the principles of free association and collective bargaining.

The right to freedom of association may be restricted, but only on certain prescribed grounds and only when particular circumstances apply. According to Article 22 of the International Covenant on Civil and Political Rights:

- (1) Everyone shall have the right to freedom of association with others, including to form and join trade unions for the protection of his interest.

²⁷ Egypt ratified the ICCPR and ICESCR on January 14, 1982, and the ACHPR on March 20, 1984.

- (2) No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others...

The restrictions specified in Article 22 (2) should be interpreted narrowly. For example, terms such as “national security” and “public safety” refer to situations involving an immediate and violent threat to the nation. Restrictions can only be imposed if they are prescribed by existing legislation, and meet the standard of being “necessary in a democratic society.” This implies that the limitation must respond to a pressing public need and be oriented along the basic democratic values of pluralism and tolerance. “Necessary” restrictions must also be proportionate: that is, carefully balanced against the specific reason for the restriction being put in place.²⁸ The U.N. Human Rights Committee has repeatedly highlighted the importance of proportionality.²⁹ In applying a limitation, a government should use no more restrictive means than is absolutely required.

Additional protections are contained in Article 8 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which requires states to uphold the right to form trade unions and to join the unions of one’s choice. Egypt’s practice, the law of associations, and the trade union law all contravene the principles of the ICESCR.³⁰ They also violate the principles of the African Charter on Human and People’s Rights, which guarantees the right to free expression in Article 9 (2), and freedom of association in Article 11.

The international covenants employ similar language to describe the rights of free expression and assembly. Article 19(3) of the ICCPR, for instance, states that the exercise of the right to freedom of expression

carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) for respect of the rights or

²⁸ Manfred Nowak, *UN Covenant on Civil and Political Rights: CCPR Commentary* (Kehl am Rein: N.P. Engel, 1993), pp. 386-387.

²⁹ The U.N. Human Rights Committee, see for example Vladimir Petrovich Laptesevich v. Belarus. Communication 780/1997 of the Human Rights Committee. See also Richard Fries, “The Legal Environment of Civil Society,” *The Global Civil Society Yearbook 2003*, Chapter 9, Center for the Study of Global Governance, London School of Economics, 2003.

³⁰ See note 17 above.

reputations of others; (b) for the protection of national security or of public order (*ordre public*), or of public health or morals.

The lawfulness of government restrictions on the possession and distribution of pamphlets as well as other restrictions on the dissemination of information by NGOs and their members are subject to the same considerations of proportionality and necessity. Thus procurement and dissemination of military secrets may be prohibited, but restrictions on freedom of expression to protect national security “are permissible only in serious cases of political or military threat to the entire nation.”³¹ Since restrictions based on protection of public order have the potential to undermine completely freedom of expression, “particularly strict requirements must be placed on the necessity (proportionality) of a given statutory restriction.”³²

Article 21 of the ICCPR recognizes “the right of peaceful assembly,” and states:

No restrictions shall be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interest of national security or public safety, public order (*ordre public*), the protection of public health and morals or the protection of the rights and freedoms of others.

Prohibitions or restrictions on freedom of assembly based on national security “are permissible only in serious cases of political or military threat to the entire nation.” Prohibitions or restrictions on public order grounds “must...always remain the exception... The discourse of conflicting ideas is an essential feature of democracy.”³³

The different U.N. committees responsible for monitoring Egypt’s compliance with its treaty obligations have several times highlighted the government’s need to ease restrictions on civil society, as has the ILO.³⁴ In its November 2002 examination of Egypt’s ICCPR implementation, the U.N. Human Rights Committee stated:

The Committee is concerned at the restrictions placed by Egyptian legislation and practice on the foundation of nongovernmental organizations and the activities of such organizations such as efforts to

³¹ Nowak, *op. cit.*, p. 355.

³² *Ibid.* p. 357.

³³ *Ibid.* pp. 380 -81.

³⁴ See CEACR: *Individual Observation concerning Convention No. 87, Freedom of Association and Protection of the Right to Organise, 1948 Egypt.*

secure foreign funding, which require prior approval from the authorities on pain of criminal penalties (art. 22 of the Covenant).

The State party should review its legislation and practice in order to enable nongovernmental organizations to undertake their attributions without obstacles which are inconsistent with provisions of article 22 of the Covenant, such as prior approval, control of funding and administrative dissolution.³⁵

On December 9, 1998, the U.N. General Assembly adopted the “Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms” – commonly referred to as the Declaration on Human Rights Defenders. Article 5 of the declaration states that all people have the right to assemble peacefully, to form, join or participate in NGOs, to communicate with NGOs. Article 6 states all individuals have the right to know, seek, or obtain information about all human rights and fundamental freedoms, as well as the right to freely publish, discuss or otherwise impart such information, knowledge, and views. The Ministerial Conference on Human Rights held by the Organization of African Unity in Mauritius in April 1999 urged African governments to take appropriate steps to implement the Declaration.

The Special Representative of the Secretary General on Human Rights Defenders requested an invitation to visit Egypt in July 2002, and renewed the request in 2004. The request was still outstanding as of May 17, 2005.³⁶

³⁵ Concluding Observations of the U.N. Human Rights Committee, Egypt, U.N. Doc. CCPR/CO/76/EGY (2002), para. 21. The U.N. Human Rights Committee made similar comments in 1993 after its preceding examination of Egypt's progress. In its concluding observations on Egypt's first periodic report, the U.N. Committee for Economic, Social and Cultural Rights stated “[t]he Committee is deeply concerned that law 153 of 1999 (Law on Civil Associations and Institutions, popularly called the “NGO Law”) does not conform to article 8 of the Covenant and contradicts article 55 of the 1971 Egyptian Constitution affirming the right of citizens to form associations, and gives the Government control over the right of NGOs to manage their own activities, including seeking external funding.” Conclusions and Recommendations of the Committee on Economic, Social and Cultural Rights, Egypt, U.N. Doc. E/C.12/1/Add.44 (2000), available online at <http://www1.umn.edu/humanrts/esc/egypt2000.html>. Accessed December 4, 2004.

³⁶ E-mail response to Human Rights Watch from Chloe M. Baszanger, desk officer for the Special Representative of the Secretary General on Human Rights Defenders, Office of the U.N. High Commissioner for Human Rights, May 17, 2005.

V. The Situation since June 2003

Since law 84/2002 entered into force in mid-2003, NGOs of all kinds have faced two crucial issues: gaining registration, and obtaining funding permission. Interference by the security forces and bureaucratic ineptitude have affected both processes and effectively restricted essential rights to freedom of association and expression.

Registration

Law 84/2002 required many Egyptian NGOs to register or re-register with the Ministry of Insurance and Social Affairs (MISA).³⁷ In a positive development, the new law widened the fields of activity permitted to NGOs. Some groups who had earlier been unable or unwilling to register with MISA were able to regularize their status. This appears to have been easiest for large, well-established organizations, such as the Egyptian Organization for Human Rights. Many other groups have continued to use alternative legal forms, such as civil companies or law firms (*scharikat madaniyya* or *scharikat muhama*).³⁸ This has enabled them to avoid intrusive MISA regulation – but potentially exposes their leaders to harsh penalties, including imprisonment, if the government should choose to move against them.

Human Rights Watch obtained data on the experience of thirty Egyptian NGOs, including twenty-two human rights organizations, under the new law. Seven had successfully registered; one (the New Woman Foundation) had been able to do so only after a long legal and bureaucratic battle. Five groups were litigating MISA decisions rejecting their applications, or were seeking enforcement of favorable court judgments. In one case, the Aswan-based Health and Environmental Development Foundation, the government ordered its board dissolved in late 2004, but the group successfully appealed to the dispute resolution committee to overturn the order. All other organizations were using alternative legal structures, including registering themselves as local branches of international NGOs.

In many countries, NGO registration is voluntary. In Egypt it is compulsory. Several groups that were unwilling to subject themselves to MISA registration and supervision noted that they eventually did so because of strong governmental and peer pressure.

