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ENABLING ENVIRONMENT NATIONAL ASSESSMENT CASE OF LEBANON

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LIST OF ACRONYMS

ADDL	Association pour la Défense des Droits et des Libertés
CSO	Civil Society Organization
CCER	Civil Campaign for Electoral reform
EENA	Enabling Environment National Assessment
E EI	Enabling Environment Index
FOI	Freedom of Information
ICCPR	International Covenant on Civil and Political Rights
LebPAC	Lebanese Parliamentarians Against Corruption organization
LTA	Lebanese Transparency Association
MoE	Ministry of Environment
MoIM	Ministry of Interior and Municipalities
MoSA	Ministry of Social Affairs
NGO	Non-Governmental Organization
UDHR	Universal Declaration of Human Rights
VAT	Value-Added Tax

I- INTRODUCTION

Overview of the Lebanese civil society: The examination of Lebanese civil society is of great interest as it discloses the capacity of Lebanese CSOs to adapt and serve in a continuously changing and unstable environment. They have managed throughout the years to be a transparent reflection of citizens' concerns.

Lebanon is a democratic republic guaranteeing civil rights and liberties; however, an intimidating level of corruption¹ exists. In addition, the country is affected by an unstable political system and strong sectarianism leading to severe divisions among civil society (these divisions reached their pinnacle with the 1975 civil war that lasted until 1990).

The situation in Lebanon is best described by Khaldoun Abou Assi who was in charge of conducting CIVICUS' "*Civil Society Index*" study for Lebanon: "The Lebanese state is fairly oligarchic and is characterized by often unscrupulous political horse-trading. Paradoxically, in times of peace this has generated a rather large measure of liberty, democracy and respect for the rule of law compared to most other Arab and developing countries. At the same time, when the Lebanese system has broken down, it has not declined into dictatorship, but into civil chaos until a new equilibrium can be imposed"².

Actually, Lebanese civil society went through major developments and tremendous changes. Originally dedicated to service provision, charity and war relief, CSOs nowadays are fulfilling additional mandates. Acknowledged as development partners, organizations' role shifted to policy making and human rights. Their interest in these domains is reflected by the emergence of developmental and advocacy organizations.

Nevertheless, the space of manoeuvre required for service provision and charity is different and much wider than that of development and policy making domains since they deal with public

¹ In the 2013 Corruption Perception Index (Transparency International) Lebanon was ranked 127 out of 177 countries. Accessed on 21 July 2014 via <http://www.transparency.org/country#LBN>

² Abou Assi K. (2006). *CIVICUS civil society index for the Republic of Lebanon*. Beirut, p.27.

policy matters. Furthermore, the current situation in Lebanon does not bode well for Civic Activism. Indeed, on the humanitarian front, the country is making history: compared to its population, Lebanon received the highest number of refugees in human history³. In turn, this is straining the economy and creating non-negligible security dangers. On the other hand, a glance at the news stream emerging from Lebanon would give a rather gloomy portrait (explosions, women's rights violations, coercion of journalists, corruption etc...) and would predict hard times for CSOs. Nevertheless, more thorough insights also reveal very active organizations, and a wide array of NGOs and citizen gatherings. Consequently, conducting an in-depth study of the actual interaction between CSOs and their surrounding environment is, now more than ever, a necessity.

By enabling environment, we mean the conditions within which CSOs are operating. This project aims in fact to assess the dimensions which influence and participate in defining this environment through a scrupulous examination of the legal, regulatory and policy background of the working conditions of CSOs. This report will scrutinize nine dimensions⁴ which are believed to define and affect the enabling environment for CSOs. Once taken together, the dimensions' outcomes and findings will allow us to draw a clearer vision.

Structure: Five dimensions, described as mandatory, are believed to affect the enabling environment of CSOs in all States. Section III will look into the **formation** of civil society organisations (CSO's); which refers to the legal framework and the procedures required to establish a "legal" association. Once done, the report will focus in its section IV on the **operation** of CSO's i.e. the enabling and restraining factors which influence its ability to conduct activities and to achieve its objectives. Section V will examine CSOs' ability to **access resources** (funding). Resources condition its efficiency, independence and sustainability. Lastly, sections VI and VII will respectively assess the **freedom of expression** and the **right to peaceful**

³ By the end of 2014, the Syrian refugee population could reach 1.5 million according to UNHCR. More details are available at <http://www.unhcr.org/pages/49e486676.html>

⁴ The Enabling Environment National Assessment (EENA) methodology, developed by CIVICUS and ICNL, contains ten dimensions in the legal, regulatory and policy environment for civil society. Five dimensions are mandatory (Formation, Operation, Access to Resources, Expression and Peaceful Assembly), while five dimensions are optional (Internet Freedom, Government-CSO Relations, CSO Cooperation and Coalition, Taxation and Access to Information) and chosen in function of the national context.

assembly. Freedom of expression refers to the possibility for civil society to freely express its opinion and to publicly assess public performance. As for the right to peaceful assembly, it is a main component of the freedom of association without which civic activism in Lebanon would be greatly reduced, as the country witnesses weekly and sometimes daily protests.

Four additional dimensions were chosen by ANND and its Expert Advisory Panel (EAP) which was defined for the purpose of the EENA and provided guidance all through the research⁵. **CSO-State government cooperation** is the first and a highly-important section (section VIII). CSOs nowadays play an important role in contributing to inclusive and pro-poor development. CSOs' mandate and role will remain incomplete without building strong and effective **cooperation and coalition among organizations** (section IX). In addition, the **taxation regime** (section X) can facilitate or hamper CSOs' operations. Last but not least, **access to information** (section XI) is the starting point of all advocacy and policy making activities. It is also central to democracy, holding the government and State's officials accountable by allowing the spread of a culture of informed citizenry.

⁵ The EAP's members will be presented in the section below "Methodology".

II- METHODOLOGY

The methodology of this report included online desktop research (academic and practitioner' articles and publications, review of laws and regulatory frameworks) as well as one-on-one interviews with key stakeholders and focus group discussions. In addition, an Expert Advisory Panel (EAP) was formed consisting out of two CSO experts and activists, a United Nations consultant and a lawyer/academician: Ms. Marie-Rose Zalzal (a lawyer expert in the association law and gender issues), Mr. Adib Nehmeh (UN-ESCWA regional consultant on MDGs, poverty eradication and a civil society expert), Mr. Toufic Osseiran (Representative of the NGOs in contract with the Ministry of Social Affairs), Mr. Karam Karam (Head of Research at the Common Space Initiative for Shared Knowledge and Consensus Building, He is also a founding member of both the Lebanese Association for Democratic Elections and the Legal Agenda) and Mr. Ziad Abdel Samad (ANND's executive director and a civil society activist and expert).. The EAP convened for a meeting to discuss the preliminary results and findings⁶. The discussions and recommendations of the EAP were useful in order to validate information gathered thus far. A qualitative approach was preferred over a quantitative one for two reasons: time constraints and the fact that only a limited number of CSOs replied to questionnaires.

1. Online research: The desktop research looked into the details of each of the nine dimensions. It examined Lebanese civil society's historical evolution, recent developments, improvements, challenges and weaknesses. A thorough examination of the legal and regulatory framework was conducted at the beginning of the assessment. Collected articles and reports (local, regional and international), related to Lebanese civil society were also useful. Online research was conducted hereby consulting sources in Arabic, English and French. Websites and blogs of journalists, civil society activists, NGOs, concerned ministries as well as international and national ones were continuously consulted.

2. Interviews: interviews were held with civil society experts and activists, lawyers (concerned with CSOs) and with government officials. A total of 14 one-on-one interviews were conducted. Most of them were held face-to-face, with the exception of one (held via email). These

⁶ Meeting of the EAP on March 20th, 2014.

interviews focused on answering perception questions and went into details of the implementation of each dimension. Current practices and challenges facing civil society were addressed

Additionally, a focus group discussion (FGD) took place. It was held, on February 2, 2014, in the Ministry of Environment (MoE) with two of its officials and UNDP's permanent representative at the Ministry and focused on the relation between CSOs and the MoE.

3. National Consultation: A National Consultation⁷ was organized in order to discuss the findings and conclusions reached by the study (which were included in the Preliminary Draft Report). The consultation gathered representatives of several CSOs as well as journalists, UN experts and international organizations. Most of the findings were approved by the participants and discussions focused also on the alternatives to address the shortcomings and challenges hindering Lebanese civil society's effectiveness and impact. Later, a meeting was consecrated to define an advocacy plan (set the priorities).⁸

Data analysis: The information gleaned from each of these methods was used to assess the existing enabling environment affecting civil society in Lebanon.

⁷ The national Consultation was held on June 10, 2014.

⁸ This meeting was held on July 4, 2014 and gathered some of ANND's board members.

III- FORMATION

3.1. Key Findings: Lebanese civil society has historically been a vibrant one; it successfully responded to citizens' needs and filled the gaps caused by State's weaknesses and shortages. The active character of Lebanese civil society partially results from the liberal regime governing the formation of an association. In opposition to its neighboring countries which impose severe conditions to form an association, Lebanon only requires notifying the administration once an association is created.

The liberal regime applicable to the formation of CSO's suffered from poor implementation and several violations. Nevertheless, it gained back all its efficiency. Some breaches and weaknesses can be found in the law governing associations. Weaknesses concerning the general provisions used and the undefined delays set by the law.

3.2. A notification regime: In fact, while there are generally two types of legal regimes for establishing an organization, i.e. notification and registration, Lebanon adopted long time ago the notification regime also known as the *declaration* regime.

Freedom of association is a constitutional right in Lebanon which cannot be limited by the adoption of a law or any other legal instrument; it requires a constitutional revision⁹. The Lebanese Constitution of 1926¹⁰ consecrates the right of association in its 13th article and considers that it "shall be guaranteed within the limits established by law"¹¹.

The Constitution sets the general framework and principles of a State. Laws and executive decrees define and determine in detail the modalities of its implementation; therefore the Ottoman Law on Associations (adopted on August 3rd of 1909) remains the principal law

⁹ A constitutional revision requires a majority of two thirds majority of the members of parliament

¹⁰ The Constitution was amended in 1989 following the civil war, a preamble was added. This preamble declares the attachment of Lebanon to the Universal Declaration of Human Rights.

¹¹ Article 13, Lebanese Constitution, promulgated on May 23, 1926.

governing CSOs in Lebanon.¹² The latter was directly inspired by the 1901 French Law on associations.

The 1909's law defines an association as an agreement between a certain number of individuals who "*decide to unite their knowledge and efforts in order to reach certain goals which are not to divide profit*"¹³.

In the same regards, Article 2 consecrates the notification system as follows: "*no permit is initially needed to found an association. However, in all cases the government must be notified of the association after it is founded in accordance with Article 6*"¹⁴. Thus, notifying the administration - the Ministry of Interior and Municipalities - of the formation is just a modality since associations come to existence once their founders have agreed to create them.

Nevertheless, this notification is not an option but an obligation.¹⁵ Lebanese Law prohibits undeclared associations which can be subject to legal proceedings. "*In order to enjoy legal capacities, associations should be subject to a formal requirement: a declaration to the public authorities*"¹⁶.

The associations' law specifies the form of the notification; founders are asked to notify the administration of its formation in a signed and stamped statement presented to the Ministry of Interior if it is based in Beirut or to the foremost civil official if it is based outside Beirut.¹⁷ The statement should include the following information: address of the association, a statement of its goal, its main office, and the names of those in charge of running its affairs as well as their titles and addresses. Along with it two copies of the statutes must be presented (endorsed with the official seal of the association).

¹² Worth noting that since its adoption in 1909, this Law was never amended. In some periods, the Ministry of Interior used decrees to restrict its openness and liberal nature.

¹³ Article 1, Ottoman law on Associations, 1909.

¹⁴ *Idem*, Article 2.

¹⁵ In France, the notification is a condition for the association to acquire legal personality and is not an obligation in itself.

¹⁶ Makary (M.), *Notification or registration? Guarantees of Freedom of Association in Non-Democratic Environments: Case studies of Lebanon and Jordan*. The International Journal for Not-for-profit-Law, Vol. 10, issue 1, Dec 2007, p.84.

¹⁷ In practice, it is only being presented to the Ministry of Interior.

Upon receiving the notification, a receipt should be given to the founders. No time limit for the delivery of the receipt is specified; a fact that was plentifully exploited by the administration (until 2005) as a tool to limit the freedom of associations, this will be discussed in more details later in this report.

The founding of an association does not require a minimal number of founders.¹⁸ It is worth noting that only an individual has the ability to found an association; thus organisations (or any other legal entity) are deprived from the right to found an association.¹⁹ Founders and members of an organization must be minimum 20 years old and must enjoy civil and political rights (not condemned of a felony). As per civil society experts/activists, the minimum age required to form or become member of an association must be reduced to 18 years old, thus allowing young adults to participate in CSOs activities and public affairs.²⁰

There is no minimum capitalization required for registering an association. The only costs involved are those corresponding to its publication in the Official Gazette. According to Faten Bou Hassan, head of the Department of Political and Electoral Processes at the Ministry of Interior, this cost does not exceed USD 300 and is only determined by the printed objectives' length.²¹

As for the registration bodies, several comments can be made. Firstly, they are totally dependent on the Ministry of Interior and Municipalities. In this case transparency can be easily questioned since such bodies do not include civil society representatives. Furthermore, notifications are received solely by the Ministry of Interior. The latter unfortunately suffers from capacity deficits especially when it comes to human resources which have to receive and examine notifications and to control CSOs once created (receive the periodic documents and required notifications prescribed by the Law)²².

