

# **Freedom of Association in the Arab World**

## **Summary and Recommendations**

Regional Meeting  
29-30 March 2007

Organized by the Friedrich Naumann Foundation (FNF), Amman office  
Its Partner organization, the Arab Center for the Development of the Rule of Law and  
Integrity (ACRLI)

In cooperation with national partners and FNF offices in Egypt and Palestine

Under the patronage of the Civil Society Commission/ Arab League

With the support of the EU

With the participation of Arab and international lawyers and experts, civil society organizations from five Arab countries (Egypt, Jordan, Lebanon, Palestine and Syria), parliamentarians, Arab League organizations and Arab NGO networks, the first meeting of the EU cofinanced project entitled: "Enhancing the legal framework of Associations in the Arab World through national dialogue and empowerment of civil society" convened in Amman 29-30 March 2007 in a regional meeting entitled "Freedom of Association in the Arab World".

In three sessions, followed by working groups per law, partner organizations presented the status quo of the three laws: NGO Law, Labour Union's Law, and political parties law, which are the main laws covered by the project in order to set the base line of the project, to identify similarities among the five countries concerned with the project and to set guidelines for the future activities of the project in the aim of reaching a common understanding on basic principles for the three laws.

Partner organizations presented a briefing on laws and draft laws in circulation; the application of these laws in theory and in practice and the impact of the laws on governance of NGOs. With very few exceptions, most of the laws governing the three essential laws for the development of a democratic society appeared to be often vague and unclear, especially the sections specifying the circumstances, under which the government can allow, dissolve or ban an NGO. Many of the laws surveyed were very old and do not reflect a modern understanding of the importance of NGOs as partners for the development of society. And generally, laws surveyed tended to reflect a desire to control rather than regulate the civil society.

On the other hand, participants highlighted the importance of good governance, applying strict transparency and accountability rules, democratic practices and circulation of power within civil society organizations. Moreover, participants stressed the need for transforming civil society organizations from their elitist status into a more grass root approach level to better reach and respond to the actual needs of the people. They also stressed the need for a comprehensive national dialogue between all stakeholders, specially with the governments and parliaments to reach common understanding with a keen awareness of national and regional sensitivities, strengths, and weaknesses.

### **Guidelines Governing NGO Laws**

Participants agreed that the basic principles set by the "Arab Initiative for the Freedom of Association" launched by the first EU supported Bunian project: "Capacity Building and Networking of NGOs" are good basis for all laws governing civil society organizations in

the Arab world and could serve as guidelines for future elaboration. The basic principles set in the Declaration are 19, out of around which these were discussed:

1. Every natural or corporeal person enjoys the right to freely participate in the formation and management of associations, and to freely adhere thereto and withdraw there from, in order to achieve one or more purposes that do not seek the distribution of profits.
2. The right to form associations without the need to obtain a prior permit or license. Thus, associations are formed by the agreement of their founders; their formation can be made public by a previous information/notification, but may not be subject to any previous intervention by the public administration or the judiciary.
3. The purposes of associations, irrespective of their qualification or the scope of their activities, their charters and by-laws, the personality of their founders, their affiliation or number, may not be a reason to impose any impediments and hurdles on their formation;
4. Procedures applicable to the formation of associations, must be swift, clear, simple, cheap and should not be subject to the discretion of the public administration.
5. Associations shall enjoy a legal personality, separate from their individual founders, as soon as they are formed by information/notification.
6. The founders of associations enjoy the right to freely set their statutes and by-laws freely without any interference according to democratic principles.
7. Associations have the right to freely amend their statutes and by-laws according to their statutes and by-laws, and following the same principles applicable to the formation of associations, without interference from the public administration.
8. Associations are managed by the bodies stipulated in their own statutes and by-laws. The public administration may not interfere in or affect the process of their conducting their meetings, elections and activities.
9. To guaranty transparency, publicity and credibility, associations must keep accounting books and records
10. The governing principle is that penalties must be proportionate to the violations, and that no criminal punishment may be applied to the civil activities of associations or their members.
11. Associations may not be dissolved except by a resolution passed by their own governing bodies or by a final and enforceable decision of a court, following trial that would have allowed the association the right to defense in a fair and public hearing and in instances that are clearly and imitatively defined by law.

## **Labour Unions**

Participants in the meeting stressed that labour unions in the Arab countries face a crisis of identity, a crisis of direction, and a crisis of education. Union activity is strictly controlled by the state or ruling party and independent trade unions are rare. Public servants especially teachers, are not allowed to form or join unions.

Participants agreed that principles set by ILO for the freedom of association can best serve in protecting the rights of workers and improve democracy throughout the Arab world.

### **These principles include:**

1. Workers and employers, shall have the right to establish and to join organisations of their own choosing without previous authorisation.
2. Workers' and employers' organisations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes.
3. The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof.

