
FREEDOM OF ASSOCIATION IN ARAB COUNTRIES: A TOOLKIT

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PREFACE

The Arab region has been witnessing tremendous changes during the past two years. These changes are the result of the popular uprisings in response to decades of lack of democracy and freedom, economic and social deprivations and inequalities, and a rise in unemployment, particularly among youth, poverty and social marginalization.

Although the popular uprisings in many Arab countries succeeded in toppling the heads of four regimes so far, still, there is much that can be done to achieve the real and sustainable change. This can only be achieved by the adoption of a new social contract reflected in the deep constitutional, political, administrative, economic, social and cultural reforms.

Although change processes can relatively go smoothly in some countries such as the case in Tunisia and Egypt, where the heads of States stepped down immediately, it can encounter difficulties in others. In Yemen, the president resigned after a tough and a long struggle, however, as a result of a compromise some of his followers remained in power. Libya witnessed a foreign intervention to protect the civilians from the aggressive and bloody reactions of the dictator. In Syria and in Bahrain the struggle took different directions and converted into a bloody process.

Yet in many other countries, signs indicate that potential uprisings may occur in case the regimes don't respond in a timely and proper manner to the demands of their people, like in Sudan. Other regimes took preventive measures to contain the popular uprisings, like in Morocco, Oman, Kuwait and Saudi Arabia and partially in Jordan and Algeria.

However, in these reported and experienced cases, it has been proven that the role of civil society is significant in the different stages of the uprising; that is, before, during and after. Consequently, the existence of an empowered civil society is a major determinant of the struggle. In fact, the difficulties and challenges faced by the popular uprisings during the introduction of change are due to the weakened civil society role.

The Arab NGO Network for Development (ANND) believes that change in the region should not be limited to and based on political and administrative reforms, but it should include reforms in the economic and social policies. By now, it should be evident that the economic and social models implemented during the last decades failed to protect the core citizens' rights including economic, social and cultural. Therefore, countries in transition should adopt a new developmental rights-based paradigm where economic growth is considered to be the tool to achieve social justice.

The new strategies should be the result of national dialogues with the participation of the different actors including; civil society, social movements, political parties, business sector and the various social and professional groups. However, one of the major challenges that one might encounter is the weakness of the existing civil society organizations (CSOs) as a result of the systematic oppression and harassment they experienced during the old regimes. Nowadays, CSOs are facing many challenges since they are urged to keep on leading the process until the achievement of a complete and multifaceted change, they ought to participate in the decision making processes, and they are requested to actively participate in implementing, monitoring and observing the performance of the different actors. These tasks necessitate the presence of a sound and capable civil society.

ANND is fully aware of the above mentioned challenges facing CSOs in this extraordinary moment. Therefore, it aims at enhancing its advocacy role with a special focus on the economic and social rights. ANND focuses on the adopted and implemented policies that lead to the violation of these rights, while adopting a combined strategy targeting the national governments and the local decision makers on one hand, and the global actors influencing the decision making processes through multilateral and bilateral partnerships on the other hand. Thus monitoring the economic and social policies is the main tool that ANND is using in this regard.

It is essential to note that the economic and social monitoring process should involve different social movements including trade and labor unions, peasants' associations, women, youth and students' movements, NGOs, think-tanks, research centers, universities and media. These various actors should find a meeting point to properly network among themselves and to coordinate with the emerging political currents and parties.

One of the main pre-conditions for an empowered civil society is the recognition of the right to peaceful assembly and the freedom of association and expression. Empowered civil society requires an enabling environment including but not limited to the legal framework. One that depends and relies on protecting the individual and collective freedoms including freedom of assembly and expression as well as the right to access information and human and financial resources.

Based on the aforementioned, ANND, in partnership with the International Center for the Non-Profit Law (ICNL), a US based professional institution focusing on the freedom of association and the legal framework, implemented a regional program to promote democracy, freedom of association and enhanced networking. The program included a needs assessment survey and a regional seminar with the participation of the main actors including CSO, public servants and law makers. The program included as well activities for technical assistance to empower CSOs.

This manual, as part of the program, is intended to contribute to the efforts aiming to create a sound and an empowered Civil Society. It is primarily the fruit of efforts of the main author Ms. Mervat Rishmawi, and the kind contribution of ANND and ICNL staff.

I would like to take this opportunity to thank all the experts whose work is intended to mark the future of the region and to contribute to the achievement of the uprisings' objectives.

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INTRODUCTION

1. WHAT IS FREEDOM OF ASSOCIATION?

Reaffirming that everyone has the rights to freedom of peaceful assembly and of association and that no one may be compelled to belong to an association,

Recognizing the importance of the rights to freedom of peaceful assembly and of association to the full enjoyment of civil and political rights, and economic, social and cultural rights,

Recognizing also that the rights to freedom of peaceful assembly and of association are essential components of democracy, providing individuals with invaluable opportunities to, inter alia, express their political opinions, engage in literary and artistic pursuits and other cultural, economic and social activities, engage in religious observances or other beliefs, form and join trade unions and cooperatives, and elect leaders to represent their interests and hold them accountable.

Human Rights Council Resolution 15/21 (A/HRC/RES/15/21)

Freedom of association is an individual and a collective right. It is the right of individuals to form and join associations and the right of associations to be established and function without interference.

The Special Rapporteur on the situation of human rights defenders explains that freedom of association means the right of the individual “to found an association with like-minded persons or to join an already existing one. At the same time, it also covers the collective right of an existing association to perform activities in pursuit of the common interests of its members. States cannot therefore prohibit or otherwise interfere with the founding of associations or their activities.”¹

Freedom of association, therefore, applies to different stages in the life of an association: (i) the ability to found and join an association; (ii) the freedom of the association to function without interference (including the freedom of its members from arbitrary interference and threat to their rights, the ability of the association to raise funds to enable it to function, and the ability to affiliate itself with other associations); and (iii) the freedom from arbitrary dissolution or other interference with the work of the association.

Freedom of association is also closely linked to other rights. It is impossible to enjoy freedom of association without the right to freedom of peaceful assembly and the right to freedom of expression. Furthermore, freedom of association enables the enjoyment of other rights including the right to political participation, trade union rights, protection from human rights violations and the right to effective remedy. Associations engage in subjects that relate to many rights including health, non-discrimination, women’s rights, education, culture, information, and others. Without the enjoyment of freedom of association, the enjoyment of many rights is severely hampered.

¹ United Nations Special Rapporteur on the Situation of Human Rights Defenders, *Report to the General Assembly of the Special Rapporteur on the Situation of Human Rights Defenders (A/64/226)*, 4 August 2009, paragraph 22.

2. THE “ARAB SPRING” AND FREEDOM OF ASSOCIATION

Whereas it is essential, if man [sic] is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law...

Preamble of the Universal Declaration of Human Rights (UDHR)

This statement describes the context of the “Arab Spring”. Repressions of freedom of association, along with repression of freedoms of assembly and expression, were systematic and formed part of the reason for the revolutions. Torture, ill-treatment, arbitrary detention, and many other violations of civil rights were widespread. Corruption was rife. The poor were getting more destitute and were deprived of many rights, including rights to education, health, and housing. Attempts to form associations were hugely curtailed, especially if they criticized the government policies that led to and maintained this situation. Civil society was not allowed to organize itself freely into associations to defend rights and demand freedoms. Organizations were not allowed to be established, and those that were functioning were often attacked or shut down. Their offices were invaded and searched, and their resources were confiscated. The grip has continued to tighten over the years. Human rights defenders were arrested and tortured. Means of communication and campaigning were severely restricted. Bloggers were arrested for daring to speaking out, and the internet was repeatedly blocked.

If this is the scene before the revolutions, what is the scene after? Before the revolutions, in Tunisia and Libya, the previous regimes ran a very restrictive policy regarding associations, activists, writers, journalists, and anyone else who dared to criticize the regime. Independent human rights organizations were not allowed to register in Tunisia for over twenty years. Libya’s legislation imposed the death penalty for establishing “an illegal organization,” which meant any organization not approved by the regime. After the revolution, Tunisia is witnessing a boom of organizations, which are able to function without interference. The margin of freedom is widening. Human rights organizations are now allowed to enter Libya. Several Libyan lawyers and activists are showing interest in developing their capacity to work in the field of human rights, and organizations previously established in exile are now allowed to function inside the country. New organizations are also being created inside the country.

In Egypt, however, there has been an opposite reaction. Initially, the Supreme Council of Armed Forces (SCAF), which still runs the country months after the revolution, is imposing further restrictions on freedoms of association, expression, and assembly. Statements and actions by the SCAF show that it is against associations. Tens of thousands, including many from the civil society movement, are being brought to trial before military trials, which follow procedures that do not meet international standards for fair trials. The number of these trials is said to be many folds more than the number of such trials during the Mubarak regime. Bloggers, journalists, activists, and many others are detained routinely. The grip on the work of human rights organizations is tightening, and additional restrictions are in the making. During the Mubarak regime, many organizations were forced to register under the law of 2002, which is still in force and restricts access to financial resources, among other things. Many organizations, especially those involved in protecting human rights, thus did not register, and some others registered as civil companies. Under the current law, these organizations are illegal. Such a set up was not chosen by the organization, but was imposed on them by the grim restrictive reality, leading organizations to look for alternatives to enable them to function.

In Syria, many activists and defenders are routinely rounded up, detained, and tortured for many years. While the margin of freedom in Syria was already very tight, the government's reaction to the revolution brought further restrictions. President Assad suggested new draft laws of associations and for political parties. Not surprisingly, the draft law of associations is very restrictive, as it requires organizations to register and gives the public administration much authority and control over associations. Activists and defenders are under constant fear, not only of interference with freedom of association, but for their own lives and physical security.

Many civil society organizations (CSOs) have for a long time targeted the policies leading to violations of human rights. These organizations called for policy changes, which often are closely linked to political changes. An important characteristic of the "Arab Spring" is the role that civil society organizations and movements assumed in the revolutions. The debate of organizations in the region about the relationship between politics and civil society organizations took a new meaning and direction. CSOs in the Middle East region increasingly understand that the repressive environment that led to the revolutions stems from the political situation – not necessarily party politics, but government policies, positions, and actions, how politics touches people's daily lives. Politics is not just the realm of politicians but concerns us all. During and after the revolutions, a number of civil society activists assumed an important role in the transformation process, and the mechanisms and bodies associated with it.

This model of civil society participation must be studied and analyzed. It was spontaneous and natural, but not haphazard; it was well-planned. It is now important that civil society organizations in countries in political transition examine the experience to identify their role in the transitional and post-transitional phases.

The "Arab Spring" is a golden opportunity for realizing that transition to democracy and rule of law only happens through respecting civil society's role in the democratic transition process and beyond through organizations, and the ability of such organizations to function freely without adverse interference. These organizations are asked to offer solutions to a country's problems and provide political movements effective tools to promote political programs and objectives.

The so called "Arab Spring" and the role of civil society in it therefore demonstrate that freedom of association is an essential component of democracy. Democracy is achieved and can flourish only within a context in which issues, policies, and ideas are debated and challenged. Freedom of association is indispensable for realizing an effective democracy. Freedom of association is vital for realizing a host of individual and collective rights, whether they are civil, political, economic, social, or cultural. It is also crucial for realizing the rights of groups that are marginalized or vulnerable. Freedom of association is ensured not only to those who promote majority-held views or interests, but also to those advocating minority or dissenting views or beliefs. When this parity in rights is achieved, real democracy can be attained.

Restrictions on freedom of association are allowed only when they are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others. Any other restrictions that go beyond these or are disproportionate to a real danger or threat are inconsistent with the requirements of international law. The imposition of such restrictions has a tremendous impact not only on the freedom of association, but on many other rights as well. This will be discussed in more details in Chapter 1, Section 6 below.

3. PURPOSE OF THIS PUBLICATION

The aim of this publication is to contribute to the important debates and adoption of strategies on freedom of association, including in its connection with other rights like freedom of peaceful assembly, opinion, and expression. This document is meant to be a Toolkit for advocacy. It is not a comprehensive review of the current situation in the Middle East and North Africa.

The document is issued as part of the “Arab Freedom of Association Network” project jointly administered by the International Center for Not-for-Profit Law (ICNL) and the Arab NGO Network for Development (ANND). It therefore uses examples mainly from the countries that this project focuses on, namely Egypt, Iraq, Jordan, Lebanon, Morocco, Palestine, and Yemen. Examples from other Arab countries are sometimes used.

This document is structured to define the international standards first, then describe the current problems in the region, and end with suggestions to overcome these issues through campaigning strategies. Therefore, there are three chapters:

- Chapter 1: “International law;”
- Chapter 2: “Situation in Selected Arab Countries;” and
- Chapter 3: “Campaigning.”

The document aims to be as concrete as possible. It intends to provide ideas and tools for practitioners to promote and defend the freedom of association. It is not a theoretical academic study. Examples used in the document are only for illustration and do not aim to be comprehensive. Indeed, a comprehensive review of the status of freedom of association in the Arab region is impossible, even within the narrow lens of the countries examined in this document. However, change is possible, as the “Arab Spring” demonstrated. Civil society can create new realities, and this document seeks to contribute to their creation.

CHAPTER 1: FREEDOM OF ASSOCIATION IN INTERNATIONAL LAW

1. INTERNATIONAL LAW AND STANDARDS

This section highlights the provisions in international human rights treaties that relate to freedom of association, starting with the general principle, followed by discussion on how this general principle is reflected in treaties that address specific groups and concerns. Particular focus is made on the importance of freedom of association for realizing workers' rights, and on the role of human rights defenders (who certainly include women's rights activists and activists and those working on right to development). A few notes are also included on the freedom of association in the regional standards that are particularly relevant to the countries in the Middle East and North Africa. Later sections will highlight the relation between the right to freedom of association and other rights.

It is important to note that international and regional human rights treaties are binding on those States that have ratified them. Arab States have ratified many of the relevant treaties discussed below (a more thorough discussion about ratification appears in Chapter 1, Section 7, below). Nevertheless, as will be clarified in the sections below, many of the standards are now considered principles of customary international law, which binds all States regardless of ratification of relevant treaties.

A. A UNIVERSAL RIGHT - THE UDHR AND THE ICCPR

1. *Everyone has the right to freedom of peaceful assembly and association.*
2. *No one may be compelled to belong to an association.*

Article 20 of the UDHR

Freedom of association is recognized in several international human rights treaties, which echo the standard in the *Universal Declaration on Human Rights* (UDHR). Article 22 of the *International Covenant on Civil and Political Rights* (ICCPR) is considered the overarching reference on freedom of association. It provides:

Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.

This right is not limited to a certain group. It is a universal right that should be guaranteed to all. Thus the article starts by affirming that “[e]veryone shall have the right to ...” That is, it does not apply to only citizens. Other international human rights treaties have similar provisions addressing this right from the perspective of specific groups.

The article does not make the right conditional, but provides that restrictions may be imposed on the practice of the right. Such restrictions are not absolute. First, it must be according to law. However, it is not enough that such restrictions are prescribed by law, but must also be “necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.” (See Section 5, below, for more information on permissible restrictions.)

Obligations of States are binding on the State as a whole. This means that all branches (executive, legislative, and judicial), and other public or governmental authorities, at every level (national, regional, and local) have the responsibility to ensure the respect and protection of freedom of association and other rights.²

Generally, States have two types of obligations. The first is known as a negative obligation. This is an obligation to refrain from interfering with the enjoyment of rights, such as through placing legal restrictions or hindrances on the enjoyment of rights. In the context of freedom of association, this negative obligation includes prohibiting mandatory membership in organizations. This prohibition is reflected in Article 20 of the UDHR and many other international and regional treaties and resolutions. Another negative obligation is refraining from restrictions that go beyond specific permissible grounds, which will be elaborated below. The second type of obligation is a positive obligation. This requires States to enact legislation, policies, instructions, and regulations that promote the enjoyment of the right. This obligation also includes ensuring the respect of the right by prohibiting violations by both State and non-State actors (both private persons and entities), investigating such violations, and bringing perpetrators to justice.

In sum, States have both positive and negative obligations, including abstaining from interfering with the enjoyment of the right; protecting the right by working to prevent and investigate violations and provide redress for harm; and taking positive measures to enable the realization of the right. To protect a right, there must be a legal framework that recognizes the right at the national level. The government must follow policies and practices which respects the right and protect persons against abuse of the rights. They must monitor the compliance of all its authorities and bodies with their obligations to respect and protect the right, fulfilling such obligations and addressing violations through criminalizing violations, investigating cases of violations, providing effective remedy and reparation. Therefore, the five general components for the protection of rights are:

- crafting an enabling legal framework;
- ensuring compliance in practice;
- protecting against violations;
- criminalizing, investigating, and punishing violations; and
- providing reparation to victims.

The right to freedom of association, including the right to form and join associations concerned with political and public affairs, is a vital adjunct to the rights related to political participation and taking part in public affairs. Freedom of association allows citizens to participate in public affairs “by exerting influence through public debate and dialogue with their representatives or through their capacity to organize themselves. This participation is supported by ensuring freedom of expression, assembly, and association.”³ In that sense, the right to freedom of association is essential for the realization of political rights.

² United Nations Human Rights Committee, *General Comment 25: The Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service* (CCPR/C/21/Rev.1/Add.7), 12 July 1996, paragraphs 8 and 26.

³ United Nations Human Rights Committee, *General Comment 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant* (CCPR/C/21/Rev.1/Add. 13), 26 May 2004, paragraph 4.

Enabling persons to associate and organize themselves to defend their rights is also necessary for the realization of civil, political, economic, social, and cultural rights, as will be demonstrated in several parts of this chapter.

B. SPECIAL GROUPS

Freedom of association is a right by itself, as well as an enabling right for realizing many other rights. Its respect is essential for advancing the rights of various groups, including workers, women, minorities, children, migrant workers, and human rights defenders. Organizations that advance and defend the rights of these groups and others must be guaranteed the right to freedom of association without arbitrary interference.

WOMEN

The *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW) provides that States shall take all appropriate measures to eliminate discrimination against women in the political and public life and in particular shall ensure to women, on equal terms with men, the right to “participate in non-governmental organizations and associations concerned with the public and political life of the country.” (Article 7 (c) of CEDAW).

Women’s associations or other associations which are also concerned with women’s rights, including those concerned with the public and political life, are vital for advancing the rights of women in different aspects of life. States should therefore encourage CSOs and governmental and political associations to adopt strategies that encourage women’s representation and participation. States should also refrain from interfering in the work of such organizations, adopt legal provisions to ensure this non-interference, and remove all barriers to realizing this right. States must also adopt development programs and other policies that aim to advance women’s participation in the public domain. States must also ensure that women participate in policy formulation in general. It is also important that States maintain segregated data by sex to track the enjoyment of rights by women.

There is a clear concern that female defenders are particularly targeted for violence because they frequently work on issues that challenge established customs or norms. Such gender-based violence includes verbal and sexual harassment which reaches rape or even killing. Human rights expert mechanisms of the UN repeatedly send communications to States concerning the situation of women defenders and violations of their rights, including freedom of association. States are obligated not only to allow women defenders to carry out their work without interference, but also to protect women against any threat or actual abuse by the State’s own agents or private individuals.

CHILDREN

Article 15 (1) of the *Convention on the Rights of the Child* (CRC) provides that States must guarantee the right of the child to freedom of association:

States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.

The Committee on the Rights of the Child highlights the importance of the participation of children and the right of the child to be heard, including through associations:

*Children should be supported and encouraged to form their own child-led organizations and initiatives, which will create space for meaningful participation and representation.*⁴

Further, the freedom of association and the unhindered functioning of associations or initiatives led by children, or which concern children's rights, are essential for realizing many other rights of children. For example, children's associations should be heard when laws that relate to children, such as child labor laws, are being drafted or reconsidered. Children's organizations and child-led initiatives are also important for addressing violence against children. States must include them in formulating, establishing, and evaluating anti-violence programs and measures so that children can play a key role in their own protection. Generally, networking among child-led organizations should be actively encouraged to increase opportunities for shared learning and collective advocacy.⁵ The UN Committee on the Rights of the Child has also stressed the importance of freedom of association for children in the context of protecting rights of children with disabilities, indigenous children, children in the juvenile justice system, and unaccompanied or separated children during emergencies.

PERSONS WITH DISABILITIES

Similarly, Article 29 (b) of the *Convention on the Rights of Persons with Disabilities* (CRPD) stresses the rights of persons with disabilities to political rights and the State's responsibility to ensure enjoyment of these rights on an equal basis to others. This role includes actively promoting an environment in which persons with disabilities can effectively and fully participate in public affairs without discrimination and encouraging their participation in public affairs through "participation in non-governmental organizations and associations concerned with the public and political life of the country, and in the activities and administration of political parties" and "forming and joining organizations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels."

States must involve organizations of persons with disabilities in all matters that affect them. States must therefore provide support to persons with disabilities for establishing and maintaining organizations to represent their rights and interests at local, regional, and national levels. States must also involve persons with disabilities and their representative organizations, including gender perspectives, in formulating laws and policies and monitoring their implementation. All hindrance to organizations in playing this role must be removed. Civil society and CSOs can campaign for persons with disabilities by petitioning government representatives to bring policies and programs in line with the Convention. States themselves must renew or establish their commitment to the dignity and justice for persons with disabilities.⁶

⁴ United Nations Committee on the Rights of the Child, *General Comment 12: The Right of the Child to Be Heard* (CRC/C/GC/12), 20 July 2009, paragraph 128.

⁵ *Ibid*, at paragraphs 117, 121, and 130.

⁶ A newly established body, the Committee on the Rights of Persons with Disabilities held its first session at the United Nations office in Geneva from 23 to 27 February 2009. At the time of this writing, the Committee has not yet issued general comments. Further information on the work of the Committee can be viewed on the Committee's website on <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDIndex.aspx>

RACIAL AND ETHNIC GROUPS

The *International Convention on the Elimination of All Forms of Racial Discrimination* (CERD) affirms in Article 5 (d (ix)) the obligation of States to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, color, or national or ethnic origin, to equality before the law in the enjoyment of rights including “the right to freedom of peaceful assembly and association.”