¹⁸ Some Arab countries require a large number of founders: Egypt and Bahrain each require 10 members, the United Arab Emirates and Qatar require 20 and Sudan requires 30 members.

¹⁹ Statement by Ahmad Mroueh, a civil society activist, during the National Consultation which was held on 10 June 2014 in order to discuss the EENA's Draft Report.

²⁰ This demand was repeated in many interviews held in the EENA research, during the National Consultation and included in most of the reports or studies which deal with the Lebanese civil society.

²¹ Interview with Faten Bou Hassan, head of the Department of Political and Electoral Processes at the Ministry of Interior, February 19, 2014.

²² These requirements will be thoroughly discussed below in the fourth section - Operation.

Although some flaws do exist in the current associations' law, it remains a liberal one that fully guarantees the right to form associations. Political parties in Lebanon benefit from this liberal regime since they are subject to the 1909 Law. On the other hand, it is worth mentioning at this point that not all CSOs are submitted to this regime and some categories of CSOs were systematically removed from the scope of 1909 Law. These are discussed hereunder as to shed light on the inconsistencies in State's legal framework and policies.

Categories of CSOs not subject to the notification regime: although the 1909 Law was originally established to govern all types of associations, many categories were gradually excluded from its scope hereby depriving them, as a consequence, from the liberal notification regime and placing them under the authorization regime.

Youth and sport associations are subject to a specific regulation. For that reason, some consider that there are two regimes governing CSOs in Lebanon. Effectively, according to the Law n°16 of December 15, 1972, these organizations should obtain authorization from the Ministry of Youth and Sports. A minimum of 7 founding members are required to establish such type of associations. Founders or board members should be Lebanese citizens over 18 years old with no felony or misdemeanour convictions. Youth and sports associations must:

- inform the Ministry of their activities one month in advance;
- notify the Ministry of any amendments to their by-laws or statutes two months in advance;
- provide a notification two week in advance of any elections or general assemblies with a list of all participants.²³

In addition, Decision No. 369 LR of 21/12/1939 places **foreign associations** under the authorization regime. Article 1 defines such associations and requires an authorization prior to its creation which can only be obtained by a decree of the Council of Ministers. Administrators must also request permission to perform any change in their statutes, by-laws, location or formation. *“Apart from the bureaucratic process, some foreign association members and experts consider that because foreign associations are under the scrutiny of the executive branch which*

²³ Decree No. 6997 issued on 12/24/2001.

*has no objective and transparent set of criteria on which to base the registration approval process, this can provide leeway for decisions based on political considerations*²⁴.

Even though excluded from the scope of this project, it is worth mentioning that **trade unions and syndicates** do not fall under 1909 Law and are subject to a strict authorization regime established by the 1946 Labor Code. Founders must obtain the approval of The Ministry of Labor in order to create a syndicate. The latter should seek the opinion of the Ministry of Interior before accepting or refusing to give the authorization.²⁵ A strict supervision and control hinders the formation of trade unions and political interference hampers both the formation and operation of this category of organizations rendering it easily influenced and vulnerable.²⁶

LGBTIQ (Lesbian, Gay, Bisexual, Transgender, Intersex and Questioning) associations are assumed to be non-legal in Lebanon. Article 534 of the Penal Code condemns “unnatural intercourse”. This article has been used to persecute LGBTIQ people, the illegality of homosexuality prevents LGBTIQ people from organizing themselves. In a recent and historic ruling on 28 January 2014, the Jdeide Penal Court in Beirut , stated that same-sex relations are not "contradicting the laws of nature" and cannot therefore be considered a crime.²⁷ This development could be a first step towards recognizing the right of associations for LGBTIQ.

Some categories of people are deprived of the right to form associations. Judges and civil servants in Lebanon are not allowed to belong to any professional associations or unions.²⁸ Palestinians refugees, present in large numbers in Lebanon, are also deprived from this right. It is a shocking reality since their presence goes way back.²⁹

On a separate note, the Ottoman law states a limitative list of grounds for the rejection of a registration.

²⁴ Joseph (C.), “The state of freedom of association in Lebanon: what prospects for the future”, Lebanese Center for Human Rights, December 2010, p.27.

²⁵ Article 87, Labor Code, September 23, 1946.

²⁶ Interview with Ahmad Dirani, Lebanese Labour Watch, February 27, 2014.

²⁷ Dan Littauer (4 March 2014). “Lebanon: being gay is not a crime nor against nature” accessed on 21 July 2014 via http://www.huffingtonpost.co.uk/dan-littauer/lebanon-gay-rights_b_4896786.html

²⁸ Civil servants: decree n°112 issued in 1959. For Judges article 132 of the Code of Judicial Conduct

²⁹ The presence of Palestinian refugees goes back to 1948 due to the Israeli occupation of parts of Palestine. Today, there are 447,328 registered Palestine refugees in Lebanon according to the UNRWA (UN Relief and Works Agency for Palestine Refugees in the Near East), available at <http://www.unrwa.org/where-we-work/lebanon>

Rejection of a CSO registration: From a legal perspective, there are two main grounds that enable the Ministry of Interior to refuse a registration:

- the statement does not include all the requested documents (incomplete file)
- the association has a “unlawful basis which violates the provisions of laws and public documents or which aims to jeopardize the comfort of the monarchy and integrity of state property, change the form of the current government, or politically discriminate between different citizens”³⁰.

In case the authorization is rejected by authorities, it is possible for the concerned parties to appeal the decision in the State Supreme Council. In most cases the rejection is an implicit decision whereby the administration decides to keep silent.³¹ In this case a specific procedure must be followed: “The solution to this weakness can be found in Lebanese Administrative Law. Should the Ministry of Interior refuse to issue the receipt, the Ministry is deemed to have issued an implicit decision of refusal on the day the declaration was made. This implicit decision of refusal can be challenged before the State Supreme Council within a period of two months from the date of the implicit decision.³² This legal remedy was useful in many cases.³³

The Law on Associations provides clearly a liberal regime. However the creation of an association during critical periods of Lebanese history witnessed violations and poor implementation of its provisions. In fact, the administration consistently and deliberately breached the Law and some citizens were deprived of their right of association.

Administration’s practices: The enabling environment for CSOs is not only determined by the legal framework but it largely depends on the administration’s practices regarding the implementation of this framework. For this reason, formation of a CSO in Lebanon often swings

³⁰ Article 3, Ottoman Law on Associations, 1909.

³¹ When the administration keeps silent after a complaint is made to it by individuals, the Lebanese Administrative Law considers that by the issuance of two months an implicit decision of rejection is formed.

³² Makary (M.), *Notification or registration? Guarantees of Freedom of Association in Non-Democratic Environments: Case studies of Lebanon and Jordan*, The International Journal for Not-for-profit-Law, Vol. 10, issue 1, Dec 2007, p.86.

³³ State Council, N. 135/2003-2004, November 18, 2003, *Association for the Defense of Rights and Liberties v. State*.

between liberty and restrictions. The authority's attitude towards association can be reviewed as follows: pre-2005 and post-2005.

During Syria's presence in Lebanon, until 2005, the notification regime was replaced by an authorization regime that conditioned the formation of an association by stalling the delivery of the receipt. As Makary described: "*It is important to note that in the post-war period and under the Syrian occupation of Lebanon, the government adopted a repressive attitude towards CSOs*"³⁴.

Indeed, several organizations had to wait years in order to obtain the receipt, which was considered by authorities as the only legal proof of formation (otherwise it could have been considered as a secret, thus as an illegal association). Another restrictive and authoritarian measure was the substitution of the delivery of the receipt by countless investigations led by the authorities, and the Ministry of Interior in specific. The investigations focussed on the identity of the founders and the objectives of the associations, hereby mainly tackling political oriented and human rights organizations.³⁵

Starting in 2005, the Syrian presence diminished in Lebanon, making it easier for civil society to form and operate. Consequently, human rights and developmental CSOs flourished. In 2006, Interior Minister Ahmad Fatfat issued a circular, n°10, which gave the 1909 Law all its effectiveness back. This circular was adopted following the decision of the State Council decision of 2003.³⁶ All investigations conducted prior to the registration were terminated and the notification regime was restored. Changes in the attitude of the administration towards organizations can be easily traced after 2005. Nowadays, no serious obstacles or limitations hinder the formation of an association.

Today Ministry's officials declare that some investigations are still being conducted; however they are limited to the founders' identity. They are only lead to ensure that founders are

³⁴ Makary (M.), *Notification or registration? Guarantees of Freedom of Association in Non-Democratic Environments: Case studies of Lebanon and Jordan*, The International Journal for Not-for-profit-Law, Vol. 10, issue 1, Dec 2007, p.87.

³⁵ Joseph C. (December 2010). *The state of freedom of association in Lebanon: what prospects for the future.*, Lebanese Center for Human Rights, p.23.

³⁶ This decision issued by the Council of State (Shoura) revoked a proclamation issued by the Ministry of Interior in 1996 contesting the freedom of associations and the 1909 Law. It was issued upon a petition submitted by the association "ADDL" in 1996.

not terrorist suspects or affiliated with terrorist groups. These investigations do not condition the delivery of the receipt and only aim to protect internal security of the State.³⁷ According to a study conducted in Lebanon by the Middle East and North Africa Financial Action Task Force, “*there is large communication gap between the Ministry of Interior and Municipalities and the non-profit organizations since there is no enhanced awareness in the non-profit sector about the risks of terrorist exploitation. There are no measures to protect this sector from the terrorist exploitation. There is no efficient monitoring and follow up in the non-profit organizations and there is no obligation to keep records*”³⁸.

In 2008, Ziad Baroud (a prominent civil society activist) was appointed as Minister of Interior. Under his mandate, illegal practices ceased but a circular³⁹ was issued in the same year setting a new procedure. The latter “*compels the Ministry to sign the notification as soon as the declaration statement is received but the association’s file is also transferred to the General Security, which is assigned to conduct quick investigation on the founding members*”⁴⁰. This circular enshrines the role of the General Security within the legal system. “*According to some lawyers and activists, this new circular aims to reconcile the freedom of association with security concerns, which compromises on the right of freedom of association*”⁴¹. In fact, enshrining the possibility of conducting investigations on the founders in the Law (via the decree) reduces the liberty guaranteed by the 1909 Law and is regrettable.

3.3. Weaknesses and challenges: As a conclusion, it can be asserted that there are no serious limitations or obstacles to the formation of a CSO in Lebanon. Nevertheless, there are some weaknesses and challenges affecting this process i.e. the formation of an organization.

- The time limit to deliver the receipt should be precise in order to prevent future violations and restrictions.

³⁷ Interview with Faten Bou Hassan, head of the Department of Political and Electoral Processes at the Ministry of Interior, February 19, 2014.

³⁸ Middle East and North Africa Financial Action Task Force (MENA FATF), “*Mutual evaluation Report: Anti-Money Laundering and Combating the Financing of terrorism*”, Lebanese Republic, November 2009, p.162.

³⁹ Circular No. 15/M/2008 issued by the Ministry of Interior.

⁴⁰ Camille J. (December 2010)? *The state of freedom of association in Lebanon: what prospects for the future*, Lebanese Center for Human Rights, p.23.

⁴¹ Ibid.

- The minimum age limit to form or to become a member of a CSO should be 18 rather than 20.
- Authorities responsible for the registration and operation of CSOs must be better staffed and equipped; or as many civil society experts recommended an independent registry for the registration of CSO's should be created.
- The law should also be amended to accommodate labour unions and syndicates, foreign associations as well as youth and sports associations, and provide them with the same protections.

IV-OPERATION

4.1. Key findings: No heavy or hampering obligations and procedures are imposed on CSOs. They are requested to submit periodically documents and information to the administration. Nevertheless, although the grounds to dissolve an organization are well defined, the administration breached those provisions several times and illegally intervened to obstruct CSOs operation for years. Nowadays in Lebanon, CSOs' operation has a considerable margin of liberty.

4.2. Legal framework and implementation: The efficiency of an organization in fulfilling its objectives is determined among others by two main factors:

- Internal factors, in other terms the capabilities, competences, human resources etc...
- External factors, here we refer to the environment surrounding and thus conditioning the operation of CSO's. This is of major importance since the identity and nature of CSOs activities have witnessed tremendous change and moved from charity activities to include political and developmental operations. Civil society's role and mandate is continuously expanding. It is more and more being regarded as a main player and partner in achieving developmental goals. Consequently the granted rights and liberties and manoeuvrable margin have to expand in order to accommodate this changed CSO's profile.

Therefore it should be clearly understood that procedures and obligations imposed by the government on associations influence to a high degree their ability to conduct activities and to fulfil their mission. Actually, burdensome obligations hamper CSO's ability to freely conduct operation and activities.