³⁷ The new law obliged all existing associations and civic foundations to officially harmonize their statutes with the new law. It also obliged entities that carried out any activities of an association or civic foundation, but used a different legal structure, to amend their statutes and register with MISA as either an association or foundation. See Article 4 of the presidential order "Law Number 84 of 2002: Publication of the Law of Associations and Civic Foundations." Official Gazette (*al-jarida al-rasmiyya*) - number 22 (A) January 5, 2002.

³⁸ Donors and development experts told Human Rights Watch this was particularly the case with cultural organizations.

Groups conducting field research or involved in negotiating practical remedies for victims said it was impossible to work or negotiate with government interlocutors without official status. Others indicated they had had problems obtaining employee insurance, or had come under pressure from NGO partners who refused to conduct joint activities with unregistered organizations.

There is no single source of information from which to obtain information on registration difficulties: In 2004 Human Rights Watch twice requested relevant data from the Ministry of Insurance and Social Affairs but received no reply.³⁹ Groups working in areas such as development, education, human rights, and social services have suffered. In practical terms, there appear to be three major barriers: intervention by the security forces, restrictions laid out in Article 11 of Law 84/2002 prohibiting what the state considers to be political or trade union activities, and the bureaucratic obstacles inherent in the registration process.

Extra-legal Role of Security Services

The single most important factor in NGO registration is one with no basis in the law—namely, the opinion of the State Security Investigations (SSI) bureau of the Ministry of Interior. According to Law 84/2002, applications for NGO registration are approved by the Ministry for Insurance and Social Affairs (MISA), with no role assigned to the security forces. In practice, all applications are submitted for vetting to the State Security Investigations, the Ministry of Interior bureau which itself has units within the Ministry of Social Affairs. Applications also appear to be forwarded to other security services.

The only limitation prescribed by Law 84/2002 is that an organization's founders cannot have been sentenced to imprisonment or criminal penalty for "moral turpitude or dishonesty" (Article 2). But, in many cases Human Rights Watch found that security force objections are based on the identity of the organization's founders. If an individual has a history of peaceful social activism, has spoken out on political issues, or was a member of a political organization, for example, a student political group, then he or she appears likely to trigger security force objections. Objections often appear to be applied arbitrarily. Written reasoning is rarely given: at most groups may be told that their objectives include activities forbidden by Article 11, as was the case with the New Woman Foundation (discussed below).

One example is the case of the Helwan Foundation for Social Development, commonly known as Bashayir Helwan. Located in a major urban industrial neighborhood of Cairo,

³⁹ The letters, to Dr. Amina El-Guindi, were dated July 8 and September 14, 2004. The text of the September 14 letter is attached as an appendix to this report.

the center was founded in 1987 and is devoted to fostering local development, particularly with regard to the empowerment of women and girls.⁴⁰ It has over thirty employees, and currently operates a nursery school, teaches women and girls vocational skills, has a program to support female victims of violence, and runs a social club for teenagers. According to Zainab `Abd al-Latif, the group's executive director, the local Ministry of Social Affairs office has praised the nursery school and hopes to use it as a model for others in the Helwan area.⁴¹

Bashayir Helwan applied for registration on April 2, 2003. In the preceding weeks, however, the center had been negotiating with MISA over application details – including a particular problem with the center's name. `Abd al-Latif, who is also a lawyer, explained:

The biggest thing was getting the name okayed. You always have to check your [proposed] name in order to check it's not already being used. But we didn't even get approval for that. After about two weeks a local MISA employee told us, "No Bashayir, that is what security has told us, the name Bashayir is banned." They didn't give any other reasons. He told us verbally, he didn't write it down.⁴²

The center eventually chose its current name, had its premises inspected, and then negotiated its bylaws with ministry officials.

We had a lot of activities, and they went over these repeatedly. They picked on individual words: if you do X, you cannot do Y. It was the fields of work they cared about the most. The intervention was on the definition of the fields: you must work in your field only, and nothing else. MISA said, "Start with one of them and then if you succeed, we can write in more." But there is nothing in the law about this...

Eventually we decided on four or five fields of work and thought if they refuse it, they refuse it. We gave it to them, they returned it, we gave it back, and so on. The problem was not the length of time but their intervention into affairs that are the discretion of the group, without any legal basis! This is one of the things that is not in the law but it is in the

⁴⁰ *Bashayir* is plural of *bushra*, which means "good omen."

⁴¹ Human Rights Watch interview, Zainab `Abd al-Latif, Helwan, Cairo, September 23, 2004.

⁴² *Ibid.*

implementation. The law gives us freedom, and they're not implementing it, but the opposite!⁴³

After more than six weeks of intensive work, the center submitted six copies of their application papers to the MISA Helwan office.

They did not want to take the papers, they did not want to stamp [the date of receipt on] them. They refused and I had to fight. I said, "I will not give them if you do not stamp them, and I'll get them served on you by a process server [*mahdar*]." And while I was there I saw them take the papers from another association, and they took it without stamping them, In front of my eyes! Eventually they gave in and stamped the papers after I told them I was a lawyer.

In late June, the center received a letter from MISA. It stated that the security services had notified MISA they had no objection to the registration of the center, providing that two of the founding members were eliminated from the organization: Hala Shukrallah, a well-known development consultant, and `Azza Kamil, whose participation as a founding member of a different organization, the Habi Foundation for Environment Rights, had already been approved the security forces.

The center, when it asked in writing for an explanation of the security request, received none. It complained to the dispute resolution committee, as required by law, and then to the administrative court. The court granted them an injunction against the security forces request in May 2004, but the lack of legal standing affected funding and forced the center to reduce its size and activities. The executive director told Human Rights Watch:

The security involvement and all the administrative barriers – these are a great way of harassing you and retarding civil society work. It is a basic injustice that the security forces decide whether or not I can do my civil society work. They can make this decision and I don't know who they are, why, and I cannot meet them in court. They are treating us like terrorists. The only grounds for banning people from being founders is very very clear: if you've been sentenced to a criminal punishment. Their actions show a basic disrespect for the law.⁴⁴

⁴³ Ibid.

⁴⁴ Human Rights Watch interview, Zainab Abd al-Latif, Helwan, Cairo, September 23, 2004.

When asked why the security forces would wish to ban her from the center's board, Shukrallah told Human Rights Watch:

For me, I did my thesis on female workers, and went and did field interviews. Since then I've been on a blacklist, always held at the airport and searched. I think that is one factor. At one point I was involved with funding human rights organizations. My MA thesis was on the rise of Islamic fundamentalism and its impact on women and Christians. I have never been told anything, I just try to figure out why I am being held.⁴⁵

A MISA official told Human Rights Watch that Shukrallah had been banned because of her "political" activities.⁴⁶

The center finally succeeded in registering on November 28, 2005.

A similar example is that of a group that provides education and social support services for working children, the Foundation for the Child Worker and His Local Society (*al-tijf al-`amil wa mujtama`uhu al-maballi*). Located in Sakiat Makay, a poor area of Giza, the foundation runs education, leisure, and social support activities for child workers and their families. Founded in 1998, the group's management committee decided to register as a foundation in May 2003. As with other groups, the foundation negotiated its goals and fields of work extensively with MISA before the ministry officially accepted its application for registration. According to Iman Muhammad, the foundation secretary:

They suggested we have only two goals, and put everything else into the "activities" section. We had also wanted to talk about kids' relationships with their employers and they said, "No, that's the work of the unions and syndicates." We would keep submitting papers and they would refuse them, and return them to us.

We also had to make sure we had only one or two fields of work, [so] it was easier for them to clarify what [kind of group] we were. And they were also convinced that you can only work in one way in one field – if you work with kids you cannot work with rights, and if you talk with kids about their work then that's trade union work. And these are six

⁴⁵ Human Rights Watch interview, Hala Shukrallah, Development Support Center, Cairo, September 27, 2004.