Persons of various racial or ethnic backgrounds, who might also be non-citizens or minorities, need the freedom of association to protect their rights. For instance, the freedom of assembly is crucial for promoting the economic, social, and cultural rights of non-citizens, notably in the areas of education, housing, employment, and health. Therefore, provisions of the Convention of Elimination of Racial Discrimination must be interpreted “so as to avoid undermining the basic prohibition of discrimination; hence, it should not be interpreted to detract in any way from the rights and freedoms recognized and enunciated in particular in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights.”⁷ For example, regarding labor rights, States must ensure that “all individuals are entitled to the enjoyment of labor and employment rights, including the freedom of assembly and association, once an employment relationship has been initiated until it is terminated.”⁸

It is important to stress that the right to freedom of association does not apply to citizens only. The language of international treaties clearly shows that everyone should be guaranteed and enjoy this right. This therefore puts an obligation on States to ensure the respect of the right to everyone under their jurisdiction, not only citizens. Sections below highlight the importance of this right for migrants, including migrant workers and refugees.

The respect for cultural life is particularly important for preserving the identity of distinct groups. International instruments widely recognize the right of everyone to take part in cultural life individually or in association with others. A person may exercise cultural rights: (a) as an individual, (b) in association with others, or (c) within a community or group. The rights to peaceful assembly and to freedom of association thus have particular importance for the enjoyment of cultural rights. States therefore are under an obligation to remove restrictions on the enjoyment of, and to promote the exercise of, the right of association for cultural and linguistic minorities to develop their cultural and linguistic rights.⁹

WORKERS, INCLUDING MIGRANT WORKERS

Freedom of association is important for protecting the rights of workers, including migrant workers. Among the fundamental conventions of the International Labor Organization (ILO) is the *Convention on Freedom of Association and the Protection of the Right to Organize* (ILO Convention 87 of 1948). This document is believed to be the foundation for similar provisions in other international standards like the UDHR, ICCPR, ICESCR, all which are in turn reflected in later treaties.

⁷ See United Nations Committee on Elimination of Racial Discrimination, *General Recommendation 30: Discrimination against Non-Citizens* (1 October 2004), paragraph 2.

⁸ *Ibid.* at paragraph 35.

⁹ See United Nations Committee on Economic, Social and Cultural Rights, *General Comment 21: Right of Everyone to Take Part in Cultural Life* (E/C.12/GC/21), 21 December 2009, paras 19 and 55 (c)

ILO Convention Number 87 provides that “workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization.” This is elaborated further in Article 8 of the *International Covenant on Economic, Social, and Cultural Rights* (ICESCR) which obligates States to ensure:

1. *(a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;*
(b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;
(c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;
(d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.
2. *This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.*
3. *Nothing in this article shall authorize States Parties to the International Labor Organization Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.*

Article 22 (3) of the ICCPR stresses this same standard by providing that nothing in the article on freedom of association authorizes States that are also parties to the ILO Convention 87 “to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.”

Article 26 (1) of the *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families* (ICMW) equally stresses the right of migrant workers:

- (a) To take part in meetings and activities of trade unions and of any other citations established in accordance with law, with a view to protecting their economic, social, cultural and other interests, subject only to the rules of the organization concerned;*
- (b) To join freely any trade union and any such association as aforesaid, subject only to the rules of the organization concerned;*
- (c) To seek the aid and assistance of any trade union and of any such association as aforesaid.*

The right to form associations is not limited to the citizens of the State. Article 40 of the ICMW also recognizes the right of migrant workers and members of their families “to form associations and trade unions in the State of employment for the promotion and protection of their economic, social, cultural and other interests.”

The Committee on Economic, Social, and Cultural Rights, which oversees the implementation of the ICESCR, stresses that to ensure the right of everyone to form and join trade unions, “particular

attention should be given to domestic workers, rural women, women working in female-dominated industries and women working at home, who are often deprived of this right.”¹⁰

The ICMW does not have specific provisions related to domestic workers. However, recognizing the importance of regulating and giving adequate attention to this area, in June 2011 the ILO adopted the *Convention Concerning Decent Work for Domestic Workers*. In Article 3, it stressed the protection of freedom of association as one of the fundamental principles and rights. It provides in Article 3 (2), “Each Member shall, in relation to domestic workers, take the measures set out in this Convention to respect, promote and realize the fundamental principles and rights at work, namely: (a) freedom of association and the effective recognition of the right to collective bargaining...”. The *Convention* continues to stress in Article 3 (3) that “[i]n taking measures to ensure that domestic workers and employers of domestic workers enjoy freedom of association and the effective recognition of the right to collective bargaining, Members shall protect the right of domestic workers and employers of domestic workers to establish and, subject to the rules of the organization concerned, to join organizations, federations and confederations of their own choosing.”

This new development is particularly relevant to the MENA region considering that a large percentage of migrant workers are domestic workers. It is well documented that domestic workers generally, whether nationals or migrants, face numerous problems and violations of their rights. They are particularly vulnerable as they are often excluded from the protection of labor laws and face grim practices. This new standard is particularly important for women and girls, who constitute the vast majority of domestic workers.

A SPECIAL FOCUS: THE ROLE OF HUMAN RIGHTS DEFENDERS¹¹

Article 1 of 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*, adopted by the General Assembly 9 December 1998, provides that “[e]veryone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.” Most of the rights and responsibilities detailed in the *Declaration* are recognized to everyone and in association with others. Further, Article 5 of the *Declaration* provides:

For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels:

- (a) To meet or assemble peacefully;*
- (b) To form, join and participate in non-governmental organizations, associations or groups;*
- (c) To communicate with non-governmental or intergovernmental organizations.*

¹⁰ United Nations Committee on Economic, Social and Cultural Rights, *General Comment 16: The Equal Right of Men and Women to the Enjoyment of all Economic, Social and Cultural Rights* (E/C.12/2005/4), 11 August 2005, paragraph 25.

¹¹ For elaboration on the question of who qualifies as a human rights defender, a designation which goes beyond the traditional scope of human rights monitors and activists who work in human rights organizations, see the webpage of the Special Rapporteur on Human Rights Defenders, “Who is a defender,” available at: <http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/Defender.aspx>

Most if not all the rights in the *Declaration* equally apply to all types of associations (see Appendix 1 for full text of the *Declaration on Human Rights Defenders*).

Activists and human rights defenders who belong to registered or unregistered organizations continue particularly to bear the brunt of government harassment for daring to speak out and defend the rights of others. Their rights to freedom of association, expression, and assembly, as well as freedom from torture, ill-treatment, and arbitrary detention and many other rights continue to be violated. Minorities and women's rights organizations and their activists particularly face restrictions due to their causes.

2. REGIONAL STANDARDS

A. THE ARAB CHARTER ON HUMAN RIGHTS

The *Arab Charter on Human Rights*, adopted by the Summit of the League of Arab States on May 23, 2004, contains provisions relating to freedoms of association, assembly, and expression, but these provisions raise several concerns.

Freedoms of association and peaceful assembly are limited in the *Charter* to citizens only while international treaties recognize these rights for everyone. Article 24 provides:

Every citizen has the right:

...

5. *To freely form and join associations with others.*

6. *To freedom of association and peaceful assembly.*

7. *No restrictions may be placed on the exercise of these rights 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 health or morals or the protection of the rights and freedoms of others.*

Further, Article 32 of the *Charter* puts the right to hold opinions in an article that subjects rights to "This Charter guarantees freedom of the press and freedom of opinion and expression ... limitations as are required to ensure respect for the rights or reputation of others or the protection of national security, public order and public health or morals." This is in sharp contrast with Article 19 of the ICCPR, which allows no limitations on the right to hold opinions. The ICCPR does allow limitations on freedom of expression, which the Arab Charter also provides.

B. THE EUROPEAN CONVENTION

As clarified by the Barrister Professor Jeremy McBride, a prominent scholar who specializes in freedom of association and assembly in Europe, "The treaty guarantees of the right to freedom of association have all been adopted by the Council of Europe and comprise one of general application in Article 11 of the *European Convention on Human Rights* ('the *European Convention*') and more specific ones in Article 5 of the *European Social Charter* and of the *European Social Charter (Revised)*

(for workers and employers)..., Articles 7 and 8 of the *Framework Convention for the Protection of National Minorities* (for minorities) and Article 3 of the *Convention of the Council of Europe on the Participation of Foreigners in Public Life at Local Level* (for foreign residents). In addition there is the unique international obligation found in the Council of Europe *Convention on the Recognition of the Legal Personality of International Non-Governmental Organizations*. This requires the states party to it to grant the legal capacity to act in them to any CSO which has been established in another ratifying state.”¹²

Article 11 of the *European Convention* largely mirrors Article 22 of the ICCPR. It provides:

1. *Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.*
2. *No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.*

This has been interpreted so that, among other things, everyone, whether a natural or a legal person and whether a national or non-national (including a stateless person), is normally entitled to establish an association and generally able to seek to join an association. Associations should not generally be obligated to disclose the names and addresses of their members, and the option of an association acquiring legal personality should always be available, unless the State can clearly demonstrate that the lack of legal personality will not impede the pursuit of the association’s objectives. Further, the body responsible for determining applications for legal personality should always act independently and impartially in its decision making. Associations should be able to pursue all the objectives and undertake all the activities that are open to individuals acting alone, and persons belonging to or working with associations should not be subject to discrimination or be penalized, persecuted, or harassed because of their involvement with associations or a cause.¹³

Interestingly, “[a]ssociations can be subjected to various obligations to secure the transparency of their activities, which may also be supervised by one or more relevant public authorities. However, these obligations should only apply to those associations receiving some form of state support and supervision should be based on the presumption that the activities of such organizations are lawful, with self-regulation being preferred and the principle of proportionality being respected.... The inspection of an association’s books, records and activities should only occur where there has been a failure to comply with a reporting obligation arising from state support or there are reasonable grounds to suspect that serious breaches of legal requirements that are incompatible with universal and regional human rights standards have occurred or are clearly imminent.”¹⁴

¹² See Jeremy McBride, “European Standards Relating to Freedom of Association,” in *Mawared* (Amnesty International Human Rights Education Magazine), Issue 17.

¹³ *Ibid.*

¹⁴ *Ibid.*

C. THE AFRICAN CHARTER

The *African Charter on Human and People's Rights*, adopted by the African Union in Banjul on June 27, 1981, has been ratified by Algeria, Egypt, Libya, and Tunisia in the North Africa region. Article 10 provides:

1. *Every individual shall have the right to free association provided that he abides by the law.*
2. *Subject to the obligation of solidarity provided for in 29 no one may be compelled to join an association.*

It is alarming that this provision requires the practice of freedom of association to comply with national law, which might conflict with international law. The formula used in Article 22 of the ICCPR, which is also replicated in other international and regional treaties, does not require the practice to be according to law, but the restriction of the practice to be according to the law. However, it is not enough that such restrictions are prescribed by law; they must also be “necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others”, that is not all restrictions in national law are always consistent with those allowed in international law, as provided in the ICCPR.

On the other hand, it is encouraging that the provision recognizes that States may not compel a person to join associations.

In May 2011, the African Commission on Human and People's Rights decided that a study supervised by the Special Rapporteur on Human Rights Defenders in Africa will be prepared on the laws governing freedom of association and practices that violate this freedom in Africa. CSOs were appointed to work with the Special Rapporteur on this study in their respective sub-regions.

3. INTERPRETING THE STANDARDS

The standards for freedom of association have been elaborated on and clarified by several UN experts bodies, including the treaty bodies responsible for overseeing the implementation of international human rights treaties, as well as what is referred to collectively as special procedures. These are a number of Special Rapporteurs, working groups, and similar expert bodies that the UN mandates to examine human rights issues from the perspective of assigned themes.

The Special Rapporteur on the situation of human rights defenders has played a particularly important role through several reports on clarifying the standards that apply to human rights defenders and organizations and acts that are considered violations of their rights. This elaboration, which will be referenced widely here, equally applies to different types of associations, not just human rights organizations. It is expected that the new Special Rapporteur on Freedom of Peaceful Assembly and Association will provide further guidance on these standards.

The views and recommendations of the UN Special Rapporteur on Human Rights Defenders are reflected in several of the following sections, although many of the concerned organizations might not be strictly human rights organizations. Until recently, there was no special expert body within the UN specializing in freedom of association or assembly. Therefore, other expert bodies in the UN human rights system have paid attention to this issue. The Special Rapporteur on Human Rights

Defenders has focused on this issue in several reports. Such opinions and recommendations are relevant to other CSOs by analogy: if these explicit protections are to be guaranteed to human rights organizations, they also apply to the far less “controversial” development and community organizations.

A. AIMS AND ACTIVITIES OF ASSOCIATIONS

UN experts consider CSO laws that list permitted or prohibited activities for CSOs extremely problematic. Further, the ability of organizations to solicit, receive, and use funding, including from abroad, is inherent in the right to freedom of association. The Special Rapporteur on Human Rights Defenders stresses that States should not interfere with the internal management or activities of CSOs. Legislation should not list permitted or prohibited activities for CSOs, and CSOs should be able to carry out activities in defense of human rights.¹⁵

Moreover, promotion and protection of human rights must be considered a legitimate purpose for an association to pursue. Associations that criticize State policies, publicize human rights violations by authorities, or question the existing legal and constitutional framework must be protected from arbitrary restrictions and must be allowed to function.

B. REGISTRATION AND LEGAL PERSONALITY

There are generally two types of systems for establishing an organization: the “notification” regime and the “registration” regime. Under the “notification” regime, utilized by Lebanon and Morocco, associations have legal personality once their founders have agreed to form the association. Thus, the association’s founders notify the government of their legal existence and request government authorities to issue an acknowledgement of this fact. Under the “registration” regime, utilized by Egypt, Jordan, and most other Arab countries, organizations do not have legal personality until after they have submitted an application to government authorities and received an approval. Regardless of whether a notification or registration regime is in place, implementation of international standards therefore requires the process of obtaining legal personality for an association to be fast, easy, and not costly.

It is important to note that according to the Special Rapporteur on Human Rights Defenders, under no circumstances should legal personality be compulsory. In other words, associations should not be required to register before carrying out their activities. Registration is instead a voluntary process that allows associations to take advantage of the rights and responsibilities of legal personality, such as opening a bank account or signing a contract in the name of the organization.

However, the Special Rapporteur on Human Rights Defenders stresses that, while registration should not be required, if the State nevertheless requires registration, national legislation should clarify the status of organizations during the period between the submission of their application and the final decision. A requirement to register should not mean that organizations seeking to register and obtain legal personality are not able to work. According to the Special Rapporteur, pending a final decision, organizations should be free to start their activities.¹⁶

¹⁵ United Nations Special Rapporteur on the Situation of Human Rights Defenders, *op. cit.* at note 1, paragraph 79.

¹⁶ *Ibid.*, at paragraphs 59, 60, 66, 70, 79, and 91.

Even when the law is favorable, government authorities do not always respect it. For example, authorities might refuse to accept the submission of documents, or refuse to issue an acknowledgement of notification for the establishment of an organization. Without such official documents, civil society organizations often face many restrictions, including not being able to open bank accounts, rent premises, or even issue legally acknowledged contracts to their employees.

C. ESTABLISHING AN ORGANIZATION

In summary, and as identified by the Special Rapporteur on Human Rights Defenders, the following are main highlights relating to the process of starting an organization:¹⁷

Registration bodies should be independent from the Government and should include representatives of civil society...

- (a) Non-governmental organizations be allowed to carry out collective activities without having to register and that States do not impose criminal sanctions for participating in unregistered entities;*
- (b) Laws governing the creation, registration and functioning of civil society organizations be written and establish clear, consistent and simple criteria to be met in order to register. Non-governmental organizations that meet the prescribed criteria should be immediately able to register as legal entities;*
- (c) States ensure that existing laws and regulations are applied in an independent and transparent manner. Laws should be clear about the status of organizations in the period between the request for registration and the final decision. Pending such a final decision, human rights organizations should be free to carry out their activities;*
- (d) In the event of the adoption of a new law concerning civil society organizations, all previously registered non-governmental organizations be considered as continuing to operate legally and be provided with fast track procedures to update their registration. Unless a new law is adopted, existing laws governing the registration of civil society organizations should not require that organizations re-register periodically;*
- (e) The registration process should be prompt, accessible and inexpensive. States should not impose costs related to the registration process that make it difficult for non-governmental organizations to maintain their registration, nor should they place other unsustainable burdens upon them;*
- (f) States guarantee the right to appeal against any denial of registration. States should also ensure an effective and prompt remedy against any rejection of application, as well as an independent judicial review of the decisions of the registration authority.*

D. ACCESS TO FUNDING

The right to access funding is an important and integral element of the right to freedom of association. The Declaration on Human Rights Defenders explicitly recognizes the right to access funding as a self-standing, substantive right. Article 13 of the Declaration on Human Rights Defenders provides: “Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights

¹⁷ Report of the Special Rapporteur on Human Rights Defenders, Note Supra 1, paras 102 – 127.

and fundamental freedoms through peaceful means, in accordance with article 3 of the present Declaration.”

Article 13 addresses the different phases of the funding cycle: soliciting, receiving, and utilizing. The Declaration thus requires States to adopt legislative, administrative, or other measures to facilitate or, at a minimum, not to hinder the effective exercise of the right to access funding.

Receiving funding from different sources, including foreign ones, especially needs protection. Often, civil society organizations have limited resources available at the local level; therefore, restrictions on access to international funding can gravely affect the ability of associations to carry out their work or even threaten the very existence of organizations. Governments should allow access to foreign funding as a part of international cooperation, to which civil society is entitled to the same extent as governments. This has been stressed by several UN experts, particularly the Special Rapporteur on Human Rights Defenders.

The Special Rapporteur on Freedom of Association and Peaceful Assembly stresses that under international law, “problematic constraints include, inter alia, outright prohibitions to access funding; requiring CSOs to obtain Government approval prior to receiving funding; requiring the transfer of funds to a centralized Government fund; banning or restricting foreign-funded CSOs from engaging in human rights or advocacy activities; stigmatizing or delegitimizing the work of foreign-funded CSOs by requiring them to be labeled as “foreign agents” or other pejorative terms; initiating audit or inspection campaigns to harass CSOs; and imposing criminal penalties on CSOs for failure to comply with the foregoing constraints on funding. The ability of CSOs to access funding and other resources from domestic, foreign and international sources is an integral part of the right to freedom of association, and these constraints violate article 22 of the International Covenant on Civil and Political Rights and other human rights instruments, including the International Covenant on Economic, Social and Cultural Rights.”¹⁸

¹⁸ Report of the Special Rapporteur on Rights to Peaceful Assembly and of Association, A/HRC/23/39, para. 20.

Access to Funding: Recommendations by the Special Rapporteur on Human Rights Defenders

(Extracted from Commentary to 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, UN Special Rapporteur on Human Rights Defenders, Chapter IX-The right to access funding, Good practice and recommendations)

States should ensure and facilitate by law access to funds, including from foreign sources, for the purpose of defending human rights.

States should refrain from restricting the use of funds, providing they comply with the purposes expressly established in the Declaration of promoting and protecting human rights and fundamental freedoms through peaceful means.

States should not require prior governmental authorization to apply for or receive funding from abroad.

States must allow access by non-governmental organizations to foreign funding and restrict such access only in the interest of transparency and in compliance with generally applicable foreign exchange and customs laws. States should therefore review existing laws to facilitate access to funding.

E. RIGHT TO ORGANIZE, FORM AND JOIN TRADE UNIONS

The principle of freedom of association and the right to organize is at the core of the values of the International Labor Organization (ILO). It is enshrined in the *ILO Constitution* of 1919 and is considered a fundamental right as reflected in the *ILO Declaration on Fundamental Principles and Rights at Work* of 1998. The *ILO Convention on Freedom of Association and Protection of the Right to Organize* (ILO Convention 87) sets forth the right for workers and employers to establish and join organizations of their own choosing without previous authorization. Workers' and employers' organizations can organize freely and not be dissolved or suspended by an administrative authority, and they have the right to establish and join federations and confederations, which may in turn affiliate with international organizations of workers and employers.

The ILO Convention 87 explains the right to form and join trade unions and union federations. It provides:

Article 3

- 1. Workers' and employers' organizations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organize their administration and activities and to formulate their programs.*
- 2. The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof.*

Article 4

Workers' and employers' organizations shall not be liable to be dissolved or suspended by administrative authority.

Article 5

Workers' and employers' organizations shall have the right to establish and join federations and confederations and any such organization, federation or confederation shall have the right to affiliate with international organizations of workers and employers.

Article 6

The provisions of Articles 2, 3 and 4 hereof apply to federations and confederations of workers' and employers' organizations.

Article 7

The acquisition of legal personality by workers' and employers' organizations, federations and confederations shall not be made subject to conditions of such a character as to restrict the application of the provisions of Articles 2, 3 and 4 hereof.

Article 8

- 1. In exercising the rights provided for in this Convention workers and employers and their respective organizations, like other persons or organized collectivities, shall respect the law of the land.*
- 2. The law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this Convention.*

The ILO stresses that freedom of association essentially requires guaranteeing the possibility of having multiple unions or federations in a country. The ILO observes that legislation prohibiting more than one trade union per occupational or economic category in a territorial area, regardless of the level of organization, is not compatible with the principles of freedom of association.¹⁹ Similarly, legislation that forces unification of the trade union movement runs counter to the principle of freedom of association: "There is a fundamental difference, with respect to the guarantees of freedom of association and protection of the right to organize, between a situation in which a trade union monopoly is instituted or maintained by legislation and the factual situations which are found to exist in certain countries in which all the trade union organizations join together voluntarily in a single federation or confederation, without this being the direct or indirect result of legislative provisions applicable to trade unions and to the establishment of trade union organizations."²⁰

The Committee on Economic, Social and Cultural Rights has repeatedly stressed that the promotion of employment requires effective involvement of the community and more specifically associations for the protection and promotion of the rights of workers. Trade unions must be involved in

¹⁹ Typically, there are three levels of unions. The primary level consists of local unions. They can be general in nature, or industry-based. At the secondary level are industry federations and regional organizations. At the tertiary level are confederations of the various federations.

²⁰ See International Labor Organization, *Freedom of Association: Digest of Decisions and Principles of the Freedom of Association Committee of the Governing Body of the ILO* (2006), paragraphs 314 and 319.

defining priorities and planning, implementing, and evaluating strategy. Further, persons or groups whose right to work was violated should have the right to access to trade unions at the national level, which play an important role in defending the right to work. Therefore, States should respect and protect the work of human rights defenders and other members of civil society, in particular trade unions, which assist disadvantaged and marginalized individuals and groups in realizing their right to work.²¹

F. INTERFERENCE WITH THE WORK OF ASSOCIATIONS

Interference with the work of associations, including suspension and dissolution, must fulfill the requirement of legality. Grounds have to be clearly specified in the law, and such grounds have to be consistent with international standards. For example, associations should not be suspended or dissolved for activities that exercise the freedom of opinion or expression and are consistent with international law.