In Lebanon, once established, each association has the obligation to submit a number of documents and information. We will hereunder analyse these requirements and show that they are not aiming to hamper or hinder CSOs operation. After examining these obligations, this report will focus on the termination of an organization's operation i.e. its dissolution.

CSOs obligations: Each organization should fulfil a number of administrative obligations. These obligations were determined mainly by the 1909 Law and some other decrees and circulars⁴² issued by the MoIM.

Article 6 of the Law on Associations stipulates that the administration must be notified of “any amendment or change that occurs in the statutes of the association, its administrative body, or its location with the legal effect of such amendment or change being exercised on a third party from the day the government is informed of it”. In this situation, the organization must **immediately** inform the administration of these changes.

Although it is the only non-periodic obligation that the 1909 Law imposes on a CSO, in 1990 the MoIM issued a proclamation imposing more restrictive obligations.⁴³ Associations were requested to notify the Ministry of any election one month in advance “in order for it to study the association’s conditions, examine the names of members, and appoint a civil servant to supervise the elections according to the electoral list provided by the association”. The Council of State issued a decision revoking this proclamation in 2003 upon a petition submitted by the association “ADDL” in 1996.⁴⁴

Based on this decision, the Ministry of Interior issued a circular in 2006⁴⁵ declaring: “we conclude from the following that an association has the full freedom to elect its administrative body. This election is not subject to the monitoring by the MoIM, as there is no need for the attendance of a representative in the electoral process due to the absence of a legal provision”. This circular brought to an end a scandalous practice that clearly violated the constitutional right to freedom of association. No restrictive measures were identified since that date.

Periodic reports: each organization has the obligation to submit periodic reports to the government. Decree No. 10830 dated 9/10/1962 lists in its Article 7 these documents:

- An income statement of the preceding year;

⁴² Circular No. 10/ 2006 - Ministry of Interior, Decree No. 10830 dated 9/10/1962.

⁴³ No. 17/4/S, adopted on January 16th, 1996.

⁴⁴ NGO Resource and Support Unit, UNDP/MOSA, “Internal governance for NGOs in Lebanon: Reference Book 2004”, IEC Unit, Ministry of Social Affairs, Lebanon, 2004, p.27.

⁴⁵ Circular No. 10/M/2006, MoIM, May 5th, 2006.

- A list of names of the association's members who have settled their annual subscription fees according to the association's financial year (3 copies signed by the president and the secretary general of the association, and stamped with its seal);
- The current year's draft budget (3 copies signed by the president and the secretary general of the association, and stamped with its seal).

A fine is imposed in case periodic reports are not provided on time.⁴⁶ Nevertheless, based on several interviews conducted, it can be concluded that the documents presented are not being reviewed or controlled by the administration. In an interview, a CSO director observed that: *“Although some of our accounts and budgets contained flagrant and grave mistakes, no remarks were issued by the administration; which proves that they were not read”*. Control over periodic reports remains a formality. Only the Ministry of Finance is exercising such a control over CSOs budgets when checking its eligibility to benefit from tax exemptions. This situation emphasizes the need to create an independent organ responsible of dealing with CSOs.

Additionally, three ledgers must be kept by the organization at all time and should be presented to the judicial and civil government whenever requested. They are as follows⁴⁷:

- The identity of the members of the association and the date that they joined;
- The headquarters and notification;
- The type and amount of receipts.

Inspections that can take place: The possibility for the State to conduct investigations is legitimate. It can only be exercised if the commissioners have demonstrated that the investigation is based on real needs. An official paper *“which includes the order and occasion for entering that location”*⁴⁸ must be presented; given to them by competent authorities.

Grounds to terminate or dissolve an association: Dissolution of an association can occur in the following cases:

⁴⁶ Article 8, Decree No. 10830, dated 9/10/1962. In a separate decision, the State Council defined the fine as follows: 50000 L.L. on each quarter of delay which makes it 200000 L.L. for one year.

⁴⁷ Article 7, Ottoman Law on Associations, 1909.

⁴⁸ Idem, Article 18.

- Self-dissolution by the organization's General Assembly according to its stated provisions;
- Dissolution by the criminal court if it violated articles 336, 337 or 338 of the Penal Code.⁴⁹
- Dissolution by the authorities. This requires a decree by the Council of Ministers and can occur in one the following cases: - violate the general law and code of ethics; and/or - disturb the State's peace and stability; and/or - attempt to change the current form of government.

In case the dissolution originated from the administration, the founders or members of a CSO have the right to present a complaint before the State Council. The latter is competent to examine petitions for annulment, on grounds of *ultra vires* acts⁵⁰ or requests for appraisal of legality concerning the decrees and regulations of administrative character whether relating to individuals or systems.

In the past, some illegal dissolution occurred. Several associations were dissolved for reasons not enshrined in the law. The "reasons" behind this were vague and ambiguous; such as they did not report their activities to the MoIM for over ten years or have conducted activities other than those articulated in their statutes. In the famous decree No. 2231, dated February 15 1992, 138 associations were dissolved for no clear and concrete reasons. This decree states in its preamble: "*Whereas certain political, social and charitable associations exercise activities in a secret manner, contrary to the licenses given to them and without informing the Ministry of Interior of any of their activities for a period exceeding ten years, violating the laws and regulations that govern the incorporation and the operating of the associations' activities, and the principle of public order*"⁵¹. Since that period, no other example of non-legal dissolutions occurred. Nowadays, "dissolution for arbitrary or political reasons is rare"⁵².

Current situation: Nowadays, it can be observed that no real control from the government on the operation of associations is taking place. Unfortunately this lack of control from governmental bodies is leaving open space, for mismanagement and a lack of transparency

⁴⁹ Penalizing the establishment of clandestine and illegitimate associations.

⁵⁰ *Ultra vires* is a Latin phrase meaning literally "beyond powers"

⁵¹ Makary (M.), *Notification or registration? Guarantees of Freedom of Association in Non-Democratic Environments: Case studies of Lebanon and Jordan*, The International Journal for Not-for-profit-Law, Vol. 10, issue 1, Dec 2007, p.105.

⁵² USAID (2011). "2011 CSO sustainability index for the Middle East and North Africa", p.2.

among some CSOs⁵³. Control in this case should be directed to curb corruption, target ill-meaning and fraudulent CSOs and not to limit rights and liberties.

Clear and transparent criteria for a healthy control by the government must be defined. Liberty granted for associations can be manipulated leading to counter-productive results: instead of expanding choices for citizens it might limit them.⁵⁴ Since control cannot be achieved at the formation stages, it must occur while the association is operating. Lack of control will give birth to a multitude of corrupted and delusive organizations.

On a separate note, it is crucial to highlight the weaknesses and shortages in CSOs' behavior and activities. For example some of the organizations are not providing all information related to their activities. According to K. Karam "they lack transparency and therefore limit the system's possibilities to evolve"⁵⁵.

4.3. Weaknesses and challenges: Although Lebanon successfully overcame past challenges, it can clearly be noticed that liberty of associations is gradually being restored. The main challenge currently faced is the weakness of the State. There is no real control exercised by the government on CSOs operations, and the oversight's level is extremely low -not to say inexistent.

Usually such a statement should indicate a healthy environment; unfortunately it is not the case. This so-called liberty currently available for CSOs does not originate from State's acknowledgement and recognition of their role and added value but from its own weakness and unstable, inconsistent behavior towards associations. "*The implementation mechanisms of the Law of Associations in Lebanon have always been dependent on the Minister in office, so if the current minister leaves, the system could change depending on who takes his place*"⁵⁶.

As brief recommendation, it is to be noted that control over CSOs' activities should be clearly defined keeping in mind that the body responsible for the oversight can be either public

⁵³ Knowing that there is a lack of good governance and transparency among certain CSOs, unclear decision-making and unclear expenditure.

⁵⁴ Expert Advisory Panel meeting's conclusion, March 20, 2014.

⁵⁵ Intervention of Mr. Karam Karam, Expert Advisory Panel meeting, March 20, 2014.

⁵⁶ Statement by Bassem Chit in Camille (J.). "*The state of freedom of association in Lebanon: what prospects for the future*", , Lebanese Center for Human Rights, December 2010, p.22.

or non public. Control modalities and criteria will have to be discussed and agreed among stakeholders.

V- ACCESS TO RESOURCES

5.1. Key findings: CSOs in Lebanon have access to a wide variety of resources. No limitations hinder access to foreign funding. Nevertheless, most organizations are dependent on these funds; their sustainability and existence depends on government and/or international's funding. While local resources are available for CSOs in Lebanon, clientelism, corruption in granting funds and in implementing projects are still widespread in the country.

5.2. General overview: CSOs are non-profit organizations and consequently rely on funding and donations to operate. The ability to access resources conditions civil society's sustainability and independence. On the other hand, it also requires a high degree of transparency and accountability in order for it to keep its credibility, trustworthiness and public image.

In Lebanon, only few organizations “*have long-time viability and therefore most plan for the short-term*”⁵⁷. In addition, as will be discussed below, access to local resources is not organized and is affected by the lack of control and supervision leading to corruption and clientelism. For Mr. Adib Nehme this dimension is largely responsible for CSOs' corruption.⁵⁸

The law does not prescribe anything regarding CSOs ability to access resources. Article 8 of the 1909 Law adopted one provision regarding an organization's (legally established) ability to manage and administer resources. With the exception of any necessary subsidies from the State, it can manage and administer: “*1) the monetary shares given to it by members on the condition that the shares do not exceed 24 gold coins per year; 2) the location designated for administering the association and meeting of its members; 3) the non-moveable assets necessary for carrying out the intended goal as given in its own statutes. Associations are prohibited from administering non-moveable property other than this*”⁵⁹. No restrictions are mentioned anywhere else in the legal system.

⁵⁷ USAID, “2011 CSO sustainability index for the Middle East and North Africa”, p.33.

⁵⁸ Interview with Mr. Adib Nehme, Regional Advisor for the economic and Social commission for Western Asia-UN and a Civil society expert, February 2, 2013.

⁵⁹ Article 8, Ottoman Law on associations, 1909.

In practice, CSOs in Lebanon have access to a variety of sources of funding (self-funding, government funding as well as foreign funding). In general, governmental funding (and local donations in general) is directed to welfare and charity organizations and focuses on humanitarian and social cases in sectors such as health services, education and people with special needs. Therefore, human rights, developmental and policy-making organizations had to rely on international funding to conduct their operation and to achieve their objectives.

Self-funding, including local donations, only assure a limited amount of resources for an organization. Self-funding can originate from several sources.⁶⁰ Donation campaigns mainly depend on local donors and members of the local community. In addition, an organization resorts to profit-making activities (returns of activities and services they provide to the needy in the local community) and to membership fees. CSOs are permitted to participate in income-generating activities, but they cannot distribute the revenue to their stakeholders; rather, they must use any income generated to provide services.⁶¹

Government funding: State's funding in Lebanon is not centralized. Actually, each ministry adopts its own conditions and procedures for funding CSOs. The main modality of Government's funding is contractual in Lebanon. Different ministries sign, on yearly basis, contracts with organizations. Unfortunately, these contracts only concern a limited category of organizations; human rights, developmental and policy-making organizations are excluded from its scope. In addition, there are concerns about the way funds are disbursed and about the beneficiaries of governmental funding.⁶²

The Ministry of Social Affairs (MoSA) is the main governmental body which deals with CSOs in Lebanon. It implements many projects in coordination with civil society. To achieve its objectives, the Ministry signs contracts with CSOs. The contracts establish partnership projects which are 70% funded by the ministry and the remaining 30% are covered by the partner

⁶⁰ NGO Resource and Support Unit, UNDP/MOSA, "Internal governance for NGOs in Lebanon: Reference Book 2004", IEC Unit, Ministry of Social Affairs, Lebanon, 2004, p.90.

⁶¹ This will be viewed in detail below in the section X taxation.

⁶² Statement by Ahmad Dirani, a civil society activist, during the National Consultation which was held on 10 June 2014 in order to discuss the EENA's Draft Report.

organization. For each project, a joint commission of 4 members is defined (2 representatives from the Ministry and 2 from the CSO) to follow-up and control the implementation.⁶³

However, this partnership between MoSA and CSOs faces many obstacles. Criticism revolves around the inconsistency of the allocation of resources in response to the needs of the different groups and around the limited character of the developmental and empowering programs.⁶⁴ In addition, there are no defined criteria and conditions for granting resource allocations. In 2010, the Ministry tried to define conditions and criteria but this was faced by CSOs' opposition.⁶⁵ It seems that both parties, for one reason or the other, are avoiding the definition of these criteria.

The Ministry of Health signs contracts with CSOs allowing them to access resources dedicated to health issues. In this domain, defined criteria are lacking and there is no transparency in granting funds. In fact, and like it is generally the case in Lebanon, clientelism and corruption affects these ministries' performance though efforts to fight corruption, enforced by foreign exigency, are starting to emerge.