⁴⁶ Human Rights Watch interview, Muhammad al-Bayumi, Ministry of Social Affairs NGO Directorate, Cairo September 29, 2004.

year olds we're talking about! We said, "Where is this in the law? Show us." And they said, "If you don't want to register, don't. If you don't want us to take your papers, then that's fine with us." I can't tell you how many times we went down there, more than ten at least.⁴⁷

The foundation overcame two other challenges before its papers were accepted. First, MISA officials appear to set capitalization requirements arbitrarily, which in the cases Human Rights Watch investigated ranged from 5,000 to 15,000 Egyptian pounds (LE); LE 15,000 is a sum so high as to form a serious barrier to any group without substantial donor funding.⁴⁸ Second, its main MISA interlocutor solicited bribes so frequently and obviously that he was eventually dismissed from his position. In this case, the group's application was successful: it submitted the required papers in May 2003 and received a registration number on August 16, 2003.

Two weeks later, however, the foundation received a second letter from the MISA Giza directorate. Composed on a pre-printed form, it stated, "we regret to inform you of the necessity of replacing Dr. Mona Sadiq and Mr. Ahmad `Abd al-Qadir from the founders/trustees of your organization."⁴⁹ No reason was given. The group decided immediately to go to court, and in the meantime continued to operate as a civil company. The court granted an injunction against MISA's rejection of their application, and the foundation was registered in late 2003. When asked why the security forces would object to her participation, Mona Sadiq said she believed it was because of her links with the Tagammu` Party.⁵⁰ Al-Qadir was a graduate of al-Azhar, the Islamic university. Both were members of the Popular Committee to Support the Intifada, a Palestine solidarity group.

Article 11

In the rare instances the security forces have cited reasons for their rejection of an NGO's registration or board candidates, they have invoked Article 11. They have not applied the restrictions outlined in Article 11 in a narrow and proportionate way, as international law requires. Instead, they have used the article as a tool with which to block the registration of groups whose behavior or goals do not fit within the narrow

⁴⁷ Human Rights Watch interview, Mona Sadiq, Iman Muhammad, and members of al-Tifl al-Amil executive committee, Cairo, September 26, 2004.

⁴⁸ Communication from Hossam Bahgat, executive director of the EIPR, June 6, 2005. LE 15,000 is approximately U.S. \$2,580 in June 2005. In contrast, a lawyer's total monthly salary might be LE 1,000; a widow's pension is LE 50 per month.

⁴⁹ Unstamped letter from MISA Giza Directorate MISA to Trustees of the Child Worker Foundation, July 27, 2003. Translated by and on file at Human Rights Watch.

⁵⁰ Tagammu` is an officially registered left-nationalist political party.

margins the state favors. Human Rights Watch is aware of five human rights groups that have been unable to successfully register as of June 2005 because of “security concerns” or Article 11 considerations: the Egyptian Center for Housing Rights, the Egyptian Initiative for Personal Rights, the Egyptian Association against Torture, the Civil Observatory for Human Rights, and the Word Center for Human Rights. In every case the organization has petitioned the administrative court to reverse the ministry’s rulings, but the security services and the ministry have in these cases not yet responded to the court’s request for the reasons for their vetting decisions. As noted above, the New Woman Foundation and Bashayir Helwan succeeded in registering, but only after prolonged legal and bureaucratic battles.⁵¹

The case of the Egyptian Association Against Torture (EAAT) shows how the security services use Article 11 to stifle much-needed NGO activities. The EAAT was founded by a group of prominent Egyptian anti-torture and human rights activists in mid-2003. They delivered a registration application to the Ministry of Social Affairs on July 12, 2003. Their files were returned to them on August 18, along with an official letter informing them that the files were being returned “because some of the objectives specified in the by-laws violate Law 84/2002.”⁵² No further information was given, although the files returned by MISA contained numerous penciled alterations to the submitted by-laws.⁵³

Five weeks later, and after multiple exchanges of letters, did MISA clarify its reasoning. It informed the EAAT that its objectives breached Law 84/2002 “in practice and in spirit,” and violated the public order. The ministry specifically objected to the EAAT’s goals of working to bring Egyptian legislation into compliance with international human rights standards; lobbying decision makers and campaigning against torture; and participating in local, Arab, and international anti-torture networks.⁵⁴ The ministry’s reply shows how easily Article 11 can be used to muzzle critics, and stifle basic civil society activism:

Does the constitution specify that civil [society] associations are among the bodies appointed with legislation, the issuance of laws, and their amendment according to your point of view[?]

⁵¹ The New Woman Research Foundation was registered in May 2004. It first attempted to register in April 2003. Bashayir Helwan was registered at the end of November 2004.

⁵² *Dr. Aida `Ismat Seif al Dawla Abbas and `Imad Mubarak Hassan v Her Excellency the Minister of Insurance and Social Affairs*, State Council case number 19585 Q87, May 5, 2004. On file at Human Rights Watch.

⁵³ EAAT, “Ministry of Social Affairs Rejects the Registration of the Egyptian Association Against Torture,” available online at http://www.aloufok.net/article.php3?id_article=500, accessed December 2, 2004.

⁵⁴ *Dr. Aida `Ismat Seif al Dawla Abbas v H.E. the Minister for Social Affairs*.

...

Does the constitution or the law provide for the formation of pressure groups, or participation in international and Arab networks? Therefore you can see that the objectives of the association are in explicit contravention of article 11 of Law 84/2002, and also of the constitution, which has exhaustively specified the agencies entitled to legislate and to change laws, and did not mention your planned association among them.

In addition, the joining of international networks under any pretext or name and the formation of pressure groups to lobby decision-makers are considered a breach of the public order first, and of the law second.⁵⁵

The EAAT has appealed the Ministry's decision on procedural and substantive grounds. At a hearing on June 12, 2005, the court postponed its ruling on the appeal until October 2005.⁵⁶

A similar example is that of the New Woman Foundation, whose April 2003 application for registration was refused in June 2003. Formerly known as the New Woman Research Center, the group was established in 1983 and had been active in women's rights issues. In its application it listed its objectives as research, publication of periodicals and research papers, providing expert advice on women and human rights, opening of a cultural center; training programs and conferences on women's issues, different kinds of public events; charity markets and exhibitions of women's handiwork, and other projects and services that serve the organization's goals.⁵⁷

The foundation received a letter of rejection from the MISA on June 8. The letter stated, "[w]e inform you that we have a letter from the security directorate of Giza number 189 stating that the security forces do not agree to the creation of the above-mentioned organization."⁵⁸ After several requests for clarification, a subsequent letter from the Giza

⁵⁵ *Yawmiyyat jam'iyya ma' qanun al jam'iyyat raqam 84 li sanat 2002* [Diary of an Association with Law Number 84/2002], Cairo, October 13, 2003, available online at www.aloufok.net (translated by Human Rights Watch).

⁵⁶ Communication from EIPR director Hossam Bahgat, June 17, 2005.

⁵⁷ Reproduced in New Woman Foundation/Hisham Mubarak Law Center *The Evidence of the Assassination of the New Woman Foundation: Documentation Pamphlet (waqa'i' ighthiyal mu'assassat al-mar'a al-jadida: kata'ib watha'iqi)*, p. 30 (translated by Human Rights Watch).

⁵⁸ *Ibid*, p. 34 (translated by Human Rights Watch).

security directorate to MISA elaborated: the group's application had been rejected because "among the objectives there are items that breach Article 11."⁵⁹

The New Woman Foundation immediately briefed the Hisham Mubarak Law Center, a public interest law group, and filed a request with the State Council for an urgent injunction against their rejection.⁶⁰ The court granted the injunction in October 2003.⁶¹ The foundation then battled bureaucratic resistance against enforcement of the court ruling, until it finally received a registration number on May 24, 2004, more than a year after first applying.