Suspension or dissolution of association should be only after a judicial decision that is subject to appeal. The Special Rapporteur on Human Rights Defenders has raised the issue of domestic legislation being used to interfere with the internal management and activities of CSOs, including placing restrictions on types of activities that do not need prior government approval. The Rapporteur notes that discretionary interpretation of legislation has also permitted authorities to initiate legal proceedings against organizations for minor infractions or to dissolve them without recourse to appropriate remedies or judicial supervision.²² In other instances, while the legislation seems to comply with international standards, the practice does not. Registration procedures have been used arbitrarily to deny protection to CSOs that are critical of the government.

Civil society organizations must be able to access and communicate with international bodies without fear of reprisal or restrictions, and organizations must have the right to be protected from this. This principle is essential to the right to freedom of expression, which includes the right to receive and impart information. It is also closely connected to freedom of movement, including the right to leave a country to participate in events of interest to the association and the right to return without any interference. This principle is also recognized in Articles 5 (c) and 9 (4) of the Declaration of Human Rights Defenders, acknowledging that accessing and communicating with international bodies is essential for human rights defenders to carry out their work, alert the international community to human rights problems, and bring key cases to the attention of regional and international human rights mechanisms. In sum, States should not interfere with the internal management or activities of CSOs. Domestic laws should avoid containing lists of permitted or prohibited activities for civil society organizations, and non-governmental organizations should be able to carry out activities in defense of human rights.

Affirming this principle, and against a backdrop of a number of reprisal cases and defamation and endangering the security of activists, especially in the Middle East and North Africa, a number of UN mechanisms expressed their deep concern over this phenomenon. The UN Secretary General started since 2011 issuing specialised reports on reprisals against human rights defenders who

²¹ United Nations Committee on Economic, Social and Cultural Rights, *General Comment 18: the Right to Work* (E/C.12/GC/18), 6 February 2006, particularly paragraphs 12(c), 48, and 51.

²² Report of Special Rapporteur on Human Rights Defenders, note supra 1, para. 80.

engage with the UN mechanisms.²³ The UN Human Rights Council has also issued a number of resolutions expressing concerns over attacks against human rights defenders and other activists. The Council urged States to “create a safe and enabling environment in which human rights defenders can operate free from hindrance and insecurity” (para 2); and stressed that “legislation affecting the activities of human rights defenders and its application must be consistent with international human rights law” (para 3). The Resolution particularly stressed the importance of ensuring that “legislation designed to guarantee public safety and public order contains clearly defined provisions consistent with international human rights law, including the principle of non-discrimination, and that such legislation is not used to impede or restrict the exercise of any human right, including freedom of expression, association and peaceful assembly, which are essential for the promotion and protection of other rights” (para 4). The Resolution urged States to “acknowledge publicly the important and legitimate role of human rights defenders in the promotion of human rights, democracy and the rule of law as an essential component of ensuring their protection, including by respecting the independence of their organizations and by avoiding the stigmatization of their work” (para 5). Finally, and confirming many of the principles concerning freedom of association, the Human Rights Council affirms that States must “respect, protect and ensure the right to freedom of association of human rights defenders and, in this regard, to ensure, where procedures governing the registration of civil society organizations exist, that these are transparent, accessible, non-discriminatory, expeditious and inexpensive, allow for the possibility to appeal and avoid requiring re-registration, in accordance with national legislation, and are in conformity with international human rights law”. (para 8)²⁴

4. A NEW SPECIAL RAPPORTEUR ON THE RIGHT TO FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION

Until recently, there has been no UN specialized Special Rapporteur on Freedom of Peaceful Assembly and Association. Therefore, as discussed earlier, guidance on the standards has been provided by treaty bodies and other special procedures. In October 2010, the UN Human Rights Council adopted the historic Resolution 15/21, in which it recognized the importance of freedom of association and peaceful assembly in the full enjoyment of civil and political rights, and economic, social, and cultural rights. In that same resolution, the Council created a mandate for a Special Rapporteur on the rights to freedom of peaceful assembly and of association. The Special Rapporteur will carry out the following tasks:

- (a) Gather all relevant information, including national practices and experiences;
- (b) Incorporate in his first report an elaboration of the framework to promote and protect the rights to freedom of peaceful assembly and of association;
- (c) Seek, receive, and respond to information from Governments, nongovernmental organizations, relevant stakeholders;
- (d) Integrate a gender perspective throughout the work of the mandate;
- (e) Contribute to the provision of technical assistance to better promote and protect the rights to freedom of peaceful assembly and of association; and
- (f) Report on related violations.

In discharging his mandate, the Special Rapporteur will carry out the following activities:

²³ See Report of the UN Secretary General on Cooperation with the United Nations, its representatives and mechanisms in the field of human rights, (A/HRC/21/18), 13 August 2012.

²⁴ Resolution adopted by the Human Rights Council, 22/6, Protecting human rights defenders, 12 April 2013.

- (a) Transmit urgent appeals and letters of allegation to States on alleged violations of the rights to freedom of peaceful assembly and/or of association;
- (b) Undertake fact-finding country visits;
- (c) Submit annual reports covering activities relating to the mandate to the Human Rights Council (first report to be presented in June 2012); and
- (d) Engage publicly on issues of concern, including through press releases.²⁵

It is therefore expected that through examining cases and reports, elaborating a framework for analysis, and highlighting best practices in the coming years, the Special Rapporteur will advance the development and understanding of the different aspects of freedom of association, which he has already started to do, as reflected in some parts of this Toolkit.

5. PERMISSIBLE RESTRICTIONS

International law does not make the right to freedom of association absolute. However, the only restrictions that are allowed, according to Article 22 (2) of the ICCPR, are 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, the protection of public health or morals or the protection of the rights and freedoms of others.”

The Human Rights Committee, which oversees the implementation of the ICCPR, explains that where restrictions are made, “States must demonstrate their necessity and only take such measures as are proportionate to the pursuance of legitimate aims in order to ensure continuous and effective protection of Covenant rights. In no case may the restrictions be applied or invoked in a manner that would impair the essence of a Covenant right.”²⁶

The Special Rapporteur on Human Rights Defenders, in her 2009 report, elaborated on the conditions, which all should be met, under which restriction on the right to freedom of association can be valid:

- (a) It must be provided by law — that is through an act of Parliament or an equivalent unwritten norm of common law. Limitations are not permissible if introduced through Government decrees or other similar administrative orders;*
- (b) It must be necessary in a democratic society. The State must demonstrate that the limitations are necessary to prevent a real threat to national security or the democratic order and that other less invasive measures are not adequate to achieve this purpose;*
- (c) Such limitations may only be imposed in the interest of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.*²⁷

²⁵ Further information on the mandate and work of the United Nations Special Rapporteur on the Right to Freedom of Peaceful Assembly and of Association can be found on the website of the UN Office of the High Commissioner for Human Rights (OHCHR), available at:

<http://www.ohchr.org/EN/Issues/AssemblyAssociation/Pages/SRFreedomAssemblyAssociationIndex.aspx>.

²⁶ United Nations Human Rights Committee, *op. cit.* at note 3, paragraph 6.

²⁷ United Nations Special Rapporteur on the Situation of Human Rights Defenders, *op. cit.* at note 1, paragraph 32.

Further, laws that contain vague and broadly defined provisions that easily lend themselves to misinterpretation or abuse are not permissible.²⁸ The Special Rapporteur on the situation of human rights defenders clarifies that the condition of “necessary in a democratic society” requires guarantees of a functioning “plurality of associations, including those which peacefully promote ideas not favorably received by the government or the majority of the population... [and that] the prohibition of the association and the criminal prosecution of individuals for membership in such organizations are in fact necessary to avert a real, and not only hypothetical danger to the national security or democratic order and that less intrusive measures would be insufficient to achieve this purpose.”²⁹

Restrictions are allowed only if there is specific threat to national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others. Therefore, restrictions are not permitted when they:

- are not necessary or are disproportionate;
- do not deal with a specific threat as clearly prescribed, identified and defined by law; or
- will have a negative impact on the enjoyment of freedom of association and other rights and freedoms.

The Special Rapporteur on Freedom of Peaceful Assembly and Association, referring to the resolution 15/21 which established his mandate, stressed that the resolution echoes articles 21 and 22 of the ICCPR. He therefore stresses that according to these, freedom of peaceful assembly and association is the rule and limitations are the exception.³⁰

Laws or pretexts for the protection of national order or security or combating terrorism continue to be a main tool used by governments to suppress associations and their activities. The Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism opined that “it is permissible to take measures such as criminalizing preparatory acts of terror planned by groups, which in turn implies the need to take measures that interfere with the freedom of peaceful assembly and the freedom of association. States must not, however, abuse the necessity of combating terrorism by resorting to measures that are unnecessarily restrictive of human rights.”³¹ He raised concern that in counter-terror legislation, the terms “terrorism” and “terrorist acts” are often vaguely or broadly defined. He also took issue with using protection of public security, public order, and others as pretext for restrictions. He clarified that the onus is on the government to prove that a threat exists and that the measures specifically target the threat.³² In the Special Rapporteur’s opinion, “this means that the limitations must meet the test of necessity and the requirement of proportionality.”³³

²⁸ *Ibid*, at paragraph 52.

²⁹ *Ibid*, at paragraph 28.

³⁰ Statement of Special Rapporteur on the rights to freedom of peaceful assembly and of association 20th session of the Human Rights Council, 20 June 2012.

³¹ United Nations Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism, *Report to the General Assembly of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism (A/61/267)*, 16 August 2006, paragraph 11, available at: <http://www2.ohchr.org/english/issues/terrorism/rapporteur/reports.htm>.

³² *Ibid*, at paragraph 20.

³³ *Ibid*, at paragraph 21.

The UN Special Rapporteur on Human Rights Defenders also importantly notes that restrictions that breach international law not only violate the rights of individuals and organizations, but also the human rights standards that they were working to support, sometimes on behalf of many people.

6. LINK WITH OTHER RIGHTS

Freedom of association is essential for practicing other rights. For example, it is crucial for protecting the rights of certain groups like migrant workers, women, children, minorities, or indigenous peoples. The freedom of association is also closely linked to other rights that enable associations to function appropriately, like the rights to freedom of opinion and expression, which includes the right to seek, receive and impart all sorts of ideas and information. It is also linked to the freedom of assembly, including the right to organize meetings and protests, which enables associations to debate issues and transmit opinions and positions.

Freedom of association thus cannot exist without an enabling environment that ensures promotion, protection, and respect for all human rights. Legislation and government policies must be human rights friendly to enable associations to function properly and without fear. Freedom of association cannot exist without respect for freedom of expression, freedom of assembly, or right to political participation, for example. It also cannot exist without protection of personal integrity and from arbitrary arrest or detention for members and staff of associations.

A. RIGHT TO FREEDOM OF OPINION AND EXPRESSION

Freedom of association is closely linked to freedom of opinion, expression, and assembly, which are fundamental human rights with far-reaching consequences for enjoying all other rights. Respect for freedom of opinion and expression is essential to ensure that governments are held accountable, public policies are designed more effectively, and people's voices are heard. The Special Rapporteur on Freedom of Expression has raised concern that the rights to peaceful assembly and to freedom of association are often violated under counter-terrorism legislation. The Special Rapporteur stresses that these rights should be considered essential to any democratic society: "[T]he effective enjoyment of the right to freedom of opinion and expression, the right to peaceful assembly and freedom of association are central elements that mark the difference between democracy and terror." States must ensure that "freedom and pluralism, two crucial parts of their very democratic foundations, are preserved at all times.... States must see that freedom and pluralism, two crucial parts of their very democratic foundations, are preserved at all times."³⁴

Rights to freedom of opinion and expression are recognized by many international and regional human rights instruments. Article 19 of the ICCPR, which echoes Article 19 of the UDHR, provides:

1. *Everyone shall have the right to hold opinions without interference.*
2. *Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.*

³⁴ United Nations Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, *Report to the General Assembly of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression (A/HRC/7/14)*, 28 February 2008, paragraphs 52, 53 and 67.

3. *The exercise of the rights provided for in paragraph 2 of this article 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 reputations of others;*
 - (b) *For the protection of national security or of public order, or of public health or morals.*

States should not criminalize, limit, or censor the exercise of freedom of expression. Restrictions on this right should be limited to those restrictions permissible and legitimate under international human rights law. These are similar to the restrictions allowed on the freedom of association (see above). Associations and their members must be ensured the right to exercise freedom of opinion and expression.

Article 6 of the *Declaration on Human Rights Defenders* recognizes three aspects of the right to equality before the law and equal enjoyment of all rights: the right to hold opinions without interference; the right of access to information; and the right to impart information and ideas of all kinds. No restrictions are permitted on the right to hold opinions.

The Human Rights Committee clarifies that there is a difference between the right to freedom of opinion and the right to practice freedom of expression. The ICCPR does not allow for imposition of restrictions, or exceptions on the right to freedom of belief. Freedom of opinion extends to the right to change an opinion whenever and for whatever reason a person so freely chooses. No person may be subject to the impairment of any rights under the Covenant on the basis of his or her actual, perceived or supposed opinions. All forms of opinion are protected, including opinions of a political, scientific, historic, moral or religious nature.³⁵ Organizations and defenders must be able to speak out and act without fear of interference, punishment, or reprisal. Associations must be able to raise concerns about government policies; seek, receive, and impart information; and engage in debates without restrictions other than those permissible under international law. Ideas that “offend, shock, or disturb” are protected under the right of freedom of expression in international law; therefore associations that take controversial positions or criticize the government in ways that “offend, shock, or disturb” should equally be protected.³⁶

The *Declaration on Human Rights Defenders* states in its opening article:

Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.

The *Declaration* affirms that everyone has the right, individually and in association with others:

to submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms

and

³⁵ General comment No. 34: “Article 19: Freedoms of opinion and expression”, 12 September 2011, para. 20.

³⁶ See United Nations Special Rapporteur on the Situation of Human Rights Defenders, *op. cit.* at note 1, paragraph 29.

*to participate in peaceful activities against violations of human rights and fundamental freedoms... everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.*³⁷

Regarding State obligations, the Special Rapporteur on Human Rights Defenders comments:

*[T]here are both negative and positive obligations on States arising from the right to freedom of association, including the obligation to prevent violations of this right, to protect those exercising this right and to investigate violations of this right. Given the importance of the role that human rights defenders play in democratic societies, the free and full exercise of this right places a duty on States to create legal and real conditions in which defenders can freely carry out their activities.*³⁸

Also, the Special Rapporteur stresses that while associations are required to have some kind of institutional structure, they do not need to assume a legal personality to operate; de facto associations are equally protected under the Declaration.³⁹

A key component of freedom of expression is the right to receive and impart information without restrictions, other than those allowed under international law. This freedom encompasses information concerning laws, policies, and practices, including those that pertain to human rights. Therefore, security legislation should not be applied against human rights defenders and civil society organizations to prevent their human rights work. States must guarantee that associations can effectively monitor human rights situations and the application of security legislation. Therefore, States must ensure that laws and policies reflect the right to access information, including the right to receive and impart information.

Access to the Internet and web communication is an essential enabling component of this right to receive and impart information. Therefore, although access to the Internet is not yet a human right in itself, the Special Rapporteur on Freedom of Opinion and Expression reiterates that “States have a positive obligation to promote or to facilitate the enjoyment of the right to freedom of expression and the means necessary to exercise this right, which includes the Internet. Moreover, access to the Internet is not only essential to enjoy the right to freedom of expression, but also other rights, such as the right to education, the right to freedom of association and assembly, the right to full participation in social, cultural and political life and the right to social and economic development.”⁴⁰

A number of Special Rapporteurs stress that “States should refrain from imposing any undue restrictions on the ability of individuals to freely exchange ideas on the Internet to organize and

³⁷ *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, Articles 8 and 12.

³⁸ Report of the United Nations Special Rapporteur on the Situation of Human Rights Defenders, (A/66/203), 28 July 2011, paragraph 31.

³⁹ *Ibid.*

⁴⁰ United Nations Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, *Report to the General Assembly of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression* (A/66/290), 10 August 2011, paragraph 61.

mobilize peaceful protests through various platforms, including social networking websites. As stipulated in Human Rights Council resolution 12/16, it is incompatible with international human rights law to impose restrictions on discussion of Government policies and public debate; reporting on human rights, Government activities and corruption in Government; engaging in election campaigns, peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.”⁴¹ States should also ensure that information held by non-State actors – in particular private companies – affecting public interest is available to the public so that this information can be used and debated. Often such information is withheld from the public, preventing associations from challenging or effectively debating companies’ actions that cause public concern.

The Special Rapporteur on Human Rights Defenders stresses that States must abstain from introducing legislation with the same aim as defamation laws under different legal terminology, such as disinformation and dissemination of false information. Criticism of the nation, its symbols, the government, its members, and their action should never be seen as an offence. The Special Rapporteur on Human Rights Defenders, echoing the position of the Special Rapporteur on Freedom of Opinion and Expression, believes that defamation and similar offences should be addressed under civil law, and compensation to victims should not be large enough to force fined associations to discontinue activities. Prison sentences should be excluded for offences regarding the reputation of others, such as libel and defamation.

Laws are used or often amended to allow accusations like defaming the head of State or other State officials or institutions, such as the army, the parliament or the judiciary. Other similar provisions prohibit “spreading false rumors,” “tarnishing the image of the state,” and other vague acts. Defamation and similar charges are increasingly used. These provisions have allowed the State to take tremendous measures against civil society activists like arbitrary detention, often without fair trials, and torture or ill-treatment. Abuse is not limited to activists; often their families are harassed. These provisions are also designed to have a chilling effect on many other individuals or organizations, who become wary of engaging with civil society organizations for fear of penalization. This stifles real debate with government authorities and in the society on human rights concerns. Preventing debate on genuine human rights issues can only enable human rights violations.

Civil and criminal defamation and libel proceedings are often used against members of CSOs who speak out against human rights violations or government policies. The fines and prison sentences can cripple organizations, while the threat of civil and criminal proceedings can lead to self-censorship and diminished human rights monitoring.⁴²

⁴¹ Statement by the Special Rapporteur on human rights defenders of the African Commission on Human and People’s Rights, and the Special Rapporteurs of the United Nations present at the seminar “Human Rights Defenders and Peaceful Protests” held in Oslo on 6-8 June 2012.

⁴² See United Nations Special Rapporteur on the Situation of Human Rights Defenders, *Report of the Special Report on the Situation of Human Rights Defenders* (A/HRC/13/22), 30 December 2009, paragraph 33.

B. FREEDOM OF PEACEFUL ASSEMBLY

Often, civil society organizations conduct their activities through meetings, gatherings, protests, and other forms of assembly. Repressing this important element of the work of associations directly impacts the role of civil society organizations. Therefore, freedom of association is closely connected to freedom of assembly, as reflected in Article 20 of the ICCPR, for example.

The right of peaceful assembly and the right to freedom of association are protected by Articles 21 and 22 of the ICCPR. It is noteworthy that both the UDHR and some regional instruments, like the *European Convention on Human Rights* and the *Arab Charter on Human Rights*, include the rights to freedom of assembly and association in the same sentence: “Everyone has the right to freedom of peaceful assembly and association.” (Article 20 of the UDHR)

These two rights are important because they are a platform for exercising other rights, including the right to freedom of expression, cultural rights, and the right to political participation. They are also crucial to the work of human rights defenders. They are the basis for creating CSOs and political parties and for publicly and peacefully disagreeing with State policies and actions. They are thus a foundation of democratic society. The ability to hold meetings, gatherings, and other forms of assembly is essential to the work of civil society associations in order to develop their programs, carry out activities, and raise and debate issues of public concern.

The UN General Assembly Resolution that created the mandate of the Special Rapporteur on Right to Freedom of Peaceful Assembly and Association affirms the right of everyone to freedoms of peaceful assembly and association, and the importance of these rights for the full enjoyment of civil and political rights, and economic, social, and cultural rights.

Restricting the exercise of these rights would in most cases impair the essence of the right and therefore would be a violation. For example, general bans on public demonstrations, including in specific areas, may violate freedom of peaceful assembly. These broad measures are often used to prohibit peaceful calls for democracy or human rights and thus prevent the political opposition from expressing itself.

The Special Rapporteur on Human Rights Defenders explains that the “*Declaration [on Human Rights Defenders]* protects numerous forms of assembly, from meetings inside private residences to conferences in public places, demonstrations, vigils, marches, picket lines, and other kinds of assemblies, with the aim of promoting and protecting human rights...”⁴³ Also, this right can be exercised individually and in association with others. Accordingly, it is not necessary for a non-governmental organization to have legal personality to participate in assemblies, including a demonstration.⁴⁴

Assemblies may be legal or illegal, peaceful or violent, planned or spontaneous. In that context, the use of force, often lethal force, by law enforcement officials is one of the main threats to rights to life, freedom of assembly, association, and many other rights. While only “peaceful assembly” is recognized by Article 21 of the ICCPR, however, “the individual does not lose the protection of the

⁴³ Commentary to 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, July 2011.

⁴⁴ *Ibid.*

right when sporadic or isolated violence occurs in the crowd.”⁴⁵ As clarified by the Special Rapporteur on Extrajudicial Executions, spontaneous demonstrations sometimes occur where there is no opportunity to give prior notice or apply for a permit. If that is the case, the assembly should be regarded as legal and therefore be protected.⁴⁶

The UN *Basic Principles on Use of Force and Firearms by Law Enforcement Officials* clarifies that law enforcement officials must avoid the use of force in dispersing assemblies that are unlawful but non-violent. If that is not practicable, they must restrict the use of force to the minimum extent necessary. In dispersing violent assemblies, law enforcement officials may use firearms only when less dangerous means are not practicable and only to the minimum extent necessary. In any case, firearms must not be used “except in self-defense or defense of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.” (provision 9) The Special Rapporteur on Extrajudicial Executions helpfully clarifies, “In principle shooting indiscriminately into a crowd is not allowed and may only be targeted at the person or persons constituting the threat of death or serious injury.... The use of firearms cannot be justified merely because a particular gathering is illegal and has to be dispersed, or to protect property.”⁴⁷

C. RIGHT TO EFFECTIVE REMEDY

Civil society associations play a very important role in promoting the right to effective remedy for violations of human rights. They defend victims, review legislation, bring cases to courts, and demand sufficient reparation for violations.