On the other hand, the Ministry of Environment (MoE) adopted a modern approach in this domain. In a decree adopted in 2005, the procedures (conditions and criteria) for financing environmental CSOs were clearly defined.⁶⁶ Moreover, the decree establishes a special fund for financing environmental CSOs. According to it, USD 800,000 will be annually given to organizations (10% of the ministry's annual budget).⁶⁷ The implementation of this decree has been pending for years, since it is conditioned by the adoption of a new national budget.⁶⁸ Meanwhile, Ministry's officials assert that the Ministry is doing its best to support CSOs and to engage them in environmental policies. Accordingly, the Ministry implements environmental projects with CSOs and facilitates CSOs' funding; recommendation letters are often handed to

⁶³ There is no permanent, institutionalized structure for dialogue or collaboration between the MoSA and CSOs.

⁶⁴ Most of the funding is dedicated for charity and service provision activities.

⁶⁵ Some of the associations contracted with the Ministry of Social Affairs formed a lobby which refused the definition of clear criteria. These benefitting organizations are in their majority sectarian and backed by the sectarian institutions they belong to.

⁶⁶ Decree No. 14865, adopted on July 1st, 2005.

⁶⁷ Interview with the Ministry of Environment, February 12, 2014.

⁶⁸ The last budget approved by the Lebanese government goes back to 2005. Until a new one is adopted, Decree No. 14865 cannot be applied.

organizations allowing them to receive financial aid and donations whether from foreign donors or from the Lebanon Central Bank.⁶⁹

Other public institutions (Ministry of Culture, Ministry of Sports and Youth regarding Sports and Youth organizations ...) assure funds for CSOs. “*The State is re-pumping a big portion of its income in civil society activities and operation*”⁷⁰. However, that is taking place on a subjective basis; rendering it unsustainable and ineffective on the long run. Sadly, there are no clear strategies, policies and data regarding governmental funding to CSOs. CSOs contracted with the ministries, or more generally, which are benefitting from public funding should be subject to public accounting.⁷¹

International funding: Only an empowered civil society can impose equal and balanced relations with its donors. The Paris Declaration on Aid Effectiveness (2005) and the Accra Action Agenda (2008) highlighted five principles in order to improve the quality of aid: national ownership, partnership, alignment, managing of the results and mutual accountability.

In Lebanon, few organizations have reached a good level of governance allowing them to build strong partnerships with foreign donors. Meanwhile, organizations dealing with developmental and policy-making concerns rely on foreign funding; their sustainability often depends on it. The political context and conflicts repeatedly occurring in the region pushed international and regional donors to dedicate a substantial portion of their resources and projects to the MENA region. Thus, funding for Lebanese CSOs increased significantly especially with donors trusting civil society organizations more than the states and public institutions in the region. A variety of foreign donors are active in Lebanon e.g.: governments, international and regional intergovernmental agencies, international NGOs,...

The recent conflict in Syria shifted donor’s attention back to Lebanon. Nevertheless, the situation aggravated two challenges civil society was already facing. On the one hand, delusive and corrupted organizations found a fertile ground to obtain funding. On the other hand, funding

⁶⁹ Interview with the Ministry of Environment, February 12, 2014.

⁷⁰ Interview with Mr. Karam, February 26, 2014.

⁷¹ A conclusion of the National Consultation held on 10 June 2014.

for human rights and advocacy organizations reduced as a result of the growing attention given to assuring service provision and humanitarian assistance to refugees.

Moreover, while some of the donors control and supervise the implementation process of the projects by local NGOs, others are not doing so. Many organizations saw an opportunity to gain funding.⁷²

Moreover, two other characteristics of foreign funding form a challenge for CSOs: the donor's agenda and conditionality. Each organization is theoretically capable of surpassing such hindrances; however, more realistic and pressing funding matters shift priorities: NGOs modify their mission and vision and adapt it to that of the donors in order to access funding.⁷³ For this reason, it is necessary to insist on the respect of the five principles guaranteeing aid effectiveness; principles that should be respected and applied by donors as well. In addition, the competition to gain or reach foreign funding is an impediment for the Lebanese civil society and for some, donors are promoting this struggle among Lebanese CSOs.⁷⁴

5.3. Weaknesses and challenges: Challenges concern the dependency of CSOs on governmental and/or foreign funding. Clientelism is a major obstacle facing governmental funding, thus not allowing CSOs to have equal opportunities and chances to access funding. In this regard, political and personal considerations play a considerable role in an organization's possibility to access resources. Furthermore, the absence of control on the way CSOs are spending funds invites corruption. On the other hand, foreign funding is causing some challenges to the Lebanese civil society through its tendency to impose donor agendas without considering local needs.

⁷² Expert Advisory Panel meeting, March 20, 2014.

⁷³ During the National Consultation, many interventions stressed this point considering that donors' priorities do not necessarily meet with local needs. In this regard, Mr. Dirani declared that "*donors are imposing their concepts and methods of work on Lebanese CSOs*".

⁷⁴ National Consultation discussions, 10 June 2014.

VI- FREEDOM OF EXPRESSION

6.1. Key findings: The Lebanese legal framework governing the freedom of expression reflects a liberal and permissive regime where citizens benefit from a constitutional right to openly express their opinions. Nevertheless, although Lebanon continues to guarantee the freedom of expression to its citizen, the scope of the freedom is being undermined by political tensions and many other factors.

6.2. Legal Framework and implementation: Freedom of expression is a must for CSOs to succeed in their mission. Fortunately this freedom is a main characteristic of the Lebanese system. Lebanon distinguished itself for decades from its neighboring countries.

Lebanon has an international obligation to respect and promote freedom of expression. This is due to Lebanon's ratification of the International Covenant on Civil and Political Rights (ICCPR). However, Lebanon did not ratify the protocol of the ICCPR that sets up a committee responsible for receiving and examining individual complaints of Covenant's violation.

On the national level, the Constitution provides in its preamble Lebanon's adherence to the principles and values of the UDHR and expressly states in Article 13 that "*the freedom to express one's opinion orally or in writing, the freedom of the press (...) shall be guaranteed within the limits established by law*"⁷⁵.

Thus, respecting and protecting freedom of expression is an international obligation, a constitutional right and a practice in Lebanon.

Nevertheless, and since the main aim of this study is to highlight the challenges that CSOs are facing, the following will discuss limitations to the freedom of expression as well as challenges facing press and internet freedoms, in their repercussions on CSOs work and potential impact.

Limitations to the freedom of expression: Lebanese citizens are in general free to express their opinion, to criticize both political behavior and public institutions' performance. Some

⁷⁵ Article 13, Lebanese Constitution adopted on May 23, 1926.

limitations were however imposed by several sources. For instance, Article 386 of the Penal Code criminalizes any defamation directed to the President of the Republic⁷⁶ or to tribunals, army, public administration and others⁷⁷. Article 387 nevertheless states that the person responsible of the defamation is discharged if the fact (object of the defamation) was proved to be true (except if the defamation is directed to the President).

In practice, politicians and public figures exploited and manipulated the above mentioned legal provisions for their own benefit. On February 26 2014, Journalist **Mohamed Nazzal** (reporter for Al-Akhbar) was fined 12 million Lebanese pounds (5,800 Euros) by the Lebanese Court of Publication. *Al-Akhbar* was also fined the same amount. In addition, damages and interest of 15 million Lebanese pounds were levied against each.⁷⁸ The reason for this decision was an article published by Nazzal regarding judicial corruption. Though then-Justice Minister Chakib Kortbawi, opened judicial misconduct proceedings against the magistrate, leading to his demotion, the journalist and newspaper were both found guilty of defamation. Magistrates disregarded Article 387 and violated the freedom of expression.

Although the Court of Publication was established initially to settle disputes over defamation and libel cases, it is lately being used as a tool to limit freedom of expression. In its latest rulings, it severely sanctioned journalists, individuals and bloggers for having openly and publicly criticized public and political figures. For example, the Court ruled against retired Brigadier General Mustafa Hamdan and Mariam Al-Bassam, News Program Manager at Al Jadeed TV, over defamation charges sued by Samir Geagea, a political party leader.⁷⁹

Another same unfortunate instance was experienced by journalist Mr. Rami Aysha. He was arrested on 27 August 2012 and sentenced on 9 December 2013 to two weeks imprisonment by the Military Court (replacing the six-month sentence he received when tried in absentia one

⁷⁶ The sanction imposed for defamation directed to the President is two months to two years imprisonment.

⁷⁷ The sanction in this case is imprisonment for a maximum period of one year.

⁷⁸ Reporters without borders (20 March 2014). *Legal Harassment and Harsh Verdicts for Media and Information Providers*. Accessed on 22 July 2014 via <http://en.rsf.org/lebanon-legal-harassment-and-harsh-20-03-2014,46024.html>

⁷⁹ Ifex (9 June 2014). *Lebanon's Publications Court sentences several journalists on defamation charge*. Accessed on 22 July 2014 via http://www.ifex.org/lebanon/2014/06/09/defamation_publications_court/

month earlier on 11 December 2013). He was arrested while researching a story on arms trafficking.⁸⁰

An additional deficiency of the system resides in the general and ambiguous definition and terms used to define those crimes; they leave a large margin of interpretation. Article 19, a London-based human rights organization concerned with the protection of freedom of expression specified that: *“The law or regulation must meet standards of clarity and precision so that people can foresee the consequences of their actions. Vaguely worded edicts, whose scope is unclear, will not meet this standard and are therefore not legitimate”*⁸¹. In this specific matter, Lebanese law is not in line with international standards and there is a need to strengthen the basis of freedom of expression. *“Defamation should be limited to the protection of reputation, as it may be quantified in terms of financial damages.”*⁸².

Nowadays Lebanese authorities are failing to balance between the freedom of expression on one side and personal and religious considerations on the other one. This can be directly linked to the above mentioned gap leading to such misinterpretations. *“What makes the Lebanese case so unique is that, unlike other Arab countries where government interference is the biggest hurdle standing between a journalist and his freedom to report, the restrictions in Lebanon have their origins in the country's sectarian and political structures”*⁸³.

Limitations to the freedom of expression come under many forms, the following article illustrates some of them: *“...although Article 13 seemingly celebrates civil liberties, the broadly-worded edict and discriminatory provisions concerning media and press regulated by the Penal Code, Publications Law, Audiovisual Media Law, as well as the Military Justice Code, have*

⁸⁰ Ifex (6 December 2013). *Lebanese journalist Rami Aysha sentenced to six months in jail in absentia* Accessed on 22 July 2014 via http://www.ifex.org/lebanon/2013/12/06/aysha_convicted_in_absentia/

⁸¹ ARTICLE 19. *Limitations*, Accessed on 22 July 2014 via <http://www.article19.org/pages/en/limitations.html>

⁸² ARTICLE 19. *Defamation*. Accessed on 22 July 2014 via: <http://www.article19.org/pages/en/defamation-more.html>

⁸³ Ifex (28 March 2014). *Lebanese government moves to control expression in the online realm* Accessed on 22 July 2014 via: https://www.ifex.org/lebanon/2014/03/28/bloggers_facing_threats/

given officials space to trample on constitutional rights and curb freedoms of speech and expression...”⁸⁴.

Press Freedom: In the World Press Freedom Index for 2013, Lebanon was ranked 101 of 179 countries.⁸⁵ This ranking is caused by many factors. Among others, the current war in Syria placed huge pressure on Lebanese journalists and activists. **In addition**, the Press Law itself violates the right of expression in several provisions; it even authorizes prison terms for journalists.

The Press Law prohibits publishing news that: “*contradicts public ethics or is inimical to national or religious feelings or national unity*”.⁸⁶ The limitations contained in this Article are a fertile “legal “ground for oppression. Clear definitions of “*public ethics*”, “*national or religious feelings*” and “*national unity*” are not specified in the law.

In fact, “*the ambiguous terms used in stating the limitations on freedom of speech serve as a gap through which religious and sectarian institutions, political organizations, and influential parties and individuals, who are not authorized to censor publications, can interfere and protect their interests*”.⁸⁷

Lebanese civil society and international organizations, e.g. Reporters without Borders, underlined on several occasions the need to adopt a new press law. Maharat association, a Lebanese CSO aiming to achieve a freer journalism and to defend and promote freedom of expression⁸⁸, made efforts aiming to draft a proposal amending all legal provisions that hinders the freedom of expression.

⁸⁴ Al-Akhbar (15 March 2014) *Lebanon in urgent need of new press law*. Accessed on 22 July 2014 via <http://english.al-akhbar.com/node/19037>.

⁸⁵ Reporters without borders. *Press Freedom Index 2013*. Available at <http://en.rsf.org/press-freedom-index-2013,1054.html>

⁸⁶ Article 75, Lebanese Press Law, 1962

⁸⁷ Harbi (R.), “Lebanon in urgent need of new press law, March 15 2014, available at <http://english.al-akhbar.com/node/19037>.

⁸⁸ For more information about Maharat Foundation, see: http://maharatfoundation.org/?page_id=2

Freedom of Internet: Although there is no law that regularizes online media, violations and restrictions to the freedom of expression online are occurring. Courts and tribunals are dealing with the information shared on social media as publications rather than private correspondence.⁸⁹

According to the World Bank, 62 percent of the population in Lebanon used Internet in 2012⁹⁰. Lebanon does not restrict access to Internet. Nonetheless, “*the absence of laws governing online media and activities on the internet, the ICF’s Anticybercrime Office [Cyber Crime and Intellectual Property Protection Office of the Internal Security Forces] and other state agencies summoned a number of journalists, bloggers, and activities to question over tweets, Facebook posts, and blog posts critical to political figures*”⁹¹.