Article 11 restrictions have meant that some long-established organizations have failed to register, and continue to be exposed to potential harassment from the authorities and even closure. One such group is the Center for Trade Union and Workers' Services (CTUWS or *dar al-khadamat al-naqabiyya wa al-ummaliyya*), which runs prize-winning legal assistance, advice, and vocational programs for industrial workers.⁶² Established in 1990 in the wake of major metal-workers strike, the CTUWS has been operating as a civil company. It has participated in worldwide anti-globalization campaigns, and has branches in four different industrial areas. In early 2003 its leaders decided to begin registration procedures, despite the problems they expected to face. Kamal Abbas, the general coordinator, explained to Human Rights Watch:

The law is bad and it is designed to co-opt you under government control. And there has been heavy government pressure. But we decided to try to open negotiations with them. After all, in Egypt you never know what is going to happen – things could get even worse tomorrow. We've been in discussions now for one and half years.⁶³

According to Abbas, MISA officials were adamant that the CTUWS could not include the words "worker" or "trade union" (*naqaba*) in their name, goals, or fields of work:

They wanted us to change our name, but we won't, it's internationally recognized. They said the name breaches Article 11. We said no, Article

⁵⁹ Ibid, p. 44 (translated by Human Rights Watch).

⁶⁰ The Hisham Mubarak Law Center is a Cairo-based group that conducts and advises rights-related legal cases. It has conducted many of the cases relating to law 84/2002. The United Group is another Egyptian law firm that monitors freedom of association issues and advises NGOs on legal compliance.

⁶¹ The court held that article 6 of Law 84/2002 required the administrative authority to state its reasoning for any rejection.

⁶² The French National Consultative Commission on Human Rights awarded the CTUWS the "Human Rights Prize of the French Republic – Liberty – Equality – Fraternity" in 1999.

⁶³ Human Rights Watch interview, Kamal Abbas, general coordinator of CTUWS, Helwan, Cairo, September 23, 2004.

11 has to do with your goals. They told us this verbally. But the law just says that I have to give them our name, and they must check to see whether another group is already using it.

The goals we are still discussing, it has been about a year now. They said that our work could breach article 11. “Your problem is that you speak for workers in disputes, and this we can not allow. There are government agencies and organizations that already do this, and you cannot have face to face meetings [on these issues].”

As of mid-June 2005, the CTUWS premises had been inspected, and it had submitted three sets of draft papers to MISA. It continues to operate without registering under Law 84/2002, thus exposing its members to criminal penalties. “Most of us are used to this, we have been active, we have been imprisoned,” Abbas told Human Rights Watch. “We do not care whether we are under observation, but we must keep our field of work open and cannot be restricted. We are not in a hurry. We are happy for them to take their time.”⁶⁴

Article 11 acts as a strong disincentive to activists, and inhibits groups wishing to expand the limits of public debate. Safa’, a recent university graduate, was a member of a newly established group to promote social tolerance and work against violence against women and youth. She and the other members had begun working voluntarily with youth in Alexandria and Helwan, and visited a lawyer in late 2003 to begin the registration process. The lawyer advised them not to apply. Safa’ told Human Rights Watch:

[The lawyer] said it would be better not to try, rather than have our names go on some list if we were rejected. State security would be made nervous by our mission, by words like “Muslim and Christian,” “Arab and Jew,” or “East and West.” They’d say it was dangerous and endangered national security, or that our fields of work were really political activity.

Everyone talks about the public order, but I am still not sure what it is in reality. And the emergency law – they can arrest anyone at any time. All of this comes into play when you’re deciding to register.⁶⁵

⁶⁴ Human Rights Watch interview, Kamal Abbas.

⁶⁵ Human Rights Watch interview, Cairo September 20, 2004.

The founders of the Egyptian Initiative for Personal Rights (*al-mubadara al-misriyya lil-buquq al-shakhsiyya*, or EIPR) have attempted to register their group, but have so far been rejected. Founded in 2002, the EIPR seeks to protect rights related to the private lives of individuals, including the rights to: privacy of communication and correspondence; freedom of religion and belief; the protection of reputation; adequate housing; and the sexual and reproductive rights of women and men. It provides legal assistance as well as programs on violence, bodily integrity, and health and human rights.

The EIPR decided to register under Law 84/2002 when it began its health and human rights program. As with many other groups, EIPR found that it could not realistically deal with government agencies or syndicates without a registration number. Hossam Bahgat, executive director of the EIPR, explained to Human Rights Watch:

It started on May 17, 2003. The Basatin and Dar al-Salaam office of the Cairo [MISA] directorate kept sending back our papers with changes. For example, we could not have activities in “Egypt,” we had to say “Cairo.” The most significant thing in the application is that you must list all your activities. For the six activities we specified, they asked us to add “after approval of the relevant authorities.” Six times! We wouldn’t. We eventually settled on the fact that we would only apply for approval from another ministry if we did a trade fair.

They wanted to have it as an open field for them [to intervene]. They would keep on sending us back the papers with written amendments. They were on paper, in pencil, no personal communication about it. They finally agreed to accept the papers on October 28. It had taken us five months to complete the forms.

The process took at least 40 percent of the time of one of our two lawyers. Plus there was all the psychological trauma of having to talk with the ministry officials. I would have to go to mediate after they fought with our lawyers. At one point between May and October, after we had failed to get the papers accepted, we sent the papers to them by the *mahdar* [process server] and they still sent them back. Between the lawyer and myself we went at least nine times.⁶⁶

⁶⁶ Human Rights Watch interview, Hossam Bahgat, executive director of the EIPR. Cairo September 21, 2004.

Sixty days elapsed without a MISA response. On January 20, 2004, the EIPR notified MISA via a process server that it considered itself registered. The EIPR finally received a response on March 19, 2004, more than four months after it submitted its application. The security forces had rejected the EIPR's registration, citing Article 11 restrictions. The EIPR immediately lodged a complaint before the dispute resolution committee, and an initial hearing date of April 19, 2004, was set. As of December 2004, no committee meeting had yet taken place. Bahgat told Human Rights Watch that EIPR filed a lawsuit at the administrative court in January 2005. A first hearing was held in March. A final decision was expected on June 5, 2005 but, because the government had not submitted its response the decision, was postponed until October 30, 2005.⁶⁷

Rather than applying the restrictions set out in Article 11 in a narrow and proportionate fashion, as required by international law, the Egyptian government has thus far deployed Article 11 as a catch-all to control the parameters of public life and political debate. Article 11 reinforces the existing restrictions by which the government suppresses all forms of public life outside of a handful of government-registered political parties and a single government-controlled federation of trade unions. The authorities continue to interpret its provision on "public order or morals" against a wide range of activities that amount to nothing more than the peaceful exercise of the rights to freedom of expression and association.⁶⁸

Pressure and Harassment

Human Rights Watch has also documented several cases in which the security services have explicitly requested NGOs to register as associations – thereby giving MISA or other "interested parties" the right to object to any board nominee (Article 34). One example is the Human Rights Association for the Assistance of Prisoners, whose mandate requires it to deal frequently with the security forces. When Law 84/2002 entered into force the group decided to change its status from a civil company. Mohamed Zarei told Human Rights Watch:

We decided to register as a foundation. But someone from the interior ministry called me and said, "No, be an association or they will refuse you." So we registered as an association, OK... The Ministry of Insurance and Social Affairs suggested I take one of their employees on staff and I did, we work openly. It is all public. I made him in charge of

⁶⁷ Communication from EIPR director Hossam Bahgat, June 5, 2005.

⁶⁸ For example "[t]he no-politics clause effectively rules out citizen participation in the fight against corruption," *The Global Corruption Report 2004*, Transparency International Global Report, p. 186. Available online at www.globalcorruptionreport.org.

relations with MISA. I pay him. Yes, I could have refused to take him. He was a pensioner. But it would have given us a new set of problems.⁶⁹

Many organizations interviewed by Human Rights Watch stressed that they had chosen the less accountable foundation structure precisely because they feared this kind of intervention.