4. Workers' and employers' organisations shall not be liable to be dissolved or suspended by administrative authority.
5. Workers' and employers' organisations shall have the right to establish and join federations and confederations and any such organisation, federation or confederation shall have the right to affiliate with international organisations of workers and employers.
6. The acquisition of legal personality by workers' and employers' organisations, federations and confederations shall not be made subject to conditions of such a character as to restrict the application of the provisions of articles 2, 3 and 4 hereof.
7. (1) In exercising the rights provided for in this Convention workers and employers and their respective organisations, like other persons or organised collectivities, shall respect the law of the land. (2) The law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this Convention.

In addition, participants stressed the need to address the following issues:

1. The need to endorse all Arab and international labour agreements by governments.
2. The need for real social dialogue, to involve workers, as the on-going one is only being conducted with labour unions who are in most cases appointed by governments.
3. Special attention to be paid for women and child labour
4. Foreign labors in Arab countries and Palestinian and Arab labour in these countries
5. Migrant workers and specially domestic labors.
6. Easiness of procedures in cases of work conflict
7. The right to collective bargaining and the right of strike.
8. Women representation in unions

### **Political Parties Law**

Participants highlighted the weakness inherited by opposition political parties and lack of civic awareness among citizens as challenges. They stressed the impact of regional tensions on dampening demand for internal reform. On the other hand, they stressed the impact of the war on terrorism on the development of political life in the region and the use of this justification to limit political freedoms.

Participants discussed the draft political law prepared in Palestine and reached the following recommendations as guidelines for any future political parties' laws in the region:

#### **1. The definition of political party**

A political party is formed by the free will of a group of citizens to achieve political aims. It shall practice its activities among citizens and shall seek to nominate candidates to local and national elections in order to reach power.

#### **2. Freedom to form parties**

1. Every person shall have the right to participate freely with others to establish a political party and to join political parties or to withdraw from such parties without any restriction of such rights other than those stated in the constitution and those implied by a democratic society.
2. A political party shall have its legal personality upon notifying the concerned authorities of its establishment.

3. A political party shall not be dissolved or merged with another party except in accordance with its basic law or a judicial rule.
4. The political party and its members shall have the right to put its internal bylaws and financial guidelines without any interventions or previously set forms from administrative departments.
5. The premises of political parties shall be protected against any unlawful attempt to enter them by force or to investigate them without a prior permission from the judiciary. The files, correspondences and communications of the parties shall not be subject to the supervision.
6. The funds of political parties are public funds. They are composed of membership fees, grants and unconditional donations, in addition to amounts paid by the government from its public treasury.
7. A political party shall adhere to transparent standards and good governance in its activities and in the behavior of its members.
8. Political parties shall spend their funds to achieve the aims stated in their bylaws.
9. They shall respect the democratic principles, rule of law and peaceful circulation of power through transparent and democratic elections.
10. Parties should adhere to the principles of dialogue in solving their internal conflicts.
11. Political parties shall adhere to democratic principles in their internal structures and internal relations. They shall commit to the principles of freedom of expression, freedom of peaceful assembly and human rights principles stated in international conventions.

### **3. Articles related to banning:**

1. Members of:
  - a. Armed forces
  - b. security forces
  - c. the judiciary

may not join political parties.

2. No secret, military or semi military parties shall be established.
3. Parties shall not be allowed to receive foreign funding
4. No restrictions shall be imposed on public conferences and activities of political parties
5. Administrative departments shall not interfere in any internal affairs or internal elections of political parties.
6. The political parties' law shall not include any criminal procedures restricting freedoms in case of violating the political parties' law.
7. No other laws shall impose restrictions on the laws of political parties.

### **4. Articles relating to conflict:**

1. Civil courts are the only courts specialized courts in ruling on issues relating to conflicts and procedures related to political parties.
2. In case a political party violates the constitution, public order, or the law; the responsible administrative department shall refer the issue to a civil court without taking any prior action, which directly or indirectly affects the procedure of the case.

### **5. Internal Monitoring:**

1. The general assembly of the political party is the highest authority of the party.
2. The internal by-laws of the political party shall state the basic principle upon which the political party is based.
3. The basic law shall specify the rights and duties of the party members, the financial procedures, and internal monitoring procedures.

**Final Notes:**

Participants in the event stressed the importance of networking and benefiting from similar initiatives and declarations on freedom of association, especially those set by the United Nations organizations. Any developed laws or regulations shall stem from the actual needs of the Arab society and not imported or copied from foreign models, except those within the frame, which serve the needs and interests of an Arab formulation of such laws.

**Controversial issues raised**

Some participants suggested adding an article to the political party law which allows the political party to “demand the change of the nature of the ruling system” (such as to demand a republican nature of governing system) with peaceful means.

Some participants suggested allowing political parties to receive donations from foreign sources.

However, there were conflicting points of views with this regard and no approval was obtained on these issue.

**Other Recommendations**

Some participants stressed the need for more involvement and representation of unionists and workers in the discussions of labour laws and in the project activities. The management of the project stressed that this meeting is the first step and more consultations with unionists will take place in order to well respond to this demand.