6.3. Weaknesses and Challenges: there is freedom of expression in Lebanon. Nevertheless, the current state of laws permits to corner journalists, detain bloggers, and silence activists in the name of legal justice.

In addition to that, there is a real need to amend some of the existing laws (e.g. Penal Code and the Press Law) to set Lebanese law back in line with international standards and to revitalize the freedom of expression in Lebanon.

It is important to underline that even if Lebanon ensures a better quality of the freedom of expression when compared to its surrounding Arabic countries; Lebanon still needs to improve tremendously its performance in guarantying basic freedoms and rights.

⁸⁹ United States Department of State, Bureau of Democracy, Human Rights and Labor, *Lebanon 2013 human rights report* in: *Country report on human rights practices for 2014*, p.16.

⁹⁰ *Idem*, p.15.

⁹¹ *Ibid.*

VII- PEACEFUL ASSEMBLY

7.1. Key findings: The right to peaceful assembly in Lebanon is guaranteed in legal texts (international and national sources) as well as in practice. There are no heavy restrictions that hamper this right. Nevertheless, the reaction of the security forces to peaceful assemblies and protests is in many instances inadequate, non-proportional and disregards some basic human rights' principles. Furthermore, the liability of an assembly's organizers is exaggerated (i.e. over liability of organizers).

7.2. Legal framework and implementation: *“The protection of this right plays a major role in facilitating continuous dialogue within different stakeholders and creating an open and tolerant society, in which different groups live together”*⁹².

As is the case for the freedom of association and expression, the right to peaceful assembly is a constitutional right. Additionally by adhering to the UDHR and ratifying the ICCPR, Lebanon has an international obligation to assure to its citizens the full enjoyment of this particular right.

On the national level, Article 13 of the Constitution stipulates that: *“The freedom to express one's opinion orally or in writing, the freedom of the press, the freedom of assembly, and the freedom of association shall be guaranteed within the limits established by Law”*.

The Constitution approved this right in general terms. When it comes to its implementation's procedures, the Ottoman Law on Peaceful Assembly of 1911 (known as the Public Assemblies Law), is applicable. It is under the notification regime.

Article 1 of the Ottoman Law requires no prior permit (authorization) to hold an assembly. As long as participants are unarmed, public assemblies are allowed.

The government prohibits any meeting organized without notification and subjects its organizers to imprisonment ranging from one week to one month or to a monetary sanction payment.⁹³ Thus, this notification is an obligation under Lebanese law.

⁹² EMHRN (November 2013). *Freedom of Assembly in the Euro-Mediterranean region: Lebanon*, p.2.

⁹³ Article 3, Public Assemblies Law, 1911.

Procedural requirements: Article 4 of the above-mentioned Law states that a notification should be submitted to the Ministry of Interior and Municipalities at least 48 hours prior to the assembly. Along with the notification, a “statement paper” must be prepared by the organizers, specifying the cause and the intended purpose, the place, day and exact time of the meeting.⁹⁴ The paper must be signed by at least two persons; provided they are both residents of the meeting location area and enjoy their political and civil rights. Their name, position and status should be mentioned.

Sanctions and penalties: The Law defined penalties in case of breaches during the assembly. The assembly’s organizers are held responsible to guarantee its peaceful nature and should make adequate and reasonable efforts to achieve this goal. *“It [the organisers] is responsible of maintaining order, preventing laws violations, assuring that participants are not deviating from the topic mentioned in the “Statement Paper” and preventing any speech that might be prejudicial to the State order and public morals or any other words that could incite crime commission”*⁹⁵. Article 8 states that a commission (administrative commission) composed of at least three persons run the assembly. Statement paper signatories are hold responsible before this commission is formed.

A monetary penalty or imprisonment of 24 hours to one week⁹⁶ can be imposed on whoever contravenes the provisions of this law.

In the same regard, the Penal Code criminalizes **riots** in its Article 345: *“whomever cries out loudly what can incite riots or disturb public security or do what could potentially lead to unrest, during an assembly which does not have the character of a private meeting and is held in a public place or public venue, can be subject to an imprisonment (one month to one year) and to the payment of a fine.”*

Legal remedies: It is possible to file a complaint against an administrative decision to the State Council. This administrative appeal procedure has proved to be a satisfying and effective remedy.

⁹⁴ Article 2, Public Assemblies Law, 1911.

⁹⁵ EMHRN (November 2013). *Freedom of Assembly in the Euro-Mediterranean region: Lebanon*, p.5.

⁹⁶ Article 10, Public Assemblies Law, 1911.

Restrictions on peaceful assembly: The Lebanese legislator placed some restrictions on this right. These restrictions aim to balance this particular right on one side and both public security and other personal rights on the other. Such restrictions are necessary to avoid public disorder. Article 21 of the ICCPR indicates that: “(...) *no restriction may be placed on the exercise of the rights to freedom of peaceful assembly and of association other than those that are prescribed by law and that are deemed necessary in a democratic society to safeguard national security and public order, protect public health, morals or the rights and freedoms of others*”.

The Lebanese Public Assemblies Law states the limitations and exceptions to this right. In fact, the Lebanese government may prevent, through a decision of the Council of Ministers, the holding of a public assembly that would disturb public security or public morality that would go against the regular and normal course of public interests.⁹⁷ In addition, restrictions regarding the place of the assembly are defined. A protest or assembly cannot be held on public roads intended for traffic and crossing. This restriction is definitely a violation of the right to peaceful assembly and goes against its objectives: reach public opinion. In practice, assemblies are in general being held on public roads unless for security reasons. Furthermore, assemblies cannot be organized in open places located near the presidential palace or near the parliament (within 3 kilometers).⁹⁸

The reaction of security forces to protests and peaceful assemblies is at times disproportional. In practice, Lebanese authorities showed intolerance when dealing with some demonstrations. For instance, a protest against the extension of the mandate of the parliament was held on the 20th of June 2013 in downtown Beirut. Several violent clashes occurred between civil society activists on one hand and the Internal Security Forces supported by parliamentary security forces on the other hand. “*Security forces used riot batons to beat protesters who were throwing bottles and attempting to break through security lines to reach parliament*”⁹⁹.

More recently, during a sit-in organized by Naahmeh residents against Sukleen, a private waste management company in Lebanon, authorities again used force against protestors. A 3 day sit-in at the Naahmeh landfill blocked all of its roads where all the trash is conducted, the thing that led to the pilling-up of waste in Beirut and Mount Lebanon. Ajwad al-Ayyach, the

⁹⁷ Article 3, Public Assemblies Law of 1911 - added by the amendment law issued on June 4, 1931.

⁹⁸ *Idem*, Article 6.

⁹⁹ United States Department of State, Bureau of Democracy, Human Rights and Labor. *Lebanon 2013 human rights report* in: *Country report on human rights practices for 2014*, p.16.

spokesman of “Campaign to Close the Naameh Landfill,” was detained over charges of provoking protesters.¹⁰⁰

Lots of other examples prove the incompetence of Lebanese security forces to protect and properly deal with peaceful assemblies and protests. “*In their duties, Lebanese law enforcement officials have the positive obligation to actively protect peaceful assemblies in general and to protect it in particular from intruders and troublemakers aiming at disturbing or dispersing these assemblies, such as infiltrators, counter-demonstrators, provocateurs*”¹⁰¹. Security forces are not fulfilling their mandate to protect civilians participating in public assemblies; on the contrary they are being offensive and violent towards civilians. Furthermore, there is little accountability for violent acts against protesters by security forces especially those that occurred during the Syrian’s presence in Lebanon.

7.3. Weaknesses and Challenges: In this section, three main weaknesses of the right to peaceful assembly were underlined and need to be addressed:

- Since there is no need for the restrictions concerning the place where the assembly takes place, the Public Assemblies’ Law should be amended to meet international standards.
- The Public Assemblies’ Law imposes a lot of responsibilities on the organizers. It should be amended in order to balance security’s necessities and the right to assemble. All criminal penalties and possible sanctions and penalties that can be imposed on the organizers should be removed.
- Finally, this section shed light on security forces’ behavior and its lack of human rights consideration. Therefore, authorities should strengthen the Law Enforcement officials’ capacities in human rights in general and in relation to protecting freedom of assembly in particular.¹⁰²

¹⁰⁰ Naharnet (24 January 2014). *ISF scuffles with Naameh landfill protesters as they vow to go on with sit-in* Accessed on 22 July 2014 via <http://www.naharnet.com/stories/en/115492>.

¹⁰¹ EMHRN (November 2013). *Freedom of Assembly in the Euro-Mediterranean region*, p.6.

¹⁰² Idem, p.10.

VIII. GOVERNMENT-CSO RELATIONS:

8.1. Key findings: In Lebanon, public authorities do not perceive cooperation (or are yet to perceive it) between public authorities and CSOs from the same perspective. There is no real partnership between the two parties; defined strategies and objectives concerning CSOs' development are nowhere to be found. In fact, the government's attitude is ambiguous and many inconsistencies occur when dealing with organizations.

Nevertheless, in recent years cooperation and joint efforts evolved significantly. A boost in Government-CSOs' coordination is expected in the upcoming years. This situation is rendered possible due especially to the specialization of some civil society activists. Meanwhile, the main venue for such cooperation (i.e. the Economic and Social Council) remains paralyzed.

8.2 Legal framework and implementation: The relation between governments and CSOs helps in defining the enabling environment of civil society. All over the world, cooperation between public institutions and CSOs has evolved significantly over the past few years, and it continues to grow and reshape itself according to local needs.¹⁰³ Furthermore, this cooperation reached a point where its institutionalization became essential in order to assure its continuity and sustainability.

Actually, CSOs play a crucial role. It is through them that citizens organize themselves and express their legitimate interests more effectively.¹⁰⁴ Additionally, their permanent contact with citizens allows them to better assess citizens' needs. Thus, they can better respond and react to these needs. Furthermore, expertise and specialization that characterizes CSOs' work is an added value to the State. For those reasons and much more, governments are required to build cooperation and partnerships with CSOs.

In Lebanon, public authorities do not perceive cooperation (or are yet to perceive it) between public authorities and CSOs from the same perspective. There is no real partnership

¹⁰³ USAID, ICNL and ECNL, "Models to promote cooperation between civil society and public authorities", 12 June 2013, p.1.

¹⁰⁴ Ibid.

between the two parties; defined strategies and objectives concerning CSOs' development are nowhere to be found. In fact, the government's attitude is ambiguous and lots of inconsistencies occur when dealing with organizations. Each Ministry, more specifically Minister, adopts a different attitude towards CSOs engaged in its domain. Unfortunately, each appointed minister brings its own vision and beliefs to the Ministry. Thus, there is no continuity in Ministries' policy and engagement with CSOs. In addition, due to the strong centralization of the Lebanese system, there is no interaction between local authorities and CSOs. A dialogue with local authorities can largely contribute to civil society's effectiveness.

On the other hand, Lebanese CSOs have another opinion on the matter and Lebanon is witnessing in the past decade a shift in civil society's objectives and attitude in fulfilling those objectives. *"Lebanese civil society has made it clear in many statements, most notably in the declaration of the first national conference for CSOs in 1999, that partnership is a mean to enhance the situation of various sectors and is not seen as a sole expansion of CSOs' role at the expense of government's role"*¹⁰⁵.

CSOs' activities are generally related to service provision, humanitarian aid, development and policy advocacy. Humanitarian organizations succeeded in filling the gap caused by the weakness of the State during the civil war. The historic and rich cooperation between the government and CSOs in service provision made the government aware of the fact that civil society's work is a supplement and not a substitute to State's efforts.¹⁰⁶ In fact, *"before the war, the Ministry [Ministry of Social Affairs] had strong and very successful partnerships with civil society groups through the Committee for Social Revitalization"*¹⁰⁷. When it comes to human rights, advocacy and policy formulation, the government's attitude is not similar and it becomes clear that for many years, organizations holding policy related agendas were seen as rivals by the State¹⁰⁸.

¹⁰⁵ ANND (November 2005). *Partnership of civil society organizations for development, the Case of Lebanon*. Annual Report of the SHABAKA, p.19.

¹⁰⁶ For example, the National Council for Children, the National Committee for Women's issues, the National Committee for People with Disabilities.

¹⁰⁷ ANND (November 2005). *Partnership of civil society organizations for development, the Case of Lebanon*. Annual Report of the SHABAKA, p.22.

¹⁰⁸ The appearance of new patterns, roles and goals for CSOs does not mean that the precedent patterns do not exist anymore.

Nevertheless, recent developments and the flagrant shortages in democratic practices in Lebanon prepared the ground for CSOs' intervention. In fact, their weight grew in the past period due to their multiple activities, initiatives and lobbying; these were complemented by media coverage. Even though a real partnership between civil society and the State is yet to be established, State's attitude towards CSOs began to change and hopefully a shift will take place in the near future.