Several NGOs whose members were involved in leftist politics or Palestinian solidarity groups faced constant, direct, security force monitoring and harassment, including frequent anonymous telephone calls; repeated official calls; security officials attending public meetings and requesting the identification details of all participants; and requests to review public statements before their release. The Egyptian Center for Housing Rights, the New Woman Research Foundation, the Human Rights Association for the Association of Prisoners and other groups had each experienced these kinds of harassment. Two activists with whom Human Rights Watch spoke were also delayed and searched routinely at the airport when returning from international travel. Some described the situation as one in which the security forces simply wanted to show their power and how much they knew. Aida Seif al-Dawla of the al-Nadim Center for the Psychological Rehabilitation of Victims of Violence told Human Rights Watch that they received visits and phone calls from individuals claiming to want psychological counseling but then asking questions about who funds the center and the like. “We’re almost sure that this is the police,” she said.⁷⁰

Bureaucratic Obstacles

The political obstacles in the registration process are compounded by bureaucratic burdens, including corruption, official confusion, and lack of knowledge of the law. Like elsewhere, NGO-governmental relations in Egypt are often characterized by jealousy and mistrust, particularly because NGOs are perceived as richer and better equipped than government ministries. Media campaigns against human rights NGOs in particular have portrayed civil society groups as wealthy groups corrupted by foreign political interests. Perceived social and economic as well as political differences between NGO activists and government officials undoubtedly impact the dynamics and difficulties of NGO registration.

Many NGO activists interviewed by Human Rights Watch had encountered helpful and professional MISA staff when trying to register, and were sympathetic to the difficulties government officials faced in attempting to enact policy without even basic resources.

⁶⁹ Human Rights Watch interview, Mohamed Zarei, Cairo, September 21, 2004.

⁷⁰ E-mail communication from Aida Seif al-Dawla to Human Rights Watch, June 20, 2005.

But all had also encountered obstructionist, ignorant, fearful, and corrupt officials who failed to uphold and implement the basic provisions of the association law:

The difficulty of getting the initial work done with MISA is not about security, it's just the way they are... I heard the same stories from most of my colleagues. Whenever I went to the Ministry I took a copy of the law in one hand and the executive regulations in another. I would read aloud different provisions to them and they would say "but we have orders to do it this way."⁷¹

For many organizations, the time required to complete registration was vital: no funds can be drawn or grants approved without a valid registration number.⁷² Opinions differed as to whether the bureaucratic burdens were due to ignorance, confusion or corruption. One longtime development expert and NGO activist characterized the situation thus:

Most MISA employees have a vested interest in keeping control of the NGOs. First, there is a feeling of great anger, the belief that civil society organizations have more resources and their employees are better paid. There's the sense they're not neutral parties. And of course, the wages of ministry employees are very low. They want to benefit and do not go by the letter of the law, even if the legal intent is to allow lighter supervision.

Second, in different governorates MISA employees still continue to use law 32 of 1964. For example, in Minya the [name withheld] association has MISA employees passing by every day, wanting to see their papers, their tax receipts, their registers. It is this kind of close scrutiny that places a very heavy burden on some organizations, and it is happening all the time – mainly outside of Cairo.⁷³

⁷¹ Human Rights Watch interview with Hossam Bahgat, executive director of the EIPR, Cairo, September 21, 2004.

⁷² All interlocutors believed that groups outside of Cairo were more vulnerable to intrusive wrangling and harassment, exacerbated by MISA difficulties in achieving standardized operating procedures across hundreds of offices in the different governorates. Human Rights Watch was not in a position to verify this geographic differentiation. For a discussion of this point, see Negad al-Bora'i, *Al-maqsala wa al-tanur: Hurrayyat al-ta'bir fi Misr 2002-2003 al-mushkilat wa al-hulul*, pp. 512-516.

⁷³ Human Rights Watch interview with Hala Shukrallah, Development Support Center, Cairo, September 27, 2004.

Other barriers appear to be the bureaucratic expression of political resistance. In theory, MISA officials must respond to NGO registration requests within sixty days. Many NGO activists commented they had great difficulty in persuading MISA officials to accept their registration papers. In at least two cases, ministry officials refused to stamp the papers submitted to them, presumably to avoid triggering the sixty-day response period. Two other organizations that had initially been refused registration, but obtained favorable court judgments were forced to re-submit their applications multiple times, lodge complaints, and send notices via a process server (*mahdar*) in order to eventually obtain their registration numbers.

Several larger groups indicated that there were two ways to overcome MISA-related problems. The first was to enact a system of regular bribes to each interested state official, and accept it as a regular operating expense. The other was to employ a current or retired ministerial official as an NGO staff member.⁷⁴ These kinds of obstacles create a significant extra burden for many civil society groups, whose time, money, and human resources are finite. It is no surprise that many groups still prefer to operate without registering – or that many groups operate using multiple legal structures in order to minimize the possibility of being shut down. In the short term, these kinds of obstacles are unnecessary, costly, inefficient, and render civil society groups vulnerable to bureaucratic and political manipulation. In the long term, they stunt the growth of a vibrant and accountable Egyptian civil society.

Maintaining Compliance

Law 84/2002 entered into force in June 2003. Given the relatively brief period since the law's introduction, most NGO problems have resulted from the difficulties of the registration process. NGOs that have successfully registered subsequently faced three main challenges. The first is obtaining timely government approval of foreign funding. The second is maintaining compliance with all bureaucratic requirements — especially when these requirements are selectively reinforced. A third major problem is the government's unacceptably wide power to intervene directly in organizational governance, by rejecting candidates for board membership or compulsorily dissolving an organization. At the time of writing, the latter powers had not been widely exercised, but their existence gives the government a decisive upper hand in all NGO dealings and promotes a climate of self-censorship and uncertainty. One of the larger NGOs, the Egyptian Organization for Human Rights, shared with Human Rights Watch a petty but telling example of the level of unreasonable government scrutiny of NGO affairs: the office of the governor of Cairo sent a hand-written note to the organization dated February 2, 2005, saying that the authorities understood that the lease on the EOHR

⁷⁴ Some organizations take on ministry employees seeking supplemental jobs.

office was up for renewal and requesting a copy of the new lease and rental agreement, citing Law 84/2002.⁷⁵ Ragia Omran, a lawyer, told Human Rights Watch that since she became chair of the board of trustees of the New Woman Foundation she receives calls weekly from a particular security officer.⁷⁶

Funding

The government's ability to block approval of foreign funding is a powerful weapon. Many Egyptian organizations rely heavily on the support of donor organizations based outside of Egypt, a source of nationalist sensitivity. Foreign funding is an issue regularly demonized by the government and the media, even though the government itself is a major recipient of foreign aid, as are the semi-governmental organizations it has established in recent years, such as the National Council for Women, the National Council for Human Rights, and the National Council for Childhood and Motherhood.

If a civil society group receives funds from donors outside Egypt, it must seek MISA approval for every grant.⁷⁷ Any grants received must be deposited in specially designated bank accounts during the approval period, and cannot be accessed until final approval is granted.⁷⁸ Although the law states that MISA should give its decision within sixty days, it is the group that is penalized by being deprived of the funds if the government fails to do so. In real terms, this means the government can starve an organization of its funds.

Many groups emphasized to Human Rights Watch that with no criteria for approval and no sanction for delays, the government did not have to engage in costly political or legal actions to shut down its critics — it could just as effectively shut them down by not approving dispersals of funds.

Several of the groups contacted by Human Rights Watch had experienced significant delays in getting MISA approval for their grants, although as of mid-June 2005, none had been denied altogether. Organizations that had experienced registration difficulties often experienced funding difficulties. For many groups, this was the logical result of a long-drawn out registration process, during which bank accounts were frozen and assets could not be drawn upon. For others, the problems appear related to political

⁷⁵ Human Rights Watch interview with Hafez Abu Seada, EOHR secretary-general, Cairo, February 20, 2004. A copy of the governor's note is on file at Human Rights Watch.

⁷⁶ Human Rights Watch telephone interview with Ragia Omran, June 19, 2005.