Civil society associations play a significant part in transitional justice, as evidenced in the work started by human rights and other organizations in the Middle East and North Africa. This work, which demands documentation of violations, strategic promotion, and engagement with transitional justice mechanisms, is a major contributor in transitioning to democracy and achieving effective remedy. Disappearance, torture, arbitrary detention, and repression of freedom of association and assembly are a few examples of issues adopted by human rights and other organizations.

States have several obligations regarding the right to effective remedy. States should not interfere with the work of associations that defend human rights. States should also ensure prompt and independent investigations of all violations against associations and prosecute alleged perpetrators. States must seriously consider violations of right to freedom of association and impose adequate penalties proportionate to the gravity of the offence. States should also ensure that victims have access to justice and effective remedies, including appropriate compensation. Finally, States must ensure that public officials and law enforcement officers who are responsible for preventing, investigating, and prosecuting violations receive adequate training on the Declaration on Human Rights Defenders and other international standards related to freedom of association.

⁴⁵ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, 23 May 2011, para 42.

⁴⁶ *Ibid*, at paragraph 40.

⁴⁷ *Ibid* at paragraph 44.

7. THE ACCEPTANCE BY ARAB STATES OF INTERNATIONAL STANDARDS

Arab States have widely ratified international human rights treaties, although often with reservations. However, Arab States have not made reservations to provisions that relate specifically to freedom of associations.

Country	<i>International Covenant on Civil and Political Rights</i>	<i>International Covenant on Economic, Social, and Cultural Rights</i>	<i>Arab Charter on Human Rights</i>
Algeria	Yes	Yes	Yes
Bahrain	Yes	Yes	Yes
Comoros	No	Signed but not ratified	No
Djibouti	Yes	Yes	No
Egypt	Yes	Yes	No
Iraq	Yes	Yes	
Jordan	Yes	Yes	Yes
Kuwait	Yes	Yes	No
Lebanon	Yes	Yes	Yes
Libya	Yes	Yes	Yes
Mauritania	Yes	Yes	No
Morocco	Yes	Yes	No
Oman	No	No	No
Palestine⁴⁸	No	No	Yes
Qatar	No	No	Yes
Saudi Arabia	No	No	Yes
Somalia	Yes	Yes	No
Sudan	Yes	Yes	No
Syria	Yes	Yes	Yes
Tunisia	Yes	Yes	No
United Arab Emirates	No	No	Yes
Yemen	Yes	Yes	Yes

According to various human rights treaties, when States ratify a treaty, they must submit reports regularly to a committee of experts, typically called a treaty body, which oversees the treaty. When treaty bodies examine the reports, they highlight concerns and give recommendations. Many Arab States have not reported regularly to these treaty bodies. Therefore, these treaty bodies could not make many recommendations to Arab States related to freedom of association, among other rights. As the sections below show, the reports and conclusions of treaty bodies are very useful to advocacy efforts for improving the legal framework of rights and the respect of rights in practice.

⁴⁸ Palestine gained the status of State Observer at the UN in 30 November 2012 before that, the general view is that Palestine was not eligible to ratify international treaties of the UN.

CHAPTER 2: THE SITUATION IN ARAB COUNTRIES

1. THE CURRENT LEGAL FRAMEWORK⁴⁹

Many violations to freedom of association are rooted in association legislation. Restriction on the work of associations is also grounded in other legislation, such as assembly laws, press laws, and defamation provisions in penal or other codes. Often restrictions on freedom of association constitute human rights violations like arbitrary arrest and detention of activists. Some of these practices are based on provisions in national legislation which conflict with international law and standards. On other occasions these practices occur despite legal prohibitions, with no judicial oversight and no possibility of access to effective remedy.

The following is a summary of the legal framework of selected Arab countries. It focuses on the text of the laws rather than implementation practices, which are discussed below. This section shows that in some instances, the law is generally favorable; therefore the problem is often in practice, as detailed below. In other instances, the law itself needs major reform.

The country summaries below highlight only some important aspects of the legal framework for association laws. They, therefore, do not include other important legal provisions, such as the constitutions or other laws governing assembly or expression.

The information focuses mainly on the following aspects of the life of association:

- 1) Establishment of an association;
- 2) Access to funding;
- 3) Affiliation with other organizations; and
- 4) Dissolution and other punishments against organizations or individuals.

The focus on these elements does not mean that other aspects of the legal framework are not as important or concerning.

A. SELECTED COUNTRY EXAMPLES

ALGERIA

A new *Law on Associations* (Law 12-06 of 2012) was enacted in January 2012. Unfortunately, the law does not significantly improve upon the previous Law 90-31 of 1990. It remains highly restrictive, and contains vague language that provides the government broad discretion to register, monitor, and sanction civil society organizations. Registration is mandatory for all associations, and the law provides the government vast discretion to reject an application. The association law also requires prior approval of foreign funding and donations. Prior approval is also required before a CSO can join an international association or federation. Further, the government can charge associations with having an “illegal character” and can easily dissolve associations it disfavors. The *Law on Public Meetings and Gatherings* (Law 90-91 of 1991) requires organizers of gatherings,

⁴⁹ This section is largely based on several ICNL legal analyses (see <http://www.icnl.org/>) as well as Euro-Mediterranean Human Rights Network, *Freedom of Association in the Euro-Mediterranean Region: A Threatened Civil Society* (2010).

marches, and processions in outdoor public spaces to apply for prior authorization from the Ministry of Interior eight days before an event.

A state of emergency, which was imposed for almost twenty years and finally lifted in February 2011, allowed the government to further restrict freedom of speech, association, and assembly. The associations law and the state of emergency combined have resulted in wide restrictions to the establishment and operation of organizations. Even more alarming is that the *Law on Associations* provide up to six months imprisonment and a fine to any “member or officer of an association which is not registered or licensed or which continues its activities despite an order of suspension or dissolution” (Article 46).

The Special Rapporteur on Freedom of Association and Peaceful Assembly expressed his concerns over these provisions in his report to the Human Rights Council in 2013.⁵⁰

EGYPT

Civil society in Egypt is governed by the *Law on Associations and Foundations* (Law 84 of 2002) and Executive Decree 178 of 2002 on Law 84 of 2002 issued by the Ministry of Social Affairs (now the Ministry of Solidarity and Social Justice), which implements and clarifies the law. The legislation gives wide discretionary powers to the Ministry of Solidarity and Social Justice. According to the law, registration is mandatory; informal or unregistered associations are prohibited. Grounds for denial of registration are vague. They include “threatening national unity, violating public order or morals, or calling for discrimination between citizens because of race, origin, color, language, religion, or creed” (Article 11). The law also prohibits CSO engagement in “political activities,” which has been used to limit CSO advocacy activity (Article 11(3)). Prior approval is required for affiliation with an organization whose headquarters is outside Egypt. Further, advanced approval is required to receive foreign funds or funds from Egyptian individuals residing abroad. Harsh sanctions – including imprisonment – can be imposed for violating this law. Operating as an unregistered association, conducting activities that threaten the “national unity,” and receiving foreign funds without prior governmental approval are all examples of violations that could lead to sanctions, including imprisonment.

After the revolution in Egypt in January 2011, and the completion of the Presidential and Parliamentary elections, in which the Muslim Brotherhood won the majority of seats, it was announced that work will be under way to prepare a law that regulates the work of civil society organisations. Several drafts were proposed, including by the Ministry of Justice and by the office of the President. Civil society organisations commented on various drafts, and many of them, especially those working in human rights, raised deep concerns over “attempts to suppress civil society institutions, especially human rights organizations”, through placing restrictions on freedom of association “through legal restrictions even more severe than those imposed by the Mubarak regime in Law 84/2002”. Among areas of concern is the attempt to “subject civic entities to strict executive oversight under what is termed the “Coordinating Committee,” which is given broad powers to adjudicate in all matters related to foreign funding for national organizations and the licensing and operation of foreign NGOs in Egypt. The Coordinating Committee would also have the power to determine whether national organizations are allowed to join foreign networks or affiliate themselves to international organizations, including the United Nations.” Although the new

⁵⁰ Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association , (A/HRC/23/39/Add.2) 30 May 2013, paras 9 and 10.

Constitution of Egypt provides that civil society organisations can be created by “notification” only, human rights organisations believe that drafters are controlling the right of organisations to raise their own financial resources in that the law requires that organisations will need to obtain express permission from the Coordinating Committee.⁵¹

The Special Rapporteur on Freedom of Peaceful Assembly and Association has expressed his concern over restrictions on the work of civil society organisations in the various drafts. While participating in an event organised in the UN on the margin of the Human Rights Council by the Cairo Institute for Human Rights Studies, the Special Rapporteur expressed his concern over the draft of the law stressing that “the law would not merely hinder funding for NGOs; it threatens the human rights movement in Egypt as a whole.” He further stated that it appears that “the Egyptian government does not want to be held accountable.”⁵²

The Special Rapporteur on Freedom of Peaceful Association and Assembly and the High Commissioner for Human Rights have previously expressed their concerns over the drafts of the law and their consequences on weakening the civil society in Egypt.⁵³

IRAQ

The current law in Iraq is the *Law on Non-Governmental Organizations* (Law 12 of 2010) and, in northern Iraq, the *Law on Non-Governmental Organizations Operating in the Kurdistan Region of Iraq* (KRG Law 1 of 2011). The federal and Kurdish laws are considered among the best in the region in many respects. The Kurdish law especially contains many positive aspects that can be considered a potential model for future CSO laws in the region.

The federal law has eliminated several restrictions in past laws and orders and has removed much government discretion to take measures against CSOs. Suspension of a CSO and confiscation of its property now must be based on a court order; the executive authority cannot unilaterally take such measures. Additionally, denial of registration must be tied to a specific provision of law. Audit or inspection of a CSO's office is only permissible with cause, not at any time and for any reason as was previously the case. The law does not contain criminal penalties for membership in an unduly registered CSO. CSOs are also no longer prohibited from receiving foreign funding or from “affiliating” with any foreign entity or organization.

One problematic issue in implementation of the federal law is the issuance of an Implementing Regulation issued by the federal Council of Ministers in 2012. The Implementing Regulation imposes a number of restrictions on CSOs that are not present in the law itself, most notably a requirement of mandatory registration.

⁵¹ For further information and analyses, see the Cairo Institute for Human Rights Studies for a joint position expressed by 40 human rights organisations: “The Muslim Brotherhood lays the foundations for a new police state by exceeding the Mubarak regime’s mechanisms to suppress civil society”, 30 May 2013.

⁵² Cairo Institute for Human Rights Studies: “In a side event at the United Nations: President’s draft law violates Egyptian Constitution and international standards”, 3 June 2013.

⁵³ Cairo Institute for Human Rights Studies: “In a statement this morning: The UN High Commissioner expresses concern regarding state of human rights in Egypt; asserts that new draft law on associations endangers Egyptian civil society, violates Egypt’s international commitments”, 8 May 2013.

TUNISIA⁵⁴

The Tunisian *Law on Associations* (Law 154 of 1959, as amended), which applied during the reign of Ben Ali, includes many negative provisions that allowed for wide restrictions. It allowed only certain categories of organizations: women's groups; sports groups; scientific groups; cultural and arts groups; charity, emergency, and social groups; development groups; amicable groups; and associations of public interest. The *Law on Associations* permitted the Minister of the Interior to issue a decree disapproving the formation of an association on a number of grounds, including if its goals are said to be contrary to laws and morals or would lead to disruption of public order. Any person responsible for operating an unlicensed association, taking part in an unlicensed association, or participating in the operation of an unlicensed association faces both fines and imprisonment.

Decree 88 of 2011 contains many positive aspects which are consistent with the interpretation of international standards by human rights expert bodies. However, the decree raises a few concerns as well. Among the positive aspects is that an association is established by notification. The receipt attesting to the notification is required to consider the association legal. The decree also requires the publication of the establishment of an association in the official gazette, which will provide the association legal personality. However, there is no time limit when this issuing in the official Gazette must happen. It is plausible that the decree applies to the establishment of both Tunisian and foreign associations, and does not make a distinction between the two except in some procedural matters. Formation of foreign associations can be rejected administratively, but can be appealed through the administrative courts. The legislation requires that associations should respect rule of law, democracy, equality and human rights as reflected in treaties ratified by Tunisia. Some of the rights of associations, according to the decree, are the right to receive and impart information, the right to evaluate the conduct of public administration and provide recommendations, the right to assembly in its various forms, and the rights to publish reports and different types of material. Public authorities are not allowed to impede the work of associations in any way. The legislation requires that the dissolution of an association or freezing its assets can be done only in accordance with a court decision, which is allowed only on the basis of persistent violations of the legislation, despite repeated warnings. The decree, however, seems to allow for punishing an association on the basis of a very wide range of grounds. The law does not impose general restrictions or require permissions for soliciting funding, whether national or foreign. However, the decree prohibits associations from receiving funding from countries with which Tunisia has no diplomatic relations, or organizations that support the policies of these countries. This is a very vague notion which can be subject to wide interpretations. In June 2010, the Tunisian government amended the criminal code to impose criminal penalties on "persons who establish, directly or indirectly, contact with officials of a foreign State, institution or foreign organization with the aim of inciting them to harm Tunisia's vital interests and its economic security." This was never brought into effect before the Tunisian revolution nor was anyone tried under it.

JORDAN

In 2008, a new *Law on Societies* (Law 51 of 2008) was enacted. It was met with much criticism because it severely restricted civic space. Partly as a response to concerns by national and

⁵⁴ See: ICNL, "Arab Spring: An Opportunity For Greater Freedom of Association and Assembly in Tunisia and Egypt?" in *Global Trends in NGO Law* (Vol. 3, Iss. 1, June 2011) and Euro-Mediterranean Human Rights Network, *Freedom of Association in the Euro-Mediterranean Region: A Threatened Civil Society* (2010).

international civil society organizations, the law was amended the following year with the *Law Amending the Law on Societies* (Law 22 of 2009). While this amendment brought several welcomed changes, it failed to remove some previous restrictions. For example, the 2009 amendments maintain the registration system for organizations, but do not specify the grounds upon which registration can be denied, making judicial review of such decisions very difficult. However, the registration process was simplified with the creation of a one-stop location for registration, while previously registration applications were passed between multiple ministries in a lengthy process that allowed independent approval or rejection of applications by different authorities. Significantly, the 2009 amendments removed the foreign funding provisions of the 2008 law, which required Jordanian societies to get approval from the full Council of Ministers (cabinet) before accepting foreign funding.

Unfortunately, the law still allows the executive authorities to send a representative to the association's General Assembly meetings. While transparency in the work of associations is paramount, this may have a chilling effect on the members and the topic and level of debate during the meetings, for fear of government reaction. Further, an association must submit in advance to the authorities its annual plan of activities. Finally, associations can receive foreign funding only following prior approval by the authorities.

The Special Rapporteur on Peaceful Assembly and Association expressed his deep concerns over problems in the law, which he considered to be contradictory to international law, and called on the government to re-consider it.⁵⁵

B. MAJOR IMPEDIMENTS

The following is a summary of some common impediments in Arab association laws, focusing on regulations that relate to 1) regimes governing the establishment of an organization; 2) executive powers over associations; and 3) funding.

THE ESTABLISHMENT REGIMES⁵⁶

The two systems used in the region for establishing organizations are those of “notification” and “registration.” In the notification system, the government typically must agree to receive the notification, provide a receipt attesting to the notification, and then issue a registration document. Laws normally specify a certain period during which such a receipt must be issued. This varies widely among the concerned Arab countries. Countries that follow the notification model include Lebanon, Morocco, and Tunisia. In many cases, as shown below, the relevant authorities never issue a notification receipt, rendering the organization in question vulnerable. In the case of Lebanon the legislation provides that the organization is assumed to be registered when notification is given.⁵⁷ In the other countries, while the law does not state so, in practice the authorities consider an association not legally established unless a notification receipt is issued, even if it is not issued within the specified time limit. While the Lebanon case may seem to be positive for establishing an organization, there are many other problems in the law and practice. Not all forms of civil society

⁵⁵ Note 50 *supra*, at para 213.

⁵⁶ For details on establishment regimes in the Middle East and North Africa, please refer to report of the EMHRN mentioned above note 54, especially the introduction.

⁵⁷ Abdullah Khalil, “The Right to Freedom of Association and Peaceful Assembly in the Arab World,” in *Mawared* (Amnesty International Human Rights Education Magazine), Issue 17 (2011).

organizations are covered under the same law. Trade unions and youth organizations are not covered under the same law as CSOs and political parties. Trade unions are covered under the labor law, which includes restrictive provisions in relation to freedom of association. Youth organizations are covered under a special restrictive law of the Ministry of Youth and Sports. Further, a CSO is not allowed to work before the notification decree is published in the *National Gazette*, which often never happens.

In a registration model, applications have to be submitted to and approved by a certain body, often a ministry or a governmental committee. In this model, often the registration forms have to fulfill many criteria including the number and background of founders, types of activities, and structure of the organization. In many cases, the registration decisions are not subject to judicial review. Often, no specific reasons are required for rejecting registration applications, and no reasons are given as laws in many Arab countries include vague language and provide sweeping powers to the relevant ministries, allowing government employees broad discretion when reviewing registration applications. While no specific reasons are normally given, it is common in many countries that applications are rejected based on many broad grounds including contravening public order, public morals, public security, offending Islam, national unity, and others. This lack of specificity makes it almost impossible to challenge these decisions.

The limited possibility of legally establishing organizations and obtaining legal personality has driven many organizations in Arab countries to operate without formal registration. This, however, puts the organizations and their members at considerable risk. In Algeria, Jordan, Egypt, and Lebanon, the law clearly prohibits and punishes “secret,” “undeclared,” or “illegal” associations. It also provides the government the right to dissolve the associations in those situations.

Interestingly, in many countries, applications for establishing an organization must be made to the Ministry of Interior, which also maintains the oversight powers over the work of the associations. There is a recent trend to shift that power to ministries of social welfare, development, or labor.

WIDE EXECUTIVE POWERS⁵⁸

Organizations that have successfully obtained registration or are otherwise functioning still may be subject to significant government supervision. The government may require associations to inform them of general assembly meetings and disclose the agenda for the meetings. They can also send government representatives to the meetings, deterring discussion of opinions and issues inconsistent with a government position. The government may also retain authority over the selection of board members and the approval of founders.⁵⁹

Many laws also impose detailed regulations on the internal governance of associations, a matter that normally should be left to associations. For example, associations in Egypt are required to inform the Ministry of Solidarity and Social Justice and the General Federation of Associations and Foundations of any upcoming general assembly meetings.⁶⁰ The General Federation can send a

⁵⁸ For detailed information on this in many Arab countries, please see the EMHRN Report on freedom of association in note 54 supra.

⁵⁹ *Ibid.*

⁶⁰ ICNL, “Survey of Arab NGO Laws,” in *Global Trends in NGO Law* (Vol. 1, Iss. 4, March 2010) (“The General Federation of Associations and Foundations is a quasi-governmental organization tasked with setting a vision for the role of NGOs, carrying out studies, and organizing the technical, administrative, and training programs for NGOs’ employees. Nineteen of the thirty members are elected by associations and foundations that are members,

representative to the meeting. The minutes of the general assembly must also be sent to the Ministry. CSOs in Jordan must inform the Controller of the Registry of Societies and the “Relevant Minister” assigned at the time of their registration of any general assembly meeting at least fifteen days before the meeting. Both the Controller and the Minister may send a representative to the general assembly meeting. Failure to provide information about the meeting may be used against the association, even rendering the association illegal.

In some cases, the executive authorities can assign members to the board. In other cases, members of the board must be approved in advance, and the authorities can exclude some members. In Syria, the Ministry of Labor and Social Development is authorized to appoint members to the Board of Directors of any association.

The executive authorities are allowed to search internal documents of an association without prior notification in Egypt, Jordan, the United Arab Emirates, Lebanon, Qatar, Yemen, Palestine, Bahrain, and Saudi Arabia. In other countries, omissions in the law allow these searches to happen in practice, even if not technically backed by legal authority.⁶¹

Some laws, like in Egypt and Yemen, have given the executive the power to specify the areas in which organizations can engage, therefore allowing the executive authority to deny registration or dissolve an organization if it deems that the purposes of an organization are contrary to those specified in the law. In these two countries, human rights work is not included in the list of approved purposes.⁶²

Another worrisome practice – found in the laws of Egypt, Yemen, Syria, the United Arab Emirates, Bahrain, and Kuwait – is the imposition of a model constitution for associations to adopt and follow.⁶³ Such a model, combined with lengthy and cumbersome requirements for registration, makes establishing associations extremely difficult.

The creation of networks and coalitions among organizations is subject to similar regulations that govern associations, including the requirement for approval. This is the case in Egypt, Jordan, Morocco, Yemen, Kuwait, Bahrain, and Libya.⁶⁴

RESTRICTIONS ON FUNDING

Many countries severely restrict the ability of associations to raise funds. Except for Lebanon, Tunisia, Palestine, Iraq, and Yemen, the laws in all the countries discussed require foreign donations to be pre-approved. The general approach in some new laws, as is the case with the new draft Associations’ law in Egypt, is to place further restrictions.

Such restrictions are not only imposed through the associations laws, but through other laws as well. For example, in the last ten years many countries in the region have introduced or modified existing anti-terror laws, which have imposed numerous restrictions, including on freedom of association, assembly, and expression, and on interaction with other organizations including the

and eleven, including the powerful office of President of the Federation, are appointed directly by Egyptian President”).

⁶¹ See Abdullah Khalil, *op. cit.* at note 36.

⁶² *Ibid.* and information of ICNL above.

⁶³ *Ibid.*

⁶⁴ *Ibid.*

receipt of foreign funding. The restrictions are based on broad language, such as in defining acts of terrorism. This vagueness fails to meet the requirement of legality under international law.

Restrictions on registration also impact the ability of associations to receive funding. Banks often refuse to open bank accounts for associations that lack registration documents. This in turn limits their ability to receive foreign funding, as many sources provide funding only to registered associations with bank accounts.

Given the socioeconomic and political situation in the region, support by local donors to organizations is very limited. Local donations are mainly directed to certain types of service-providing charities working with the poor. They do not benefit development initiatives or human rights work, leaving these civil society organizations dependent on foreign funding. Legal restrictions on obtaining and using foreign funds therefore render civil society organizations financially vulnerable.