In addition to that, international donors (whether foreign organizations or countries) played a major role in stimulating cooperation and partnerships between the State and CSOs. This is due to the fact that some of the donations and technical assistance given by donors to the Lebanese State are conditional on the participation of CSOs in their implementation¹⁰⁹; hereby forcing the State to reach out to its civil society.

CSOs role in advocacy and policy formulation: At the time of writing, a wide and massive movement of Lebanese civil society is taking place. For instance, Kafa, one of the leading associations on issues related to gender equality and women empowerment called for a protest demanding the endorsement of a draft bill that protects women from domestic violence. The latter, drafted by Kafa, was adopted by the National Coalition for Legislating the Protection of Women from Family Violence¹¹⁰. After the Lebanese Cabinet adopted it in 2010, it was referred to the Lebanese parliament. A parliamentary joint commission approved the Law on 22 July 2013¹¹¹ and in a recent development, the Lebanese Parliament adopted this law but some unwanted amendments occurred especially that violence is narrowly defined and it fails to specifically criminalize marital rape.¹¹²

It is not the first time that a CSO participates in the drafting of a law. The Law on Access to Information enacted by the Administration and Justice Committee at the Lebanese Parliament and awaiting its adoption by the Lebanese parliament was drafted through joint efforts by CSOs and some parliamentarians. Another notable cooperation was the participation of Youth Association for Social Awareness (YASA) in the adoption of the new traffic law replacing a 45

¹⁰⁹ Interview with Mr. Karam Karam, February 26, 2014.

¹¹⁰ This coalition is made out of 41 human rights organizations

¹¹¹ The Law is available at: <http://www.kafa.org.lb/kafa-news/65/joint-committees-approve-the-law-to-protect-women>

¹¹² Human rights Watch (3 April 2014). *Lebanon: domestic violence law good, but incomplete*. Accessed on 22 July 2014 via <http://www.hrw.org/news/2014/04/03/lebanon-domestic-violence-law-good-incomplete>

years-old law. The Lebanese parliament ratified it on 24 of October 2012 and YASA played an imminent role in the discussions and meetings which led to its adoption. In addition, the Law creates a National Committee for Traffic Safety, headed by the Interior Minister with members comprising general directors from government institutions, civil society organizations, and individuals working in the transport industry.¹¹³ YASA's Secretary, Kamel Ibrahim, said that *"the fact that we have a new traffic law indicates that the authorities' mind-set has changed"*¹¹⁴.

On 25 November 2013, Kafa launched a 16 day campaign *"We have a mission"* *"If you're threatened, do not hesitate to call 112"* in partnership with the General Directorate of the Internal Security Forces.(ISF) The campaign aims at rebuilding trust between female victims of violence and the ISF, and informing the public on the ISF's ongoing preparations to provide women with the protection they need. The campaign is part of a wider project implemented by KAFA and the ISF, called *"The Role of the Internal Security Forces in Combating Family Violence"*¹¹⁵.

All these examples reflect the new approach of CSOs to advocacy and the policy-making domain. However, the involvement of CSOs in legislation is not a constant fact and is conditioned by public authorities' decision; i.e. it is not institutionalized. In many cases, CSOs are invited to hearings and consultations but there is no obligation for public authorities to do so and it is not mandatory to take into account the opinion of CSO's.

The state of cooperation between the State and CSOs is unstable and dispersed among the different institutions and departments, meaning that each Ministry defines its own policy and strategy when it comes to dealing with civil society; there is no homogeneity in the State institutions' attitude towards the inclusion of CSOs in policy or decision making. In what follows are some examples of cooperation which proves that each Ministry deals differently with CSOs.

¹¹³ Al-Shorfa (3 December 2012). *Lebanon enforces new traffic law*. Accessed on 22 July via http://al-shorfa.com/en_GB/articles/meii/features/2012/12/03/feature-01

¹¹⁴ Al-Shorfa (3 December 2012). *Lebanon enforces new traffic law*. Accessed on 22 July via Available at: http://al-shorfa.com/en_GB/articles/meii/features/2012/12/03/feature-01

¹¹⁵ For more information see: <http://www.kafa.org.lb/kafa-news/68/launch-of-the-campaign-we-have-a-mission-if-youre>

Institutionalized Government-CSOs' cooperation: Many examples of cooperation and partnerships between civil society and public institutions exist in Lebanon. In the following, main examples of cooperation will be presented.

The main constituent of this cooperation is the Economic and Social Council established in 1995¹¹⁶, composed of private sector and civil society representatives. This Council has a consultative mandate and is responsible for formulating opinions and consultation which assists the State's social and economic policies. Supposedly, cooperation should be institutionalized in this council of cooperation, the recognition of civil society's involvement in policy-making being a must. Unfortunately, since the expiration of the General Assembly's mandate in December 2002, the appointment of a new General Assembly did not take place yet. The existence and efficiency of this Council finds itself hostage of political considerations; In fact, the designation of its new members awaits the adoption of a decree by the Government. According to Roger Nasnas, the Council's interim president, the Economic and Social Council "*was victim of political games and calculations since it is the platform which was supposed to turn the dispute into a dialogue*"¹¹⁷.

The Ministry of Social Affairs (MoSA) was established as an independent institution in 1993.¹¹⁸ According to the Law 212/93, the Ministry assumes the following functions: conduct studies and plan for social policies, provide welfare and social assistance services to certain under-privileged social groups either directly or through contracts with CSOs and NGOs and promote local developments through a network of social development centers and joint projects with CSOs and local administrations. To achieve these objectives, as it was mentioned earlier, the Ministry signs contracts with CSOs. However, these contracts reflect the classic and old State's perception of cooperation where the organization's role and competence is limited to service provision and there is no real partnership among the two parties; mutual accountability does not exist. MoSA's attitude towards CSOs must be redefined in order to better recognize their added value and to benefit from their expertise.

¹¹⁶ Law 389/95 "setting up of a Social and Economic Council", December 12, 1995.

¹¹⁷ This article is available only in Arabic at Alkalima Online (22 April 2014). Accessed on 1 July 2014 via, <http://alkalimaonline.com/article.php?id=229138>, last checked on 1 July 2014.

¹¹⁸ Law No. 212, "MoSA administrative regulations", April 2, 1993.

As for the Ministry of Environment (MoE), it adopted a comprehensive approach in its cooperation with CSOs. The legal framework of the Ministry enables CSOs concerned with environmental interest, to participate in decision-making processes.

Article 3 of the Law n°216¹¹⁹, defines a National Council for the Environment. The Council's responsibilities are to present propositions and recommendations for the enactment of wide-ranging and complete environmental policies, propose appropriate plans to execute them and present recommendations. The Council is equally divided between the public and private sectors. A CSO representative is permanently present as a member of this Council, thus making it an example of permanent cooperation and coordination between public authorities and CSOs.

MoE pushed forward the cooperation with civil society and closed the gap between the two sectors. It is true that politics still influences some of the Ministry's decisions but in general environmental organizations' concerns and propositions are taken into consideration.

It is important to underline that these examples cannot substitute decades of State's disregard for CSOs. In fact, the majority of the campaigns and draft laws did not achieve their fixed goals.¹²⁰ Yet, a shift in the Government's attitude towards CSOs is not impossible. The credibility of civil society evolved with its growing maturity.¹²¹ What is being witnessed in Lebanon is a growing trust in civil society; in fact, its credibility evolved due to its growing maturity.

CSOs in the political process: Everything which relates to politics in Lebanon must be examined carefully. One of the characteristics which distinguish civil society from the government is supposed to be its neutrality; if civil society loses its neutrality, it loses its credibility. The political scene is severely divided into sectarian groups; as a consequence affiliation to a certain group is more for sentimental reasons than for objective and reasonable ones. For this reason and others, it is better for civil society not to intervene in this domain as an actor but as an observer.

¹¹⁹ Law No. 216, "Creation of the Ministry of Environment", dated 2/4/1993.

¹²⁰ Part of this originates from the paralyzing of the Lebanese Parliament due to political rivalry.

¹²¹ UNDP-Lebanese Parliament. *Relation between civil society, parliament and government*, September 2006, p. 6.

It is from this perspective that several CSOs engaged in the electoral process by advocating for a new electoral law that eases sectarianism criteria and that take into account basic principles such as quota, lower the age for electing (18 rather than 20) and fix a maximum to the campaign's spending. In addition, CSOs concerned with elections succeeded in observing the elections after a long struggle with the Ministry of Interior. Nahwa al Mouwatniya, a CSO, launched a campaign and called for a protest to terminate sectarianism practices in Lebanon¹²².

Before concluding this part, it is worth noting that some CSOs are umbrellas and that they clearly have political affiliations; many of them are tools used by some political and sectarian groups to achieve their goals but in another way.

8.3. Weaknesses and Challenges: In a survey conducted under the supervision of MoSA, 3360 NGOs were questioned about their opinion of NGO-government cooperation: 68% of the interviewees considered that there is no cooperation (92% in the Northern Muhafaza of Lebanon).¹²³ These numbers reflect the lack of trust in public institutions and prove that a lot still needs to be done.

Nowadays, it seems that a persistent and determined civil society is able to produce changes in Lebanon and what is missing is a more specialized and organized civil society. The fragile cooperation between CSOs and the State comes not only from Governments attitude but from the weak capacities of these organizations. For this reason, CSOs are required more than before to build their capacities and to enhance and promote their internal governance.

Several improvements need to be undertaken. Public institutions' bureaucracy, corruption and red tape are main obstacles. Officials are not used to sharing responsibilities with others and to being monitored. Thus, shifting to a model of cooperation and partnership will not be a quick and easy process.

¹²² Parliament's 128 seats are equally divided between Christians and Muslims in Lebanon.

¹²³ Lebanese Ministry of Social Affairs (June 2008). *Evaluation of the Non-governmental Organizations national assessment*, prepared by Etudes et Consultations Economiques.

IX- CSOs COOPERATION AND COALITION

9.1. Key Findings: The culture of cooperation and networking between CSO's is growing in Lebanon (multiplication of campaigns and coalitions). This coordination is characterized in most cases by its temporary character and limited scope. Actually, while temporary campaigns continue to increase and develop; permanent structures for coordinating and exchanging experiences remain limited. A reassessment of CSOs cooperation's successes and failures is a first step in order to address the weaknesses and challenges hindering them.

9.2. Legal framework and implementation: Cooperation among CSOs is of great importance and holds several advantages and benefits. Creating networks and advancing coordination among organizations helps avoiding duplication of services and offers a mutual and clear concept of development.

Additionally, in Lebanon, building coalitions and networks can contribute to easing disparities since *“strong networks of civil society would have a primary role of strengthening citizenship and national dialogue as means for facing the threat of confessional divisions”*¹²⁴.

History of CSOs coordination: Through its history, several examples of coordination marked Lebanese civil society. In fact, the tragic events Lebanon went through (civil war 1975-1990; Israeli occupation and hostilities...) pushed CSOs, concerned with charity and service provision to develop and strengthen their capacity and ultimately to build coalitions and networks. Through coordination and networking, they succeeded in filling the gaps emanating from the absence of the State and its weakness. *“Lebanese NGOs made a significant contribution despite the attempts of confessional division. They maintained a certain level of communication between areas and religious denominations, through networks and coordination frameworks”*¹²⁵.

¹²⁴ ANND (November 2005). *Partnership of civil society organizations for development, the Case of Lebanon*. Annual Report of the SHABAKA, p.30.

¹²⁵ NGO Resource and Support Unit, UNDP/MOSA, “Internal governance for NGOs in Lebanon: Reference Book 2004”, IEC Unit, Ministry of Social Affairs, Lebanon, 2004, p. 94.

Nevertheless, challenges and requirements are not the same in peace and conflict periods. In the last decades, CSOs' mandate and interventions expanded and they are not anymore limited to service provision and charity works. Nowadays, these contribute considerably in achieving social, economic and political development.

Lebanese CSOs concerned with human rights, development and advocacy started emerging in the second half of the 1990s. Their presence multiplied starting 2005 after the Syrian departure from Lebanon.

Present situation: *“Civil society organizations in Lebanon have built on their capacity of action and relatively wide margin of freedom to forge alliances and establish networks and unions of associations to launch national campaigns lobbying for specific reforms”*¹²⁶. No specific or additional legal requirements or procedures are required in order for CSOs to build coalitions or networks (other than respecting the law and both public morals and order). Nonetheless, if the cooperation is assumed to be of a permanent nature, it is possible and preferable to create an organization (it gives the coalition a legal personality). In this situation, the 1909 Law on Associations (examined earlier) is applicable.¹²⁷

Affected by long periods of instability and insecurity, coordination among human rights and advocacy oriented organizations remains a recent phenomenon; it takes time and experience to build effective and durable cooperation. However, an increase of the total number of joint campaigns and coalitions can be detected nowadays. It is important to shed light on the nature and characteristics of these coalitions, in doing so the Lebanese political and sectarian system can be better understood.

Nature of coalition and cooperation: Coordination between CSOs is characterized in most cases by its temporary character and limited scope. It appears that campaigns led over a limited number of issues and for a limited period of time conditions their success¹²⁸. Several examples

¹²⁶ Economic and Social Commission for Western Asia (ESCWA) (28 December 2010). *Comparative analysis of civil society participation in public policy formulation in selected Arab countries*, p.15.