⁷⁷ If a group receives donations from Egyptian organizations or foreign organizations authorized to operate in Egypt, then it simply notifies MISA of the grant's source and value. Executive (Implementing) Regulations article 56. Almost all donors will only fund registered organizations.

⁷⁸ Law 84/2002, Article 17, Executive (Implementing) Regulations Article 58.

sensitivities about the group's work or the nationality of its donors. Several groups only learned of registration or approval difficulties after their bank accounts had already been frozen.

Mohamed Zarei, the executive director of the Human Rights Association for the Assistance of Prisoners (HRAAP), explained the kinds of pressures that funding and financial restrictions have created. The association had been operating as a well-established civil company throughout the 1990s, known as the Human Rights Center for the Assistance of Prisoners. The group applied for registration as an association in 2003, but experienced major funding problems that may have been political in origin:

I registered as an association, OK. But after a while the bank decided to give me trouble with the word "center." I had to transfer money from the "center" to the "association." I informed MISA and they said "there is no legal link between the two." It took six months to sort it out. And we had successfully registered and they'd told us [so].

So we lost all our funds for six months. Staff left the center, it was empty from about July 7 to January 1. And there was a lot of money in the bank. After lots of letters and phone calls I called two of my donors, the E.U. and Denmark, and told them there was a problem. They sent letters to some of the ministries.

Anyway, eventually I went to a reception and Dr Mustafa al-Fiqqi was there, a presidential adviser. I met him at the reception and told him about the problem - and it was solved in two days. It showed me the level these things have reached in the ministry - for a little organization like ours, you can only sort it out at the top.

The problems are political and bureaucratic. There is so much bureaucracy here. And of course, security has to agree. I also know that state security did not agree [to the transfer of funds] because one of their officers told me that his office was OK, but another office did not agree because the money came from outside Egypt.

Now we've had some money arrive last week. You have to put it into a separate account and it can take three or four months before you can

touch it. I am OK with them refusing to allow us to take the money, but [not with] delaying decisions so long you lose not only that money, but the opportunity to get more. If you are on a three-year contract it's OK, but if you have yearly contracts with funders, you have to go through this every year... I am now going to have to concentrate on this grant for the next two months, or work will have to stop.⁷⁹

Other groups who had resorted to court action in order to register were worried that the government would retaliate by manipulating the funding process. Several groups mentioned the experiences of the Association for Health and Environmental Development as an example, as that group had experienced significant delays and scrutiny after outspokenly criticizing the 1999 NGO law.

One NGO leader told Human Rights Watch:

For our program funding, we've always relied on development organizations registered inside Egypt. So we will not have to seek approval. But our operational funding comes from [outside] and after registration we will have to apply for that. The sixty days are an issue – of course the government will take longer, and we won't be able to touch it. Our operational funding is vital. It is essential we get it in time, and it's the hardest to find. The electricity must be paid.

We are worried that in retribution for our court case the government may delay the process or even reject us outright. We are confident that we can go to the administrative court and get a decision. It has been very supportive. But the lack of funds would strangle us before we could get a court decision – and that is what they rely on.⁸⁰

The fear of governmental retaliation is a powerful disincentive to transparency, accountability, and freedom of expression. The current approvals system gives groups a powerful incentive to exercise self-censorship, rather than work in political or social advocacy or program areas that may prompt government intervention. Likewise, it creates strong incentives for donors and recipients to try and channel funding for potentially 'sensitive' projects in a manner that avoids government scrutiny. Both factors discourage the growth of a dynamic, open, and accountable civil society in Egypt.

⁷⁹ Human Rights Watch interview with Mohamed Zarei, September 21, 2004.

⁸⁰ Human Rights Watch interview, name withheld, September 21, 2004.

Unreasonable Bureaucratic Requirements

The previous law of associations, Law 32/1964, imposed a crippling bureaucratic regime on NGOs and defined their operating procedures in detail. In the words of the International Center for Non-Profit Law, it was “almost as if NGOs were viewed as children of the Ministry of Social Affairs.”⁸¹

The parent-child metaphor is still appropriate. Although the burden imposed by the current associations law is lighter, it is nonetheless imposing. The requirements for financial record keeping are complex.⁸² More significant are the non-financial records. Organizations must provide MISA with advance notice and full minutes of annual general meetings, and sixty days notice of all board member elections. Matters of internal organizational governance are specified with a level of detail that in most countries are left to the groups themselves to determine. MISA defines the number of board members and their terms of office, procedures for annual general meetings and quorum requirements, executive committee procedures, fundraising requirements, organizational record-keeping and so on (Executive Regulations articles 81-90). NGOs doing field work, research, media activities or publications also face additional licensing requirements from a host of other entities.

At best these requirements are heavy-handed. At worst they provide ample means for selective enforcement and blatant political interference in matters of NGO governance. As described by civil society consultant Hala Shukrallah:

MISA has a long tradition of going out and, especially with groups that have money, scrutinizing them so closely to the point they become obstructive. The only way that the organizations can facilitate their work is by employing someone from MISA part-time or giving handouts. Although the law clearly aims for less supervision, the ministry still functions according to the old law and no one can stop them.

People think: why should I go under the NGO law when I know MISA will make my life hell? They try and find some other way to make it

⁸¹ International Center for Non-Profit Law (ICNP), *Review of the Legal and Regulatory Environment for NGOs and Other Not-for-Profit Organizations in Egypt*. Washington DC, 1998. Available online at <http://www.icnl.org/library/mideast.reports/egrep1.html>, accessed on December 1, 2004.

⁸² Human Rights Watch discussed requirements for tax-related record keeping with Tariq Mandur, an accountant for several prominent NGOs. Mandur said the requirements were not unusually onerous provided groups had sufficient resources for specialized professional help. Human Rights Watch interview, Cairo, September 28, 2004.

legal. It affects transparency, accountability and all kinds of governance issues, and limits what you can do.⁸³

The everyday impact of these regulations was described by Mahir Bushra, executive director of the Better Life for Development Foundation, based in Minya governorate. The foundation was registered in 2003. It aims to provide services and rights-based advocacy to local residents, particularly quarry-workers. MISA officials have intensively scrutinized the foundation since it began. Bushra told Human Rights Watch:

Unofficially or officially, they always want to enter into the association's affairs. The main problem is that they want our money to go the city of Minya, but we want society here to benefit. There are a lot of financial problems – they take a lot of time to approve tiny things, and they're always revising what we do. They come a lot because of other applicable laws – for example, we have tens of different obligations because of the tax laws.

There are a lot of things they come to monitor, but there is no one who understands how it is all supposed to work. For example, we do not have to pay payroll tax. But if we want to have a new employee we need to take slips for insurance, and then it all depends on what the individual person supervising you decides. It takes at least a month to do, and that official could just write that you have not done it properly – and the penalty is jail.

They come a lot, and it is not just one person. There are lots of people who come and go and hang around the office. It has gotten to the stage that we had to refuse someone entry the other day, he was asking all kinds of questions.⁸⁴

Other NGO activists confirmed that MISA requirements varied considerably between offices and between governorates.

Two human rights groups appear to have suffered from selective enforcement of regulations since 2002. The Land Center for Human Rights provides legal and social

⁸³ Human Rights Watch interview with Hala Shukrallah, Development Support Center, Cairo, September 27, 2004.

⁸⁴ Human Rights Watch interview, Maher Bushra, Cairo September 27, 2004.

support services to tenant farmers, householders, and other individuals with land or house-related difficulties. Karam Sabir, the Center's executive director, told Human Rights Watch that the center had had security-related problems in 2002, when they were told their magazine had been published without licenses from the Higher Press Council and the governorate of Cairo. They were also told that they would have to apply for MISA permission in the future. According to Sabir, the publication was not a regular periodical, and so no extra permission was needed: he had completed the only requirement, which was to obtain a publication number. A year later, he asked MISA permission to join an international NGO coalition on housing rights, but was refused.