C. AMENDING THE LEGAL FRAMEWORK

In the recent years, several Arab countries have witnessed a surge of new legislation related to freedom of association and assembly. In some cases like Tunisia, Iraq, Morocco, and Iraqi Kurdistan, as discussed above, the law was changed to introduce significant improvements from the previous legislation. However, in other cases, new laws have failed to stop restrictions in practice or have even strengthened restrictions on associations.

Despite the jubilation in what was referred to as the “Arab Spring” and the hope for new laws and practices that comport with international law, the reality in some countries is the contrary. In Egypt, a new wave of attacks on organizations, particularly human rights organizations, is intensifying (see below, under Funding). The Egyptian civil society has been attacked and marginalized by the SCAF and the government in the post-Mubarak reform processes. While the laws pertaining to political parties and trade unions have been liberalized, plans to amend the notorious Associations Law were very negative. The extension of the emergency law, which lasted for approximately 31 years on an almost continuous basis, and which was finally lifted in June 2012, and its expansion in jurisdiction to set more restrictions on freedom of expression and the right to peaceful assembly, place civil society organizations in a very vulnerable situation.⁶⁵ The civil society organizations have actively responded to this development and have been engaged in many activities in a concerted campaign, aspects of which are highlighted below.

Attacks on civil society organisations have intensified after the revolutions in some countries. In Egypt, the Prime Minister decided in July 2011 to establish a commission of inquiry into what was called “foreign funding which has entered into Egypt after the 25 January revolution”. This was followed by the raiding of 17 offices belonging to 10 Egyptian and international organisations on December 29, 2011 by the public prosecution, police and the army in uniform and in civilian clothes. The public prosecutors interrogated staff members, while police forces searched papers, laptops, and computers. Interrogations and searches continued during January 2012. In February 2012, forty-three Egyptian and foreign civil society activists were interrogated and then referred to criminal court in relation to foreign funding to their organizations.

⁶⁵ Euro-Mediterranean Human Rights Network, “The Egyptian authorities should bring an end to attacks against civil society organizations,” 18 October 2011, available at: <http://www.euromedrights.org/en/news-en/emhrn-releases/emhrn-statements-2011/10474.html>.

On 4 June 2013, a decision was issued on the case by the Cairo criminal court convicting all those involved in the case, which became known by the media as the “foreign funding case”. Defendants, of a number of nationalities including Egypt, Palestine, Jordan, USA, Germany, Serbia and Norway, were given sentences from one to five years, and a fine of 1000 Egyptian Pounds each.⁶⁶

2. THE PRACTICE

Civil society organizations in several Arab countries have been subject to violations that are not necessarily based on restrictive laws but are based on the wide powers handed to the executive authorities. Often, such restrictions were imposed on critics of State policies, most often targeting human rights organizations and activists and the trade union movement. The examples below are only illustrative of these restrictions in practice.

It is not possible here to list all cases and details related to the issues under discussion. Only a few examples are chosen for illustration.

A. DENIAL OF REGISTRATION

Regulations in Egypt prohibit associations from engaging in “political activities.” Prohibited political activities include “advocating the program of one of the political parties, contributing to electoral campaigns, and putting forth candidates for office.” (Executive Decree 178 of 2002 on Law 84 of 2002, Article 25). In practice, however, no distinction seems to be made between a political campaign for office and public policy activities. For example, the Egyptian Association Against Torture was refused registration in December 2005 on the pretext that the group’s mission to pressure the government to eliminate torture in police stations and prisons was “political activity”; consequently, the association was prohibited from launching its activities.

In Algeria, organizations working on enforced disappearances never received a response to their application. SOS Disparus has applied several times to the *wilaya* (governorate) and the Ministry of Interior, but these bodies have never even agreed to receive the applications, let alone grant the receipt that gives the organization legal personality.

In Morocco, while the law states that organizations need only to inform local authorities to operate legally, local representatives of the Ministry of Interior often refuse to accept registration papers when the government does not approve a group’s objectives or membership, as documented by several CSOs.⁶⁷ This practice is primarily used against organizations working on the rights of the Amazigh and the Sahrawi ethnic minorities. For example, the authorities in Al Ayoun refuse to accept submitted documents by the Sahrawi Association of Victims of Grave Violations Committed by the Moroccan State, even though in 2006 the administrative tribunal of Agadir ruled that the executive authorities’ administrative decision denying registration was illegal because it did not respect the relevant legal provisions. The Moroccan authorities also continue to refuse to register the Collective of Sahrawi Human Rights Defenders. In 2009 and 2010, the Moroccan authorities

⁶⁶ For further information about the case, see Cairo Institute for Human Rights Studies: “20 Egyptian organizations in solidarity with the NGO workers sentenced to prison: Politically motivated case a fatal blow to freedom of expression and association”.

⁶⁷ Euro-Mediterranean Human Rights Network, Freedom of Association in the Euro-Mediterranean Region: A Threatened Civil Society (2010), p. 58.

harassed and put various restrictions on its president Aminatou Haidar. Amazigh associations working on Amazigh rights, such as IZURAN in Lakhssas and IMAl in the Tiznit region have not received acknowledgement of their formation by the authorities. Some branch offices of the established Amazigh Network for Citizenship have not even been recognized, including in Casablanca, Marrakech, and Tanalt.⁶⁸

In Tunisia, before the fall of the Ben Ali regime, not a single independent human rights association was granted registration for almost twenty years. Today, the new reality of Tunisia is very different. Many civil society organizations are now involved with many aspects of life and conducting diverse activities. Some are active in practice, while others are still struggling to find an identity and credible and sustainable methods of work. As the civil society movement in Tunisia is relatively nascent, much support is required.

In Yemen, all unions must belong to the General Federation of Worker's Trade Unions of Yemen (GFWTUY), the country's only umbrella union organization. Many private sector employers do not allow their workers to organize. Iraq also recognizes only one trade union federation, the General Federation of Iraqi Workers (GFIW). The labour law that still applies in Iraq is 1987 labour code and trade union law. Several drafts for a new code have been made since 2007, none of which were adopted as of 2013.⁶⁹

At the heart of the latest crisis in Syria lies the historic denial of registration to numerous civil society organizations; violation of other fundamental rights like freedom of expression, right to political participation, and freedom of assembly; and repression by brutal force including torture, disappearances, and arbitrary detention. The Human Rights Association of Syria, the Syrian Organization for Human Rights (Sawasiyah), and Committees for the Revival of Civil Society (which works on Kurdish rights), to name just three prominent human rights organizations, have been denied official registration. Moreover, critics of the State, human rights activists (including members of these organizations), bloggers, journalists, and other activists continue to be under attack. The Independent International Commission of Inquiry on Syria noted the obvious deterioration in the human rights situation in general. In addition to violation of "right to life and the right to liberty and personal security, other fundamental human rights continue to be violated. Increased violence has further restricted the freedoms of expression, association and peaceful assembly, which had initially sparked the March 2011 uprising."⁷⁰ These concerns will surely continue as long as fighting continues.

B. RESTRICTIONS ON THE PRETEXT OF SECURITY

In Morocco, most types of public assemblies require authorization from the Interior Ministry, which can refuse permission if it deems them liable to "disturb the public order." This discretion is exercised more often when the demonstrators' agenda is critical of government policies. Sometimes gatherings are broken up with unnecessary or disproportionate force. For example, in 2011, the

⁶⁸ For further information about the situation of human rights defenders working on Western Sahara, see Cairo Institute for Human Rights Studies: "Delivering Democracy: Repercussions of the 'Arab Spring' on Human Rights", Annual Report 2013.

⁶⁹ International Trade Union Confederation, *Annual Survey of Violations of Trade Union Rights: Middle East Region* (2011).

⁷⁰ Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, A/HRC/21/50, 16 August 2012, para. 37.

government held three non-violent activists seeking independence for the Western Sahara in pretrial detention for eighteen months on charges of "harming internal security," apparently with little evidence against them.⁷¹

In Iraq, police officers stormed offices of the Electricity Workers' Union across the country on July 21, 2010, carrying out an order from the Ministry of Electricity to shut the union offices down. The Ministerial order, issued the day before, reportedly "prohibits all trade union activities at the Ministry and its departments and sites." It ordered the police "to close all trade union offices and bases and to take control of the union's assets, properties and documents, furniture and computers." It also instructed the Ministry to take legal action against trade union officials under the 2005 Terrorism Act.⁷²

C. RESTRICTIONS ON MINORITY COMMUNITIES

Most, if not all, association laws in the Arab countries require that persons forming an organization be citizens of the State. Therefore, non-citizens are unable to establish organizations and register them directly. Members of minorities in Arab countries are in some cases citizens, but in others are non-citizens, mostly migrant workers. As migrant workers, they are often denied the right to associate and organize, especially to form and join trade unions.

Several human rights mechanisms repeatedly raised concern about restrictions imposed on freedom of association in minority communities. Without the right to establish associations and freely operate associations in minority communities or among those defending minority communities, the rights of minorities are vulnerable. Associations are essential catalysts for addressing discrimination against minorities.

For example, in Morocco, as discussed above, members of Amazigh associations suffered violations of the right to freedoms of expression, assembly and association. Additionally, Sahrawi human rights defenders fear persecution, harassment, and intimidation due to their collection and dissemination of information and views on human rights issues related to Western Sahara. For example, police used "excessive force and violence to suppress the demonstrations that erupted in the areas of Laayoune, Dakhla and Smara in Western Sahara on Thursday, November 1, 2012, which call for independence, in addition to having kidnapped a young participant as well as threatening the activist 'Aminatou Haidar' and her friend 'Sakina Gad Ohlo.'"⁷³

In Syria, as detailed above, many activists promoting the rights of the Kurdish minority are routinely harassed. Many organizations working on Kurdish rights, such as the Committees for the Revival of Civil Society, are denied registration or the right to carry out their activities. Further, according to the UN High Commissioner for Refugees, part of the Kurdish population living in the northeast of the country is considered stateless. Lack of citizenship is a major impediment to their

⁷¹ Maria McFarland, "Morocco May not be Changing Much," *GlobalPost* (2011).

⁷² International Trade Union Confederation, "Iraq," in *Annual Survey of Violations of Trade Union Rights: Middle East Region* (2011).

⁷³ See Arab Network for Human Rights Information: "Morocco: Moroccan police suppressed the demonstrations "Laayoune", and assaults two female Sahari activists", 6 November 2012. Sahrawis advocating self-determination remain subject to restrictions on their freedoms of expression, association and assembly in the name of security. Recent examples can be found on <http://allafrica.com/northafrica/> and <http://www.frontlinedefenders.org/node/1203>

right to establish associations because the law requires founders to be citizens. However, a Presidential Decree 49 of 2011 now allows the Kurdish population registered as foreigners in the Governorate of Hassake to acquire Syrian citizenship.

D. RESTRICTIONS RELATED TO FREEDOM OF EXPRESSION

Defamation laws have increasingly been used against activists in civil society organizations in Arab countries, resulting in arbitrary detention in the vast majority of cases. Other human rights violations related to these arrests and trials have also been reported.

Human rights expert bodies have repeatedly expressed concern over arrests and detention on defamation charges in several Arab countries.⁷⁴ In Yemen, the government failed to implement an agreement that resulted from negotiations between the government and the Journalists Association to increase pay and improve working conditions. As a result, workers started a series of strikes. Simultaneously, prominent journalists were killed or arrested and tried on charges that are contrary to freedom of expression, such as insulting the head of State.

Bloggers who belong to associations and who have been using the Internet for campaigning have also been routinely arrested, tortured, and brought to trial with unfair procedures. For example, during the revolution, numerous Egyptian bloggers were arrested and brought to trial before military courts on vague charges. The same is happening in Syria.

In Bahrain, Saudi Arabia, United Arab Emirates and Qatar, human rights defenders, bloggers, reformists, and others continue to be arrested and sentenced on charges that actually relate to their freedom of expression. A number of UN Human Rights Mechanisms condemned these practices. For example, the Working Group on Arbitrary Detention considered the arrest and detention of Abdel Hadi al_Khawaja from Bahrain to be arbitrary in contravention of articles 19, 20 and 21 of the Universal Declaration of Human Rights.⁷⁵ In the last few years, the Working Group on Arbitrary Detention considered a considerable number of cases of detention of activists from Arab countries contrary to international human rights standards, including those relating to freedom of opinion, expression, peaceful assembly and fair trials.⁷⁶ (see also below on Nabil Rajab)

E. ATTACKS ON ACTIVISTS

Often, activists in civil society organizations are arrested, beaten, and threatened, and the property of associations is vandalized. In some cases, the perpetrators were plain-clothed persons, who were thought to be most likely from the security apparatus.

⁷⁴ For details on a number of cases of harassment of human rights defenders on background of freedom of expression, see Arab Network for Human Rights Information, www.anhri.net

⁷⁵ See Opinion of the Working Group on Arbitrary Detention concerning Abdulhadi Abdulla Alkhawaja, A/HRC/WGAD/2012/6, 13 July 2012. AbdelHadi Alkhawaja is a prominent human rights defender from Bahrain with long experience in human rights activism relating to Arab countries and at the international level. He and 20 others were brought to trial for a number of charges, a number of which relate to freedom of expression. Abdelhadi alkhawaja received a life sentence. Some of the initial detainees were released. However, 14 remain in detention. Amnesty International considers all of them prisoners of conscience and calls for their immediate release.

⁷⁶ Reports of the Working Group on Arbitrary Detention are available on <http://www.ohchr.org/EN/Issues/Detention/Pages/WGADIndex.aspx>

For example, in Egypt in January 2008, a human rights activist promoting the rights of the Sinai community was arrested on charges of having published false information aimed at agitating public opinion relating to torture in Egyptian prisons. Two advocates for the rights of Egypt's Shia minority were arrested in October 2007 for the same charges. In 2011, cases of kidnapping and physical assault targeting activists and protesters increased. In the early part of 2012, there were additional reports of unknown men kidnapping and assaulting activists and protesters. According to victim testimonies gathered by local CSOs, there are strong reasons to suspect that the individuals behind the attacks were government-affiliated.

Although the emergency rule was lifted in Algeria in February 2011, freedom of association and assembly are constantly violated. Trade union activists and human rights defenders continue to be the target of harassment, intimidation, and even death threats.⁷⁷

In Syria, the government has maintained a tight grip on civil society organizations despite the so-called "Damascus Spring." Waves of arrests and harassment have continued for many years and have intensified since 2011 amid the current calls for democracy and reform that is sweeping the country. For example, twelve members of the National Council of the Damascus Declaration for Democratic National Change (NCDDNC) were arrested in 2007. Since December 9, 2007, forty NCDDNC members were arrested by the Syrian State Security Intelligence and placed in detention. Out of these forty, twelve remained in detention for months. The events in Syria in 2011 have demonstrated an alarming pattern of attacks against civil society activists who were organizing protests, criticizing the human rights situation, documenting violations, and providing relief. Many have been detained, tortured, forcibly disappeared, held incommunicado, and even arbitrarily executed, in addition to a host of other violations. The International Commission of Inquiry into the events in Syria classified many of the crimes perpetrated by the regime and its militias as part of widespread or systematic attacks against civilian populations and constituting crimes against humanity. The anti-Government armed groups also commit violations and abuses, however, these did not reach the intensity and scale of those committed by Government forces and affiliated militia.⁷⁸

In Morocco, on February 21, 2011, a peaceful march in Rabat organized by youth from the Mouvement du 20 Février was forcefully broken by members of the security. Among those badly injured was Ms. Khadija Ryadi, president of the Association Marocaine des Droits Humains. She was violently beaten in the abdomen by a man in civilian clothes, very likely a member of the security. She lost consciousness during the attack and needed hospitalization.

The events in Bahrain also demonstrated an increase in attacks against civil society activists since March 2011, including teachers; doctors, nurses, and other health workers; journalists; and human rights activists. The Bahraini Independent Commission of Inquiry reports that many of those arrested faced grossly unfair trials before a special military court – the National Safety Court – set up under emergency rule.

⁷⁷ World Organization against Torture, "Algeria: Stop the Harassment Campaign against Union Activists!" (30 September 2011), available at: <http://www.omct.org/human-rights-defenders/urgent-interventions/algeria/2011/09/d21433>.

⁷⁸ Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, A/HRC/23/58, 4 June 2013.

In January 2012, Nabeel Rajab, the director of the Bahrain Centre for Human Rights, was hospitalized after police punched him and used truncheons to beat him in the face, back, and other parts of his body. On 16 August 2012, Nabil Rajab, who is also the Deputy Secretary General of the international human rights organization FIDH, was sentenced to three years imprisonment for a number of charges including "calling for unauthorised marches through social networking sites".⁷⁹ On July 9, Nabeel Rajab had been sentenced to 3 months imprisonment for alleged libel after he tweeted a message criticising the government of the Kingdom of Bahrain on 2 June 2012. On 23 August, the Higher Appeal Court acquitted Nabil Rajab from separate case, referred to as the "tweet case".⁸⁰ However, he remained in detention on the background of the first case. On 11 December 2012, one day after International Human Rights Day, Mr. Rajab was sentenced in appeal to two years of prison for participating in peaceful gatherings and calling others to join.

In addition to these cases, dismissing workers who are active in trade unions or have prominent positions in the trade union movement has a strong chilling effect on trade unions. For example, in Bahrain the six members of the General Federation of Bahraini Trade Unions (GFBTU) Executive Board and forty-four Executive Board members of affiliated unions were dismissed. Approximately 2,600 workers in both the public and private sector were also reportedly dismissed, and another 361 workers have been suspended since the start of the unrest in Bahrain in 2011.⁸¹ The Bahrain Independent Commission of Inquiry looked into that and recommended to the government that they ensure that "the remaining dismissed employees have not been dismissed because of the exercise of their right to freedom of expression, opinion, association or assembly".⁸²

In Iraq, in March 2011, the President of the Iraqi Journalists Syndicate, Moaid Al-Lami, survived a second assassination attempt. He was first attacked in 2008, only two months after his election, which followed the murder of his predecessor Shibab Al-Tamimi. In another disturbing turn of events, the Iraqi Ministry of Electricity ordered the police to shut down the Electricity Workers' Union and take control of the union's assets. Public sector unions are essentially banned in Iraq, whose labor laws date back to the era of Saddam Hussein. A draft labor law was introduced in 2007, but has not been ratified.⁸³

F. RESTRICTION ON FUNDING

In Egypt, CSOs are facing a serious situation following the Egyptian Cabinet's announcement that the Justice Ministry submitted a report to the Prosecutor about foreign funding received by unregistered Egyptian and foreign CSOs in the country. The Minister of International Cooperation and the Minister of Social Solidarity announced the creation of a fact-finding committee to examine the foreign funding of registered and unregistered Egyptian and foreign CSOs in Egypt and consider tightening legal control on foreign funding. Especially alarming was the State Security Prosecutor's statement on August 7, 2011, accusing organizations that supposedly received funding illegally from foreign sources of "grand treason," and "conspiracy against Egypt." Banks contacted several civil society members regarding their account transactions and subsequently closed some of their

⁷⁹ See FIDH, "Nabeel Rajab sentenced to 3 years imprisonment", 16 August 2012.

⁸⁰ See FIDH, "Nabeel Rajab acquitted in appeal in the tweet case, but still detained for three other cases", 23 August 2012.

⁸¹ Solidarity Center, "Bahrain Anti-Union Repression," 23 August 2011.

⁸² Report of the Bahrain Independent Commission of Inquiry, December 2011, para. 1723.a.

⁸³ International Trade Union Confederation, *op. cit.* at note 47.

accounts. Organizations now face great difficulty in carrying out their projects, in light of the suspicion sown by the government that they are working for foreign powers who want to undermine Egypt's sovereignty and national interest. Many affected organizations and others are forced to operate without authorization because the Ministry of Social Solidarity has persisted throughout the years in refusing to finalize their registration, therefore keeping these organizations in a state of limbo and vulnerability. Other organizations have registered as non-profit companies, or never applied for registration at all. They have chosen this legal framework due to the nature of their activities and the government's and Association Law's excessive infringement on their independence.

The harassment of civil society activists and organizations, especially those working in human rights and democracy issues, has escalated since 2012. In February 2012, forty-three Egyptian and foreign activists working in Egypt were brought before criminal courts in connection with foreign funding.

G. RESTRICTING FREEDOM OF ASSEMBLY

In June 2008, Jordan's parliament passed a new Law on Public Gatherings (Assembly Law). Despite some improvements, this law did not restore the freedom of assembly that existed before the drastic restrictions introduced in Law 7 of 2004.⁸⁴ This law required prior approval of any public meeting or demonstration and defines "public gathering" to include gatherings in publicly accessible places or gatherings that are open to the public. In 2011, an amending law was issued. However, this law maintained the powers of the Executive to restrict freedom of association under the pretext of security and provided only a few exceptions, like meetings of charitable organizations that fall within a certain category, or social gatherings like weddings. The law also maintained the previous restrictive definition of gatherings, as well as the administrative governor's powers to restrict freedom of assembly and the right to hold public gatherings, despite some minor improvements.

H. RESTRICTING FREEDOM OF MOVEMENT

Restrictions have been imposed on the movement of activists of civil society organizations to limit their access to a wider audience and hinder their advocacy efforts. These restrictions also impact the ability of organizations to meet others with similar interests, share and learn from experiences, and gain support for their work.

Activists in civil society organizations in Palestine are routinely restricted from travel by the Israeli occupation authorities. For example, four prominent human rights defenders, including two winners of human rights awards, were denied requests to exit Gaza in order to travel to Brussels via Jordan to attend a major conference and meetings with counterparts in Europe.

Civil society activists in Syria are routinely restricted from travel. Often after their return from travel abroad, especially if they attended meetings to discuss the political and human rights situation in Syria, they are arrested at the borders or are summoned for interrogation. They are often sentenced under vague and broadly phrased charges, under the pretext of damaging national security, unity, or the reputation of the State.

⁸⁴ ICNL, "NGO Law Monitor: Egypt," available at: <http://www.icnl.org/research/monitor/egypt.html>.

CHAPTER 3: CAMPAIGNING

1. WHAT IS CAMPAIGNING?

Campaigning is one of the most popular and effective ways for civil society organizations to achieve their goals and pressure governments to implement specific measures or laws. Campaigns are planned activities for a designated period, short or long. They end either when the overall goal of the campaign is achieved, or when the organizers determine that the campaign has lost its effectiveness and usefulness. Campaigns, like any other activity, can succeed totally or partially. They can also fail to achieve all or some of their goals.