¹²⁷ It is the case of the National Union of Organizations contracted with the Ministry of Social Affairs which was registered as an association according to the 1909 Ottoman law.

¹²⁸ It makes it easier for civil society to overcome the political and sectarian obstacles.

bare witness to that fact e.g. the National Network for the Right of Access to Information¹²⁹, the Civil Campaign for Electoral Reform¹³⁰(CCER), the National Coalition for Legislating the Protection of Women from Family Violence, etc. As their name reflects, each of these campaigns tackle specific issues and it is hard to find cross-sectoral cooperation among Lebanese organizations.

Actually, *“the temporary character of these coalitions reduces the risk of cooptation, and the limited scope reduces the number of stakeholders threatened by the campaigns”*¹³¹. Failures to establish permanent coalitions can be partially attributed to the political and sectarian environment. In case a permanent structure is created, its efficiency on the long term could be questioned. In fact, it will most likely be infiltrated to a point where it will lose its credibility and neutrality.¹³²

On the other hand, some politicians and parliamentarians are taking part in civil society’s campaigns. Such participation strengthens the campaign in many ways e.g. easier access to parliament and Government’s institutions. Nevertheless, it raises *“the issue of where the boundaries between civil society and the political sphere are drawn”*¹³³. Lately, in a shocking development, the MoIM¹³⁴, created on 22 March 2014 a non-profit organization which objective is to “renovate Lebanese prisons”¹³⁵ (it is worth mentioning that a Ministry does not have the

¹²⁹ The National Network for the Right of Access to Information is a multi-sectoral group 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.

¹³⁰ CCER is a broad alliance for civil society associations. It was founded on the 6th of June 2006 and it includes today more than 65 civil society associations and two coalitions covering all of Lebanon. For more information see: <http://www.ccerlebanon.org/>

¹³¹ Hardig A. (2011). *The evolutionaries: transforming the political system and culture in Lebanon*. Thesis, Faculty of the School of International service of American university, Washington D.C., 2011, p.1.

¹³² In his study, Hardig explains that by making a coalition time-limited, activists reduce the risk of cooptation and limit friction and fractionalization within the coalition. By limiting the scope of a particular campaign, that is, focusing on a limited aim, such as a specific piece of legislation, activists are better able to forge elite alliances and limit the number of stakeholders who perceive them as a direct threat. These are tactics civic activists in Lebanon employ in order to effect incremental change that will in the long run lead to a polity more closely approximating the ideal-typical citizen-centric polity.

¹³³ Hardig A. (2011). *The evolutionaries: transforming the political system and culture in Lebanon*. Thesis, American university, Washington D.C., p. 205.

¹³⁴ This organization was created by the MoIM, the General Secretariat of the Council of Ministers, the Directorate General of Internal Security, and the General Directorate of General Security.

¹³⁵ Receipt 448, February 2, 2014.

legal personality to do so). This fact reflects well the confusion among officials regarding their mandate and the way to fulfill it and their views towards civil society.

Joint campaigns shortages: While temporary campaigns continue to increase and develop, permanent structures for coordinating, exchanging experiences remain limited; *“whereas the role of permanent NGO networks became less significant as a vehicle for collective action, and instead remained mainly a venue for mutual support and information sharing among NGOs of similar character”*¹³⁶. There is a need to enhance the mandate of the few existing ones and to learn from their experiences¹³⁷.

On the other hand, some deficiencies affect temporal campaigns’ operation. For instance, Rony Al-Assaad, CCER’s coordinator stated that: *“In joint campaigns and coalitions, the initiative as well as most of the work is being handled by one organization; whether by the organization which is the most interested in the subject or the more specialized”*¹³⁸. The conception of mutual work has to improve in Lebanon. In the same regard, organizations in Lebanon still prefer to work individually.

On a separate note, it can be noted that civil society has built strong relations with the media. The latter is highlighting central issues tackled by CSOs in their campaigns and consequently contributes to raising awareness on these specific matters e.g. domestic violence, electoral reform, violence and discrimination against migrant domestic workers in Lebanon etc. In addition, a growing interaction between CSOs and universities/research institutes is taking place and many universities are showing interest to working with civil society.¹³⁹ They are largely contributing to raise awareness about voluntary work and civic activism.

9.3. Weaknesses and Challenges: *“The culture of networking and partnership has a lot of potential among civil society groups in Lebanon. However, there is a need to review these*

¹³⁶ Hardig A. (2011). *The evolutionaries: transforming the political system and culture in Lebanon*. Thesis, American university, Washington D.C., p. 188.

¹³⁷ The National Union of Organizations Contracted with the Ministry of Social Affairs, NGO’s Platform in Saida, the Lebanese Women Council, the Lebanese NGO Network...

¹³⁸ Interview with Roni Al-Assaad, Civil Campaign for Electoral Reform’s coordinator, 30 April 2014.

¹³⁹ Statement by Hasan Krayem, UN consultant and a civil society expert, during the National Consultation which was held on 10 June 2014 in order to discuss the EENA’s Draft Report.

experiences and invest in enhancing their mandates and clarifying their weak and strong points”¹⁴⁰.

While Lebanon is witnessing a significant increase in the number of joint campaigns, they are still affected by some weaknesses. In fact, in a campaign limited CSOs (not to say one) are doing all the efforts; the others are not perceiving the interest or advantages of the settled campaign. In this regard, CSOs must bear in mind that cooperation and building coalitions form *“a means to strengthen their independence, agendas, capacities, voice, impact, and overall role in society. It is a way towards strengthening their partnership with other sectors; for partnership built on respect, exchange, balanced relations, and independence of involved parties”*¹⁴¹.

Individualism is an obstacle since coordination and building alliances require prioritizing common interest. However, in Lebanon, organizations are governed and directed by a “ruling elite”; for the latter, networking reduces its authority and role. In fact, some CSOs suffer from limited democratic governance. According to a study conducted jointly by the Ministry of Social Affairs and the UNDP *“the majority of NGOs are lead by one or at best a few individuals, who control all key aspects of the organisation including its governance, management, and funding structures”*¹⁴².

Access to resources is another challenge for CSOs, the competition to assure it is hampering the establishment of stable and permanent cooperation. *“The factor of competition between groups, which is increasing as a result of the limitations on the available resources, is hindering opportunities for successful networking”*¹⁴³.

¹⁴⁰ ANND (November 2005). *Partnership of civil society organizations for development, the Case of Lebanon*. Annual Report of the SHABAKA, p. 30-31.

¹⁴¹ ANND, “Development reforms in Lebanon: Between concepts of sustainable development and the challenges of war and rehabilitation; A civil society perspective”, 2008, p.90.

¹⁴² MoSA and UNDP, “Assessment of capacity building needs of NGOs in Lebanon”, March 2009, p.15.

¹⁴³ ANND (November 2005). *Partnership of civil society organizations for development, the Case of Lebanon*, Annual Report of the SHABAKA, , p. 31.

X- TAXATION

10.1. Key findings: Civil society organizations benefit from tax exemptions which facilitate to a certain degree their operation and encourage them to conduct non-profit activities. On the other hand, the incentives adopted in order to encourage the private sector to make donations to CSOs are limited and can be ameliorated.

10.2. Legal Framework and Implementation: Taxes are not only a duty that citizens have to fulfill; it is more a contribution to the State which enables it to support health care, national defense and social services. However, some categories of activities should not be subject to heavy duties and consequently it is necessary to reduce the weight of taxes. Since CSOs operation and activities do not aim to make profits (rather to assist citizens and make changes), they should benefit from tax exemptions. By doing so, the government facilitates and encourages such type of activities.

The Lebanese legislator took into consideration this fact and non-profit organizations do benefit from some tax exemptions.

When examining any taxation regime, it is crucial to distinguish between direct and indirect taxes. Direct taxes primarily originate from income taxes. On the other hand, VAT constitutes the main source of indirect taxes in Lebanon.

Income taxes: Income taxes in Lebanon are territorial in general: only profits realized in Lebanon and income derived from an activity in Lebanon are subject to it. They are divided into three categories:

- Corporate tax on profits;
- Tax on wages and salaries;
- Payroll tax and Tax on income from movable capital

The first category of income tax consists of all commercial, industrial profits and professional revenues earned by the enterprise after deduction of all charges necessary for carrying out the business. Article 5 of the taxation law enumerates the exemptions but does not

mention NGOs. Nevertheless, they benefit from exemption of paying profit taxes since they do not aim to make profits and do not result from commercial activities.¹⁴⁴

According to reliable sources and to the doctrine, three conditions must be gathered in order to impose corporate taxes on benefit:

- To practice the work or profession in an habitual and continuous manner;
- Independence of work;
- The intention to make profits and to divide them.¹⁴⁵

The second category of income taxation deals with taxes imposed on all wages, salaries and other remuneration and consideration of services rendered in Lebanon. They are subject to deductions.

As a consequence of the subjection of CSOs to this category of taxes, each organization is obliged to:

- Deduct income taxes and pay it to the Ministry of Finance (this tax is paid quarterly);
- Submit a note of advanced payment within 15 days following the declared quarter;
- Submit an annual declaration of income tax on salaries on February of the following year;
- Keep records of each employee or worker.

On a separate note, taxes regarding non-residents working in Lebanon must be deducted and paid to the Income Tax department in the ministry of Finance.¹⁴⁶

It is worth mentioning that a large number of CSOs in Lebanon does not declare and register all of its employees and workers¹⁴⁷ which constitute a form of tax evasion.

In addition, CSOs are subject to taxes on income from movable capital as well. It is the third category of income taxes and it is quarterly deducted.

¹⁴⁴ International Management and Training Institute, "Financial measures' guide for civil organisations in Lebanon", 2005, p.82 (available in Arabic).

¹⁴⁵ Moukhaiber G., "The organization of associations and their sources in Lebanese and International legislation", March 2009, p.55.

¹⁴⁶ NGO Resource and Support Unit, UNDP/MOSA (2004). *Internal governance for NGOs in Lebanon: Reference Book 2004*. IEC Unit, Ministry of Social Affairs, Lebanon, p.68.

¹⁴⁷ Interview with Raghed Adas, an auditor specialized in CSOs, on 25 march 2014.

VAT regime and CSOs: The introduction of Value-Added Tax Law¹⁴⁸ (VAT) in Lebanon is one of the major structural measures that the Ministry of Finance has undertaken in the last decade towards modernization of administration's revenue¹⁴⁹. VAT applies to both imports and supply of goods and services in Lebanon; the rate is 10%. Nevertheless, a number of goods and services are exempted from it. Article 16 enumerates them and states in its fifth paragraph that activities undertaken for non-profit purposes are exempted from paying the VAT, except when exempting such repeated activities is likely to create a distortion of competition with taxable businesses.

Consequently, VAT incurred by CSOs while conducting their activities and within the limit of their declared objectives is fully refundable.

Furthermore, VAT exemptions apply to CSOs' activity even if it is not in line with its declared objectives as long as it aims towards providing financial resources (only one activity per year is exempted in this case, like organizing an annual dinner to gather funding for the association).

Public utility organizations facilitations: Public utility organizations are a particular category of CSOs in Lebanon. They are covered by the public utility charter by decree of the Council of Ministers.¹⁵⁰ A CSO should meet several conditions in order to be covered by this charter.¹⁵¹ For instance, the objectives of the organization must be limited to the fields of social work or public service in order for it to benefit from additional facilitations.

It is the legislative decree No. 78 adopted on 30 June 1977 that organizes public utility organizations. Exemptions are enumerated in Article 5 of the above-mentioned decree: "A. Public utility organizations enjoy the following benefits:

1. Donations and grants awarded by the government, municipalities, and public institutions.
2. Tax and fee exemptions that apply to public institutions.¹⁵²

¹⁴⁸ Law No. 379, dated 14/12/2001.

¹⁴⁹ Freifer (r.), AbouNasr (W.) and Daou (J.), "National report on the VAT system in Lebanon", 2011, p.1.

¹⁵⁰ Article 3, Public utility Organizations, Legislative Decree No. 87, dated 30/6/1977.

¹⁵¹ Article 2, Decree 78/77, dated 30/06/1977. This article enumerates several conditions, e.g. non-profit organizations, objectives limited to the fields of social work or public service, operational for at least two years, ...

¹⁵² For example, property taxes.

B. The donations and grants conferred to public utility organizations by enterprises and individuals that are liable for income tax are considered expenses that can be discounted from taxable profit, in accordance with the provisions of Article 7 Paragraph 9 of Legislative Decree No. 144 dated 12/6/1959 (...).

C. The donations conferred to public utility organizations and the testaments issued in their interest are exempt from transfer costs and any other tax or fee, including municipality charges”¹⁵³.

In return, public utility organizations are subject to additional obligations and should present a report to the Monitoring Board (established to deal with this category of CSOs). Reports should include among others, its annual budget as well as areas and ways resources allocated for achieving its objectives were spent. In case the report was not submitted on time, the use of benefits inscribed in the abovementioned article 5 will be legally suspended.¹⁵⁴

Incentives: Grants and aid given to an organization by a private company are partially exempted from paying tax. The exemption can reach up to 10% of the annual income if the company donates to a public utility organization.¹⁵⁵ As for regular CSOs, only 1/1000 can be exempted¹⁵⁶. It can be said that “*there are no tax incentives for the private sector to participate in non-profit activities*”¹⁵⁷.

