

The Cairo Institute for Human Rights Studies (CIHRS)'s Individual Report on the Universal Periodic Review (UPR) of Egypt:

Restrictions on Forming Civic Associations:

The goal of this paper is to examine the substantial restrictions placed on various forms of civic organization and NGO activity as a result of legislative restrictions that the Egyptian NGO law is full of. The paper also looks at how the law is at times arbitrarily applied to give the security apparatus increased control over civic activity in violation of the provisions of the law itself, and the way other laws incompatible with freedom of expression and the right to peaceful assembly are used to give the security establishment the final word in civic activities and societies.

Under Law 84/2002 (the NGO law), no association may be established or engage in civil society activities without a license from the competent administrative body, represented by the Ministry of Social Solidarity and its various district offices (Article 6). As such, the law enforces obligatory registration even if the founders of an association do not wish to register the group or want to set up an association using another legal framework available under civil law. Indeed, the law requires associations established under other legal frameworks to settle their status and register in accordance with the provisions of the NGO law; otherwise, they are considered disbanded under the law and their officials are subject to up to six months imprisonment pursuant to Article 76 of the law. The law furthermore touched upon restrictions under which NGOs can be denied a permit, frozen or administratively dissolved. Article 11 prohibits the establishment of associations whose goals or activities constitute a threat to national unity, violate the public order, advocate discrimination, engage in political activity limited to political parties, or engage in trade union activity limited to trade unions. These are all very elastic expressions and thus can easily be used to expand the scope of the restrictions.

Although the law's implementing regulations (Article 25) sought to offer a precise definition of the nature of activities limited to political parties, yet the definition may be interpreted to limit or influence NGO activity—for example, if a study examines the degree to which party platforms represent democratic values and human rights, or if several NGOs coordinate their programs with political party platforms in a way that expresses their common aspirations.¹ When it comes to activities that are limited to trade unions, the law's implementing regulations indicate that these include supporting demands for the rights of workers in a particular profession against employers. Thus, if an NGO engages in solidarity work to support the legitimate rights of a particular group against the exploitation of their employers or government offices, it may make the NGO liable to penalties that may go as far as freezing its activities or dissolving the association. The law leaves abundant room for arbitrary intervention and confiscates the right of an NGO's founders and members to determine its basic system; it also restricts the right of members and founders to choose their own optimal internal structures and their own representatives in the NGO's leadership structure. Article 8 of the law gives the administrative body the right to object to founding members of the NGO by name while Article 34 gives it the authority to disqualify at will candidates for the membership of governing bodies within the NGO.

Article 32 of the law arbitrarily imposes a special system for elections to NGO boards and rules for convening the general assembly. Article 38 regulates meetings of the board

¹ The definition of activities limited to political parties includes engaging in partisan propaganda, promoting a party's platform, or contributing to electoral campaigns to support particular candidates in elections.

of trustees and specifies the manner in which decisions are made on the board. In effect, these articles allow the government to usurp the prerogatives of the founders and members of the general assembly and their right to establish the association's basic order and internal administrative structure.

In addition, the NGO law gives broad authority to the administrative body to intervene in the activities of any association. Article 16 prohibits associations from joining or claiming affiliation with any NGOs, agencies, or organizations based outside Egypt without informing the administrative body, which has 60 days to register an objection. Article 17 bans NGOs from receiving or collecting donations, both from natural and non-natural persons, except with the approval of the administrative body. The same article prohibits associations from receiving outside funds or grants, whether from Egyptians or foreign figures or agencies, except with the approval of the Minister of Social Solidarity. Article 23 allows the administrative body to demand that an association rescind any decision or decree issued by one of its constituent parts if it believes the decree to be in violation of the law or the basic order. The law also requires the association's board of trustees to inform the administrative body of all decisions issued by it or the group's general assembly. All of these prerogatives—particularly those that restrict an association's right to receive funds—allow the administrative body to effectively quash any association whose activities it deems unacceptable.

Article 42 of the law allows the Minister of Social Solidarity to issue a decree dissolving any association if it:

- Allocates or disburses association funds for any purpose other than that for which the association was established
- Receives funds from foreign bodies or collects donations without prior permission from the administrative body
- Establishes institutional ties with organizations outside Egypt without informing the administrative body or in violation of its objections
- Commits any violations to Article 11 of the law
- Commits a grave violation of the law, the public order, or public morals (those violations that may be considered “grave” are left undefined)

Although the law gives associations the right to appeal decrees dissolving them before the administrative courts, yet serious amendments to Article 97 of the implementing regulations made in 2007 allow the administrative body to take executive measures to dissolve any association even when an administrative court ruling on the validity of these measures is still pending.