Time is a key element in planning a successful campaign. The amount of time a campaign takes depends on its nature and intended results. For example, a campaign that aims to change behavior condoned by a society may take a long time. In this case, the duration of the campaign may be determined in advance; the campaigning organizations may decide to work on a goal for a specified time and attempt to achieve as much as possible within that time frame. Campaigns that seek a narrower goal, such as the endorsement or amendment of a particular law, continue throughout the drafting, discussion, and voting on the law. In this case, the campaign might not stop until the goal is achieved: the goal is specified in advance, but the time is not.

The best campaigns on public issue are based on hopes and dreams, rather than fears and problems. If you want to involve people, you must inspire them and generate enthusiasm for the campaign. They must feel that something will improve if they support your campaign. Negative approaches that exploit emotions like fear or anger can sometimes mobilize people for a short period, but they are less likely to build organizations or transform society. Campaigns will only succeed if you can make your target audience identify with your issue; thus, make sure you know your target audience and have researched their concerns, values, and views on the issue.

Every successful campaign needs a clear identity and a message that the public understands. This means you need logos and slogans that people associate with the campaign. You also must be clear about the message you want to get across in all speeches or media. The message sums up the key points that you want the public to understand about your issue. Once your target audience identifies with the issue, you have to move them to take action. To do this, you need a mobilizing and organizing strategy. A successful campaign never moves off its message. Do not get diverted by other issues, especially by opposition attacks. Stick to the positive message you want to get across, regardless of what others say. This enables you to set the agenda.

To do effective work, you must have a deliberate plan for the following steps:

- Identifying the problem/cause
- Examining the surrounding circumstances
- Setting the goals
- Identifying the required steps
- Planning activities
- Monitoring and continuously evaluating

The role of the civil society in campaigning for a new association's law

Problem: The current associations law is restrictive and does not meet international standards

Goals: Organize a campaign to develop consensus for a new associations law that suits the reality of the country and meets international standards

Required Steps:

- *Raise awareness about the international standards relating to freedom of assembly and association*
- *Raise awareness about the problems with the current law. Public education campaigns will help garner support for reform goals.*
- *Enhance networking and increase the number of involved groups*
- *Open dialogue and negotiations with the different political groups*
- *Open dialogue with parliamentarians and parliamentary commissions*
- *Open dialogue with concerned public administration and public servants*
- *Mobilize groups to campaign*
- *Draft an alternative proposed law and promote support for this model*
- *Propose your model to members of relevant committees in the parliament*
- *Lobby the parliament and various key stakeholders*
- *Develop a media strategy that includes traditional media and social media and contact the media to include them in the work*

Additional tips for a successful plan:

- Integrate the work into a broader strategy (such as for human rights or trade unions)
- Ensure that the work is well-planned and is not based only on short-term goals
- Identify the tasks, the working methods, and the timelines
- Include clear steps in the plan, with a division of responsibilities
- Periodically evaluate the process and the plan to correct errors and determine the possibility of success

Thus, to conduct successful campaigns, you must clearly answer several questions:

- What do we want to achieve? What is the goal that we want to reach?
- What are the short, medium, and long-term objectives to achieve this goal?
- Who are the parties that can help achieve the required change?
- Who are the decision-makers that we must convince?
- How can we access these parties?

Factors that Help Determine the Steps in a Campaign

To develop a clear plan and identify its steps, it is necessary to do a strengths, weaknesses, opportunities and threats (SWOT) analysis. Completion of this analysis will clarify for an organization, coalition, or group of activists: (i) what they can do, (ii) with whom they can cooperate, and (iii) who are their targets.

Strengths are positive factors in your organization or alliance that could have special significance to the work. Strengths may include positive relationships with individuals in government, parliament, media, or representatives of other countries; the presence of legal experts in the institution or coalition; experience with conducting large campaigns, hosting and organizing conferences or conducting dialogues; widespread public support to the institution; or some of these factors combined.

Weaknesses are negative factors that reduce your ability to make progress. Negative factors include weak relationships with members of parliament and the legal committee; lack of experience speaking with the press; lack of financial resources; or weak foreign language skills, which makes it difficult to communicate with representatives of foreign governments.

Opportunities are external factors that may be connected to the community and may have a positive impact on your work (i.e., factors emerging from your environment). Examples include the introduction of a related law in parliament, or increased media attention to a pertinent issue.

Threats are external factors that may have a negative impact on your work (i.e., are beyond you and usually cannot be changed immediately). Examples include a political or economic crisis or a campaign hostile to civil society organizations.

2. FIVE ESSENTIAL STEPS⁸⁵

In summary, there are five essential steps that organizations should take to ensure the most effective way to carry out advocacy work. These are:

1. Situation analyses
2. Setting goals and strategies
3. Defining objectives and plans
4. Implementation
5. Monitoring and evaluation

A. SITUATION ANALYSES AND SETTING TARGETS

Before participating in a negotiation process or pressure campaigns, you will need to understand how the political structures work; how policies, laws, and decisions are made; and how to determine the right time to target political representatives and officials. It is also important to

⁸⁵ This part is largely based on International Committee of the Red Cross, "Designing and Implementing Protection Activities," in *Enhancing Protection for Civilians in Armed Conflict and Other Situations of Violence* (September 2008), available at: http://www.icrc.org/eng/assets/files/other/icrc_002_0956.pdf.

understand the roles of the various parts of the political sphere – parliament, parliamentary blocks, parliamentary commissions, government administrations and institutions, and political parties – and identify the main activists and influential persons. Depending on the nature of the campaign, it is also important to identify other important social and political actors, discover their alliances and relationships, and understand how they function.

The situation analysis needs to be based on reliable information, which is found in sound research and documentation. It is important to abandon all assumptions, prejudice, and unfounded perceptions.

The first task is to identify:

- What is the problem or the issue that needs to be addressed, and what is the cause?
- Who are the victims, vulnerable persons, beneficiaries, or interest groups?
- Who is most responsible or influential in this area?

In short, WHO does WHAT to WHOM?

B. SETTING GOALS AND STRATEGIES

The situation analysis must be sound and contain strong arguments supported by evidence. It should be strengthened by the international norms and standards. This will be followed by setting the goals and strategy. The goals should be realistic, achievable during specific periods of time. The goals should also clearly indicate the benefits to be gained and the beneficiaries or the interest groups.

Palestinian Civil Society: Passing the Law of Charitable Associations and Community Organizations

Introduction

Upon its institution in 1995, the National Authority started to exercise its legal authority and took necessary measures to prepare for the election of the first legislative council. The Palestinian civil society (who has the required expertise in the mass popular movements and political work) was conscious about the need to take initiative in formulating a modern and democratic law in view of regulating the work of Palestinian NGOs and institutions. The work has been undertaken on several phases:

Phase I: Consultations between civil society institutions

The Palestinian NGO Network led consultations among the members of its coordinating committee and between members of the Network and the Union of charitable associations; these discussions resulted in establishing the preparatory committee on law, which started its work with the support of legal experts such as Dr. Anis Kassim.

Phase II: Preparation of the draft law

The draft law was prepared in early 1997 and was based on the following:

- 1. Historical legacy of the civil society institutions*
- 2. Statement of the Declaration of Independence in 1988*
- 3. The laws of democratic States*

Phase III: Lobbying for the law

The NGO Network has made all preparations to launch an awareness campaign connected to lobbying for approving the law. In this regard, many allies were involved in this endeavor, including:

- 1. Members of the Legislative Council, especially among the democrats, and the formation of a committee of the Legislative Council as a liaison*
- 2. The leaders of factions and parties*
- 3. Liaising with all members of the Legislative Council; provide them with all the required documents*
- 4. Ministers and legal advisers of Ministers*

The NGO Network benefitted from the lack of experience of the members of the Legislative Council in enacting laws, and the eagerness of some of the Legislative Council to appear as defenders of civil society in addition to the fragility and weakness of the Authority.

Phase IV: Attend the meetings of the Legislative Council to discuss the law

A special team composed of civil society organisations was formed to attend all sessions of the Legislative Council in relation to the law. This step has been crucial in reshaping the attitude of many members of the Legislative Council, especially those who had previous work experience with civil society.

The law was approved in 2000, but relied on bargaining between civil society and the Legislative Council and the President. The main modification made to the proposed law, despite the reluctance of the civil society institutions, is the designation of the legal competent authority as the Ministry of Interior rather than the Ministry of Justice, in addition to obtaining the 'authorisation' rather than 'registration'. These amendments were made through the bargaining between the late President Yasser Arafat and the Legislative Council. There are several lessons learned from this experience:

- 1. A structured approach and activities are the basis for enacting laws*
- 2. Decision-makers are influenced by a structured approach and professional documentation*
- 3. The need to take into consideration the interests of all stakeholders*

Dr. Taleb Awad
Arab World Democracy and Electoral Monitor

C. DEFINING THE OBJECTIVES AND PLAN

Once the goals and strategy are determined, the campaign must define its objectives and plan of action. The objectives are the concrete results for each activity, while the plan defines the activities needed to achieve those results. The objective of each activity must be explicit and measurable to allow progress to be assessed. It is also essential to analyze the needed resources (human and financial). The plan should identify clearly who is going to do what and when.

Objectives can aim to:

- adopt a new law
- modify a law or articles of a law
- issue decrees and regulations

Alternatively, in more general terms, objectives can aim to:

- prevent violations (for example through laws and regulations)
- stop ongoing violations of rights (such as, through ensuring investigation into cases, training, or changing laws and regulations)
- limit the effect of the violations on the victims
- criminalize the violation and bring perpetrators to justice
- provide remedies and reparation to victims

It is likely impossible to achieve all objectives immediately. Therefore, the objectives should be realistic and set to be achieved in the short term, medium term, and the long term.

It is important to clearly identify the target for achieving each objective. For example:

- to pass a new law, the target will be the parliament (or initially specific committees within the parliament, such as the human rights and the legal committees when they exist)
- to change or issue a Procedural decree, the target will be the relevant ministry
- to implement a law, or stop a violation, the target will be the executive branch of the government (administration). Also, cases can be taken to court to obtain redress for violations.

D. IMPLEMENTATION

The plan should proceed according to who is responsible for which task and at what time. The implementation, however, should be flexible for an ever-changing situation, which should have been considered in the situation analysis. This includes the availability of operational means in the medium to long term.

Implementation additionally should consider the role of other actors and aim to build cooperation with others.

E. MONITORING AND EVALUATION

Regular monitoring and evaluation are needed for several reasons:

- to measure the evolution of a certain situation and assess whether new situations have arisen; and subsequently
- to adjust and, whenever necessary, substantially adapt and change strategies, objectives, and plans of action.

Monitoring assesses implementation of the plans, and the need to adjust them when necessary.

Evaluation assesses the results of these efforts: how effective was the plan? The evaluation should have both qualitative and quantitative indicators to give a comprehensive answer.

Impact assessment assesses the “So what?” question: how have plans and activities actually affected the lives of the people it aimed to support? What kind of effect was it? Was it positive?

During an evaluation, the following criteria can be used to measure the progress of a campaign to change the associations law:

- Have the authorities and other actors adopted practical measures, such as laws or policies, to ensure that they will respect the rights of individuals and fulfill their obligations in this regard?
- To what extent does the adopted law abide with international norms and standards?
- To what extent is the new or modified law consistent with the law that you proposed? Was your proposed law fully adopted or partially adopted?
- Were only some articles of the law changed?
- What is the will and capacity of the authorities and other actors to respect the rights of individuals and fulfill their obligations?



3. METHODS TO DEVELOP YOUR CAMPAIGNING AND LOBBYING

The following are examples of advocacy activities that civil society organizations can utilize and that are most relevant to protecting the freedom of association and the related freedoms of expression and assembly. This is not an exhaustive list, but is illustrative of activities that are most common and yield good results when implemented as part of well-considered plans.

A. FACT FINDING AND SOLIDARITY MISSIONS

A pre-requisite for successful campaigning is accurate factual information on cases, as well as analysis of the laws and the legal and socio-political context. Organizations should not build their campaigns on impressions, un-authenticated information, hearsay, or un-substantiated media reports.

It is thus important that organizations increase their capacity in documentation and analysis. This requires in-depth training on documentation methodology and collection of information.

Organizing fact finding missions, combined with other campaigning activities, can yield change, as well as show solidarity with other civil society organizations. National organizations can garner support from international or regional organizations by partnering with them on such missions. Besides increasing the potential for campaigning, this partnership can increase the capacity of national organizations through exchange of expertise and knowledge.

The Use of Scientific Research

Factors of Success:

- *Access to accurate, reliable and credible sources: The campaign will fail if it is based on inaccurate information.*
- *Effective dissemination of information: The dissemination of information alone does not change policy, attitude, or behavior, but well-prepared and appropriately presented information can make an impact.*
- *Impact of information on the target audience: The target audience must be determined, and the information must be provided in a convincing manner.*

Challenges Facing Civil Society Organizations:

- *People think that pressure groups publish and circulate research only if it supports their arguments. This is the fundamental problem of credibility that must be handled.*
- *Statistical research is complex. Be careful with using statistical information if you are not sure that the research methodology and tools meet the scientific requirements and can generate reliable results with an acceptable level of accuracy and credibility.*
- *The possibility of bias in research should always be kept in mind to avoid undermining the credibility of the research.*

Benefits of Research:

- *Research gives weight to the arguments and makes them more realistic and objective. It enhances confidence that the campaign and its arguments are right.*

- *Research is an effective means of monitoring and evaluating the impact of policies and interventions. Research can be used in campaigns aimed at promoting awareness of the results of policies. It also can include ideas and recommendations on goal requirements, obstacles, the size of the opposition, and the appropriate entry points for mitigation to win the support of opponents.*
- *Research helps organizers acquire the status of experts, who will often be interviewed by media representatives.*

Iraq: Successful CSO campaign on drafting freedom of association law

After the fall of the former regime in Iraq and the U.S. direct occupation of the country, many non-governmental organizations emerged throughout Iraq. This came out of a desire to participate in public life, with the aim of regaining freedom from interference in their work and a desire to choose a new political system and to participate in addressing the deterioration in the humanitarian situation and the reconstruction.

These organizations faced many challenges regarding institutional building, organizational framework and financial set up, and establishing relationships with the groups they are representing, including with different decision-makers according to the basic needs of citizens. Building the legal framework was a major challenge as it depends on forming the type of relationship with the government that ensures their independence and freedom in administering, funding and establishing relationships with local and international institutions. The organizations consulted with other Arab NGOs to draw upon other countries' experiences, as well as international best practices and standards. The meeting was very helpful, and was attended by representatives from more than ten Arab countries (December 2004, ANND and the German Heinrich Bil in coordination with the Iraqi Al-Amal Association).

Iraqi organizations launched a large campaign targeting organizations and activists, which aimed to create general awareness on the most important principles that are supposedly encompassed by the law. The campaign later expanded to include:

- *Various media institutions, including TV news and talk shows, and a variety of articles in different Iraqi newspapers. Dissemination of information on the importance attached to the law and what it is supposed to contain were undertaken in the mainstream and the most widely read newspaper in Iraq (Al-Sabah official newspaper).*
- *Various meetings in the Iraqi Council of Representatives and with its various committees, especially the Civil Society Committee, in addition to meetings held with the Speaker and the deputies.*
- *Meetings with governmental institutions, especially the Ministry of State for Civil Society Institutions, the Ministry of Human Rights, and the Department of Non-Governmental Organizations of the General Secretariat of the Council of Ministers.*
- *Meetings with prominent religious, tribal and social figures who had an important role that could impact on members of the Iraqi Council of Representatives.*

- Three round tables were organized with representatives from civil society, the government, the Council of Representatives, the Consultative Council (Chura council), international institutions, and foreign experts (2008, 2009, and 2010, two weeks before the vote on the law in the Council of Representatives); the most recent round table dealt with the formulation of the proposed final draft.
- Translation of the book (Guide of laws affecting civil society organizations) from English into Arabic, and the distribution of more than one thousand copies free of charge in Iraq to initiate debate on the most important inclusions in the law in accordance with international experiences.

During the discussions held to review the law, as well as to review the drafts presented by the government, the following important points were raised]:

- The number of founding members forming an organization is a very important parameter. However, only a small number of citizens may be interested in forming organizations (rather than mass-membership parties). While initial drafts of the law stipulated that an organization should have at least thirteen founding members, later drafts emphasized that an organization only needed three founding members.
- Organizations should be able to manage themselves without interference, unless otherwise stipulated in the organization's by-laws. Nevertheless, any member has the right to take the Board of Directors to court if it does not abide by the internal regulations.
- Dissolution of the organization by its members can be done according to its rules of procedure or by judicial decision. In the latter case, the importance of an independent judiciary has been stressed, for it is the authority that ensures that Iraqi laws in force are respected by any organization.
- Iraqi law conferred to organizations the right to obtain financial support internally and externally without the prior consent of the government. This was a problematic issue that has been overcome by allowing each organization to conduct its financial operations through a bank account. The Central Bank is aware of all relevant information on money laundering and counter-terrorism.

Drafting the Associations Law regulating the work of organizations in Iraq should be taken into account for the benefit of organizations in Iraqi Kurdistan, especially given that civil society organizations in Kurdistan are older and more experienced.

The draft law that was presented to the Council of Representatives was prepared over a period of two years, and used a participatory approach to involve various stakeholders in the drafting process. During a session of the Council of Representatives, this issue was discussed and it was stated that this law was drafted jointly by the government and the parliament, the judiciary, local and foreign organizations; this is an acknowledgement for both the government and its opponents that the law enactment received the consent of all parties involved.

The second message was that a favorable law for non-governmental organizations which guarantees their freedom and independence will send a positive message to the world that Iraq is heading towards democracy; this was also pointed out in the Parliament during the voting session and gained consensus.

B. APPROACHES TO INTERNATIONAL HUMAN RIGHTS MECHANISMS

An important method of campaigning and increasing pressure on States to change laws and practices that violate international standards is through the use and approaches of human rights mechanisms. These approaches include interventions by the UN Human Rights Council, including under the Universal Periodic Review, treaty bodies, and special procedures. Other possible approaches include human rights mechanisms under the European partnership with the Mediterranean region, as well as the African Commission on Human Rights (in relation to Arab countries in North Africa) and the Arab Human Rights Committee (in relation to Arab States party to the Arab Charter on Human Rights).

Complaint to respond to attacks on civil society groups in Egypt

Following attacks on civil society organizations by the Egyptian security forces along with a media campaign against civil society groups, thirty-nine human rights organizations in Egypt submitted a complaint to the UN Special Rapporteur on the Right to Freedom of Peaceful Assembly and of Association, the UN Special Rapporteur on the Situation of Human Rights Defenders, and the Special Rapporteur on Human Rights Defenders in Africa with the African Commission on Human and Peoples' Rights. The complaint provides information to these mechanisms on the campaign against civil society associations and what they argue is "incitement to hatred," as well as government attempts to further restrict the activities of these organizations and the investigations launched by the Supreme State Security Prosecution.

CSOs have also prepared their position on a government-proposed law on association by analyzing the proposal and presenting their own vision for an alternative law. This position was conveyed to the government and the parliament in writing and in several meetings. It was also used in advocacy work targeting UN mechanisms, such as the UN Human Rights Council.

THE UNIVERSAL PERIODIC REVIEW⁸⁶

The UN Human Rights Council (HRC) is an inter-governmental body within the UN system made up of forty-seven States responsible for strengthening the promotion and protection of human rights around the globe. The Council was created by the UN General Assembly on March 15, 2006, replacing the previous UN Commission on Human Rights, with the mandate to address situations of human rights violations and make recommendations for mitigating them.

The Universal Periodic Review (UPR) is one of the key elements of the new Council. It is a process that involves review of the human rights records of all the UN Member States once every four years. The UPR was created through the UN General Assembly on March 15, 2006 by resolution 60/251. By 2011, the human rights records of every country had an initial review, and a second round had started. The UPR strives to remind States of their responsibility to fully respect and implement all human rights and fundamental freedoms. The ultimate aim of this new mechanism is to improve

⁸⁶ See Office of the United Nations High Commissioner for Human Rights, "Basic facts about the UPR," available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/BasicFacts.aspx>.

the human rights situation in all countries and address human rights violations wherever they occur.

The UPR assesses the extent to which States respect their human rights obligations, beyond the treaties they have ratified. The UPR review considers obligations according to: (1) the UN Charter; (2) the Universal Declaration of Human Rights; (3) human rights instruments to which the State is party; (4) voluntary pledges and commitments made by the State, such as national human rights policies or programs implemented; (5) applicable international humanitarian law; and (6) international customary law.

How does the UPR work?

All UN Member States are reviewed every four years. Forty-eight States are reviewed each year. All the forty-seven members of the Council will be reviewed during their term of membership.

The reviews are conducted by the UPR Working Group, which consists of the forty-seven members of the Council; however, any UN Member State can take part in the discussion with the reviewed States. Each State review is assisted by groups of three States, known as “troikas,” who serve as rapporteurs (different from the Rapporteur under the Special Procedures of the HRC). The troikas for each State review are selected by a drawing of lots before each Working Group session.

The review is based on three essential sources: 1) information from the State under review, which can take the form of a “national report”; 2) information from reports of independent human rights experts and groups, including the Special Procedures, treaty bodies, and other UN entities; and 3) information from other stakeholders, including CSOs and national human rights institutions.

CSOs can also submit information, which can be added to the “other stakeholders” report. Any State participating in the interactive discussion during the review can reference this information. CSOs can attend the UPR Working Group sessions and can make statements at the regular session of the HRC, when the outcomes of the State reviews are discussed.

At the end of the review, an Outcome document is issued. This document is prepared by the troika with involvement of the State under review and assistance from the Office of the High Commissioner for Human Rights (OHCHR). It provides a summary of the actual discussion. It therefore consists of the questions, comments, and recommendations made by States to the country under review, as well as the responses by the reviewed State. The reviewed State has the opportunity to make preliminary comments on the recommendations, choosing either to accept or reject them. Both accepted and refused recommendations are included in the report. Time is also allocated to member and observer States, who may wish to express their opinion on the outcome of the review, and to CSOs and other stakeholders for general comments.