10.3. Weaknesses and Challenges: The taxation regime applicable to CSOs is satisfying since they do benefit from considerable exemptions e.g. revenue taxes and VAT. Nevertheless, one weakness of the taxation regime regards the incentives adopted to encourage the private sector to support civil society activities. A revision of the law which will take into consideration this fact can largely contribute to CSOs’ work and access to resources.

¹⁵³ Article 5, Decree 78/77, dated 30/06/ 1977.

¹⁵⁴ Idem, Article 4.

¹⁵⁵ Decree No. 1785/79.

¹⁵⁶ Decree No. 14973/70.

¹⁵⁷ USAID (2011). *2011 CSO sustainability index for the Middle East and North Africa*. p.32.

XI- ACCESS TO INFORMATION

11.1. Key Findings: The adoption of the right to access information is limited to an indirect reference to the UDHR and to the ICCPR. Even though it is not explicitly forbidden in Lebanon, the right to access information is not recognized. There are some types of information that are accessible to the public but they remain an exception. Actually, many categories of information are explicitly prohibited to the public and others are simply inaccessible. Another challenge resides in bureaucracy and corruption of public institutions. A draft law recognizing the Freedom Of Information (FOI) is waiting its adoption by the Lebanese Parliament. Until then, Lebanese citizens will be deprived of the basic right to access information.

11.2. Legal framework and implementation: Right to access information, or freedom of information (FOI), is one of the basic principles of international human rights law. It is guaranteed in many international legal instruments.

FOI can be defined as “the right of every person to know: to have access to the information he or she needs to make free choices and to live an autonomous life”¹⁵⁸. Actually, citizens who are well-informed of the administration’s behavior can better engage in public policy. This facilitates for them to hold government officials accountable for their performances and decisions.

Article 19 of the UDHR declares that: *“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers”¹⁵⁹. The ICCPR does the same in its 19th Article. Many other international legal instruments adopt and insist on the importance of the liberty of information in order to create an informed and active*

¹⁵⁸ Association for Civil Rights and ARTICLE 19 (July 2007). *Access to information: An instrument right to empower.* p.5.

¹⁵⁹ Article 19, Universal declaration of Human Rights, adopted on December 10th, 1948.

citizenry. For instance, the Inter-American Court of Human Rights declared that the right of access to information is a fundamental right which States are **obliged** to guarantee.¹⁶⁰

Lebanon ratified ICCPR and endorsed the UDHR which adopt FOI. The Lebanese Constitution in its preamble refers to these instruments¹⁶¹ and creates consequently an international obligation for Lebanon to guarantee it. Nevertheless, this indirect reference is not complemented by a direct or express adoption of this right. In fact, even though access to information is not forbidden in Lebanon, a right to access information is not recognized.

In a recent public opinion study conducted in 2012 by the Lebanese Transparency Association¹⁶² (LTA) regarding the state of access to information in Lebanon, a majority of 45% out of the 1155 respondents considered that it is very difficult to access information, 19.7% were unsure while 12.5% said it was impossible to obtain information needed from public bodies. What was noted in this regard was the unfamiliarity of the respondents with the FOI. As a consequence, before they answered the question a brief explanatory had to be provided.

The accessibility of certain types of information: The Law on the Protection of the Environment issued in 2002 expressly recognizes the right to access environmental information. In application of the participatory principle, Article 4 of this Law indicates that: “Every citizen, in conformity with the law and with regulations, has the right to access the information related to environment”. Other examples of laws that protect the right to access information are: Land Register Law which stipulates that every citizen has the right to access information regarding property registration after paying what is due¹⁶³. Moreover, the right to access information is guaranteed in the electricity and communication’s sector. In this domain, citizens can access all available registries and information as long as it does not damage commercial secrets and competition.

In addition to the above, some other information is accessible to the public; however FOI is still an exception in Lebanon. Unfortunately some major obstacles hamper the enjoyment of this right.

¹⁶⁰ Association for Civil Rights and ARTICLE 19 (July 2007) *Access to information: An instrument right to empower*, , p.5.

¹⁶¹ The Preamble was added by the National Reconciliation Agreement (Taif agreement)., November 5, 1989.

¹⁶² Lebanese Transparency Association (September 2012). *Survey report on access to information in Lebanon*.

¹⁶³ This refers to the extraction and copying fees.

As a matter of fact, **many categories of information are explicitly prohibited to the public**. All deliberations of the Lebanese Parliament' Committees¹⁶⁴, of the Council of Ministers¹⁶⁵ and even of the municipalities¹⁶⁶ are secret unless it is decided otherwise (by them). This situation raises a big concern regarding the capacity of citizens to hold decision makers accountable for their behavior and decisions. Furthermore, Article 15 of Public Employees' Law has forbidden them from circulating or publishing any materials, statements, official information or books on any subject without prior written authorization from the chief of their department, unless it is a part of his work obligation. Public officials consider article 15 as a major obstacle to FOI.¹⁶⁷

Bureaucracy and corruption are as well two major challenges affecting public institutions. Bureaucracy slows down and sometimes obstructs all possibilities to access information. As for corruption, bribery (*rachwa* in Arabic) it hugely affects public's institution performance and image.

Worth mentioning that in many cases, difficulties to access information vary considerably depending on the person seeking it.¹⁶⁸ This situation renders FOI unfair and subjective. These are far from being characteristics of democratic institutions. Also, some types of information are not registered making it impossible for anyone to reach them. Public institutions' organization and performance need to be closely reviewed.

Consequently, the current state of access to information in Lebanon can be summarized as follows: *“Some information is categorically and legally considered secret and not allowed to be disseminated to the public; this category includes the minutes and proceedings of parliamentary committee meetings, (...) Another reason is the lack of documentation; the bureaucracy and civil servants are simply not under the obligation to categorize and archive information although there are no limitations on this category of information being made public (...) A third reason for*

¹⁶⁴ Article 34, Internal procedures of the Lebanese Parliament, October 18 1994.

¹⁶⁵ Article 9, Decree No. 2552, August 1 1992.

¹⁶⁶ Article 35, Municipality law.

¹⁶⁷ Almadhoon S., *Right to access information in the MENA region*, August 2012, p. 19.

¹⁶⁸ Interview with Mr. Akram Hassan, February 11, 2014.

lack of existing information is difficulty in accessibility. Although some information may be documented; it is often not centralized in an easily accessible location”¹⁶⁹.

In a recent development, in its decision on 4 March 2014, the State Council recognized the right for families and relatives of disappeared persons to access information regarding the fate of their missing family members. The government had previously refrained from granting relatives access to the dossier or to obtain a copy of the investigations carried out by the official committee set up, to look into the fate of all those kidnapped or missing in Lebanon.¹⁷⁰

Towards recognition of FOI: Since 2002, several initiatives were adopted in order to attain more transparency. In this regard, the Administration and Development State Ministry created a committee to draft a law on access to information (composed of a judge of the State Council and three lawyers). The draft law was not followed by measures aiming to adopt it.

Recently, ‘The National Network for the Right of Access to Information’ was established by the Lebanese Parliamentarians Against Corruption organization (LebPAC), LTA and Association pour la Défense des Droits et des Libertés (ADDL) in coordination with the American Bar Association. This network mandate was to draft a law on the matter. A draft law was actually submitted to the Lebanese Parliament on April 9, 2009 by the members of LebPAC.¹⁷¹

Overview of the draft law: In a recent development, the Administration and Justice Committee of the Lebanese Parliament started studying the draft law as a first step.

According to this draft, each natural (physical) or legal person, has the right to access information and documents held by the administration. The network opted for a large definition

¹⁶⁹Geha K. (June 2008). *Freedom of information: bridging the gap between the citizen and state.*, Thesis, p.113-114.

¹⁷⁰ The Legal Agenda (3 April 2014). *Lebanon’s disappeared: Ruling consecrates right to the truth* Accessed on 22 July 2014 via <http://english.legal-agenda.com/document.php?id=5&folder=document&lang=en#.U1ovKrU3D-Y>

¹⁷¹ Now Lebanon (15 April 2009). *Freedom of information draft law announced.* Accessed on 22 July 2014 via <http://www.nowlebanon.com/NewsArchiveDetails.aspx?!D=88860>; the Access To Information Draft Law is available at: http://www.a2ilebanon.org/index.php?option=com_rubberdoc&view=doc&id=19&format=raw (Arabic)

of the term “administration” since it refers not only to public entities but to “*private institutions and companies in charge of running a public utility or property*”¹⁷².

The draft law provides a limited list of exceptions to the right to access information e.g. secrets of national defence, national security and public safety or secrets protected by the law.¹⁷³ Adopting this draft law will transform the possibility to access some types of information to an obligation guarantying access to information.

According to this document, some categories of information must be published by the administration such as decisions, directives, circulars and memorandum. In general all the documents of a regulatory nature that interpret or explain laws or regulations in force should be published.

As for the modality to access information, a written request must be addressed to the relevant administration. A clerk must be appointed in each administration to examine and respond to such requests within 15 days.¹⁷⁴ The request has to be clear and detailed enough, making it understandable to the clerk. The administration must justify the reasons behind rejecting a request. Otherwise, the applicant can challenge the administrative decision in front of an independent administrative commission. The latter shall issue a decision within two months of submitting the appeal knowing that these decisions are binding to both parties. In return, the Committees decision can be appealed before the State Council within two months.

11.3. Weaknesses and Challenges: The adoption of this law by the Lebanese Parliament will contribute to transparency and to fight corruption. Until then, Lebanese citizens will be deprived of the basic right to access information. An appeal to the State Council remains the only tool available for them.

The lack of FOI amplified by the bureaucracy and public corruption widens the gap between the State and its citizens. Thus, the adoption of a Law on the access to information is just a first step towards guaranteeing the enjoyment of this right. Implementation of the law is of an equal value.

¹⁷² Article 2 paragraph 6, Draft Law articles on the right to Access Information.

¹⁷³ Idem, Article 6.

¹⁷⁴ Idem, Article 18, par. a.

The enactment of a law that guarantees freedom of information is a right, a national necessity and a developmental stimulus for Lebanon. Furthermore it is a great opportunity to ease sectarianism as the attention will shift to assess public performance. This assessment will be held to evaluate the performance of the concerned party regardless of his identity, political or sectarian affiliations.

XII- CONCLUSION

While civil society in the Arab region remains largely oppressed and supervised by authorities, Lebanon distinguished itself decades ago with a more liberal regime: establishing an organization only requires sending in a notification. Nowadays, no major impediments hinder organizations' creation and operation; more than 8000 CSOs (excluding youth and sports associations) exist.¹⁷⁵ Nevertheless, the completion of CSOs' objectives and their efficiency are highly being influenced and hindered by political and sectarian divides. This situation is aggravated by a high degree of red tape, and corruption: when dealing with government officials or state institutions, clientelism is sadly the norm. Such an environment makes it harder for civil society to provoke deep changes.

On the other hand, this study showed that civil society, through its perseverance determination and skilfulness, was able to follow public affairs and exercise pressure on policy makers.

Moreover, it showed how civil society succeeded in highlighting and in many occasions addressing citizens' needs and developmental concerns at a time where politicians did not have any consideration for them. While political and sectarian factors are reducing civil society's impact, CSOs' today are increasing their involvement and are gradually imposing themselves on the public scene. It is worth noting that the media is playing a crucial role; it is highlighting their work and campaigns and is also adamant on exposing politicians' scandals as well as covering political and socio-economic issues.¹⁷⁶

In addition, the specialization of some civil society activists, by extension that of CSOs, allowed and enabled these organizations to cooperate and build, albeit limited, partnerships with the State. Their added-value is being increasingly acknowledged and appreciated. The emergence of participatory trends among civil society's on the one hand, and with the state on the other has, of late, allowed for some judicial reforms.

¹⁷⁵ If compared to its population, this number reveals a high degree of civil participation and activism.

¹⁷⁶ One can think of the widely-covered campaign for women's right, the issue of inflation in rents, electoral reforms, among others, as was showcased earlier in this report.

However, far from being perfect, a number of weaknesses and challenges still affects CSOs' enabling environment in Lebanon. The main challenge for civil society is not its ability to operate or to build coalitions and joint campaigns, but above all its impact i.e. ability to engage in policy-making processes and to influence it. The saying goes "Anyone can create an organization in Lebanon, but not any organization can provoke meaningful and tangible changes".

Among these challenges, the volatile and unpredictable attitude of the government, mainly the Ministry of Interior and Municipalities, can be cited. Thus, there is a need to make the registration process more transparent. On the other hand, the relationship between the government and CSOs should be enhanced on two levels: the definition of tangible and clear criteria for Government's grants (ministry/CSOs' contracts) and through the recognition of the developmental role and impact of CSOs (recognizing their added-value especially in policy-making processes).

On a separate note, CSOs in Lebanon need to have a clear and common vision of their role and mission. Thus, the adoption of a Declaration of Principles for Lebanese CSOs can be of a great importance; it offers a framework which will guide CSOs' operations and efforts in the future.

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