This amendment was used for the first time just a few days after it was issued when a decree was issued dissolving the Association for Human Rights Legal Aid (AHRLA) in September 2007 on the grounds that it had received grants from abroad without the consent of the administrative authority (although, in fact, AHRLA had followed the legal procedures for obtaining this consent). The administrative body immediately dissolved the association and confiscated its papers, assets, and property, although the Administrative Court ruled in October 2008 in favor of the association. This suggests that the arbitrary measures were a calculated move against the association by the administrative body. The court found that even assuming the violations attributed to AHRLA were true they were past violations that should have been penalized at the time and not later with a dissolution order. The court ruled that the decree to dissolve the association was issued without basis in reality or the law.

There are signs that suggest that the oldest and biggest rights organization in Egypt—the Egyptian Organization for Human Rights (EOHR) that was founded in 1985—may be slated for dissolution. EOHR received a letter from the administrative body in late April

2009 warning it that it was subject to dissolution under Article 42 of the law. The EOHR had been forced to disburse a grant to fund one of its projects after the administrative body withheld its consent for nearly eight months, although the law states that permission to use any outside grants should be granted or denied within two months of the request.

It is worth noting that the bureaucratic procedures followed by the administrative body when considering requests to use of foreign funds means in practice that many months may pass—in several cases, more than a year—before a response is received from the administrative body. In turn, this leads to a breach in commitments and timelines in projects funded by donors and large disrupts the programs and activities of the NGO in question.

On the other hand, the NGO law also contains articles that undermine the right of associations to voluntarily establish coalition networks or federations among themselves. Articles 65, 66, 67, and 68 of the law elaborate specific rules for forming regional or collective federations rather than leaving the elaboration of these rules to NGOs themselves. Indeed, the law defines the prerogatives of such federations and bans the establishment of more than one regional federation in a province. Articles 69 and 70 impose the establishment of a National Federation for Associations and give the president the right to appoint the chair of the federation and one-third of the board's thirty members. More important, this federation, whose leadership is chosen by the executive, enjoys the authority to appoint officials to the Aid Fund for Civic Associations. The law also gives it a consulting role in measures taken by the administrative body in regard to NGOs.

In fact, the current NGO law makes voluntary participation in civic work a risk with an uncertain outcome. Article 76 mandates prison terms from three months to one year for civil society activists who engage in civil society activities without completing the licensing procedures, continue an association's activities after an order has been issued dissolving it, violate the restrictions on collecting donations or receiving outside funding, use funds for some purpose other than that for which the association was established, violate the rules on affiliations with groups outside the country, or engage in the association's work before the registration procedures are complete.

More Arbitrary in Practice:

Even given the foregoing, actual practice is often much more arbitrary than even the provisions of the law itself. The provisions of the law are often violated by the security apparatus, which, for all practical purposes, has the final say in the operation of associations with no legal basis.

The findings of a recent field study carried out by the Cairo Institute for Human Rights Studies (CIHRS) are relevant in this context:

1. On several occasions, Administrative Court rulings have found that the administrative body's objections to the establishment of certain NGOs or their founders or candidates for the board have been based on investigations and directives from the security establishment. These rulings have stated repeatedly that such interventions lack any legal basis.

The efforts of dozens of NGOs have been exhausted in appealing such arbitrary decrees before the courts, including the New Woman Association, the South Center for Development and Human Rights, Awlad al-Ard for Human Rights, the Association to Protect the Legal and Constitutional Heritage, the Sawasya Center for Human Rights and Anti-Discrimination, Enlightening Minds, the Kalima Center for Human Rights, and the Center for Trade Union and Workers' Services (CTUWS). The latter association was established as a civil company nearly twenty years ago and tried to settle its status in the

framework of the NGO law. In 2007, its offices were suddenly closed just as the administrative body announced that it had rejected the group's application for a license based on objections from the security apparatus. In many cases, including the case of CTUWS, the administrative courts ordered the Ministry of Social Solidarity to license the association and overturned administrative decrees disqualifying certain founding members or candidates for the board.

2. Although the NGO law "theoretically" gives foreign NGOs the right to operate in Egypt, on the condition that they obtain a permit from the Ministry of Social Solidarity pursuant to an agreement with the Foreign Ministry, many international human rights organizations have been unable to conclude such agreements or obtain a permit to operate, despite years-long negotiations in some cases. This includes prominent international organizations such as the International Federation of Human Rights (FIDH) and Human Rights Watch. The authorities' actions toward these regional and international groups are perfectly consistent with its refusal to host the regional office of the UN High Commissioner for Human Rights for North Africa in Egypt.