UN SPECIAL PROCEDURES⁸⁷

⁸⁷ For more information, see Office of the United Nations High Commissioner for Human Rights, “Special Procedures of the Human Rights Council,” available at: <http://www2.ohchr.org/english/bodies/chr/special/index.htm>. See also Office of the United Nations High

Special procedures is a generic term that refers to experts – not government representatives – appointed by the HRC to examine and report on human rights situations that relate to certain themes under their mandate. Special procedures have multiple approaches, including examining, monitoring, advising, and publicly reporting on particular human rights violations worldwide under their thematic mandates. Special procedures undertake various activities, including responding to individual complaints, conducting studies, visiting countries (after invitation from the government), reporting to the HRC on cases and thematic issues, providing technical advice to particular countries, and engaging in general promotional activities.

Most special procedures receive information on specific allegations of human rights violations and send governments urgent appeals or letters of allegation asking for clarification. They therefore play an important role in addressing specific human rights situations, as well as developing the understanding of international human rights law. The OHCHR provides these mechanisms personnel, policy, research, and logistical support to discharge their mandates.

Special procedures address civil and political rights, as well as socio-economic rights. As stated above, there is a new mandate for a Special Rapporteur on Freedom of Peaceful Assembly and Association. Multiple special procedures can be approached about freedom of association depending on the nature of the violation. The Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, the Special Rapporteur on the Situation of Human Rights Defenders, the Special Rapporteur on the Promotion and Protection of Human Rights while Countering Terrorism, and the Working Group on Arbitrary Detention have all previously examined cases of violations of freedom of association and peaceful assembly. For example, the Special Rapporteur on the Promotion and Protection of Human Rights while Countering Terrorism can be approached if associations were subject to restrictions under the pretext of combating terrorism. In the May 2011 report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur addressed the excessive use of force against assemblies and argued that limiting the ability of associations to protest is a violation of their right to freedom of association.

Special procedures can consider any country within their mandate. Their work does not depend on a country's ratification of treaties that recognize the rights of concern. Through their country visits, reports, and recommendations, special procedures make a vital contribution to the development of human rights agendas and programs in the different countries.

TREATY BODIES⁸⁸

Through ratification of international human rights treaties, governments undertake to put in place domestic measures and legislation compatible with their treaty obligations and duties. Treaty bodies are committees of independent experts who monitor the implementation of the various human rights treaties by the State parties.

The typical cycle of reviewing State reports starts with the relevant committee receiving the State report and reports from CSOs and other sources. The committee examines the reports, and, based

Commissioner for Human Rights, "Manual of Operations of the Special Procedures of the Human Rights Council," (August 2008), available from <http://www2.ohchr.org/english/bodies/chr/special/index.htm>.

⁸⁸ For further details, see Office of the United Nations High Commissioner for Human Rights, "An introduction to the core human rights treaties and the treaty bodies," available at: <http://www.ohchr.org/english/bodies/docs/OHCHR-FactSheet30.pdf>.

on the available information, presents a list of issues to the State. The State then responds to the list of issues in writing. The committee consults with CSOs, sometimes informally. A constructive dialogue is then held with a government delegation in a public session, which CSOs can attend. At the end of the process, the committee issues concluding observations, which the State must execute through, for example, changing laws or adopting policies and plans. The State later submits a periodic report that explains the steps it took to implement the previous observations and provide updates. The cycle continues.

CSOs have a significant role during most of the cycle. CSOs request governments to submit its reports and monitor the implementation of the concluding observations.

Treaty bodies are also important in the development of international law. They issue general comments and recommendations that explain provisions of treaties and provide guidance on how States should implement the treaties.

List of the Various Treaty Bodies

1. The **Committee on the Elimination of Racial Discrimination (CERD)** was the first treaty body established. It has monitored implementation of the International Convention on the Elimination of All Forms of Racial Discrimination since 1969.

2. The **Committee on Economic, Social and Cultural Rights (CESCR)** was created in 1987 to carry out the monitoring mandate of the Economic and Social Council (ECOSOC) for the International Covenant on Economic, Social and Cultural Rights.

3. The **Human Rights Committee (HRC)** was created in 1976 to monitor implementation of the International Covenant on Civil and Political Rights and its optional protocols, including Protocol 2, which allows for a complaint mechanism.

4. The **Committee on the Elimination of Discrimination against Women (CEDAW)** has monitored implementation of the Convention on the Elimination of All Forms of Discrimination against Women since 1982. It also monitors the implementation of the Optional Protocol to the Convention, which allows for individual complaint mechanisms.

5. The **Committee against Torture (CAT)** was created in 1987 to monitor the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

6. The **Committee on the Rights of the Child (CRC)** has monitored implementation of the Convention on the Rights of the Child, as well as two Optional Protocols on child soldiers and child exploitation, since 1990.

7. The **Committee on Migrant Workers (CMW)** held its first session in March 2004 and will monitor implementation of the International Convention on the Protection of the Rights of All Migrant

Workers and Members of Their Families.

*8. The **Committee on the Rights of Persons with Disabilities (CRPD)** monitors the implementation of the Convention on the Rights of Persons with Disabilities and its Optional Protocol, which provides a complaint mechanism.*

*9. The **Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT)** started its work in February 2007. It is mandated by the Optional Protocol to the Convention against Torture (OPCAT) to visit all detention facilities in the States that ratified OPCAT and examine the treatment of detainees.*

State parties to the various treaties must submit regular reports to the treaty bodies on how they are implementing the rights in the ratified treaty. Normally a State is required to submit an initial report within one or two years after the entry into force of the treaty for the State, depending on the treaty. Periodic reports are then due within four or five years, with the exception of ICERD. The relevant committee examines each report and provides its concerns and recommendations to the State party in the form of "concluding observations." When committees consider reports from States, they can also receive information from CSOs, UN bodies, and others.

Treaty	Initial report due within	Periodic reports due every
ICERD	1 year	2 years
ICESCR	2 years	5 years
ICCPR	1 year	4 years
CEDAW	1 year	4 years
CAT	1 year	4 years
CRC	2 years	5 years
ICRMW	1 year	5 years
CRPD	2 years	4 years
CRC-OPSC*	2 years	5 years or with next CRC report
CRC-OPAC**	2 years	5 years or with next CRC report

* CRC-OPSC: Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

** CRC-OPAC: Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

C. APPROACHES TO REGIONAL HUMAN RIGHTS MECHANISMS

Regional bodies offer several mechanisms to civil society organizations to promote and protect the right to freedom of association, report on cases of violations, and carry out campaigning and lobbying activities. The information below is a general overview of the main mechanisms relevant to the MENA region.

THE EUROPEAN UNION

The EU offers several outreach processes and human rights standards that activists in the Middle East and North Africa can use. Some stem from EU agreements with countries in the region, while others are derived from guidelines that govern EU external relations.

It is important that civil society activists approach relevant EU institutions to invoke relevant standards, gain support in raising concern over laws or practices that violate freedom of association, and urge the EU to use its position to address these concerns with countries in the region.

EU INSTITUTIONS RELEVANT TO THE MEDITERRANEAN COUNTRIES

The **Euro-Mediterranean Partnership**, or the Barcelona Process, was established in November 1995 in Barcelona, Spain, with the adoption of the Barcelona Declaration by the EU countries and their Mediterranean Partners. This was the starting point of the Euro-Mediterranean framework on political, economic, and social relations between the Member States of the EU and Partners of the Southern Mediterranean. There are three Chapters in the Barcelona Declaration: Political and Security; Economic and Financial; and Social, Cultural and Human Affairs. The Partnership is carried out through two dimensions: Multilateral/Regional cooperation on common issues; and Bilateral/Based on Association Agreements. The Declaration identifies among its objectives “strengthening of democracy and respect for human rights.”

The Human Rights Commitments in the Declaration are:

- Respect the UN Charter and the Universal Declaration of Human Rights
- Develop rule of law and democracy
- Respect human rights and fundamental freedom
- Protect women’s rights
- Recognize the essential contributions of civil society
- Respect fundamental social rights
- Actively support democratic institutions and the strengthening of rule of law and civil society

The EU and various Arab countries around the Mediterranean have signed bilateral cooperation agreements, but since 2004 this bilateral track was replaced with Association Agreements as part of the European Neighborhood Policy (see below). Thus in the last few years, the Euro-Mediterranean process was largely abandoned.

The **European Neighborhood Policy (ENP)** emerged after the EU’s expansion in 2004 and focused on bilateral relations in the political and economic spheres. This became the main vehicle for EU cooperation with its Mediterranean partners. The EU Commission developed several mechanisms within this framework, such as human rights sub-committees and annual progress reports. Bilateral Action Plans have been developed with the various countries. However, before the “Arab Spring”, these plans were criticized for accommodating the existing regimes’ positions, rather than being tools for real reform. Through the Action Plans, the ENP is mainly a bilateral process while the Euro-Mediterranean Process focused on multi-lateral processes, in addition to the association agreements which provided bilateral processes. Relevant subcommittees help implement and monitor the ENP Action Plans.

The **Union for the Mediterranean** was launched in Paris on July 13, 2008 in a bid to give new energy to the Barcelona Process. A few months later, the Foreign Ministers from the EU and the Mediterranean States agreed on the institutional structures, the work program, the fields of cooperation to be pursued, and the method to monitor progress on the projects. They also decided that the League of Arab States would participate in all meetings at all levels. On the structure of the Union for the Mediterranean, they decided that the co-presidency shall apply to summits and meetings, and that one co-president will be from the EU and the other from the Mediterranean partner countries. Barcelona was chosen as the seat of the Secretariat.

The human rights dimension that existed in the Euro-Mediterranean Partnership has almost totally disappeared in the Union for the Mediterranean, except for some reference to equality between men and women.

Currently, the EU and the Arab Countries on the Mediterranean rim have made bilateral Association Agreements.

The **European Neighborhood and Partnership Instrument (ENPI)** also guides EU cooperation with the various countries. Strategy documents for each country, guided by the Association Agreements and the ENP, identify priorities for EU engagement with the Partner countries. The EU has conducted mid-term review of the ENPI.

THE EU AND THE GCC COUNTRIES

The EU established bilateral relations with the Gulf Cooperation Council (GCC) countries through a Cooperation Agreement signed in 1988. Its objective is to strengthen stability in a region of strategic importance and to facilitate political and economic relations. It therefore aims to broaden economic and technical cooperation and also cooperation in energy, industry, trade and services, agriculture, fisheries, investment, science, technology, and environment. It foresees an annual Joint Council/Ministerial Meeting between the EU and the GCC foreign ministers, as well as between senior officials at a Joint Cooperation Committee.

What can civil society do?

- *Civil society activists should have complete information about the several agreements and plans that govern the relations between the EU and countries of the Middle East and North Africa.*
- *Civil society activists should meet with EU representatives in their country to discuss the existing agreements and plans and how civil society can provide information regularly to the process to ensure accurate assessment of the situation and effective strategies.*

The African Commission on Human and Peoples' Rights: The following mechanisms are relevant to Arab States in Africa, except for Morocco, which is not a member of the African Union. The African Commission on Human and Peoples' Rights (ACHPR) has many mechanisms to examine the human rights situation in countries and provide conclusions and recommendations. The Commission was set up in July 1987, under Article 30 of the African Charter on Human and Peoples' Rights, and its secretariat is based in Banjul, Gambia. The main role of the Commission is to monitor the implementation of the African Charter. The Commission is comprised of 11 members who are nominated by the States and then elected by the African Union Assembly.

The ACHPR meets twice a year. It examines State reports, adopts resolutions, and studies individual complaints. The Commissioners also report on country visits, promotional activities, and thematic studies. At each session, the Commissioners interact with human rights defenders. Using reports from the human rights defenders, the ACHPR gives general observations to the States concerned. It can also give its general observations on State party reports, and its comments to the Assembly of Heads of State and Government of the African Union.

Civil society activists can approach the mechanisms of the ACHPR to raise concerns over individual cases, laws, and practices, and obtain ACHPR's recommendations, which can be used in further campaigning activities.

The Commission has five thematic Special Rapporteurs, six working groups, and a committee that are relevant to the promotion and protection of freedom of association:

The five Special Rapporteurs are:

- The Special Rapporteur on Freedom of Expression And Access to Information in Africa
- The Special Rapporteur on Prisons and Conditions of Detention in Africa
- The Special Rapporteur on Refugees, Asylum Seekers, IDPs and Migrants in Africa
- The Special Rapporteur on Human Rights Defenders in Africa
- The Special Rapporteur on the Rights of Women

These can carry out country visits, receive appeals, consider information on situations including legislation, and issue reports with recommendations.

The six working groups are:

- Specific questions linked to the ACHPR's work
- Indigenous populations/communities
- Economic, social and cultural rights
- The death penalty
- Extractive industries, the environment and human rights violations in Africa
- The rights of elderly people in Africa

There is also a Committee for the Prevention of Torture in Africa, responsible for monitoring the Robben Island Guidelines, which was crafted to address the issue of torture.

A Civil Society Forum takes place twice a year just before the biannual sessions of the ACHPR. While CSOs prepare for the ACHPR sessions, the Forum allows CSOs to share information, meet the High Commissioners, and adopt resolutions on questions that will be examined by the ACHPR.

The African Commission can also refer cases to the African Court on Human Rights. In 2011, the commission brought before the African Court on Human and Peoples' Rights a case against Libya. The Commission can also adopt what are called "interim measures" to address human rights situations.⁸⁹

⁸⁹ Interim measures are typically measures imposed by a court or other legal body in which a State is asked to take certain provisional measures while the legal body continues its examination of the case. Interim measures usually consist of a request for a State to refrain from taking specific actions.

What can civil society do?

- *Civil society organizations in Egypt, Libya, Tunisia, and Algeria, and the other Arab countries in Africa can use the mechanisms of the African Commission to raise concerns over individual cases, legislation, and patterns of practices.*
- *Organizations can submit reports when the country reports are being considered by the Commission, and can seek interim measures when urgent action is required to stop a violation until the Commission considers the case and gives its opinion.*
- *Simply communicating with the Commission on cases allows organizations to receive authoritative opinions and recommendations, which can be used for further advocacy efforts to stop the violations.*

THE ARAB HUMAN RIGHTS COMMITTEE

The Arab Human Rights Committee is the treaty body that supervises the implementation of the Arab Charter on Human Rights of the League of Arab States (LAS). It was established in 2008 to examine States' compliance with the Arab Charter on Human Rights, but does not consider individual complaints since the Charter does not have a remedies or individual or collective complaint mechanism.

The Arab Charter on Human Rights is the first, and so far the only treaty in LAS to have an independent supervisory mechanism embodied in the treaty itself. During the first year, the Arab Human Rights Committee adopted its internal regulations and methods of work. After that, the Committee started receiving and considering State reports. By middle of 2013, reports by Jordan, Algeria, Bahrain and Qatar were submitted and reviewed. The reports are available on the website of LAS or through the LAS secretariat.

While the Committee did not adopt a clear procedure for civil society to engage in its work, it decided in its eleventh meeting that it will hold national workshops with civil society organizations before the Committee reviews the State reports and interacts with the State delegation. However, such workshops will be coordinated through the Ministry of Foreign Affairs of each country. This raises concern that some organizations will be excluded from the process. During the session for reviewing the State reports, it currently seems that CSOs will be invited to the session and the State's public presentation of its report, as well as the interactive dialogue between the Committee and the State. CSOs are allowed to submit shadow reports for the consideration of the Committee before the interactive dialogue with the State.

What can civil society do?

- *Civil society organizations must monitor the Arab Human Rights Committee's schedule for reviewing the State reports.*
- *CSOs must demand to be invited to the national workshop that the Committee will conduct before reviewing the State report.*
- *CSOs must prepare alternative reports, also known as shadow reports, and send them to the Secretariat of the Committee at the headquarters of LAS in Cairo. It is highly recommended that such reports follow the structure of the Charter and the Committee's own reporting guidelines so that they are easily referred to and used by the Committee.*

D. APPROACHES TO THE MEDIA⁹⁰

The media can provide civil society organizations important tools to convey a message at a large scale and increase the pressure towards the desired change. Remember, persons working in the media are not specialists, and they may not be interested in your concerns and issues. But if provided with the right information, they can help you achieve your goals. Thus, submissions to the media should reflect the way media conveys information, the structure of the media outlet, and its methods of work. Therefore, it is important to develop a media strategy.

A successful media strategy depends from the outset on identifying which media individuals and institutions might support your goals. You should consider ways to involve these persons in the campaigns, and moreover consider which parts of the campaign to include the media in. It is also important to involve traditional media as well as social media, such as Facebook, Twitter, blogs, websites, portals, and e-newsletters.

A media strategy is “a plan that guides how your organization interacts with the media. It helps you ensure that your messaging is consistent, organized and targeted. Having a media strategy in place means that your organization will not simply be reactive - that is, visible in the media only when an event or circumstance necessitates your comments. With a media strategy, you can instead purposefully build and manage your public image and relationships with the media, so that when you want to launch a campaign or respond to a situation, you have social capital to build upon.”⁹¹

There are eight steps for developing an effective media strategy:

1. Identify the overall goal or mission of your campaign

Establish a clear idea of what your campaign is trying to accomplish overall in the short, medium, and long terms, so that the tactics and tone employed in your media strategy can reflect these goals.

2. Identify the key stakeholders to develop your media strategy

Ask, “Who should be involved?” Make a list of the key people – both internal and external to your organization – who should have a voice in determining how the campaign or issue will be represented to the general public. Remember that you can include those affected by the situation for which you are campaigning. You must consider whether you have enough expertise with the media, or whether you must bring in people who have such expertise.

3. Outline the goals of your media strategy

Once you have established the overall goals of your campaign and identified the key stakeholders in your media strategy, the next step is to bring those key stakeholders together to think about why and how engaging the media will help you reach your goals.

⁹⁰ This section is largely based on, IFEX, “Building a Media Strategy,” available at: http://www.ifex.org/campaigns/media_strategy.

⁹¹ *Ibid.*

4. Identify your target audience: the people you need to influence to make your goals a reality

Can the general public make this happen? Do you need to reach one politician in particular or do you need a response from an organization or group? Would it be more effective to lobby the key individual/group directly, or to generate public support around the issue and apply pressure in that way? Is this target audience prepared to hear what you have to say? What are some of the barriers or concerns they may have that could pose a problem in reaching them?⁹²

5. Create an overall theme or message for your media strategy

You need to ask yourself, “What key message will resonate with our audience?” Messages should reflect the core concerns of the campaign – the general issues, rather than how a concern emerged or how a violation happened.

6. Identify the best way to reach the target audience

Ask questions like:

- Where does the target audience get their news and information?
- With that in mind, what is the most appropriate tactic for disseminating your campaign and message? Who will deliver the message with credibility in the eyes of your target audience?
- Is this individual/group internal or external to your organization? If they are external to your organization, you must consider how to prepare them to carry the message in the best way that reflects your campaign.
- What media will be used to deliver the messages and influence the behavior of the target audience? For example, you might consider if certain media is censored, or which media is used most by your target audience.

7. Evaluate the process and results

Measuring your progress is important to evaluate success and build more effective long-term strategic planning. However, you should focus on both process and results, as they each offer important lessons.

8. Build a media contact list

If your organization is creating a media strategy for the first time, one thing you absolutely must do is begin to build a media contact list. The media is all about contacts. Sending releases and information into the general news pool is not as effective as targeting people who know, like, and support you and your organization. It is therefore important that you:

- Build contact with the people who specialize in the different media outlets you are planning to approach;
- Contact them in person to introduce yourself and your organization or network;
- Ask them about how they work and when they file their stories, and always follow up, especially if you sent them any specific material; and
- Engage them long-term in the work of your organization and network, not only the issue or campaign for which you initially approached them.

⁹² *Ibid.*

E. HOW CAN CSOS STRATEGICALLY ENGAGE WITH HUMAN RIGHTS MECHANISMS TO PROTECT HUMAN RIGHTS EFFECTIVELY?

The work of the human rights mechanisms and regular interaction with them are crucial for CSOs. CSOs should not address only one mechanism, such as treaty bodies, but rather explore all possibilities within the UN and regional systems. This includes the special procedures, the Human Rights Council, its UPR system, and the General Assembly and Security Council when appropriate.

CSOs should consider engagement with treaty bodies and special procedures as part of an overall strategy. This engagement is not an end in itself, but a tool to achieve objectives. CSOs can regularly make submissions to special procedures regarding draft legislation, changes in policies, or individual cases that come to CSOs' attention, and engage with treaty bodies when the State they work on is scheduled for review.

Generally, CSOs must continuously encourage States to cooperate with the UN treaty system by ratifying treaties, submitting reports, implementing recommendations, and lifting reservations. CSOs should also continuously ask States to issue open invitations to the special procedures and accept requests by special procedures to visit countries.

CSOs should work very closely with other national, regional, and international human rights organizations when preparing submissions to the UN and regional human rights system. They should also aim to complement submissions of other organizations.

After making submissions, and after the concluding observations and recommendations are issued, CSOs should follow up on conclusions and recommendations by:

- Incorporating conclusions and recommendations in their country strategy;
- Reminding governments – by writing directly to them and meeting with government officials – of their obligations to take immediate steps to implement these recommendations, and following up with the government on the implementation of recommendations;
- Building their analyses of the country situation, using many sources, including the analyses by the treaty bodies. Various perspectives should be incorporated in the text of reports and other documents that CSOs produce; and
- Using the treaty bodies' recommendations in their assessment of laws or draft legislation. This assessment can be released publicly, submitted to UN or regional mechanisms (other than those which made the recommendations), or sent to the government while the drafting process is underway.

CSOs also must link the role of treaty bodies with that of the other UN human rights mechanisms. For example, the UPR has many objectives: improving the human rights situation on the ground; fulfilling the State's human rights obligations and commitments; assessing positive developments and challenges faced by the State; enhancing the State's capacity and providing technical assistance; and encouraging full cooperation and engagement with the Human Rights Council, other human rights bodies, and the OHCHR. The UPR mechanism thus has wide scope to complement the activities of the treaty bodies and provide opportunities for the committees.

CSOs should also use the UPR to promote States' treaty obligations. CSOs must use the UPR as a mechanism to help focus the States' attention on the importance of following treaty body

concluding observations to fulfill human rights obligations. The UPR also provides an opportunity to remind States that are members of the HRC to fulfill the promises made in their election pledges. CSOs thus see the UPR as an opportunity to galvanize domestic constituency before, during, and after the review process, directly impacting implementation of the treaty obligations.

4. NETWORKING

Networking can help enlarge consensus among different parties, leading to building coalitions and diversifying experiences and knowledge. It also expands constituencies, thus increasing credibility and popular support.