The Egyptian Center for Housing Rights gives legal assistance and temporary assistance to householders who have lost their homes through forced evictions or other similar means. They also provide training on housing issues to lawyers and activists. In December 2002, two of the center's staff members traveled to Sohag to meet local officials to discuss housing damage caused by a project of one of the housing minister's relatives.⁸⁵ Some of the newly homeless had gone on hunger strike to protest a lack of government support, and a security cordon had been drawn around the area. The center's staff members went to their meeting, and instead were met with state security detectives. They were charged with causing a disorder, and conducting professional activity without a license. They were released eight days later after court intervention.⁸⁶

Another case of selective enforcement by Egyptian authorities is that of the al-Nadim Center for the Psychological Rehabilitation of Torture Victims. Although it is registered as a medical clinic, not an NGO, it is an excellent example of how the Egyptian authorities use regulatory requirements to harass and intimidate outspoken civil society groups.⁸⁷

The al-Nadim Center provides medical referral, counseling and support services to victims of torture. Its directors have been instrumental in leading public criticism against the well-documented, ongoing use of torture by Egyptian security forces.

On July 11, 2004, a health ministry inspection committee visited the al-Nadim clinic without warning. According to al-Nadim staff, the committee members did not follow regular inspection procedures, but instead searched through patient files, doctors' desks, and closed boxes, and used a digital camera to photograph center documents, including correspondence with human rights organizations. They treated staff rudely, asked if they

⁸⁵ Human Rights Watch interview, Manal Tibi, director of the Egyptian Center for Housing Rights, Cairo September 22, 2004.

⁸⁶ Ibid.

⁸⁷ The Center is registered with the Ministry of Health as a clinic under the medical establishments law 51/1981.

had permission to contact foreign organizations, and threatened the clinic with closure. The following day one of the center's doctors, who also worked as director of the Cairo Airport Mental Hospital, was compulsorily transferred to a distant new workplace without promotion.⁸⁸ Although the inspection team told al-Nadim staff that they were present as part of a regular ministry inspection, al-Nadim staff later learned that they had specially been selected for inspection after a senior ministry official had discovered their website.

Al-Nadim was inspected again on August 31, after having been notified that it must correct six alleged violations of the medical establishments law within thirty days, or face unspecified measures. The second inspection team behaved properly. Team members told clinic staff that all violations had been corrected, although they declined to document their findings. Two days later, however, al-Nadim's executive director Suzanne Fayad was summoned to the public prosecutor's office. At her meeting with prosecutors on September 5, Fayad learned for the first time that al-Nadim's violations supposedly included items such as: presence on the premises of publications without a permit, presence of al-Nadim publications produced by the Heinrich Boell Foundation; presence of a questionnaire about torture; presence of a women's counseling program; and presence on the premises of books on human rights.

After much local and international outcry, the Center's alleged violations had been reduced to two: absence of a fire extinguisher and first aid kit. Both had been present in the center throughout the entire period – in fact, a member of the second inspection team had stumbled on the fire extinguisher on his way out. Fayad subsequently submitted copies of receipts for both items to the prosecutor. She told Human Rights Watch that she expected this would avert any immediate official action to curtail the center's activities, but she expressed concern about the long term:

I don't know. Either it is very safe and it will stop, or they'll revive the allegations at some time it suits them in the future. We've been getting harassment calls, people asking us strange questions. It's because any non-profit mechanism has to be registered with MISA under 84/2002. And then it will be funding, it is the funding that will be affected. If we do not stop what we're doing, they will probably try to make us register with MISA.⁸⁹

⁸⁸ "Ministry of Health Gives El Nadim a 30 Day Ultimatum Before Closure", August 9, 2004; "Who is Behind the Harassment of the El Nadim Center?" ; Human Rights Watch interview with Dr. Aida Seif al-Dawla, Cairo, September 26, 2004, and Dr. Suzanne Fayad, Cairo, September 28, 2004.

⁸⁹ Human Rights Watch interview with Dr. Suzanne Fayad.

State Sanctions: Rejection of Board Members and Dissolution of NGOs

Under Law 84/2002, the government has the power to block individuals from competing in board elections on unspecified grounds (Article 34), and to dissolve organizations without need for a judicial order (Article 42). The government may dissolve organizations on six broad grounds, including affiliating with foreign organizations or exercising political activities. It also has more limited powers to compulsorily appoint members to a board (Article 40). Each of these acts can be appealed to the government-dominated disputes resolution committee and eventually to the State Council. By the time the appeal on an organization's dissolution is heard, however, the group's activities will already have been deemed illegal, its funding frozen, and its possessions seized.

These powers can be used against groups that are doing no more than exercising their rights to freedom of association and expression. They are easily abused, particularly in cases where the government seeks to close religious charitable organizations in order to deprive the Muslim Brotherhood of a potential means of popular support.⁹⁰

Human Rights Watch obtained information on two cases in which individuals were blocked from participating in board elections; one a human rights and development group, the other the Islamic Way, a charitable organization based in Cairo. Human Rights Watch was told of some nine cases in which the government has compulsorily dissolved NGOs, all of them outside of Cairo. Five of the nine groups were religiously affiliated;⁹¹ the rest were engaged in a variety of development activities, including children's rights and social services for the disabled. Human Rights Watch requested a list of all organizations compulsorily dissolved by the government from the Minister of Insurance and Social Affairs in July and September 2004.⁹² At the time of writing, it had not received a reply.

Human Rights Watch documented in detail one case in which the government forcibly attempted to appoint an organization's board members, that of the Aswan-based Health and Environment Development Foundation (HEDF).

⁹⁰ Every activist interviewed by Human Rights Watch emphasized that charitable organizations were most likely to be affected by the new law. For example, the Islamic Way association complained to the committee for dispute settlements regarding the improper election of board members in September 2003, at least one of which had been barred from eligibility by the security forces. Untitled legal document, on file at Human Rights Watch.

⁹¹ Groups reported dissolved included two children's groups in Alexandria, the *markaz al-tahil* in Aswan, and *al-jam'iyya al-tarbawiyya al-islamiyya*, *al-'ajil al-muslim*, *al-muwasil al-khairi*, all of them in governorates of upper Egypt. Human Rights Watch, telephone interview, Tariq al-Biltagy, January 5, 2004

⁹² The letters were dated July 8 and September 14, 2004. The September 14 letter is reproduced in the appendix to this report.

Established in 1996 as a civil company, HEDF has three program areas: community health, education and literacy, and the environment. It also conducts human rights-related activities. Its founders include several well-known community activists, and its contracts include health delivery contracts with the local offices of the Ministry of Health.

According to HEDF's board president, Dr. Hisham Abdullah, the group had attempted to register in 2001 under the previous law of associations, but received no official response. It had twice suffered government intervention in its organizing activities: once in 2001, when the police blocked Amal Hassan Yusif from participating in the board elections, and again in 2002, when the state security forces objected to Dr. Abdullah's participation in a local advocacy coalition of twenty-three NGOs.⁹³

The organization first began encountering problems under the present NGO law when it sought approval for a foreign grant in November 2003. Although approval was eventually forthcoming, the group waited more than three months for approval. As was the case with other groups, this had serious consequences for HEDF's activities. Abdullah told Human Rights Watch: "It delayed our programs terribly. Instead of opening the project on January 1, 2003, we eventually began on January 1, 2004."⁹⁴

In March 2004, HEDF hosted an official visit by the Aswan governor, General Samir Yusif. The visit took place successfully and the governor sent an official letter of thanks. In August 2004, the governor again stated his intention to visit the HEDF offices. The group prepared a reception for August 15, but the governor did not attend, nor did he warn them of his cancellation. Abdullah told Human Rights Watch:

Our belief is that the state security service said, "Why are you going to visit these human rights people who are opposed to the state? Why do you want to give them this strong sign of support?" That's the way they think, just that if you're associated with those ideals you must somehow be against the state.

So after meeting with the others, I went to the governor and raised what had happened. He said, "I am glad you brought this up. I am going to close the group!" "How?" "I am going to shut it!" And [the governor] looked furious. He closed his office door and I left. This was about August 30, 2004.