3. In addition to arbitrary interventions by the security apparatus, the administrative body has used its prerogatives to arbitrarily deny licenses to several NGOs. One of the most prominent examples is the Egypt Association Against Torture, which sought to register in mid-2003. Shockingly, the administrative body refused to license the group on the grounds that the association's objectives were incompatible with the law. In citing the grounds for its objections, the administrative body stated that the objectives of the association include "working to change Egyptian laws to make them consistent with human rights conventions" and that the association would seek "to create lobby groups and engage in campaigns against the crime of torture."

In the same context, in 2008 the administrative body refused to recognize "Egyptians Against Discrimination in One Nation" on the grounds that its objectives were incompatible with Article 11, which bans associations from engaging in activities that may constitute a threat to national unity or advocate discrimination, although the aims of the association were, in fact, to combat discrimination, not incite to it.

4. Another aspect of security interventions to restrict civic activity without a legal basis is apparent in the fact that the Ministry of Social Solidarity does not approve any outside grants until it receives authorization from the security apparatus, which is not stipulated in the NGO law.

5. These interventions are also apparent in directives ostensibly issued by the Ministry of Social Solidarity or its district offices. An example is the general directive received by some NGOs in Greater Cairo in August 2008 warning them against inviting foreign or Arab delegations or accepting invitations issued by foreign or Arab bodies without obtaining security approval or seeking the approval of the National Security Agency before issuing or accepting such invitations. Although officially issued by the administrative body and not the Interior Ministry, the warning cautioned that "any shortcomings in this regard will be met with the utmost severity."

There are similar directives that seem dictated by the security apparatus, although they are officially issued by the administrative body. These include directives received by some associations in several provinces which were themselves a violation of the freedom of information and assembly. The directives, issued in February 2007, ordered the associations not to offer any data or information to any party without first consulting the administrative body. They also ordered the associations not to accept any invitation or hold any meeting whatsoever without first consulting the administrative body.

In the same vein as these security-inflected decrees, the security apparatus has also directly intervened on several occasions to prevent seminars and activities planned by

rights organizations. For example, in 2008, security intervened to cancel a seminar on the amendments to Egypt's law on the rights of the child organized by the New Woman Association. Security also pressured the same association to stop its annual commemoration of the International Women's Day. In another instance, similar pressure placed on a hotel led it to cancel arrangements to host a seminar organized by the Arab Center for the Independence of the Judiciary and Legal Profession on ways to activate International Covenant on Civil and Political Rights (ICCPR).

Another aspect of the pressure on civic institutions and those involved in them is apparent in the use of the enormous restrictions on freedom of expression to harass and prosecute civil society activists. For example, Dr. Saad al-Din Ibrahim, the head of the Ibn Khaldoun Center for Development Studies, was sentenced to two years in prison with bail set at LE 10,000 after he was convicted of harming Egypt's reputation and damaging national interests through his writings in the American and world press. In these articles, Ibrahim advocated linking US aid to Egypt to progress on human rights issues and democratization.

The general coordinator of the CTUWS was also facing a one-year prison sentence after the center issued a publication that allegedly libeled a member of the National Democratic Party. The initial judgment was overturned in February 2008 by an appellate court.

Final Conclusions:

1. CIHRS reiterates that putting an end to all forms of government guardianship and financial, administrative, and security pressure on NGOs requires the Egyptian government to adopt legislation aimed at strengthening public liberties, most importantly the freedom of expression, the freedom of peaceful assembly, and the freedom to organize, as consistent with Egypt's commitments under the ICCPR and the UN Declaration on Human Rights Defenders.

2. Members of the UN Human Rights Council should support the efforts of civil society organizations in overturning Law 84/2002, which is inconsistent with international standards, and pass a democratic law instead that would be more in line with international standards that uphold the right to organize, and in particular:

- The freedom to form associations by a simple notification, without need for prior licensing
- A guarantee that an association's general assembly shall have the sole prerogative to design the association's policies, establish its basic order, and form its managing board
- A guarantee of the right of associations to create federations and build local networks and alliances without administrative interference
- A guarantee of the right of associations to join international and regional networks and alliances
- A prohibition on the dissolution of an association or the disqualification of its board by administrative decree
- A prohibition on the dissolution of an association or the suspension of its activities except by judicial ruling with a complete appeals process
- A guarantee of the right of associations to hold meetings in or out of their offices and to issue journals and publications without prior permission
- A guarantee of the right of NGOs to receive adequate funding for their activities without prior permit and by simple notification of the administrative body; NGOs shall be obligated to declare their sources of funding and expenditure accounts