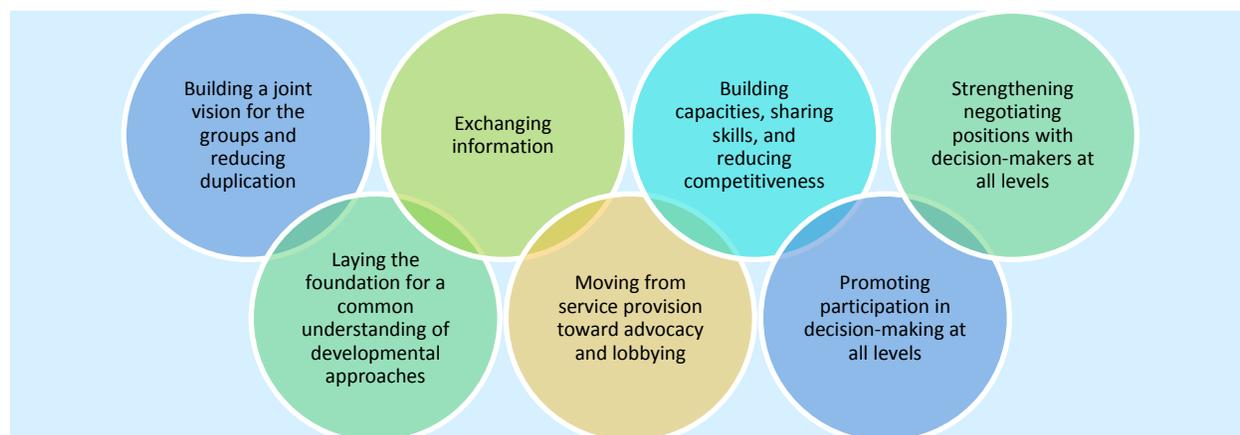
Networking is also crucial for campaigning and advocacy activities, as it allows the member organizations to pull their human and material resources together to achieve more goals.

Networking is a tool and not an end in itself. It enhances the exchange of knowledge and information and strengthens CSOs through the coordination of messages and augmented influence in negotiations and pressure campaigns. Networking strengthens CSOs in their quest for independence from the government, the private sector, and donors. It also improves the economic, social, and political performance of development partners.

A. THE ROLE OF NETWORKING

Networking contributes to developing a collective "vision," and leads to the development of a "message," which includes long-term goals to be achieved through cooperation and joint work. Members also identify specific "targets" for a set timeline.

Networking includes the adoption of mechanisms and frameworks for effective coordination. It sheds light on the common denominators among member organizations and helps elaborate a comprehensive development vision, strengthening the analytical tools of CSOs for improving the economic, social, and political performance of development partners.⁹³



⁹³ The figure below is based on a similar chart in Arab NGO Network for Development, *Manual on Planning and Work on the Millennium Development Goals*, available at: <http://www.annd.org/CDs/mdgs/index.html>.

B. THE BENEFITS OF NETWORKING

- Enhances the exchange of information, laying the foundation for a common understanding of development approaches and the elaboration of a joint vision.
- Shifts the focus of civil society organizations from project implementation and service provision to advocacy and participation in policy-making.
- Develops capacities, sharing skills and strengthening democratic functioning.
- Facilitates dealing with funding procedures and making resources available and sustainable, particularly for small organizations.
- Opens channels for a civil society voice in regional and international fora, where global development policies are formulated. With the support of partner organizations, organizations can even propose practical and effective alternatives at the policy-making level.

A Success Story in Networking: Lobbying for Access to Information in Lebanon

Several factors can enhance the advocacy role of CSOs, including an enabling legal framework that respects the right of access to information and access to human and financial resources. In advocacy efforts, information is key: equal access to the same information, the density of the flow of information, and the quality of available information will all impact how and whether advocacy efforts are embraced.

A multi-sectoral network called the National Network for the Right of Access to Information (NNRAI), was formed on April 11, 2008, upon the initiative of the Lebanese Parliamentarians against Corruption (LebPAC), the Lebanese Transparency Association (LTA) and Association pour la Défense des Droits et des Libertés (ADDL), in collaboration with the American Bar Association (ABA) Rule of Law Initiative in Lebanon.

The Network is coordinated by a Steering Committee and conducts its core activities through two working groups: a legal working group and an advocacy working group.

The NNRAI aims to raise awareness on access to information concepts and to lobby with different stakeholders on access to information and whistleblower draft laws.

The work of the NNRAI is based on the right of access to information as it is reflected in Article 19 of the UDHR and Article 13 of the Lebanese Constitution. However, the problem it identified was that there is no national Lebanese law that guarantees access to information or protection for whistleblowers, individuals who report corruption. Therefore, the NNRAI advocates for the passage of legislation that would recognize and protect these aspects of access to information.

Some important activities of the NNRAI include the following:

- *A draft law on Access to Information was completed on April 14, 2009. A whistleblower draft law is being prepared.*

- *The NNRAI engages the media and raises their awareness on access to information, whistleblower protection, and approaches to reporting corruption.*
- *The NNRAI garners the support of parliamentary candidates and current members of parliament to pass access to information and whistleblower protection laws.*
- *It organizes interactive workshops for particular Ministry of Finance personnel on the Access to Information draft law and its implications for reporting mechanisms.*
- *LTA, one of the founders of the NNRAI, is building knowledge on access to information and whistleblower protection through a study on the importance of access to information and whistleblower protection, website development, and production of educational and toolkits.*
- *LTA also implements activities geared towards the private sector, including organizing workshops with the Chamber of Commerce to introduce the draft bills and receive feedback on them from private sector stakeholders, and forging a sustainable forum for dialogue on access to information and whistleblower protection.*
- *The NNRAI has an informative website, which includes separate pages for information and resources for politicians, the media, public civil servants, and the private sector.*

For more information on the work of the NNRAI, please see <http://www.a2ilebanon.org>.

Lebanese Transparency Association

C. TYPES OF NETWORKING

As stated above, networking is a process to enhance the spaces and the advocacy role of civil society groups through exchange of knowledge and information, coordination of messages, and increased influence in the negotiations and pressure campaigns. Networking can take the form of an institution – “the Network” – the result of a joint initiative between members to enhance their co-operation to achieve their goals. Types of networking vary according to the thematic focus, the duration, and the geographical dimension.

Networking based on the Thematic Focus:

- *Comprehensive networking occurs when member organizations have multidisciplinary expertise and work in a variety of fields. Examples include the Arab Network for NGOs, Arab NGOs Network for Development.*
- *Sectorial networking occurs when member organizations work in one field or sector, such as health, education, economics, environment, women's issues, youth, disability, or human rights. Examples include the Arab Organization for Human Rights (AOHR), the Arab Network for Environment and Development (ANED), the Aisha Network, the ANGED Network for Development.*

Networking based on the Duration:

- *Temporary networking is practiced to achieve certain goals and then fall apart after achieving the targets, or shift to more advanced goals. This is the case of CSOs defending human rights in a specific topic and putting pressure on decision-makers to issue or cancel*

possible to turn temporary networks into a permanent or a medium-term network if there is conviction in the usefulness or the positive impact of continuing the network. Examples include the creation of a loose coalition between several CSOs in Lebanon to use the report produced for the Universal Periodic Review (UPR) to promote and protect social and economic rights.

- Permanent networking is practiced to achieve long-term objectives. In this case, coordination may develop with the accumulation of experience and expertise and the growth of common awareness. The network transforms from a mere framework for coordination and exchange of expertise to a lasting alliance with broad common interests. Examples include the network of civil volunteer organizations in Lebanon, and the network of Palestinian civil organizations and the Espace Associative in Morocco.
- Comprehensive networking occurs when member organizations have multidisciplinary expertise and work in a variety of fields. Examples include the Arab Network for NGOs, Arab NGOs Network for Development.
- Sectorial networking occurs when member organizations work in one field or sector, such as health, education, economics, environment, women's issues, youth, disability, or human rights. Examples include the Arab Organization for Human Rights, the Arab Network for Environment and Development, the Aisha Network, the ANGED Network for Development.

Networking based on the Geographical Dimension:

- Local networking is within a specific geographic division in the country, such as a province, an administrative or civil division, or group of villages, or may arise around a specific issue with a local geographical dimension, such as agricultural areas affected by a natural disaster.
- National networking often arises in response to pressing challenges. CSOs seek to work together and determine the position of civil society organizations towards the government and its policies.
- Regional networking is formed in a voluntary and selective way to reflect a common vision or goals. It may include entire countries that make up the region, such as all members of the Arab countries, or part of them, such as the GCC countries, the Maghreb, or the Middle East.
- International networking is a response to the challenges of globalization. The need for international networks has grown with the worsening global conditions. This type of networking also includes networks of human rights organizations who are members of an international organization, working together strategically towards achieving certain strategies and goals. There are also international networks of trade unions.

D. NETWORKING OBJECTIVES AND EXPECTED RESULTS

Objectives	Expected Results
Reach a common and clear understanding of development.	Reduce competition among civil society organizations and develop cooperation and teamwork.
Develop a common vision on the role of the civil society.	Promote the concepts and mechanisms of CSO participation in decision making at all levels.
Transition from a pastoral and service oriented role to an active role in development and social change.	Improve the ability to face economic, political, social and cultural risks and challenges.
Ensure a legal and enabling environment for its operation.	Improve the ability to monitor and evaluate self-performance and the performance of other development partners.
Integrate and participate with the government and its institutions according to modern mechanisms.	Enhance capacities and improve the level of awareness.
Coordinate to minimize duplication of services.	Activate the participation of civil society in national dialogue at all levels.
Work on skills development, capacity building, and training.	Strengthen the negotiating positions with decision-makers at all levels.
Build an effective civil society and create spaces based on conscious and clear objectives and a pivotal role for CSOs.	Increase the ability to lobby and campaign in the area of civil, political, economic, social and cultural rights and policies.
Increase effective participation in policy development.	Activate participation in global forums and campaigns.

E. THE BASIC PILLARS IN BUILDING A NETWORK

Principles and Values: These are the foundations that define the methods of work and priorities.

Vision and Message: The vision is the ultimate goal sought by the network. The message is the intense expression of the vision and determines the reasons for the network and its attitude towards the society and its target audience.

Goals and Objectives: These include a wide range of issues that translate the vision and the message to specific goals.

Strategy: This is the set of tools, methods, and action plans adopted by the network to achieve the vision, message, and goals and translate them into reality.

Mechanisms of Action: The mechanism of action may take the form of an executive network providing services in a particular field (such as health services), a network aimed at the development of human and material resources, an electronic network for information and resource exchange, or the coordination of popular movements to pressure and influence policy reform.

Administrative and Organizational Structure: Networks are characterized by high organizational flexibility. In principle, networks try to move away from hierarchical and complex

structures, and tend to horizontal and equal forms of work, with the least possible administrative burden.

F. HOW TO USE A NETWORK FOR CAMPAIGNING ON A SPECIFIC TOPIC

Networking in the framework of a specific project	Steps and Tools
Networking on a specific and clear goal	1) Identify the specific goals 2) Draft a position paper
Raising the level of interest of the organizations and number of civil society organizations monitoring the work	3) Perform specialized research on the subject 4) Conduct national and regional workshops 5) Create list of interested organizations
Identifying national focal points	6) Issue periodicals
Building strategic relationships with allies at the international, regional, and local levels	7) Present the project to the concerned organizations, such as UN agencies 8) Launch a Website
Building strong relationships with professionals and experts in the field	9) Involve experts and specialists in the project activities
Identifying and building trust with concerned stakeholders and decision-makers	10) Take the initiative to open dialogue and negotiation with decision makers 11) Communicate with government agencies and invite them to participate in the proposed activities 12) Organize direct meetings with the concerned parties
Working with the media	13) Post articles in newspapers 14) Discuss topics on television

G. THE CHALLENGES OF NETWORKING

The main challenges of networking include:

- Formulating a network's vision and its relationship with partners and the public.
- Developing strategies, action plans, and programs that respond to the urgent needs of the community.
- Maintaining balanced relations with the government and local and foreign donors: strengthening cooperation while preserving independence.
- Developing organization, management, and methods of work.
- Enhancing the capacity of its staff, volunteers, and members continuously.
- Never abandoning voluntary work, the foundation of civil society organizations, under the pretext of professionalism and effectiveness.

Conditions for Successful Networking	What's Needed
Networking is a voluntary process based on common interests and visions. The success of the network depends on the role of all members of the network.	Planning and implementation of the activity through joint and coordinated efforts.
Network is the result of the work and efforts of	Effective use of the various fields of expertise of

its members and is not a competitor to the civil society members' organizations.	the network members.
Members' commitment to working towards achieving the goals of the network.	Trust and communication among the network members.
The principle of full partnership, diversity, and independence.	The arrival of the various voices of the participating organizations to decision-making, campaigns, and activities of the network.
Access and exchange of information within the network	The flow of information within the network.
Agreement on common objectives and activities.	The quality of membership fits with the network programs.
Regular meetings	Organization of meetings, public events, and private events for the network.
Continuous follow-up and expansion of the number of participants in the activity.	The focal point of the network or its members in a specific country should not turn into a closed group monopolizing the representation of the network and preventing the expansion of its membership.
Sustainability and continuity of the work through its members.	Convictions of members to advance and develop the volunteer work.

CONCLUSION

Violations of freedom of association, assembly, and expression, and the repression of civil society organizations constitute a major cause for the unrest experienced in the “Arab Spring”. The status of freedom of association in many Arab countries is simply not favorable. While change has occurred in the last few years, the civic space still remains limited in most Arab countries. Positive and encouraging changes to associations’ laws were seen recently in Tunisia, Iraq, and Iraqi Kurdistan. Changes in Jordan, while generally positive, did not address all the problems in the law. On the other hand, attacks on civil society organizations in Egypt and Syria are intensifying. Activists in Bahrain and Yemen are also targeted because of their demands for reform.

Freedom of association is essential for the enjoyment of many other rights. The level of repression of freedom of association is a strong indicator for the level of repression of other rights. Conversely, freedom of association cannot be enjoyed without the respect for other rights including peaceful assembly, expression, receipt and dissemination of information, political participation, and access to effective remedy.

The role of the civil society in building a nation, contributing to the realization of rights, and defending individuals and communities cannot be stressed enough. It is therefore essential that an enabling legislative and political environment exists to allow for freedom of association to be enjoyed without undue restriction. Restrictions in laws and practice must be removed. States must place the right to freedom of association at the heart of genuine efforts for reform. However, the civil society must not lose hope. It is possible to work towards addressing these problems through effective campaigning and advocacy. Engaging international and regional human rights mechanisms, building coalitions, involving the media, documenting and publicizing cases and issues, and engaging in debates are only some of the tools that will continue to change the reality and achieve a freer environment for civil society.

APPENDIX: DECLARATION ON THE RIGHT AND RESPONSIBILITY OF
INDIVIDUALS, GROUPS AND ORGANS OF SOCIETY TO PROMOTE
AND PROTECT UNIVERSALLY RECOGNIZED HUMAN RIGHTS AND
FUNDAMENTAL FREEDOMS
("DECLARATION ON HUMAN RIGHTS DEFENDERS")

General Assembly Resolution 53/144

The General Assembly,

Reaffirming the importance of the observance of the purposes and principles of the Charter of the United Nations for the promotion and protection of all human rights and fundamental freedoms for all persons in all countries of the world,

Reaffirming also the importance of the Universal Declaration of Human Rights and the International Covenants on Human Rights Resolution 2200 A (XXI), annex. as basic elements of international efforts to promote universal respect for and observance of human rights and fundamental freedoms and the importance of other human rights instruments adopted within the United Nations system, as well as those at the regional level,

Stressing that all members of the international community shall fulfill, jointly and separately, their solemn obligation to promote and encourage respect for human rights and fundamental freedoms for all without distinction of any kind, including distinctions based on race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and reaffirming the particular importance of achieving international cooperation to fulfill this obligation according to the Charter,

Acknowledging the important role of international cooperation for, and the valuable work of individuals, groups and associations in contributing to, the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals, including in relation to mass, flagrant or systematic violations such as those resulting from apartheid, all forms of racial discrimination, colonialism, foreign domination or occupation, aggression or threats to national sovereignty, national unity or territorial integrity and from the refusal to recognize the right of peoples to self-determination and the right of every people to exercise full sovereignty over its wealth and natural resources,

Recognizing the relationship between international peace and security and the enjoyment of human rights and fundamental freedoms, and mindful that the absence of international peace and security does not excuse non-compliance,

Reiterating that all human rights and fundamental freedoms are universal, indivisible, interdependent and interrelated and should be promoted and implemented in a fair and equitable manner, without prejudice to the implementation of each of those rights and freedoms,

Stressing that the prime responsibility and duty to promote and protect human rights and fundamental freedoms lie with the State,

Recognizing the right and the responsibility of individuals, groups and associations to promote respect for and foster knowledge of human rights and fundamental freedoms at the national and international levels,

Declares:

Article 1

Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.

Article 2

1. Each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, *inter alia*, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice.

2. Each State shall adopt such legislative, administrative and other steps as may be necessary to ensure that the rights and freedoms referred to in the present Declaration are effectively guaranteed.

Article 3

Domestic law consistent with the Charter of the United Nations and other international obligations of the State in the field of human rights and fundamental freedoms is the juridical framework within which human rights and fundamental freedoms should be implemented and enjoyed and within which all activities referred to in the present Declaration for the promotion, protection and effective realization of those rights and freedoms should be conducted.

Article 4

Nothing in the present Declaration shall be construed as impairing or contradicting the purposes and principles of the Charter of the United Nations or as restricting or derogating from the provisions of the Universal Declaration of Human Rights, the International Covenants on Human Rights and other international instruments and commitments applicable in this field.

Article 5

For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels:

(a) To meet or assemble peacefully;

(b) To form, join and participate in non-governmental organizations, associations or groups;

(c) To communicate with non-governmental or intergovernmental organizations.

Article 6

Everyone has the right, individually and in association with others:

(a) To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;

(b) As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms;

(c) To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

Article 7

Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance.

Article 8

1. Everyone has the right, individually and in association with others, to have effective access, on a non-discriminatory basis, to participation in the government of his or her country and in the conduct of public affairs.

2. This includes, *inter alia*, the right, individually and in association with others, to submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms.

Article 9

1. In the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the present Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights.

2. To this end, everyone whose rights or freedoms are allegedly violated has the right, either in person or through legally authorized representation, to complain to and have that complaint promptly reviewed in a public hearing before an independent, impartial and competent judicial or other authority established by law and to obtain from such an authority a decision, in accordance with law, providing redress, including any compensation due, where there has been a violation of that person's rights or freedoms, as well as enforcement of the eventual decision and award, all without undue delay.

3. To the same end, everyone has the right, individually and in association with others, *inter alia*:

(a) To complain about the policies and actions of individual officials and governmental bodies with regard to violations of human rights and fundamental freedoms, by petition or other appropriate means, to competent domestic judicial, administrative or legislative authorities or any other competent authority provided for by the legal system of the State, which should render their decision on the complaint without undue delay;

(b) To attend public hearings, proceedings and trials so as to form an opinion on their compliance with national law and applicable international obligations and commitments;

(c) To offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms.

4. To the same end, and in accordance with applicable international instruments and procedures, everyone has the right, individually and in association with others, to unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights and fundamental freedoms.

5. The State shall conduct a prompt and impartial investigation or ensure that an inquiry takes place whenever there is reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred in any territory under its jurisdiction.

Article 10

No one shall participate, by act or by failure to act where required, in violating human rights and fundamental freedoms and no one shall be subjected to punishment or adverse action of any kind for refusing to do so.

Article 11

Everyone has the right, individually and in association with others, to the lawful exercise of his or her occupation or profession. Everyone who, as a result of his or her profession, can affect the human dignity, human rights and fundamental freedoms of others should respect those rights and freedoms and comply with relevant national and international standards of occupational and professional conduct or ethics.

Article 12

1. Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms.

2. The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or *de jure* adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.

3. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

Article 13

Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, in accordance with article 3 of the present Declaration.

Article 14

1. The State has the responsibility to take legislative, judicial, administrative or other appropriate measures to promote the understanding by all persons under its jurisdiction of their civil, political, economic, social and cultural rights.

2. Such measures shall include, *inter alia*:

(a) The publication and widespread availability of national laws and regulations and of applicable basic international human rights instruments;

(b) Full and equal access to international documents in the field of human rights, including the periodic reports by the State to the bodies established by the international human rights treaties to which it is a party, as well as the summary records of discussions and the official reports of these bodies.

3. The State shall ensure and support, where appropriate, the creation and development of further independent national institutions for the promotion and protection of human rights and fundamental freedoms in all territory under its jurisdiction, whether they be ombudsmen, human rights commissions or any other form of national institution.

Article 15

The State has the responsibility to promote and facilitate the teaching of human rights and fundamental freedoms at all levels of education and to ensure that all those responsible for training lawyers, law enforcement officers, the personnel of the armed forces and public officials include appropriate elements of human rights teaching in their training program.

Article 16

Individuals, non-governmental organizations and relevant institutions have an important role to play in contributing to making the public more aware of questions relating to all human rights and fundamental freedoms through activities such as education, training and research in these areas to strengthen further, *inter alia*, understanding, tolerance, peace and friendly relations among nations and among all racial and religious groups, bearing in mind the various backgrounds of the societies and communities in which they carry out their activities.

Article 17

In the exercise of the rights and freedoms referred to in the present Declaration, everyone, acting individually and in association with others, shall be subject only to such limitations as are in accordance with applicable international obligations and are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

Article 18

1. Everyone has duties towards and within the community, in which alone the free and full development of his or her personality is possible.
2. Individuals, groups, institutions and non-governmental organizations have an important role to play and a responsibility in safeguarding democracy, promoting human rights and fundamental freedoms and contributing to the promotion and advancement of democratic societies, institutions and processes.
3. Individuals, groups, institutions and non-governmental organizations also have an important role and a responsibility in contributing, as appropriate, to the promotion of the right of everyone to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights and other human rights instruments can be fully realized.

Article 19

Nothing in the present Declaration shall be interpreted as implying for any individual, group or organ of society or any State the right to engage in any activity or to perform any act aimed at the destruction of the rights and freedoms referred to in the present Declaration.

Article 20

Nothing in the present Declaration shall be interpreted as permitting States to support and promote activities of individuals, groups of individuals, institutions or non-governmental organizations contrary to the provisions of the Charter of the United Nations.