⁹³ Human Rights Watch telephone interview, Dr. Hisham Abdullah, December 30, 2004.

The next day, a MISA official contacted Abdullah:

He asked whether they could come and conduct an inspection. I said, “what reasons do you have, and where are your papers?” I was asking about the procedures that the law itself requires. He said “No, we aren’t saying that we want to come: it’s the governor that wants us to come. Will you receive us or not?” I said, “OK, you can come, but please write the visit in the official register and note any comments you have, or anything that’s important.” So they came, but they wrote in the register as if it were a normal inspection visit — even though they didn’t have the goals or the identification cards that the law requires.⁹⁵

MISA issued a report three days later, citing various administrative violations. The group responded in writing on September 29, 2004. One month later, a HEDF employee made a routine visit to the bank and discovered the organization’s bank accounts had been frozen.

According to Hisham Abdullah:

The bank said, “Your funds have been frozen until the governor replaces your board of directors.” We hadn’t heard of this before, it was the bank that told us. On November 1, we were officially informed by the government that we would have to replace our board.⁹⁶

The foundation’s board was dissolved by decree 264/2004 of the Aswan governor in early November 2004, and three government officials were appointed as a replacement board of trustees.⁹⁷ Although the governor’s office cited financial and administrative violations as the basis for its action, the foundation argued the dissolution was politically motivated, and came after a long history of governmental harassment, including delays in funding approval and objections to individual board members. After intense lobbying by the Egyptian NGO community, the disputes resolution committee overturned the governor’s decree on December 26, 2004.

⁹⁴ Ibid.

⁹⁵ Human Rights Watch telephone interview with Dr. Hisham Abdullah.

⁹⁶ Human Rights Watch telephone interview with Dr. Hisham Abdullah, December 30, 2004.

⁹⁷ Egyptian Human Rights Organizations’ Collective “Aswan Governor’s Decision Violates “State of Law” Principles, November 8, 2004. Available online at www.hregypt.net/en/press/04/1108-2.htm.

Abdullah's own summary of the situation describes aptly the problems facing Egyptian society as a whole:

The basic problem is that there's no real state in Egypt: that is, a state founded on the rule of law. There have been issues between the governor and myself on other occasions. He is a military man: he is used to orders, not to negotiating with or participating in civil society. There is no trust.⁹⁸

VI. Conclusion

There are many concrete steps the government can take to remedy the unjustified restrictions on NGOs and uphold the rights to freedom of association and expression in Egypt. Most importantly, the security forces' role in reviewing NGO registrations, founders, and board candidates should end. The MISA NGO directorate should standardize its registration procedures, minimize incentives to corruption, and ensure that staff members are thoroughly trained in the requirements and goals of the Law 84/2002. Finally, the associations law must be amended to minimize the bureaucratic burden, and remove the government's wide powers to control, censor, and dissolve civil society groups.

Civil society is a major source of innovation in services and thinking in many countries of the world. Egyptian civil society groups have the potential to make a significant and enduring contribution to the national development and well-being. It is in every Egyptian's interest that they be helped, not hindered, to do so.

⁹⁸ Human Rights Watch interview, Dr. Hisham Abdullah.

Acknowledgements

Miranda Sissons, a consultant for Human Rights Watch, researched and wrote this report. Joe Stork, deputy director of Human Rights Watch's Middle East division, edited the report. Joanne Mariner, deputy director of Human Rights Watch's Americas division, and Widney Brown, deputy program director, provided the legal and program office reviews respectively. Alicyn Cooley, an Everett Intern with the Middle East division, provided research assistance. Tarek Radwan, associate in the Middle East division, and Andrea Holley, manager of outreach and publications, prepared the report for publication.

Human Rights Watch would like to thank Hossam Bahgat, Aida Seif al-Dawla, Hala Shukrallah, and Ragia Omran, who read and commented on drafts of this report.

Appendix: Human Rights Watch Letter to Ministry of Insurance and Social Affairs

September 14, 2004

H.E. Dr. Amina El-Guindi
Minister of Social Affairs
19 al-Maraghli Street
Cairo, Egypt

Your Excellency,

Human Rights Watch is an international nongovernmental organization that monitors human rights developments in over 80 countries. As part of our regular research, Human Rights Watch is currently examining the status and implementation of Egypt's Law 84/2002.

As part of our research, we faxed your office a letter on July 8, 2004, asking for information on the law and the Ministry's important role in its implementation. We regret that, to our knowledge, we have not yet received an answer. For your convenience, I have attached a list of the questions from our July 8 letter on the following page.

We wish to ensure that our materials accurately represent the Ministry's activities on this issue. We would welcome a reply at your earliest possible convenience. In order to reach us in time to be incorporated into our materials, your reply must reach us no later than **September 30**.

In addition, Ms Miranda Sissons, a consultant for Human Rights Watch, will be in visiting Cairo from September 18 to September 30. I would be most grateful if you or a representative responsible for implementing Law 84/2002 would be able to meet with Ms Sissons on September 27 or 28. Ms Sissons can be contacted on (02) 735 0815. She will contact your office regarding possible meeting arrangements on arrival.

We thank you in advance for your assistance, and assure you that any initiatives HRW takes regarding Law 84/2002 will take account of any information you are able to provide.

Sincerely,



Sarah Leah Whitson
Executive Director

cc Ibrahim El-Toukhy, Director, Central Department for NGOs, Social Affairs Ministry
H.E. Ambassador Nabil Fahmy, Embassy of Egypt, Washington, DC.

Summary: Information Requested by Human Rights Watch in our letter of July 8, 2004.

1. A list of the organizations that have successfully registered since Law 84/2002 entered into force.
2. A list of organizations that have attempted to register but have been denied permission or ruled ineligible, including specific reasons in each case of refusal.
3. The number of appeals made by NGOs denied registration and their status; how the Complaints Committee established to arbitrate disputes between NGOs and the Ministry has ruled on these appeals, and if the appeals are being or have been considered by any government body.
4. What procedures does the Ministry use to determine when an organization's activities violate Article 11 of Law 84/2002? In particular, how does the Ministry decide if an organization's activities are "political"?
5. Have Ministry representatives been monitoring the activities of organizations registered under Law 84/2002? If so, has the Ministry imposed any administrative or disciplinary measures on any registered NGO? If so, please provide the NGO names and the reasons for such measures.
6. Have any organizations have been cited by the Ministry for having received funds from abroad without permission, as per article 17? If so, which?
7. Has the Ministry has objected to members of NGO governing boards (as per article 34). If so, for which organizations did it object, and for what reasons?
8. Has the Ministry denied registration or otherwise penalized any NGO for being linked to an international organization (as per article 16)? If so, which organizations have been penalized?
9. Has the Ministry has dissolved any NGOs, frozen assets, or confiscated property of any NGO (as per article 42). If so, on what grounds?
10. Are any Egyptian civil organizations exempt from registering under the new law?

11. Must organizations that were formerly registered under Law 153 of 1999 re-register under Law 84? Are all organizations that received formal recognition from the Ministry before 2002 required to re-register?
12. It is our understanding that certain organizations (such as the New Woman Foundation and the Egyptian Initiative for Personal Rights) were initially denied registration for “security reasons.” There is, so far as we are aware, no basis in Law 84/2002 for denying an NGO registration on such grounds. Please clarify the reasons why these organizations were initially denied registration.
13. Please explain whether Law 84/2002 provides the Ministry of the Interior with any role in advising or deciding NGO registration.
14. It is our understanding that Civil Watch for Human Rights recently received a letter from the Ministry of Social Affairs that revoked its registration on behalf of the “General Administration for Security.” Is this correct? If so, we would like to know the basis under Law 84/2002 for the role of the “General Administration for Security” and would appreciate if you could clarify the General Administration’s structure and responsibilities.
15. Does the “General Administration of Security” play a formal or informal role in determining whether an NGO may register under Law 84/2002?